

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
July 17, 2012**

A meeting of the Fayetteville City Council will be held on July 17, 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:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the June 19, 2012 and July 3, 2012 City Council meeting minutes.

APPROVED

2. **Parkland Dedication Fees:** A resolution approving a budget adjustment in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast and Northwest Quadrants to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 142-12

113 West Mountain Fayetteville, AR 72701 (479) 575-8323 accessfayetteville.org
Telecommunications Device for the Deaf TDD/TTY (479) 521-1316

3. **Bid #12-40 Luber Bros, Inc.:** A resolution awarding Bid #12-40 and authorizing the purchase of one (1) Deweze ATM72LG slope mower from Luber Bros., Inc. of Tulsa, Oklahoma in the total amount of \$41,209.40, for use by the Transportation Division, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 143-12

4. **Bid #12-48 Williams Tractor:** A resolution awarding Bid #12-48 and authorizing the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$89,026.00, for use by wastewater treatment, and approving a budget adjustment.

THIS ITEM WAS REMOVED FROM CONSENT FOR DISCUSSION.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 144-12

5. **Bid #12-49 Sellers Trading Post:** A resolution awarding Bid #12-49 and authorizing the purchase of two (2) Rhino FR180 batwing cutters from Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00, for use by the Parks Department and wastewater treatment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 145-12

6. **Bid #12-50 Countryside Farm & Lawn:** A resolution awarding Bid #12-50 and authorizing the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$20,916.08, for use by wastewater treatment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 146-12

7. **Bid #12-42 Endless Power Corp.:** A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 147-12

8. **Bid #12-54 Instrument & Supply, Inc.:** A resolution awarding Bid #12-54 and authorizing the purchase of three (3) large water pumps from Instrument & Supply, Inc. in the amount of \$88,800.00, plus applicable sales tax, for use at the South Mountain pump station.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 148-12

9. **John David Brown Settlement Agreement:** A resolution approving a settlement agreement with John David Brown, concerning condemnation litigation filed as part of the Highway 265 Water and Sewer Relocation and Improvement Project, in the total amount of \$46,666.50.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 149-12

- 10. Richard and Caren Hanna Settlement Agreement:** A resolution approving a settlement agreement with Richard and Caren Hanna, concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of \$1,600.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 150-12

- 11. Street Name Change – N. Chrysler Drive:** A resolution renaming Frazier Street between Vantage Drive and Mountain View Drive to N. Chrysler Drive.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 151-12

B. Unfinished Business:

- 1. Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the Building Regulations chapter of the U.D.C. to adopt the 2009 International Energy Conservation Code, for residential structures, with amendments herein. *This ordinance was left on the First Reading at the June 05, 2012 City Council meeting. This ordinance was left on the First Reading at the June 19, 2012 City Council meeting and Tabled to the July 17, 2012 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5512

C. New Business:

- 1. Amend §154.03 Private Parties/Zoning Amendment:** An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning.

THIS ITEM WAS LEFT ON THE FIRST READING.

- 2. Amend §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards:** An ordinance amending §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards of the Code of Fayetteville to provide a fixed amount to be paid into the tree escrow account rather than reasonable maintenance cost estimates.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5513

City Council Tour: July 16, 2012 – Hughmount Village- Wedington Drive

Announcements:

Adjournment: 7:00 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				
<i>Alderman Adams was absent</i>	Adams	<i>Absent</i>			
	Lewis	✓			
	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Mayor Jordan	✓			

8-0

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

Subject:	Consent <i>Bid # 12-48 Williams Tractor was removed from the Consent Agenda for discussion.</i>				
Motion To:		<i>Approve</i>			
Motion By:		<i>Gray</i>			
Seconded:		<i>Tennant</i>			
<i>Minutes Approved Passed</i> <i>Bid # 12-48 Williams Tractor removed.</i> <i>142-12-</i> <i>151-12</i>	Adams	<i>Absent</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Boudreaux	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>✓</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Mayor Jordan				

7-0

Subject:	<i>Bid # 12-48 Williams Tractor</i>				
Motion To:		<i>Amend resolution as read by Mayor</i>	<i>Pass</i>		
Motion By:		<i>Gray</i>	<i>Ferrell</i>		
Seconded:		<i>Boudreaux</i>	<i>Tennant</i>		
<i>144-12</i>	Adams	<i>Absent</i>	<i>Absent</i>		
	Lewis	<i>✓</i>	<i>✓</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Boudreaux	<i>✓</i>	<i>✓</i>		
	Kinion	<i>✓</i>	<i>✓</i>		
	Petty	<i>✓</i>	<i>✓</i>		
	Tennant	<i>✓</i>	<i>✓</i>		
	Ferrell	<i>✓</i>	<i>✓</i>		
	Mayor Jordan				

7-0

7-0

Subject:	Amend §173.08 Arkansas Energy Code				
Motion To:			<i>Amend Section #2 until occp.</i>	<i>3rd Read</i>	<i>Pass</i>
Motion By:		<i>Boudreaux</i>	<i>Kinion</i>	<i>Petty</i>	
Seconded:		<i>Kinion</i>	<i>Boudreaux</i>	<i>Boudreaux</i>	
B. 1 Unfinished Business	Adams	<i>Absent</i>	<i>Absent</i>	<i>absent</i>	<i>absent</i>
	Lewis	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Gray	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Boudreaux	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Petty	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Ferrell	<i>✓</i>	<i>✓</i>	<i>N</i>	<i>N</i>
	Mayor Jordan				

7-0

7-0

6-1

6-1

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

Subject:	Amend §154.03 Private Parties/Zoning Amendment				
Motion To:					
Motion By:					
Seconded:					
C. 1 New Business <i>Left on</i> <i>the</i> <i>first</i> <i>Reading</i>	Adams				
	Lewis				
	Gray				
	Boudreaux				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Mayor Jordan				

Subject:	Amend §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Boudreaux</i>	<i>Boudreaux</i>		
Seconded:		<i>Lewis</i>	<i>Petty</i>		
C. 2 New Business 5513	Adams	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: July 18, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of July 17, 2012

1. **Parkland Dedication Fees:** A resolution approving a budget adjustment in the total amount of \$38,426.00 recognizing Parkland Dedication Fees from the Northeast and Northwest Quadrants to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.
2. **Bid #12-40:** A resolution awarding Bid #12-40 and authorizing the purchase of one DeWeze ATM72LG Slope Mower from Luber Bros. Inc. of Tulsa, OK in the total amount of \$41,209.40, for use by the Transportation Division and approving a budget adjustment.
3. **Bid #12-48:** A resolution awarding Bid #12-48 and authorizing the purchase of one large square baler from Williams Tractor of Fayetteville in the total amount of \$89,026.00, for use by Wastewater Treatment, and approving a budget adjustment.
4. **Bid #12-49:** A resolution awarding Bid #12-49 and authorizing the purchase of two Rhine FR 180 batwing cutters form Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00 for use by the Parks Department and Wastewater Treatment.

5. **Bid #12-50:** A resolution awarding Bid #12-50 and authorizing the purchase of one mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$20,916.08, for use by Wastewater Treatment.
6. **Bid #12-42:** A resolution awarding Bid #12-42 and authorizing the purchase of one power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station and approving a budget adjustment.
7. **Bid #12-54:** A resolution awarding Bid #12-54 and authorizing the purchase of three large water pumps from Instrument & Supply, Inc. in the amount of \$88,800.00 plus applicable sales tax, for use at the South Mountain pump station.
8. **John David Brown Settlement Agreement:** A resolution approving a settlement agreement with John David Brown, concerning condemnation litigation filed as part of the Highway 265 Water & Sewer Relocation and Improvement Project, in the total amount of \$46,666.50.
9. **Richard & Caren Hanna Settlement Agreement:** A resolution approving a settlement agreement with Richard & Caren Hanna, concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of \$1,600.00.
10. **Street Name Change – N. Chrysler Drive:** A resolution renaming Frazier Street between Vantage Drive and Mountain View Drive to N. Chrysler Drive.
11. **Amend §167.04 Tree Preservation & Protection During Development and §177.05 Street Tree Planting Standards:** An ordinance amending §167.04 Tree Preservation & Protection During Development and §177.05 Street Tree Planting Standards of the Code of Fayetteville to provide a fixed amount to be paid into the tree escrow account rather than reasonable maintenance cost estimates.

Mayor Lioneld Jordan
City Attorney Kit Williams
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Aldermen

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**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 17, 2012**

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Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

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Agenda Additions:

A. Consent:

1. Approval of the June 19, 2012 and July 3, 2012 City Council meeting minutes.
2. **Parkland Dedication Fees:** A resolution approving a budget adjustment in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast and Northwest Quadrants to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

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4. **Bid #12-48 Williams Tractor:** A resolution awarding Bid #12-48 and authorizing the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$81,488.00, for use by wastewater treatment, and approving a budget adjustment.
5. **Bid #12-49 Sellers Trading Post:** A resolution awarding Bid #12-49 and authorizing the purchase of two (2) Rhino FR180 batwing cutters from Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00, for use by the Parks Department and wastewater treatment.
6. **Bid #12-50 Countryside Farm & Lawn:** A resolution awarding Bid #12-50 and authorizing the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$20,916.08, for use by wastewater treatment.
7. **Bid #12-42 Endless Power Corp.:** A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station, and approving a budget adjustment.
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Left of the First Reading

C. New Business:

- 1. Amend §154.03 Private Parties/Zoning Amendment:** An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning.
- 2. Amend §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards:** An ordinance amending §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards of the Code of Fayetteville to provide a fixed amount to be paid into the tree escrow account rather than reasonable maintenance cost estimates.

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Announcements:

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RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$38,426.00 RECOGNIZING PARKLAND DEDICATION FEES FROM THE NORTHEAST AND NORTHWEST QUADRANTS TO BE APPLIED FOR ADDITIONS TO GULLEY PARK AND INSURANCE PROCEEDS RELATED TO THE DESTRUCTION OF THE RED OAK PARK PLAYGROUND

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast and Northwest Quadrants to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-50 AND AUTHORIZING THE PURCHASE OF ONE (1) MOWER CONDITIONER FROM COUNTRYSIDE FARM & LAWN OF SPRINGDALE IN THE TOTAL AMOUNT OF \$20,916.08, FOR USE BY WASTEWATER TREATMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-50 and authorizes the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$20,916.08, for use by wastewater treatment.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-54 AND AUTHORIZING THE PURCHASE OF THREE (3) WATER PUMPS FROM INSTRUMENT & SUPPLY, INC. IN THE AMOUNT OF \$88,800.00, PLUS APPLICABLE SALES TAX, FOR USE AT THE SOUTH MOUNTAIN PUMP STATION

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-54 and authorizes the purchase of three (3) water pumps from Instrument & Supply, Inc. in the amount of \$88,800.00, plus applicable sales tax, for use at the South Mountain pump station.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith



Aldermen

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**City of Fayetteville Arkansas
City Council Meeting Minutes
June 19, 2012**

A meeting of the Fayetteville City Council was held on June 19, 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:

Nominating Committee Report

Alderman Gray gave the Nominating Committee Report.

Alderman Gray moved to approve the Nominating Committee Report. Alderman Boudreaux seconded the motion. Upon roll call the motion passed unanimously.

A copy of the report is attached.

Agenda Additions: None

Consent:

Approval of the June 5, 2012 City Council meeting minutes.

Approved

MailCo, Inc.: A resolution to approve a contract with MailCo, Inc. for one year's mailing services at an approximate cost of \$246,072.51 with an option to renew the contract for another four years.

Resolution 124-12 as recorded in the office of the City Clerk.

Bid #12-42 RP Power, LLC: A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from RP Power, LLC in the total amount of \$69,712.43 for use at the Owl Creek lift station, and approving a budget adjustment.

This item was removed from the Consent Agenda for discussion.

Bid #12-44 Heavy Constructors of Arkansas, LLC & General Trucking Solutions, LLC: A resolution awarding Bid #12-44 and authorizing the purchase of topsoil from Heavy Constructors of Arkansas, LLC as a primary supplier and General Trucking Solutions, LLC as a secondary supplier, for the unit prices stated, as needed through the end of calendar year 2012.

Resolution 125-12 as recorded in the office of the City Clerk.

Bid #12-45 Scurlock Industries & Neenah Foundry Company: A resolution awarding Bid #12-45 and authorizing the purchase of tree grates from Scurlock Industries as a primary supplier and Neenah Foundry Company as a secondary supplier for the unit prices stated, and authorizing the use of other bidders based on price and availability, as needed through the end of calendar year 2012.

Resolution 126-12 as recorded in the office of the City Clerk.

Arkansas Air and Military Museum, Inc.: A resolution approving a lease agreement with Arkansas Air and Military Museum, Inc. for facilities at 4290 S. School Avenue and 4360 S. School Avenue to provide an air museum at Fayetteville Executive Airport-Drake Field.

Resolution 127-12 as recorded in the office of the City Clerk.

Bid #12-46 Pavement Maintenance Unlimited, LLC: A resolution awarding Bid #12-46 and authorizing a contract with Pavement Maintenance Unlimited, LLC for pavement rehabilitation and re-marking at Fayetteville Executive Airport-Drake Field in the amount of \$99,190.00, approving Change Order No. 1 to the contract in the amount of \$22,050.00, both contingent upon the receipt of grant funding, authorizing acceptance of grant funding to fund ninety-five percent (95%) of the project, approving a project contingency in the amount of \$7,012.00, and approving a budget adjustment.

Resolution 128-12 as recorded in the office of the City Clerk.

Bid #12-52 Electrical Resources, Inc. DBA Milford Sign Co.: A resolution awarding Bid #12-52 and approving a contract with Electrical Resources, Inc. DBA Milford Sign Co. in the amount of \$20,910.00 for the construction of park entry signs, and approving a ten percent (10%) project contingency.

Resolution 129-12 as recorded in the office of the City Clerk.

MSI Consulting Group, LLC: A resolution approving a software license and lease contract amendment with MSI Consulting Group, LLC to provide access to twenty-six (26) users to the Virtual Justice Comprehensive Case Management System at a rate of \$1,700.00 per month, plus applicable taxes.

Resolution 130-12 as recorded in the office of the City Clerk.

Ranger's Pantry Pet Food Bank Grant Acceptance: A resolution to accept a generous grant in the amount of \$2,000.00 from the American Society for the Prevention of Cruelty to Animals for the Ranger's Pantry Pet Food Bank and to approve a budget adjustment recognizing this revenue.

Resolution 131-12 as recorded in the office of the City Clerk.

Ranger's Pantry Pet Food Bank Donation: A resolution to approve a budget adjustment in the amount of \$1,553.00 and to thank our generous citizens for donating to the Ranger's Pantry Pet Food Bank.

Resolution 132-12 as recorded in the office of the City Clerk.

Community Development Block Grant: A resolution to approve a budget adjustment in the amount of \$5,518.00 to recognize Community Development Block Grant program income received from a lien payoff.

Resolution 133-12 as recorded in the office of the City Clerk.

RFP #12-02 Cox Arkansas Telecom, LLC DBA Cox Business: A resolution awarding RFP #12-02 and approving a contract for a period of three years, with two one-year automatic renewal options, with Cox Arkansas Telecom, LLC DBA Cox Business in an annual amount of \$197,036.40 (subject to a \$7,000.00 credit in year one), and for the optional modification and/or expansion costs and long distance charges quoted, for City Telecommunications Services.

Resolution 134-12 as recorded in the office of the City Clerk.

Bid #12-43 Edwards Design & Construction, Inc.: A resolution awarding Bid #12-43 and approving a contract with Edwards Design & Construction, Inc. in the amount of \$1,589,482.00 for relocation and improvement of water and sewer lines near Arkansas State Highway 16

(Huntsville Road), approving a project contingency of five percent (5%), and approving a budget adjustment.

Resolution 135-12 as recorded in the office of the City Clerk.

Alderman Gray moved to approve the Consent Agenda as read with Bid #12-42 RP Power, LLC removed for discussion. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

The following item was removed form the Consent agenda for discussion

Bid #12-42 RP Power, LLC: A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from RP Power, LLC in the total amount of \$69,712.43 for use at the Owl Creek lift station, and approving a budget adjustment.

Mayor Jordan: We are going to pull this off the agenda correct?

Don Marr, Chief of Staff: It needs to be tabled indefinitely.

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

This resolution was tabled indefinitely.

Unfinished Business:

RZN 12-4077 Halsell Road/Pratt Place Inn Appeal: An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance. ***This ordinance was left on the Second Reading at May 15, 2012 City Council meeting. This ordinance was left on the Third Reading at June 05, 2012 City Council meeting. This ordinance was Tabled at the June 05, 2012 City Council meeting to the June 19, 2012 City Council meeting.***

Jeremy Pate gave a brief description of the ordinance.

Alderman Lewis: Jeremy can you explain the difference between the processes between this type of lot split process versus a large scale development process when the idea is brought to Planning?

Jeremy Pate explained the differences between the processes.

Alderman Lewis: So a lot split has the same setback expectations? The main difference is administration versus Planning Commission approval.

Jeremy Pate replied yes and continued explaining the differences.

Alderman Ferrell: On the proposed site that these homes will be built, were you satisfied?

Jeremy Pate: We haven't reviewed any formal plans but I did state that safety is always something we review as any part of an application for development. I would not instruct my staff to approve a project that would increase traffic danger.

Tim Crane, resident of 177 W. Halsell Road expressed his concerns and stated I am opposed to the ordinance.

Julian Archer, the applicant gave a brief description of the lot split.

Alderman Boudreaux: Some of the comments we have received were that there was a commitment made with the PZD that it would be kept whole. Can you explain to me why you have changed your mind?

Julian Archer explained his reasons for requesting the change.

Fran Alexander, resident of 1946 Fox Hunter Road and half owner of the property that borders Mr. Archer's property expressed her concerns and stated this is something that could be challenged again. She went on to speak against the ordinance.

Alderman Ferrell: Fran, do you expect there will be many people that live there today that will deed their property to be preservation areas in the future, or do you think they will ultimately be sold for development?

Fran Alexander: I don't know because Mr. Archer owns most of the property there.

Alderman Petty: You said the commitment was made to maintain the rest of the property as a buffer from the commercial activity to the neighborhood. I am wondering what a residential development on the edge of the PZD does to change the buffer from the commercial development.

Fran Alexander explained that the barn is closer to the neighbors on Sang than to her property. She stated this development backs up to us in an area where it would be only one lot between our property and the back of a home. Had we known it was not going to be left that way during the PZD process, we would have opposed this.

Alderman Petty: So you are saying that you perceived the commitment at that time was to buffer the neighborhood from any development, not just commercial activity.

Fran Alexander: Essentially yes.

John Davidson, resident of 221 N. Locust and the developer stated in case anyone has questions I am available.

Alderman Lewis stated the main concern I have heard from the neighbors is the need for treatment to the corner on Halsell and the increase in traffic along with the change in the PZD. She pointed out the concerns she had.

Jeremy Pate clarified the PZD process and stated this is looking at the impact of the lots or development.

Alderman Lewis: My concern is that this would not go through a public process and would reduce the likelihood of street improvements if this comes forward.

City Attorney Kit Williams: The public process would not have any affect on whether or not we could require them to improve the road. It's not the public process; it's just how much impact there would be.

Alderman Lewis stated still the street improvements are a concern for me on this. She expressed her concerns with changing the PZD and stated I probably will not support it at this time.

Alderman Adams stated I own a house on Halsell Road and we have some very serious problems on Halsell right now. She expressed her concerns with the impact this was going to have on the traffic, sidewalks and particularly considering we are going to have more impact on the trip to the high school from the west side of town.

Alderman Petty stated a development is the best opportunity to make improvements happen. I am hoping that some of the former Aldermen who were here then can speak to their perceptions of those conversations as well. That is what is going to make up my mind and help me make a decision tonight.

Mayor Jordan shared his recollections of past meetings when the PZD was approved.

Alderman Boudreaux also shared her recollections of the past meetings. She stated I feel like this will probably be the only portion that will be carved out of the original PZD and I am having difficulty not supporting their appeal.

Alderman Ferrell: Halsell is a problem but the real reason this room fills up anytime someone wants to change anything west or north of Razorback Road is that the people like it the way it is and I don't blame them. I do not think that everyone up there is going to leave their property to a nature conservancy. I will support it.

Alderman Gray: We have to remember that sometimes there needs to be changes. I'm sure the Archer's did not intend to sell off the property but also did not see the recession coming.

Alderman Tennant: I don't like the idea of weakening a PZD or overturning the Planning Commission. I agree with people up here who have said that a lot of our streets have problems. The idea of this developing could be a help to that road in the long run. I will support it.

Alderman Ferrell: I think it would be good for somebody to improve Halsell Road. That is ultimately going to be part of resolution to the whole thing.

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

Ordinance 5506 as Recorded in the office of the City Clerk

Proposed 2013-2017 Five-Year Capital Improvements Plan: A resolution adopting the 2013-2017 Five-Year Capital Improvements Plan. ***This resolution was tabled at the June 05, 2012 City Council meeting to the June 19, 2012 City Council meeting.***

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

Alderman Ferrell: What is the thinking on the public safety amounts?

Paul Becker stated we have incorporated apparatus or fire trucks into the plan. That year has been identified for the replacement of a ladder truck which is far more expensive than the normal pumpers.

Alderman Ferrell: Under Solid Waste why the spike in 2013 and then down a couple hundred thousand the rest of the year?

Paul Becker: We are looking at the Solid Waste transfer station expansion, a recycling bailer and a composite site expansion.

Don Marr: The Solid Waste plan is going to come back for a full discussion with the Council as a result of the master plan of a processed collection system etc. This is the one part of this plan that I think you could see dramatic changes based on your decisions on a solid waste design.

Alderman Ferrell: Part of the predicate on previously capital expenditures was on the operating cost of the sewer part, once we made improvements it was going to save us money in the long haul which I think it is. I am assuming we will see that in the yearly funding if we go along.

Don Marr: On the Solid Waste item it would be geared around processing to create higher commodity sales to generate revenue which is an upcoming Council discussion in general about what direction you want to go. He went on to explain the revenue coming from the recyclable collections, etc.

Alderman Lewis clarified Don Marr's statements. She stated we need to do a better job of telling the story of the money and what we are actually getting in return. She requested that we include, as part of the discussion for capital improvement, an education director for our recycling. We have talked about increasing our investment in drainage. What is the story related to further investing in drainage improvements.

Paul Becker explained past conversations on drainage improvements.

Alderman Lewis: There has been talk about bringing back to the table stormwater utility so I will just follow up with you.

Paul Becker: These are all discussions that are going to take place and we are going to look at during budget time.

Mayor Jordan stated its massive stuff that I don't know how we are going to pay for it.

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

Resolution 136-12 as recorded in the office of the City Clerk.

Amend §173.08 Arkansas Energy Code: An ordinance to amend §173.08 Arkansas Energy Code of the building regulations chapter of the U.D.C. to adopt the 2009 Residential International Energy Efficiency Code, with amendments herein. ***This ordinance was left on the First Reading at the June 05, 2012 City Council meeting.***

City Attorney Kit Williams: I think we should probably table this until July 17th. We have to do some additional notification to comply. When you adopt a code by reference you need to advertise that in the paper and make sure everyone knows they can come see the code in the City Clerk office. I would also ask the Ordinance Review Committee to consider having a quick meeting on that to go over a number of issues related to that before it comes back to the Council.

Alderman Ferrell: Can anyone show me a downside of sending this to the Planning Commission?

Jeremy Pate explained why they normally would not need to take this part of the building code before the Planning Commission.

Alderman Ferrell: So when more than one Alderman brings something to you it does not go through Planning and goes straight to the Council?

Jeremy Pate: Not unless they request that it go to Planning.

Alderman Ferrell: I would hope that we at least send it to Ordinance Review.

Mayor Jordan: That is fine.

Alderman Lewis moved to table the ordinance to the July 17, 2012 City Council meeting and send it to Ordinance Review. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was Tabled to the July 17, 2012 City Council meeting.

RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne): An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to R-A, Residential Agricultural. ***This ordinance was left on the First Reading at the June 05, 2012 City Council meeting.***

City Attorney Kit Williams: Jeremy has a revised ordinance and we should probably read that. It is also in agreement with the land owner.

Jeremy Pate stated that is correct. He gave a brief explanation of the amended ordinance.

City Attorney Kit Williams: I would suggest, if possible, that the City Council would amend the current ordinance to the one that Jeremy is handing out tonight.

Alderman Boudreaux moved to amend the ordinance as submitted by Planning at the City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.

City Attorney Kit Williams read the new ordinance.

Alderman Petty: When the Planning Commission denied this the first time do you think the principal concern was community services along the entire frontage, or the remainder of it being RSF-4, or something else entirely?

Jeremy Pate explained the concerns of the Planning Commissioners.

Alderman Petty: I like the mixture of uses a lot more than the original proposal but I'm still hesitant about residential office on Wedington. I wouldn't be comfortable voting for it tonight. I would like to send it back to the Planning Commission.

Alderman Lewis: I spoke with the applicant and I would request that we hold it so he can at least go to the Ward 4 meeting.

Jeremy Kennedy, speaking on behalf of the applicant gave a brief explanation of the ordinance and asked the Council not to send it back to the Planning Commission.

Alderman Kinion: I want to mention what Matthew said along Wedington where you have the R-O, it seems like C-S would be appropriate there. I don't understand why you have 5.6 acres there between 48th Avenue and going west from Wedington and changing that to R-O. It seems out of context with the rest of the land that has been provided to us.

Jeremy Kennedy explained why the area would be zoned R-O.

Alderman Adams: So you will put signs back up and come to the Ward 4 meeting?

Jeremy Kennedy: We would be happy to do both those things.

Alderman Adams: That would be great. I am the most bothered by the fact that we do not have any public notice on the property if we just run through this. I think it's a great plan so far.

Jeremy Kennedy: I don't know what the procedure on that is but I can get with Jeremy and see if we can get those signs put back up.

Alderman Adams: That can be done without going back to Planning Commission then?

Jeremy Pate: Certainly.

Valerie Biendara, resident of Fieldstone off Wedington spoke on the impact this would have on her. She spoke against the ordinance.

Mayor Jordan gave his recollections of a past development that was put in in that area.

Alderman Lewis moved to go to the second reading and hold it there. Alderman Ferrell seconded the motion.

City Attorney Kit Williams clarified that the ordinance was currently on the second reading.

Alderman Lewis: I would like to hold it there.

This ordinance was left on the Second Reading.

R-PZD 12-4079 (N.W. Corner of W. Cleveland St. & Hall Ave./Project Cleveland): An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4079, Project Cleveland, located at the northwest corner of West Cleveland Street and Hall Avenue; containing approximately 2.71 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. ***This ordinance was left on the First Reading at the June 05, 2012 City Council meeting.***

Alderman Lewis moved to suspend the rules and go to the second reading. Alderman Lewis 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.

Jeremy Pate updated the Council on things that have transpired over the last two weeks regarding the ordinance.

Seth Mims, with The Specialized Real Estate Group gave a presentation on the proposed development.

Alan Wooten, Land Use Attorney addressed some of the comments that have come up regarding the ordinance and explained what the law was with regard to them.

Seth Mims continued with this presentation.

Mr. Baribeau spoke on the transition and architectural styles of the proposed development.

Seth Mims continued with his presentation.

Alderman Kinion: You mentioned a lot about the University of Arkansas but I have not seen any documentation that is from the University. If you have anything I wish you would share it.

Seth Mims: I don't and this is not endorsed by the University.

Alderman Kinion: It is used a lot in supporting arguments.

Seth Mims: The point I am trying to make is that the need is there and our development fulfills that need. I do not mean to indicate that they are endorsing this development in any way.

Alderman Ferrell: What would you say would be the most noticeable difference that people that live in this area would notice when this facility is completely functioning?

Seth Mims: What the surrounding neighborhoods will find is a big improvement. He went on to speak on the noticeable improvements.

Alderman Tennant: Are you the only ones that have gotten this far with the owner as far as making an offer?

Seth Mims: Yes, I do have a contract that is contingent on me getting approval for this PZD. The owner has spoken with the U of A several times and is attempting to enter into a backup offer with them in case my contract does not go through.

Alderman Petty: Are you amenable to the idea of a right out only from your parking garage?

Seth Mims: Yes sir, we are. The Development Services Division may want to review a right turn only. Jeremy, can you speak to that?

Jeremy Pate explained what Development Services would look at when considering the right turn only.

Seth Mims: So perhaps we can make it a condition of approval providing that staff is okay with it?

Alderman Gray: I am concerned about throwing all of the traffic onto Cleveland.

Seth Mims explained his traffic engineer's findings for this area.

Alderman Petty: Is there a way that we can write this condition so that staff may require it if they find it necessary?

City Attorney Kit Williams: We could attempt to do that. Jeremy, are you aware of any other time we have done that?

Jeremy Pate: I can't think of one off the top of my head. He explained other similar instances.

Mayor Jordan: What are the differences between this and what we did with Kum & Go.

Jeremy Pate: It is similar to that.

City Attorney Kit Williams: It was dependent upon the Highway Department.

Seth Mims displayed on the map the area being discussed.

David Orr, resident of 1564 W. Cedar Street expressed his concerns with the amendment.

Alderman Petty gave reasons why this was necessary to do.

Alderman Lewis: I am supportive of this amendment considering that it will also first go to staff.

Alderman Petty moved to amend the ordinance to add a right out only condition of approval with staff approval. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Brock Showalter, resident of Ward 4 stated the vast majority of us in this Ward do support this project. He went on to speak in favor of the ordinance.

David Carter, a resident of Ward 4 expressed his support and spoke in favor of the ordinance.

Greg McGinnis, resident of 1400 W. Cleveland expressed his concerns with traffic and spoke against the ordinance.

David Beasley, a student from the University of Arkansas stated a majority of the students prefer to walk to class. He went on to speak in favor of the ordinance.

Stephan Comoucho, a student from the University of Arkansas spoke on the importance of walkability and went on to speak in favor of the ordinance.

Kimberly Pearson, resident of 140 S. Hall Avenue spoke on the safety issues that would be alleviated if you lived closer to campus and also spoke on the importance of walkability. She continued to speak in favor of the ordinance.

A student from the University of Arkansas also spoke in favor of the ordinance.

Michael Steven, an International Student from the University of Arkansas spoke in favor of the ordinance and explained the importance of living near the campus.

Johnny Chamberland, a resident of 180 S. Hill Avenue stated I walk or bike to school several times a day. He spoke in favor of the ordinance.

Jennifer Goodwin, resident of 24 S. University Avenue spoke in favor of the ordinance and asked if not these guys than who?

Alderman Gray asked about the behavior at Eco Flats.

Jennifer Goodwin: It's actually pretty quiet and as far as traffic goes I would say that most of those people walk as well.

Alderman Gray: What about the surroundings? Are they well taken care of?

Jennifer Goodwin: They are beautiful and I think it has raised property values.

Steve Dickson II, resident of 1346 Shetland Dr. spoke on the 2030 Plan and went onto speak in favor of the ordinance.

Marybeth Hughes, a trustee for 965 Hall expressed her concerns and went on to speak against the ordinance.

James Cherry, resident of 24 S. University stated I think it is wonderful having good dense housing for students. He went on to speak in favor of the ordinance.

David Orr, resident of 1564 W. Cedar Street expressed his concerns and spoke against the ordinance.

Alderman Ferrell: What do you think about the dormitory right across the street? When you look at the scale it is taller than the proposed site. Were you opposed to the dormitory?

David Orr: I was not living here when those were built.

Alderman Ferrell: The height doesn't bother you?

David Orr: The height is not so much a problem but when the developer showed the aerial photograph, several people sitting around me remarked on how the shadows of the buildings stretch all the way across Cleveland Street to the Bayyari Apartments. This is another issue. When you have tall buildings you have permanent shadows.

An unknown citizen spoke on behalf of the international students and spoke in favor of the ordinance.

John Kester, resident of 1221 W. Mount Comfort Road stated I support the project because of the significant alterations it's made and also the core values behind the project in connecting with a lot of the goals moving forward.

John Coleman, a citizen spoke on the importance of having developers who are willing to use LEED standards. They are trying to meet the goals of the City Plan 2030. I have not been involved with this project but I think there is a track record there and I think they are trying to do the same thing here. He spoke in favor of the ordinance and the project.

Archer Schafer, 1404 West Cleveland we think the important thing is the neighborhood immediately surrounding this project have concerns about it. I think the feelings of the people who live closest to this and that have concerns about the scale, density and impact on traffic are most important and I hope you will pay attention to that. A lot of reference has been made to the 2030 Plan and there is no question that this project is compatible with the 2030 Plan. We are not suggesting that there is anything wrong with the way the project is designed and trying to comply with the 2030 Plan. The problem is the specific site that has been chosen. We disagree that this is the best site in Fayetteville. We appreciate you voting against this.

Alderman Tennant: What would you like to see there?

Archer Schafer, we would be delighted to see Eco Modern Flats recreated there. I was very impressed with that. They are talking about something that is three to four times the density and size of the existing apartment complex there. We believe this is inappropriate infill.

Alderman Kinion: Compare and contrast your opinion of Eco Modern Flats and what your perception is of this development. I also find Eco Modern Flats very attractive. Can you compare the two?

Archer Schafer: It all about the scale and density of the two. This will dwarf everything on the north side of Cleveland. We do not think that is appropriate.

Mike Lieber, 743 Cedarwood asked questions about the traffic on Cleveland. He asked if the traffic studies were done during peak time. He also asked about the bike lanes on Cleveland and if they would narrow the traffic lanes on Cleveland.

David Williams, 547 Gray thanked the City Council and Mayor for paying careful attention to this issue. He thanked Planning staff for doing such good work and the applicant for their response and what they believe is a good way to go for 2030. He also thanked the people in the area that have spoken up. He stated that he does not feel the project is the right scale and density and the traffic study does not seem to be representative of what the residents experience in the area. He is also concerned about the upstream and downstream water and sewer overload possibilities. His big concern is there needs to be some sort of overlay plan with the University to guide development in the area.

Michael Lolley: You have an opportunity to send a clear message as to what we want to see built in Fayetteville and I think it is a project like this. This promotes sustainable, walkable and infill development. I am a huge fan of this type of development. I hope you vote for this project.

Stephanie Foster: This is a beautiful project but those of us in the vicinity of it are very uncomfortable about some issues that we do not feel have been addressed to our satisfaction. There are a lot of traffic problems in our neighborhood. We are having problems at our current density and adding to that density without addressing some of the street problems is a problem for the neighborhood. They have accommodated us in a lot of ways and have addressed some of our concerns but not all of them. My concern is safety and traffic.

Mark Kinion: They have addressed some of the safety in their planning do you not see that as enough.

Stephanie Foster: What they have mostly done is right there at Leverett.

Mark Kinion: Are you seeing a lot of cut through traffic from Sunset to Wedington?

Stephanie Foster: Yes.

Margie Alsbrook spoke in favor of the project. This does not affect one neighborhood it affects everybody.

James Butch Cogger spoke in favor of the project. He stated if the University of Arkansas buys this property they do not have to follow city code, they can build anything. In my opinion that building is beautiful and this project involves all of Fayetteville. An overlay district is a must. We need to look at the big picture.

There was a discussion about the impact of this project on the neighborhood.

Alan Long: The growth of the University of Arkansas is essential to the growth of Fayetteville. The neighbors in that neighborhood are nervous. The design elements make this project attractive. Infill and walk ability are important building blocks to establish a more sustainable community. Thoughtful growth planning is the key to building a thriving, infill, and sustainable community. One development is not the key to that. Until we have a campus overlay please say no to this project.

A discussion followed on a university overlay plan.

Alderman Petty: I believe in the process that we have here. Whatever vote happens the margin is probably pretty close to how Fayetteville thinks about these things. I don't think that I have seen any other project, since I have been on the Council that has painted the differences in a neighborhoods fears and desires and the goals of the 2030 Plan in such a sharp relief. He voiced his support of the bike lanes on Cleveland. The improvements, that are going to be made if this project is approved, have been needed for a long time. There are two things every community hates and that is sprawl and density. A university overlay district is a necessity and the 2030 Plan may need to be tweaked, but it does not mean it is not adequate. The fundamentals of the 2030 are absolutely correct.

Alderman Ferrell: This was the best on point presentation incorporating City objectives I have ever witnessed. Planning Commission passed this 7-1.

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 7-1. Alderman Kinion voting no.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: The attorney for the developer seemed to imply that you should not consider with very much weigh the opinions of the neighbors, but you should consider the city as a whole when it comes to a zoning decision. I sent you a memo several years ago about zoning considerations. The Supreme Court has said about public opposition, citizens in the neighborhood are to be considered. The Court also said the opinion of local residents when it reflects logical and reasonable concerns should be considered. Zoning was created to protect neighboring land owners' rights. I think it is important to look at the neighborhood where the proposed zoning is being requested. I am not saying that is the only thing to look at, but that it one of the main factors. You are also supposed to avoid spot zoning. You don't have to be bound by what the neighbors say, but you should consider it.

Alderman Lewis asked some questions about Cleveland Street and the design of the building.

Alderman Lewis moved to amend the ordinance to add more street connectivity, egress and ingress along Cleveland with citizens. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Boudreaux was absent during the vote.

Alderman Adams asked that the citizen that wanted to speak to come to the microphone.

Stacy Park 1636 West Maple stated we love living on Maple and the diversity of the neighborhood. She stated that she loves Leverett Elementary School. I appreciate the work the design team has done and the openness the developer has allowed to express opinions. Once this project is built I am afraid a lot of the surrounding properties will become rental property or be rezoned. I think you will be losing you single family population that supports the existence of Leverett Elementary in its location where it is now and that will leave us with one in town school

instead of two. She voiced her concerns about the density of the project and that there are other properties more appropriate for this project. She also voiced her concern about an increase in traffic because of the project and the current streets and sidewalks around the project. She voiced her concern about the Faye Jones houses that have been built in the neighborhood and the historic value of them.

Alderman Petty: Can someone comment on the traffic studies.

A discussion followed on the traffic studies that were completed and the dates they were conducted.

Ernie Peters, Peters and Associates: The counts were done while the college was in session.

Mayor Jordan: How many cars did you count on Cleveland?

Ernie Peters: At various locations what we found was the 24 hour volume entering the intersection at Hall and Cleveland totaled 7,887 vehicles. With the development as proposed we are estimating a total of 8,667 vehicles, a 7.3% increase at that intersection. All of the intersections we studied continued to be at a very acceptable level of service.

Mayor Jordan clarified the traffic study results.

A discussion continued on the results of the traffic study and the dates the studies were conducted.

Alderman Lewis: Thank you Kit for pointing out that the neighborhood and contributions from citizens are a huge factor in the thought that we put into this. It is important to recognize the amount of changes that were made as a result of the citizen input. I really appreciate that. I am hearing a concern about the traffic and the feeling of encroachment into the neighborhood. I think we have a long term plan which is the 2030 Plan. We must have more research into how we can protect the neighbors around the university. I hope all developments from this point forward have these innovative designs. This is the leading edge of how design can happen. This type of project leads to public transit, walk ability and more pedestrian activity. It also incorporates LEED, energy efficiency and low impact development. Density is not the amount of people but how they are designed, how they flow and how they are in a community together that matters. We need to look at this area because it has needs. I will support this development.

Alderman Gray: This is a difficult decision. I feel this is best for the City of Fayetteville. I understand how the community is concerned. We have traffic problems all over town and we are tackling them as soon as we can. The Planning Commission and staff have approved this. I have never seen such a thorough plan and a developer willing to go the extra mile. I feel this is a project that will benefit Fayetteville. We need more models like this. I support this.

Alderman Adams: Thank you Seth for your good work and Council for all the time we have put into this. I am not going to support this because I have not heard the reasons for the rezoning.

Alderman Tennant: This boils down to change and the question of change and whether it is needed or necessary. The growth at the University is amazing and I think a lot of it is positive. We should not sell our soul as a city to support that growth we should realize that the U of A is a part of our soul, a permanent part of this cities soul. We should look at what we think is best and the best growth for our city and I think we are all doing that. This developer has done what I wish all developers will do in Fayetteville moving forward which is they listened to people and they have reacted to those people. I appreciate what they have done. This allows students to walk and not drive. I think it is a positive.

Alderman Kinion: I have respect for this design team and I think this is the type of design that we want to see in Fayetteville. In this case I have to support the neighborhood and their feelings of how this is going to impact the neighborhood as a community. The sense of community that you have in a neighborhood is irreplaceable. We need to develop some type of plan around the university to handle growth. This is a set into a neighborhood and I hear the concerns of the neighbors that are directly impacted by this. I do not have a specific issue with the design of the project I think it is the wrong time and wrong place. I will not support it.

Alderman Boudreaux: This has been very difficult. I respect the neighborhood and understand their concerns. I do not see us getting an overlay district that the university is going to agree to any time soon. If we do they very likely would say this is a good place to build this. This is a good project. This property is going to sell and we have a project before us that is good and in a good location. I will support it.

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

Ordinance 5507 as Recorded in the office of the City Clerk

New Business:

Bid Waiver for Truck Hauling Services: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of truck hauling services through a quote process when purchase through Bid #12-06 as awarded by Resolution No. 21-12 is not available.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Services Director: We are having difficulty in obtaining haulers for our asphalt. We are asking to be able to obtain quotes each week.

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 Kinion 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 5508 as Recorded in the office of the City Clerk

Announcements:

Adjournment: 12:10 a.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

A meeting of the Fayetteville City Council was held on July 03, 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 Boudreaux, Kinion, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

Advertising & Promotion Commission Replacement

Mayor Jordan asked that he be replaced on the A&P Commission. He nominated Alderman Bobby Ferrell to replace him.

Alderman Tennant: If you think it is necessary to do this I agree with it.

Alderman Boudreaux moved to appoint Bobby Ferrell to the A&P Commission due to the resignation of Mayor Jordan. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Alderman Bobby Ferrell was appointed.

Amend §94.05 Use of Fireworks: An ordinance to amend §94.05 **Use of Fireworks** of the Fayetteville Code to allow consumer fireworks to be discharged on Labor Day if a burn ban has prohibited the discharge of any consumer fireworks during the normal July 1st, 2nd, 3rd, and 4th period.

Alderman Boudreaux moved to add Amend §94.05 Use of Fireworks to the agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan gave a brief description of the ordinance.

Alderman Boudreaux: I think using Labor Day might be a better idea because it is a recognized holiday that can be planned for.

City Attorney Kit Williams: I have drafted something similar to that but I want to know what the City Council wants to do.

Alderman Ferrell: Does anybody know of a down side to changing it?

Alderman Tennant: The first football game here is Labor Day weekend.

Don Marr: We need to be clear that this is assuming that there is no burn ban on Labor Day weekend.

City Attorney Kit Williams: You could make it on Labor Day if you think that the football is a problem.

Alderman Boudreaux: People are off because it's a holiday just like the 4th.

A discussion followed on what time the fireworks should end.

City Attorney Kit Williams: Let's make it 11:00 p.m.

Alderman Tennant: What is the date that the fireworks stands have to close?

City Attorney Kit Williams: They can sell through the 5th.

Alderman Lewis: Do we want to just revisit it if the burn ban has not lifted?

City Attorney Kit Williams: We will have to cross that bridge when we get to it. If you do want to change it to Labor Day I think we need to drop the emergency clause.

Alderman Petty: I do think it's wise that we do it the same day as Springdale did. There would be a lot less confusion.

Alderman Tennant: Do we know if they extended the selling time frame for the stands?

City Attorney Kit Williams read the proposed amended ordinance.

Alderman Boudreaux moved to amend the date that fireworks are allowed due to the burn ban to Labor Day. Alderman Ferrell seconded the motion.

Martin Bimberg, a resident of the Historic District commended Mr. Petty for suggesting the day that is selected be the same as surrounding communities.

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

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

City Attorney Kit Williams read the ordinance.

Don Marr clarified that the Springdale Council approved Sunday and Monday.

Alderman Boudreaux: I am not making that motion. We only have one day now and we are kind of being consistent with them now.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5509 as Recorded in the office of the City Clerk.

Consent:

Approval of the June 19, 2012 City Council meeting minutes.

Removed from the agenda

Bid #12-53 Mid-America Pool Renovation, Inc.: A resolution awarding Bid #12-53 and authorizing a contract with Mid-America Pool Renovation, Inc. in the amount of \$256,490.00 for the construction of Wilson Park pool renovations, approving a ten percent (10%) project contingency and approving a budget adjustment.

Resolution 137-12 as recorded in the office of the City Clerk.

2012 Assistance to Firefighters Grant: A resolution authorizing an application for a 80/20 matching 2012 Assistance to Firefighters Grant, through the Federal Emergency Management Agency (FEMA), in the amount of \$179,410.00 for the purchase of wildland firefighting personal protective equipment by the Fire Department.

Resolution 138-12 as recorded in the office of the City Clerk

Federal Emergency Management Agency Reimbursement: A resolution approving a budget adjustment in the amount of \$129,391.00 to reimburse the Transportation Division for expenditures incurred as a result of Spring 2011 flooding which have been reimbursed by the Federal Emergency Management Agency and/or the State of Arkansas.

Resolution 139-12 as recorded in the office of the City Clerk

Steele Boulevard/Malco Theatre Entry Traffic Signal: A resolution approving a budget adjustment in the amount of \$85,300.00 representing revenue for the installation of a traffic signal on Steele Boulevard at the entrance to the Malco Theatre.

Resolution 140-12 as recorded in the office of the City Clerk

Alderman Adams moved to remove the minutes from the Consent Agenda. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Gray was absent.

Alderman Tennant moved to approve the Consent Agenda as read with the June 19, 2012 City Council meeting minutes removed. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Boudreaux was absent during the vote. Alderman Gray was absent.

Unfinished Business:

RZN 12-4108 (4847 W. Wedington Dr./Bank of Wynne): An ordinance revoking R-PZD 07-2576 (Woodstock) and rezoning that property described in rezoning petition RZN 12-4108, for approximately 31.68 acres, located at 4847 West Wedington Drive from R-PZD, Residential Planned Zoning District 07-2576, to CS, Community Services; R-O Residential Office; NC, Neighborhood Conservation; and RSF-4 Residential Single Family Four Units Per Acre. ***This ordinance was left on the First Reading at the June 05, 2012 City Council meeting. This ordinance was left on the Second Reading at the June 19, 2012 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated signs did go up for this particular site.

Alderman Petty: At the last meeting I asked about the possibility of a Community Services zoning across the street frontage and we heard from a resident some really good reasons not to do that. I will support this as is and I think it's the right way to go.

Alderman Lewis: I appreciate the applicant coming to the Ward 4 meeting. Would having form based zoning along Wedington reduce the setbacks and create more of that feeling of walkability along Wedington? Also, what is the process for establishing a park area in that zoning? There were concerns about being able to communicate that as that would get developed? Jeremy, can you address that?

Jeremy Pate addressed her questions.

Alderman Lewis: So signs would go back up for any development that came into that area.

Jeremy Pate: Any and all those developments. .

Valerie Biendara, resident of Fieldstone stated I agree with the new changes. She spoke in favor of the ordinance.

A representative of the applicant stated I am here if you have any questions.

Alderman Adams: I feel like we have done a really nice job of talking to the public and Ward 4. I appreciate the work you have done Jeremy to listen to the citizens.

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

Ordinance 5510 as Recorded in the office of the City Clerk.

Public Hearing:

Water and Sewer Relocation Project Condemnation and Possession: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Richard E. & Dorothy Brown, Bill R. & Doris A. Kisor, Wolfredrick & Serena McMichael, SM-WLJ FAC Owner, Inc., PCC Properties, LLC, Presbytery of Arkansas, and Dunnerstock

Development, Inc. needed for water and sewer relocations along Arkansas State Highway 265 between Joyce Boulevard and the northern city limits.

Mayor Jordan opened the Public Hearing.

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

Mayor Jordan closed the Public Hearing.

Alderman Ferrell clarified whether or not he should recuse due to being a part of one of the organizations that were listed in the ordinance.

City Attorney Kit Williams: You can if you want to. I don't think you would be wrong not doing it.

Chris Brown: That is one of the organizations that we have already settled so that one is not a part of this resolution.

Alderman Ferrell: Okay.

Alderman Lewis thanked them for continuing to work on this negotiation.

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

Resolution 141-12 as recorded in the office of the City Clerk.

New Business:

Town and Gown Advisory Committee: An ordinance enacting Article XXIV Town and Gown Advisory Committee (§33.360 through §33.365) of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville to provide for the creation of a Town and Gown Advisory Committee, and defining its composition, authority and duties.

City Attorney Kit Williams read the ordinance.

Mayor Jordan gave a brief explanation of the ordinance.

Julie McQuade, Community Outreach Coordinator gave a brief description of the purpose of the committee and went on to explain the ordinance.

Alderman Lewis spoke on the importance of the board and thanked Mayor Jordan and Julie McQuade for their work on this. She stated I will be in support of this.

Alderman Boudreaux: I do hope this is an active committee and some things come from it.

Alderman Lewis: Who will facilitate the meeting? Do we know that?

Mayor Jordan: I don't think we do. The committee will usually get together and elect the chair.

Julie McQuade: The discussion was that they would elect the chair. I would be the staff support but the chair would facilitate the meetings.

Alderman Adams: We already saw a good working relationship between the University and the City at the neighborhood meeting.

Alderman Ferrell: Is there any prohibition against saying that the representatives from the wards would not be employees of the University of Arkansas which could have a weighing influence on the number of people?

City Attorney Kit Williams explained the current process that is used.

A discussion followed.

Alderman Ferrell moved to amend the ordinance as follows: *Appointee or their spouse shall not be an employee of the City or the University of Arkansas.* Alderman Kinion seconded the motion.

Alderman Lewis pointed out that the University of Arkansas and the City of Fayetteville are huge employers which would eliminate a large percentage of people that can participate on this. When you are a representative you are coming at this from your neighborhood and that is your concern.

Alderman Kinion agreed with Alderman Lewis's comments and stated that the Nominating Committee could look at the applicants and balance out the structure. This is rather restrictive and I would not support it.

Alderman Ferrell: I don't think we are going to have a problem coming up with fourteen people.

Alderman Adams: I don't want to restrict people based on their marital status.

Upon roll call the motion failed 1-6. Alderman Ferrell voting yes. Alderman Adams, Lewis, Boudreaux, Kinion, Petty and Tennant voting no. Alderman Gray was absent.

The motion failed.

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

City Attorney Kit Williams read the ordinance.

Martin Bimberg asked that this be tabled until Cathy Short is here and can weigh in.

Alderman Boudreaux: I would rather vote on this tonight and move it forward. This came from staff and I think we need to move it forward.

Alderman Boudreaux moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-1. Alderman Adams, Lewis, Boudreaux, Kinion, Petty and Tennant voting yes. Alderman Ferrell voting no. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: On the application for the Nominating Committee there is information about your employment and where you work?

Alderman Kinion: Yes, and there also is a question of who your spouse is but you are not required to answer either one of them.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Adams, Lewis, Boudreaux, Kinion, Petty and Tennant voting yes. Alderman Ferrell voting no. Alderman Gray was absent.

Ordinance 5511 as Recorded in the office of the City Clerk.

ADM 12-4144 3078 N. College Ave. Siebert Appeal: A resolution to reverse the Planning Commission's decision to grant and thereby to deny the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor.

Alderman Ferrell gave a brief explanation of the resolution.

A discussion followed on what was previously determined on how to handle appeals like this.

Jeremy Pate gave the background of the resolution.

Alderman Kinion: What initiated this were the vendors at the corner of Trenton and College. When we wrote this ordinance, that Kit handed out, certainly what has to be considered is compatible and not detrimental to nearby properties, will not adversely affect nearby businesses and will not create an unfair advantage over similar or nearby businesses. So we have language that we can refer to in the current code to help us understand the specific nature of anyone that claims to be a mobile vendor. Alderman Petty has done a lot of research and we will be revisiting this. We have to honor this code as it is currently written.

Alderman Ferrell: There is no intent to be punitive to the people that have the business there right now. I will try to offer something that will be palatable for the people that are there right now. They came in good faith and made an application. I plan to make a motion that hopefully will make everybody a little happier.

Alderman Boudreaux: Why don't you make it now?

Alderman Lewis: Everyone on this Council is pro business because these are two businesses.

Alderman Ferrell: Jeremy, if we reverse the Planning Commission, aren't they on grace period right now?

Jeremy Pate: They would be operating within their 90 day permit which is allowed by the ordinance.

Alderman Ferrell: When is that up?

Jeremy Pate: In July I believe but I would have to go back and calculate that.

Alderman Ferrell: My intent is to table until the last meeting in August or the first meeting in September. My plan is to render final decision and to table it.

Mayor Jordan: That would give Alderman Petty time to bring something forward and they would not have to leave.

Alderman Ferrell: Yes.

Alderman Kinion: On a counterpoint of that we do have in front of us the variance language and the fact that we do have code in place right now. There may be other individuals that will be approaching the Planning Commission at the corner of Trenton and College. By delaying the discussion on this further it could put more businesses in jeopardy. I hate for this to be dangling when there is current movement by business owners to move forward to ask for a variance.

Alderman Lewis: Is 2011 the first time this business was placed there?

Jeremy Pate: No, they have been there for several years.

Alderman Boudreaux questioned why this variance test was not discussed more at the Planning Commission.

Jeremy Pate explained the discussions from the Planning Commission meeting.

Alderman Boudreaux: So the discussion was that it was not a comparable product.

Jeremy Pate: Correct.

Alderman Boudreaux: This also says will not affect nearby and similar businesses.

City Attorney Kit Williams referenced a memo that he submitted to the Planning Commission explaining what the test should be.

Alderman Petty: I think they considered those things at length and what I think they decided was it's not an unfair advantage even if the menus are similar. They voted according to their consciences. I think we have to do the same thing here.

Tracy Hoskins, who filed the appeal gave an explanation of why he requested the appeal and gave a brief slide presentation.

Alderman Petty asked Mr. Hoskins to explain what he meant by a litmus test.

Tracy Hoskins explained what he meant by his statement.

Alderman Petty: You mentioned some of the ways Maggie Moo's contributes to the community. Have your sponsorships changed this year or have you continued to maintain them?

Tracy Hoskins: We maintain all our sponsorships that I know of.

Eric Siebert and Kate Siebert with Shave the Planet gave a brief presentation to the Council and asked the Council to support the Planning Commissions decision.

Alderman Boudreaux: Is this the only facility that you have?

Kate Siebert: We have another one on Wedington.

Alderman Boudreaux: And you have exhausted all other locations in that same vicinity?

Kate Siebert: There is nothing on past Millsap until you get to Joyce.

Eric Siebert: Yes, there are probably more locations out there but we do not have enough time to find one.

Alderman Kinion: You are saying that you are compatible with and not detrimental to nearby properties and have not affected the nearby businesses based on HMR taxes. You have showed that you do not have an unfair advantage over similar and nearby businesses because your product is not only different but a different type of business. This is what we have to look at. I think I am hearing some valid arguments.

Eric Siebert stated we would love to have a permanent structure however he explained the issues with having an indoor facility.

Kate Siebert: If we were to have a permanent building we would still be closed for four months out of the year and have a vacant building.

Martin Bimberg spoke in support of Shave the Planet.

A discussion followed.

Ben Israel, resident of 1501 Starr Drive also spoke in support of Shave the Planet. He asked who brought up the fact that you needed to change the code so that they could not just move to the next lot.

City Attorney Kit Williams: I believe that it was Planning, because the code said moving a location they considered an adjoining parcel was a change in location. As City Attorney I felt like that was a misreading of the intent of the City Council. So when it was brought back I suggested we put in the half mile and that was approved by the City Council so it would be a true change in location.

Ben Israel: I don't understand why it would come up. We were told it would not be any trouble moving 10 feet because you will be on the next lot. Then we were told no and that it was changed by the City Council. I would like to know who instigated that.

Mayor Jordan: It probably came from my Planning Staff and we brought it forward to the Council and they voted it in.

City Attorney Kit Williams: I suggested it too.

Ben Israel: That night the City Attorney said you can move 10 feet and meet the current requirements.

City Attorney Kit Williams: If you look at the minutes it was actually Planning Staff that gave that interpretation and they do have the interpretation rights in the UDC. When it was redrafted I felt we needed to come up with a more definite amount of moving because 10 feet is not a move.

Ben Israel: Does it not seem unusual to any of you that it came up before we had a chance to be heard? He went on to express his support for Shave the Planet.

Alderman Boudreaux: You own the parking area that they are located in right?

Ben Israel: Yes.

Alderman Boudreaux: But you do not own the buildings that Maggie Moo's is in?

Ben Israel: No, that is across the street.

Alderman Boudreaux: I thought it was in the same parking lot.

Ben Israel confirmed the location.

Cody Yancy, a Fayetteville business owner pointed out the differences between the two businesses and spoke in favor of Shave the Planet.

Amanda Siebert, who currently works for Shave the Planet addressed some of the concerns and spoke in support of Shave the Planet.

James Coger, a citizen spoke in support of Mr. Hoskins and asked the Council to over turn the Planning Commission.

Celeste Hoskins, owner of Maggie Moo's asked for clarification on how long Shave the Planet had been at that location. She also stated that other small businesses agree that something needs to be done with the ordinance. She encouraged the Council to focus on the ordinance in protecting all entities.

Joseph Morrison, who runs Maggie Moo's clarified that we do sell very similar products as Shave the Planet.

Ben Israel: Shave the Planet was not the first vendor there. There has been ice there for 17 years.

Alderman Petty explained how this relates to the ordinance. He stated I feel like we have enough information to make a decision given the criteria we have before us. I want this ordinance to apply fairly to any business type. I am not willing to make the judgment call myself to say this type of business is unfair by default and so we are going to discriminate against it operating at this location. That is what makes the decision for me.

Alderman Ferrell stated you do not have to discriminate against any business. You just have to follow the code. If someone asks for an appeal I will be happy to appeal on their behalf. Mr. Hoskins factually illustrated assertions he made in his appeal. To me that is hard to refute. He asked Kit to explain what happened at the Planning Commission meeting.

City Attorney Kit Williams gave a brief explanation of the previous discussions from the Planning Commission meeting.

Alderman Ferrell: I was trying to illustrate that I think there was some confusion. If I were to vote right now I would vote for the appeal because to me it's pretty black and white. He went on to list the reasons why.

Alderman Ferrell moved to table the appeal to the September 4, 2012 City Council meeting. Alderman Boudreaux seconded the motion.

Alderman Petty: I support the motion. One thing I would like the Council to indicate is if we make that table one of the things that we are doing is setting a soft deadline for having that comprehensive ordinance discussion. If that is really the case, it would help a lot in assigning staff resources to that task if they knew the Council was intending that as well.

Alderman Boudreaux: That could certainly be something that the Ordinance Review Committee could look at and discuss.

Alderman Adams: You could make it October 1st to give it a little more time.

A discussion followed on how much time was needed.

Mayor Jordan stated that when an Alderman is asked to appeal something they appeal it because they need the chance to have their say. Everyone should have a voice and there is no doubt in my mind that Alderman Ferrell responded to Mr. Hoskins request. He also addressed comments that were made to City Staff and he stated I have the responsibility of the staff and that is my job, so for any misunderstandings there might have been I do apologize for that. I never intended to cause any issues. We felt it was something that needed to be changed, staff brought it forward, we sought the recommendation of the City Attorney and I approved what the staff brought forward.

Alderman Lewis: In some cities unattached businesses are mobile but they are there all the time. So there is a need for clarification on what our goals and approach is on that in the language.

Alderman Boudreaux: I think we have the definitions of everything.

Alderman Lewis: They are not very clear at this point.

Don Marr added that for the staff assignment to the request of Alderman Petty, we never fully use all of staff capacity, because each of you have the opportunity to bring us things that we don't know that you are thinking about that you would like us to research. In terms of providing staff resources for you to expedite this, we are certainly able to accommodate that. Many of these things that you are talking about are policy related decisions.

City Attorney Kit Williams: I would suggest that it go first to Ordinance Review so that they can clarify what they want staff to do.

Alderman Boudreaux: I don't know that I agree simply because I feel like definitions are something that staff would be better equipped to set down. Then the Ordinance Review Committee could review that rather than drafting it.

City Attorney Kit Williams: We are talking about very general policy direction to staff.

A discussion followed.

Don Marr: Staff has been working on this with Alderman Petty in a research mode looking at other cities and policies that are in place. Designing from a blank sheet is much more difficult than changing something that is in front of you. This was driven from Alderman Petty and Alderman Kinion. They have given us some guiding standpoints. We have been given some direction. We are not starting from no direction.

Mayor Jordan: Alderman Kinion brought up a good point that other businesses may be coming in here that want to set up. What are we going to do on that?

Alderman Ferrell: I would move that we go by the existing law right now.

Mayor Jordan: Until we get something done in September. Is everybody good with that?

Alderman Kinion: At that point people would have the right to come and appeal.

Alderman Boudreaux: The only reason we are considering tabling this is because the owners of the shaved ice would have changed their date on the application if they would have understood how it was going to work out for them. I feel like that is a justified reason to table this.

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

Adjournment: 8:30 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

*Handed out at the
City Council Meeting 7-17-12*

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-48 AND AUTHORIZING THE PURCHASE OF ONE (1) LARGE SQUARE BALER FROM WILLIAMS TRACTOR OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$89,026.00, FOR USE BY WASTEWATER TREATMENT, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-48 and authorizes the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$89,026.00, for use by wastewater treatment.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

*Handed out at the
City Council Meeting 7-17-12*

City Clerk - Fwd: PZD ordinance change

From: Alan Long
To: , City Clerk
Date: 7/17/2012 4:01 PM
Subject: Fwd: PZD ordinance change
CC: mayor , , , Justin Tennant , Bob Ferrell , Rhonda Adams , Sarah Lewis , Sarah Lewis , Matthew Petty

Kit, please see below. I believe that there may be some confusion regarding the ammendment that you have brought forward. In your memo to the city council and the mayor it states, "...I do not believe this section has ever been used in an attempt to require a super majority vote."

If you read the email below, you will recall that we specifically asked if this section could prevent a PZD. This was during the time when the 5 person ordinance was being considered and the Marinoni property development was being discussed along with project Cleveland.

Our neighborhood specifically intends to use this section of the UDC. I ask that the council not change this section of the code. It would be improper to change the code during a time when residents have asked if this code can be applied to protect their property.

Best Regards,

Alan Long
 Ward 4 resident
 Waterman Woods.

From: "Kit Williams" <kwilliams@ci.fayetteville.ar.us>
Date: April 18, 2012 4:41:52 PM CDT
To: "kay steven@rockhouselaw.com" <kay_steven@rockhouselaw.com>
Cc: Andrew Garner <agarner@ci.fayetteville.ar.us>, Jeremy Pate <jpate@ci.fayetteville.ar.us>, steven kay <steven@rockhouselaw.com>
Subject: Re: PZD ordinance change

Steve,

As Alan has informed me that you represent him, I must direct my answer to you. The Unified Development Code speaks for itself. However, it appears to me that this section (which I have never seen used before) would apply to all zoning actions which should include a Planned Zoning District which does have an explicit zoning component. Please keep in mind that zoning regulations are always construed in favor of the Property owner and against the City. Language in this section "those immediately adjacent in the rear thereof" seem to limit those who may object rather strangely. It will be difficult to construe the intended meaning of this language.

Kit

Kit Williams, Fayetteville City Attorney
 (479) 575-8313
 FAX (479) 575-8315
 113 West Mountain
 Fayetteville, AR 72701

Alan Long <alanthomaslong@gmail.com> 4/18/2012

11:38 AM >>>

Does the following (154.03)(c)(2) apply to the PZD process for each approved PZD that comes before the city council?

(2)

*Vote. *When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 300 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths of the City Council.

--

Alan
479.466.8219

--

Alan Long
Ward 4 resident
Waterman Woods.

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
July 17, 2012**

A meeting of the Fayetteville City Council will be held on July 17, 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:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the June 19, 2012 and July 3, 2012 City Council meeting minutes.
2. **Parkland Dedication Fees:** A resolution approving a budget adjustment in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast Quadrant to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

3. **Drake Field Pavement Rehab & Re-Marking Phase II Project:** A resolution approving a budget adjustment in the amount of \$7,012.00 to reflect modifications to the Drake Field Pavement Rehab & Re-Marking Phase II Project necessitated by grant program changes.
4. **Bid #12-40 Luber Bros, Inc.:** A resolution awarding Bid #12-40 and authorizing the purchase of one (1) Deweze ATM72LG slope mower from Luber Bros., Inc. of Tulsa, Oklahoma in the total amount of \$41,209.40, for use by the Transportation Division, and approving a budget adjustment.
5. **Bid #12-48 Williams Tractor:** A resolution awarding Bid #12-48 and authorizing the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$81,488.00, for use by wastewater treatment, and approving a budget adjustment.
6. **Bid #12-49 Sellers Trading Post:** A resolution awarding Bid #12-49 and authorizing the purchase of two (2) Rhino FR180 batwing cutters from Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00, for use by the Parks Department and wastewater treatment.
7. **Bid #12-50 Countryside Farm & Lawn:** A resolution awarding Bid #12-50 and authorizing the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$19,145.00, for use by wastewater treatment.
8. **Bid #12-42 Endless Power Corp.:** A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station, and approving a budget adjustment.
9. **Bid #12-54 Instrument & Supply, Inc.:** A resolution awarding Bid #12-54 and authorizing the purchase of one (1) large water pump from Instrument & Supply, Inc. in the amount of \$88,800.00, plus applicable sales tax, for use at the South Mountain pump station.
10. **John David Brown Settlement Agreement:** A resolution approving a settlement agreement with John David Brown, concerning condemnation litigation filed as part of the Highway 265 Water and Sewer Relocation and Improvement Project, in the total amount of \$46,666.50.
11. **Richard and Caren Hanna Settlement Agreement:** A resolution approving a settlement agreement with Richard and Caren Hanna, concerning condemnation litigation files as part of the N. Garland Avenue Improvement Project, in the total amount of \$1,600.00.
12. **Street Name Change – N. Chrysler Drive:** A resolution renaming Frazier Street between Vantage Drive and Mountain View Drive to N. Chrysler Drive.

B. Unfinished Business:

1. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the Building Regulations chapter of the U.D.C. to adopt the 2009 International Energy Conservation Code, for residential structures, with amendments herein. *This ordinance was left on the First Reading at the June 05, 2012 City Council meeting. This ordinance was left on the First Reading at the June 19, 2012 City Council meeting and Tabled to the July 17, 2012 City Council meeting.*

Left of the First Reading

C. New Business:

1. **Amend §154.03 Private Parties/Zoning Amendment:** An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning.
2. **Amend §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards:** An ordinance amending §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards of the Code of Fayetteville to provide a fixed amount to be paid into the tree escrow account rather than reasonable maintenance cost estimates.

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 Council Agenda Items
and
Contracts, Leases or Agreements**

7/17/2012

City Council Meeting Date
Agenda Items OnlyAlison Jumper *W*
Submitted ByPark Planning
DivisionParks & Recreation
Department**Action Required:**

Staff recommends approval of a budget adjustment. 1) Recognize \$12,706 from Park Land Dedication Fees from the Northeast Quadrant for the addition of swings, safety surfacing and picnic tables in Gulley Park; and 2) Recognized \$25,720 from insurance settlement due to Red Oak Park Playground being burned. The original equipment was purchased with Park Land Dedication Fees.

\$ 25,720.00	1,422.00	Gordon Long/Red Oak Improvements
\$ 12,706.00	\$ 18,573.00	Gulley Park Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
2250.9256.5806.00	300.00	Park Improvements
2250.9256.5806.00	\$ -	Park Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02015.2	1,122.00	Park Land Dedication Fees
05001.0801	\$ 18,573.00	Park Land Dedication Fees
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Connie Edmonston 6-28-12
Department Director Date

Previous Ordinance or Resolution # _____

Jim Skelliff 6-29-12
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Bader 6-30-2012
Finance and Internal Services Director Date

Received in City 7-2-12 P02:38 PCVD
Clerk's Office *WJB*

Don Man 7-2-12
Chief of Staff Date

Received in
Mayor's Office



David Jordan 7/2/12
Mayor Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *C.E.*

From: Alison Jumper, Park Planning Superintendent *AJ*

Date: June 26, 2012

Subject: **Approval of a Budget Adjustment for Gulley Park Improvements and to recognize revenue from an insurance claim at Red Oak Park.**

PROPOSAL:

The addition of a swings at Gulley Park has been requested by numerous citizens over the years. Quotes were received for the installation of three belt swings, two toddler swings and on fully ADA accessible swing and mulch safety surfacing. RJR Enterprises was the lowest quote in the amount of \$10,172.25. Additionally, deteriorating wooden picnic tables will be replaced with steel tables. Picnic tables cost approximately \$972 each plus tax and shipping. Funds from Park Land Dedication Northeast Quadrant are available to fund the project. These funds are time sensitive and must be spent by the end of 2012.

On December 2, 2011, the playground at Red Oak was burned down. City insurance coverage provided \$25,720 which needs to be recognized as revenue in the Northwest Park Land Dedication Fund. A more vandal resistant playground is planned to be constructed in its place in 2013.

RECOMMENDATION:

Staff recommends approval of a budget adjustment. 1) Recognize \$12,706 from Park Land Dedication Fees from the Northeast Quadrant for the addition of swings, safety surfacing and picnic tables in Gulley Park; and 2) Recognized \$25,720 from insurance settlement due to Red Oak Park Playground being burned. The original equipment was purchased with Park Land Dedication Fees.

BUDGET IMPACT:

Approximately \$12,706 is needed to fund the improvements. Funds from the Park Land Dedication Fund Northeast Quadrant are available to fund these improvements. Reimbursement from the insurance company has been received in the amount of \$25,720 for the burnt playground to be replaced.

Attachments:

Staff Review Form
Quote from RJR Enterprises

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$38,426.00 RECOGNIZING PARKLAND DEDICATION FEES FROM THE NORTHEAST QUADRANT TO BE APPLIED FOR ADDITIONS TO GULLEY PARK AND INSURANCE PROCEEDS RELATED TO THE DESTRUCTION OF THE RED OAK PARK PLAYGROUND

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast Quadrant to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 2 **V11.0425**
Parkland Dedication Fees
Page 4 of 8

Budget Year 2012	Division: Parks & Recreation Department: Parks & Recreation	Request Date 6/27/2012	Adjustment Number
----------------------------	--	----------------------------------	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Gulley Park (05001.0801) - to recognize (NE) Park Land Dedication funds to be used in project for new swings and picnic tables.

Red Oak (02015.2) - to recognize insurance settlement (NW) received for burned down playground (received from Lexington Insurance Company 3-16-12).

<u>Alison Jumper</u>	<u>6/28/12</u>	Prepared By: <u>Alan E. Bearden, Jr.</u>
Division Head	Date	
<u>[Signature]</u>	<u>6-27-2012</u>	Reference: _____
Budget Director	Date	
<u>Cornie Edmonston</u>	<u>6-27-12</u>	Budget & Research Use Only
Department Director	Date	Type: A B C D E P
<u>Paul A. Bahr</u>	<u>6-30-2012</u>	General Ledger Date _____
Finance Director	Date	
<u>Don Man</u>	<u>7-2-12</u>	Posted to General Ledger
Chief of Staff	Date	Initial _____ Date _____
<u>Leonell Jordan</u>	<u>7/2/12</u>	Checked / Verified
Mayor	Date	Initial _____ Date _____

[illegible]



The City of Fayetteville Parks and Recreation Department is accepting quotations to provide heavy duty swings with engineered wood mulch and plastic containment border and ramp at Guiley Park located at 1850 E. Township St. Swing set equipment shall be 8-foot height heavy duty swings with anti-wrap swing bearings with three belt seats and two full-bucket toddler seats and one full ADA inclusive swing. Swing structure shall be powder coated and color shall be black.

Work includes removing and replacing approximately 48 linear feet of existing plastic border as well as providing and installing approximately 100 linear feet of new plastic border. See attached site map.

Heavy duty swing beam shall be fabricated from 60 mm (2.375") O.D. 5 gauge pre-galvanized steel tube. Swing legs shall be fabricated from 60 mm (2.375") O.D. 10 gauge pre-galvanized steel pipe. Swing yokes shall be fabricated from 73 mm (2.875") O.D. 6 gauge pre-galvanized steel. Wood mulch safety surfacing shall be Zeager Brothers WoodCarpet or equal.

Pre-approved equipment: Landscape Structures - 5000 series swing and Little Tikes - heavy-duty swing. Fall zone is approximately 1,655 SF. Price includes delivery and installation of equipment, mulch, borders and ramp. Please complete the attached Bid Form and write the Total Bid Price on this sheet in the space provided below.

All prices quoted will be subject to applicable Arkansas state and local taxes. The Bidder understands the City of Fayetteville reserves the right to reject any or all quotes, to award by line item(s) and to waive formalities deemed to be in the City's best interest. Bidder agrees that this quote shall be good and may not be withdrawn for a period of sixty (60) calendar days.

Please fax your quote to 479.521.7714 Attention: Alison Jumper or e-mail to ajumper@ci.fayetteville.ar.us by Friday, June 22, 2012 at 4:00 PM. Questions should be directed to Alison Jumper, Park Planning Superintendent, 479-444-3469.

Name of Business: RJR Enterprises Inc.

Street/PO Box: 501 NW 2nd St.

City: Baggs State: AS Zip Code: 70756

Phone Number: (479) 536-1600 Fax Number: (479) 439-8692

E-Mail Address: lyndabrown@rjres.com



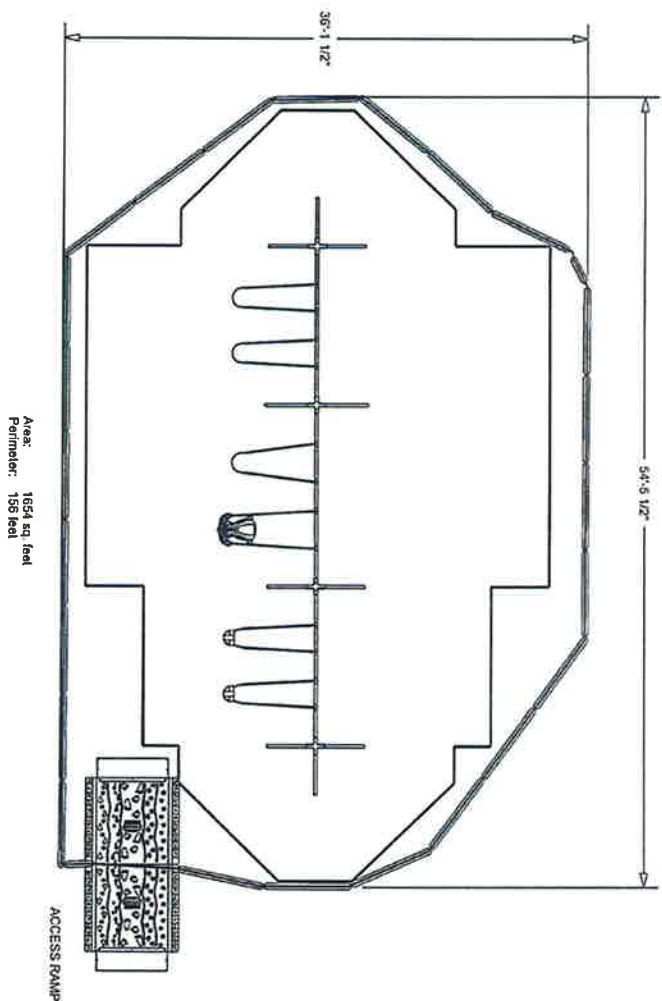
Item No.	Description	Total Bid Price
1.	Four Belt and Two Toddler Swings, With Wood Mulch, ADA ramp and Plastic Border	10,172.25
	SUBTOTAL	6,434.50
	FREIGHT	1,193.12
	INSTALLATION	1,850.00
	TAX	704.63
	TOTAL BID PRICE	10,172.25

This quotation submitted on this 18th day of June, 2012 by:
Ryan C. Brown
 Name (Please Print) Mr. Nice-President

NOTES

1. The 2010 American with Disabilities Act (ADA) along with Architectural Barriers Act (ABA) Accessibility Guidelines requires you by law to make your play/play area accessible when you are building a new play area. Consult the Accessible Guidelines.
2. For play equipment to be considered accessible an accessible route must be to all parts of the play area components per ADA and ABA.
3. When adding to an existing play area, it is important to consider the total elevated components to ground level requirements including accessible routes.
4. All accessible routes must be from the top of the finished protective surfacing material.
5. Fall absorbing protective surfacing material is required under and around all play equipment within the play area.
6. The minimum recommended usefull area around play structure and/or independent play equipment is outlined on the layout drawing.
7. Age appropriate label locations are marked with a double asterisk (**).

8. Elevation Play Activities: Total: 0
- Accessible By Ramp: 0 (0 req)
Ground Level Activity Type: 1 (0 req)
- Accessible By Ramp: 0 (0 req)
Scale for reference only. Use dimensions as shown.



Area: 1654 sq. feet
Perimeter: 156 feet



Representative:
Ryan Brown
Kyle Recreation, Inc.
479-936-1092

Project:
Gulley Park Swings

Project No.: LP53_41076384664_1
Drawn: 2012-06-18
Drawn By: Ryan Brown

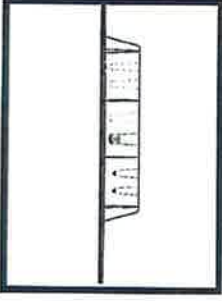
PlayArea: 1
Product line: Traditional Play
Age group: 5-12
Play type: A
Includes: For Swing: US Swing Label
Includes: Seal Of Forest Green
TP Swing Beam: Leg Circle
TP Yoke Color: Black
Mount Option: Buried

Playground Layout
Compliance:

- ✓ Final Access Board Regulations
- ✓ CPSC Handbook for Public Safety
- ✓ ASTM F1487

This play equipment complies with the safety specifications of ASTM for children 5-12 years old. No all equipment may be appropriate for all children. Supervision is required.

PlayPower LT Farmington, Inc.
One Iron Mountain Drive
Farmington, Missouri 65640
Phone: 417-855-8828
Fax: 673-756-0319
www.litp.com



Project:
**Gulley Park
Swings**

Project No.
LP33-41078384664-1
Drawn:
2012-06-18

Presented By:



ENGINEERING INTENT

Ryan Brown
Kyle Recreation, Inc.
479-936-1092



This play equipment complies with the safety performance specifications of ASTM for children 6-12 years old. Not all equipment may be appropriate for all children. Supervision is required.



PlayPower, LT Farmington, Inc.
801-325-8928 www.lcps.com

City of Fayetteville Staff Review Form

A. 3
Drake Field Pavement Rehab &
Re-Marking Phase II Project
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2012

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: A resolution to approve a Budget Adjustment revising the project budget for the Pavement Rehab & Re-marking Phase II project.

\$ -

Cost of this request

\$ 147,252.00

Category / Project Budget

Pavement Rehab & Re-marking Phase II

Program Category / Project Name

VARIOUS

Account Number

\$ 18,000.00

Funds Used to Date

Airport Capital Exp

Program / Project Category Name

12012 1

Project Number

\$ 129,252.00

Remaining Balance

Airport

Fund Name

Budgeted Item



Budget Adjustment Attached

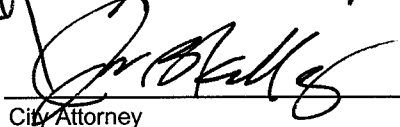


Department Director

Date

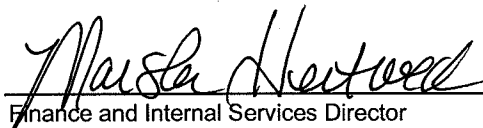
Previous Ordinance or Resolution # 128-12

Original Contract Date:


City Attorney

Date

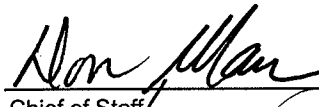
Original Contract Number:


Finance and Internal Services Director

Date

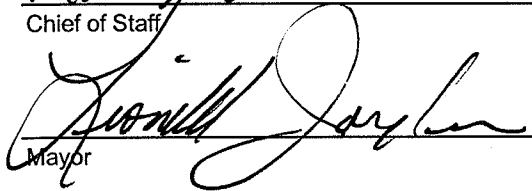
 Received in City
Clerk's Office

06-25-12 P04:54 RCVD


Chief of Staff

Date

 Received in
Mayor's Office


Mayor

Date



Comments:



City Council Meeting of: July 17, 2012

Agenda Item Number: _____

A. 3
Drake Field Pavement Rehab &
Re-Marking Phase II Project
Page 2 of 2
THE CITY OF FAYETTEVILLE, ARKANSAS
AVIATION DIVISION
4500 S School Ave, Ste F
Fayetteville, AR 72701
P (479) 718-7642

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
Thru: Don Marr, Chief of Staff
Thru: Terry Gulley, Transportation Director *TG*
Thru: Staff/Contract Review Committee
From: Ray M. Boudreaux, Aviation Director *RB*
Date: 6/26/12
Subject: Project Budget Revision

BACKGROUND: The City Council approved a Budget Adjustment for the Drake Field Pavement Rehab & Re-marking Phase II project at their June 19, 2012 meeting, Resolution 128-12. Revisions to the original FAA grant application and recent grant program changes by the Arkansas Department of Aeronautics necessitate a modification to the project budget.

The FAA project manager recommended elimination of the 5% contingency line item and ineligible third-party insurance from the original grant submission. The Arkansas Department of Aeronautics recently increased the FAA grant match from 5% to 10%. The project is now eligible to be fully funded, FAA 90%, State 10% of the project cost.

This Budget Adjustment aligns the expected grant revenue with the project expense based on those changes.

RECOMMENDATION: Review and approval of a Budget Adjustment.

BUDGET IMPACT: Reduces the overall project budget but increases the percentage of project costs reimbursed by grant funds. Restores the Airport's fund balance used for Design & Engineering cost at the start of the project, (except \$700 grant-ineligible expense).

Attachments: Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$7,012.00 TO REFLECT MODIFICATIONS TO THE DRAKE FIELD PAVEMENT REHAB & RE-MARKING PHASE II PROJECT NECESSITATED BY GRANT PROGRAM CHANGES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the amount of \$7,012.00 to reflect modifications to the Drake Field Pavement Rehab & Re-Marking Phase II Project necessitated by grant program changes.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 3 V11.0415
Drake Field Pavement Rehab &
~~Re-Marking Phase II Project~~

City of Fayetteville Staff Review Form

A. 4
 Bid #12-40 Luber Bros, Inc.
 Page 1 of 6

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

7/17/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid #12-40 to Luber Bros. Inc of Tulsa, OK in the amount of \$41,209.40 for the purchase of one Deweze ATM72LG Slope Mower for use by Transportation, and approval of a budget adjustment to move funds to the Fleet Expense Account.

\$ 41,209.00
 Cost of this request

9700.1920.5802.00
 Account Number

02083.2012
 Project Number

\$ 107,750.00
 Category / Project Budget

\$ 40,386.00
 Funds Used to Date

\$ 67,364.00
 Remaining Balance

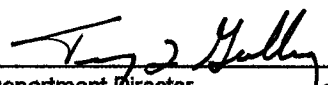
Tractors / Mowers
 Program Category / Project Name

Vehicles and Equipment
 Program / Project Category Name

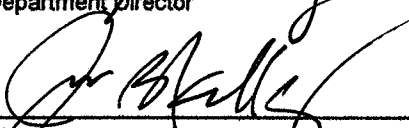
Shop Fund
 Fund Name

Budgeted Item ☒

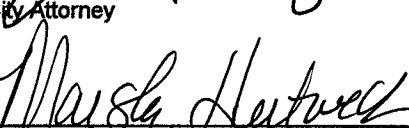
Budget Adjustment Attached ☒


 Department Director 6-27-12
 Date

Previous Ordinance or Resolution # _____


 City Attorney 6-28-12
 Date

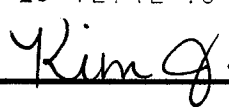
Original Contract Date: _____


 Finance and Internal Services Director 6/29/12
 Date

Original Contract Number: _____


 Chief of Staff 7/2/12
 Date

Received in City 06-23-12 P12:46 RCVD
 Clerk's Office




 Mayor 7/2/12
 Date

Received in Mayor's Office
 ENTERED 6/28/12


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TGG*

From: Dennis Pratt, Fleet Operations Supt. *DP*

Date: June 27, 2012

Subject: Purchase of one hill side Mower for Transportation

PROPOSAL: That City Council approve the purchase of one hill side mower in the amount of \$41,209.40 from Luber Bros, Inc. of Tulsa, OK for use by Transportation Right of Way Division, and approval of the budget adjustment to move funds to the Fleet Expense Account.

RECOMMENDATION: Bid 12-40 was opened on April 27, 2012. Three Bids were received; a bid tab sheet is attached.

Unit 576 is a 2004 Hustler slope mower that is in need of major repairs. It is not economically feasible to repair this unit. It was due for replacement in 2011, was pushed back to 2013, but it didn't make it. Since it was not budgeted for 2012, Fleet has prepared a budget adjustment to move funds in the project for the purchase.

I recommend the purchase of the slope mower from Luber Bros. Inc in the amount of \$41,209.40 – the lowest bid that meets specs.

The Equipment Committee approved this purchase unanimously on June 26th, 2012.

BUDGET IMPACT: Unit 576 was budgeted for on the operating side – those funds will be used for the new mower instead.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-40 AND AUTHORIZING THE PURCHASE OF ONE (1) DEWEZE ATM72LG SLOPE MOWER FROM LUBER BROS. INC. OF TULSA, OKLAHOMA IN THE TOTAL AMOUNT OF \$41,209.40, FOR USE BY THE TRANSPORTATION DIVISION, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-40 and authorizes the purchase of one (1) Deweze ATM72LG slope mower from Luber Bros. Inc. of Tulsa, Oklahoma in the total amount of \$41,209.40, for use by the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 4 V11.0222
Bid #12-40 Luber Bros, Inc.

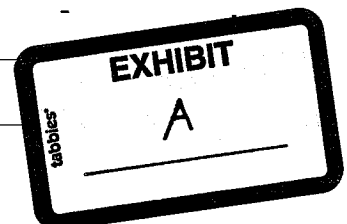
Budget Year	Division: Fleet Operations	Request Date	Adjustment Number
2012	Department: Transportation Services	6/15/2012	

Unit #576 (a 2004 Hustler Slope Mower) was budgeted for replacement in 2013, but it has died. Position Control # is TRAN_F006, new unit will be 5036. As it was not included in the 2012 capital project, funds are requested from fund balance to purchase the replacement unit. Sufficient funds remain to meet City objectives.

<u>Jesse Beeks</u>	<u>6/18/12</u>	Prepared By: <u>B. Bolser</u>	
Division Head	Date		<i>bolsen</i>
<u>[Signature]</u>	<u>7-3 am</u>	Reference: _____	
Budget Director	Date		
<u>[Signature]</u>	<u>6/18/12</u>	Budget & Research Use Only	
Department Director	Date	Type: A B C D E P	
<u>[Signature]</u>	<u>6/29/12</u>	General Ledger Date _____	
Finance Director	Date		
<u>[Signature]</u>	<u>7/2/12</u>	Posted to General Ledger _____	
Chief of Staff	Date	Initial _____ Date _____	
<u>[Signature]</u>	<u>7/2/12</u>	Checked / Verified _____	
Mayor	Date	Initial _____ Date _____	

TOTAL BUDGET ADJUSTMENT		<u>41,300</u>	<u>41,300</u>	Project.Sub Number
Account Name	Account Number	Increase / (Decrease) Expense	Revenue	
Vehicles and equipment	9700.1920.5802.00	41,300		02083 . 2012
Use of fund balance	9700.0970.4999.99		41,300	.
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EXHIBIT A





BID: 12-40
 DATE: 04/27/12
 TIME: 3:00 PM
 CITY OF FAYETTEVILLE

Bid 12-40, Hill Side Mower #5036

BIDDER	Make & Model	EST. QUANTITY	TOTAL BASE BID
1 Little Rock Equipment Sales	Tiger Prowler Slope Pro	1	\$ 56,800.00
2 Luber Bros. Inc.	Deweze ATM72LG	1	\$ 41,209.40
3 Professional Turf Products	Toro 30539	1	\$ 27,704.52
DOESN'T MEET SPECS - IS NOT FOR STEEP ENOUGH HILLS AS REQUESTED.			

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

CERTIFIED:

P. VICE
 P. VICE, PURCH MGR

Julie Paladino
 WITNESS

04/27/2012
 DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Requisition No.:

Date:

A. 4
6/28/2010
Bld #140 Luber Bros, Inc.

P.O Number:

Expected Delivery Date:

Vendor #:

Vendor Name:

LUBER BROS. INC.

Mail

Yes: No: X

Address:

Fob Point:

Taxable

Yes: No: X

Quotes Attached

Yes: No: x

City:

State:

Zip Code:

Ship to code:

50

Division Head Approval:

Requester:

BARBARA OLSEN

Requester's Employee #:

1940

Extension:

485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	DEWEZE ATM72LC HILL SIDE MOWER PER BID	1	EA	41,209.40	\$41,209.40	9700.1920.5802.00	02083.2012		705036
2	#12-40 SPECIFICATIONS. TO BE UNIT #5036				\$0.00				
3	FIXED ASSET #705036				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal:

\$41,209.40

Total:

\$41,209.40

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City of Fayetteville Staff Review Form

A. 5
 Bid #12-48 Williams Tractor
 Page 1 of 6

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

7/17/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-48 to Williams Tractor of Fayetteville, AR in the amount of \$81,488 plus tax for the purchase of one large square baler for use by Wastewater Treatment Plant, and approval of a budget adjustment to move funds into the Fleet Expense account.

\$ 89,026.00
 Cost of this request

\$ 170,959.00
 Category / Project Budget

Tractors / Mowers
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 61,302.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02083.2012
 Project Number

\$ 109,657.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Tom Gully
 Department Director

6-27-12
 Date

Previous Ordinance or Resolution # _____

Jim Kelley
 City Attorney

6-28-12
 Date

Original Contract Date: _____

Original Contract Number: _____

Marsla Hartwood
 Finance and Internal Services Director

6/29/12
 Date

Received in City 06-23-12 P12:46 RCVD
 Clerk's Office
Kim Z.

Jim Man
 Chief of Staff

7/2/12
 Date

Received in
 Mayor's Office
 ENTERED
6/28/12
10/1

Donnell Jordan
 Mayor

7/2/12
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt. *DP*

Date: June 27, 2012

Subject: Purchase of one large Square Baler for Wastewater Treatment Plant East

PROPOSAL: That City Council approve the purchase of one large square Baler in the amount of \$81,488 plus tax (a total of \$89,026) from Williams Tractor of Fayetteville, AR for use by Wastewater Treatment Plant, and approve a budget adjustment to move funds into the Fleet Expense account.

RECOMMENDATION: Bid 12-48 was opened on May 22, 2012. A Bid tab sheet is attached – one bid was received.

Unit #588 is a 2005 Square Baler that is used by the Wastewater Treatment Plant East. It is no longer dependable for full time front line use and needs to be replaced.

I recommend the purchase of this baler from Williams Tractor.

This purchase was unanimously approved by the Equipment Committee on June 26, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides. The purchase price was underestimated on the capital side, so a Budget Adjustment is included for the difference.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-48 AND AUTHORIZING THE PURCHASE OF ONE (1) LARGE SQUARE BALER FROM WILLIAMS TRACTOR OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$81,488.00, FOR USE BY WASTEWATER TREATMENT, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-48 and authorizes the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$81,488.00, for use by wastewater treatment.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 5 V11.0222
Bid #12-48 Williams Tractor

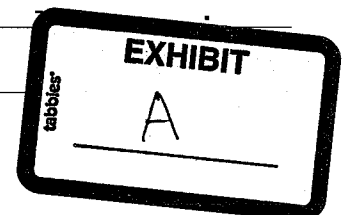
Budget Year	Division: Fleet Operations	Request Date	Adjustment Number
2012	Department: Transportation Services	6/15/2012	

The purchase price to replace unit #588 (a 2005 Square Baler) was underestimated in the capital project. The new unit will be #5022; Position Control # is WWTP_F012. Funds are requested from fund balance to cover the shortfall. Sufficient funds remain to meet City objectives.

<u>Jesse Beckus</u>	<u>6/18/12</u>	Prepared By: <u>B. Olsen</u>						
Division Head	Date							
<u>[Signature]</u>	<u>7.3.20</u>	Reference:						
Budget Director	Date	Budget & Research Use Only						
<u>Ty 2 Gully</u>	<u>6/18/12</u>	Type:	A	B	C	D	E	P
Department Director	Date							
<u>Marla Hestved</u>	<u>6/29/12</u>	General Ledger Date						
Finance Director	Date							
<u>[Signature]</u>	<u>7/2/12</u>	Posted to General Ledger			Initial		Date	
Chief of Staff	Date							
<u>[Signature]</u>	<u>7/2/12</u>	Checked / Verified			Initial		Date	
Mayor	Date							

TOTAL BUDGET ADJUSTMENT		<u>22,200</u>	<u>22,200</u>	Project.Sub Number
Account Name	Account Number	Increase / (Decrease) Expense	Revenue	
Vehicles and equipment	9700.1920.5802.00	22,200		02083 . 2012
Use of fund balance	9700.0970.4999.99		22,200	.
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EXHIBIT





BID: 12-48
DATE: 05/22/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

#5033
Bid 12-48, Square Baler

	BIDDER	Make & Model	EST. QUANTITY	TOTAL BASE BID
1	Williams Tractor, Inc.	New Holland BB9060	1	\$ 81,488.00

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

CERTIFIED:

P. Vice

P. VICE, PURCH MGR

Julie Paladino
WITNESS

05/22/12
DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Requestion No.:		Date:	
P.O Number:		Expected Delivery Date:	
Vendor #:		Vendor Name:	
Address:		Fob Point:	
City:		State:	
Zip Code:		Ship to code:	
Requester's Employee #:		Extension:	
Requester:		Division Head Approval:	
Account Numbers:		No: X	
Project/Subproject #		Inventory #	
Fixed Asset #		No: X	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	NEW HOLLAND BB9060 LARGE SQUARE BALER	1	EA	81,488.00	\$81,488.00	9700.1920.5802.00	02083.2012		705033
2	PER BID SPECS #12-48, TO BE UNIT 5033,				\$0.00				
3	FIXED ASSET 705033				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$81,488.00
Tax: \$7,537.64
Total: \$89,025.64

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City of Fayetteville Staff Review Form

A. 6
 Bid #12-49 Sellers Trading Post
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

July 17, 2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-49 to Sellers Trading Post of Siloam Springs, AR in the amount of \$30,192 for the purchase of two Rhino FR180 Batwing Cutters.

\$ 30,192.00

Cost of this request

\$ 107,750.00

Category / Project Budget

Tractors / Mowers

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 10,194.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.2012

Project Number

\$ 97,556.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

6-27-12
 Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

6-28-12
 Date

Original Contract Number:

Finance and Internal Services Director

6/29/12
 Date

Received in City
 Clerk's Office

06-23-12 P12:46 RCVD

Chief of Staff

7/2/12
 Date

Received in
 Mayor's Office

ENTERED
 6/28/12

Mayor

7/2/12
 Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TGG*

From: Dennis Pratt, Fleet Operations Supt. *DP*

Date: June 27, 2012

Subject: Purchase of two Brush Cutters for Parks and Wastewater Plant

PROPOSAL: That City Council approve the purchase of two Rhino FR180 Brush Cutters in the amount of \$13,818 each plus tax (a total of \$30,192) from Sellers Trading Post of Siloam Springs for use by Parks Division and by Wastewater Plant East.

RECOMMENDATION: Bid 12-49 was opened on May 22, 2012. Six bids were received; a bid tab sheet is attached.

Unit #959 is a 1995 brush hog that is used by Wastewater Treatment Plant. It is worn out and needs to be replaced. Unit #9023 is a 2001 Rhino brush cutter that is used by Parks Dept. It is also worn out and needs to be replaced.

I recommend the purchase of two Rhino FR180 Batwing Cutters from Sellers Trading Post in the amount of \$13,818 each (plus tax) which was the lowest bid.

This purchase was unanimously approved by the Equipment Committee on June 26th, 2012.

BUDGET IMPACT: These replacements were budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-49 AND AUTHORIZING THE PURCHASE OF TWO (2) RHINO FR180 BATWING CUTTERS FROM SELLERS TRADING POST OF SILOAM SPRINGS IN THE TOTAL AMOUNT OF \$30,192.00, FOR USE BY THE PARKS DEPARTMENT AND WASTEWATER TREATMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-49 and authorizes the purchase of two (2) Rhino FR180 batwing cutters from Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00, for use by the Parks Department and wastewater treatment.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-49
 DATE: 05/22/12
 TIME: 3:00 PM
 CITY OF FAYETTEVILLE

#SD34 + SD35

Bid 12-49, Batwing Cutter

BIDDER	Make & Model	EST. QUANTITY	Price Each	TOTAL BASE BID
1 Alma Tractor & Equipment, Inc.	Bush Wacker ST180	2	\$ 14,629.00	\$ 29,258.00
2 Countryside Farm & Lawn	John Deere CX1J	2	\$ 15,175.96	\$ 30,351.92
3 Lincoln Supply Co.	Bushhog 2815	2	\$ 13,965.00	\$ 27,930.00
4 Sellers Trading Post	Rhino FR180	2	\$ 13,818.00	\$ 27,636.00
5 United Procurement	John Deere CX15 Flex Wing Rotary Cutter	2	\$ 18,150.00	\$ 36,300.00
6 Williams Tractor, Inc.	Bush Hog 2815	2	\$ 14,174.00	\$ 28,348.00

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

CERTIFIED:

P. Vice
 P. VICE, PURCH MGR

Julio Paladino
 WITNESS

05/22/12
 DATE

City of Fayetteville Staff Review Form

A. 7
 Bid #12-50 Countryside Farm & Lawn
 Page 1 of 6

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

7/17/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #12-50 to Countryside Farm & Lawn of Springdale, AR in the amount of \$19,145 plus tax for the purchase of one Mower Conditioner for use by Wastewater Treatment Plant.

\$ 20,916.00

Cost of this request

\$ 107,750.00

Category / Project Budget

Tractors / Mowers

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 40,386.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.2012

Project Number

\$ 67,364.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Terry L. Gully
 Department Director

6-27-12
 Date

Previous Ordinance or Resolution # _____

Joe Kelly
 City Attorney

6-28-12
 Date

Original Contract Date: _____

Original Contract Number: _____

Marsha Hestbeck
 Finance and Internal Services Director

6/29/12
 Date

06-23-12 P12:43 RCVD
 Received in City Clerk's Office
Kim J.

Don Mann
 Chief of Staff

7/2/12
 Date

Received in Mayor's Office
 ENTERED
6/28/12

Donna Jordan
 Mayor

7/2/12
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt. *DP*

Date: June 27, 2012

Subject: Purchase of Mower Conditioner for use by Wastewater Treatment Plant

PROPOSAL: That City Council approve the purchase of one John Deere 630 Mower conditioner in the amount of \$19,145 plus tax (a total of \$20,916.08) from Countryside Farm & Lawn of Springdale, AR for use by Wastewater Treatment Plant.

RECOMMENDATION: Bid 12-50 was opened on May 22, 2012. A Bid tab sheet is attached.

Unit 582 is a 2004 Mower conditioner that is used by the Wastewater Plant East. It was due for replacement in 2010 and replacement was pushed back to 2012. It is no longer dependable for full time front line use and needs to be replaced.

I recommend the purchase of the John Deere 630 mower conditioner from Countryside Farm and Lawn in the amount of \$19,145.15 plus tax which is the low bid. This price includes the two year warranty as specified.

This purchase was unanimously approved by the Equipment Committee on June 26th, 2012.

BUDGET IMPACT: This replacement was budgeted for on both the capital and operating sides.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-50 AND AUTHORIZING THE PURCHASE OF ONE (1) MOWER CONDITIONER FROM COUNTRYSIDE FARM & LAWN OF SPRINGDALE IN THE TOTAL AMOUNT OF \$19,145.00, FOR USE BY WASTEWATER TREATMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-50 and authorizes the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$19,145.00, for use by wastewater treatment.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 12-50
 DATE: 05/22/12
 TIME: 3:00 PM
 CITY OF FAYETTEVILLE

#5031
Bid 12-50, Mowing Conditioner

BIDDER	Make & Model	EST. QUANTITY	TOTAL BASE BID
1 Countryside Farm & Lawn	John Deere 630 <i>INCLUDES 2 YR WTY.</i>	1	\$ 19,145.15
2 Lincoln Supply Co.	Krone EC3200CV	1	\$ 19,875.00
3 Williams Tractor, Inc.	New Holland H7330 <i>ADD 2ND YR. WTY - NO LONGER LOW BID</i>	1	\$ 18,998.00 <i>500.00</i> <u>19,498.00</u>

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

CERTIFIED:

P. Vice

P. VICE, PURCH MGR

Julie Paladino
 WITNESS

05/22/12
 DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Requisition No.: Date: A. 7
Bid # 63-50 Countryside Farm & Lawn

P.O Number: Expected Delivery Date:

Vendor #: 13947 Vendor Name: COUNTRYSIDE FARM AND LAWN

Mail Yes: No: X

Address: Fob Point: Taxable Yes: No: X Quotes Attached Yes: No: X

City: State: Zip Code: 50 Ship to code: Division Head Approval: *[Signature]*

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

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	JOHN DEERE 630 MOWER CONDITIONER PER	1	EA	19,145.15	\$19,145.15	9700.1920.5802.00	02083.2012		705031
2	BID SPECS #12-50, TO BE UNIT 5031, FA 705031				\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$19,145.15
Tax: \$1,770.93
Total: \$20,916.08

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City Council Agenda Items
and
Contracts, Leases or Agreements

17-Jul-12

City Council Meeting Date
Agenda Items OnlyDavid Jurgens
Submitted ByWastewater Treatment
DivisionUtilities
Department

Action Required:

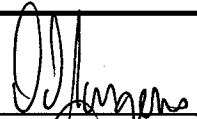
Approval of the purchase of a replacement back up power generator for the Owl Creek lift station from Endless Power Corp. for \$61,330.00 plus sales tax, per Bid 12-42, and approval of a budget adjustment of \$80,832.00.

\$ 67,004	\$ 186,547	Upgrade/Replace Lift Stations-WWTP
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.5800.5801.00	\$ 156,644	Wastewater Treatment Plant
Account Number	Funds Used to Date	Program / Project Category Name
02068.1	\$ 29,903	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item



Budget Adjustment Attached

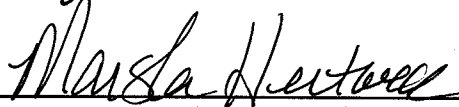


 Department Director
29 Jun 12
Date

Previous Ordinance or Resolution #


 City Attorney
6-29-12
Date

Original Contract Date:

Original Contract Number:

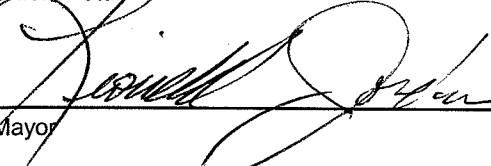

 Finance and Internal Services Director
6/29/12
Date

Received in City Clerk's Office 06-29-12 P12:04 rec'd

Kim J.


 Chief of Staff
7/2/12
Date

Received in Mayor's Office



 Mayor
7/3/12
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
 Don Marr, Chief of Staff

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

Date: June 27, 2012

Subject: Purchase of backup power generator for Owl Creek sewer pump station, Endless Power Corporation

RECOMMENDATION

Staff recommends approval of the purchase of a replacement back up power generator for the Owl Creek lift station from Endless Power Corporation for \$61,330.00 plus sales tax, per Bid 12-42, and approval of a budget adjustment.

BACKGROUND

The existing back up power generator was installed in January 2000. This generator experienced a critical failure and the unit's original equipment manufacturer is no longer in business. The exciter, which controls the magnetic field and controls the power output in the generator system, failed and the parts to replace the exciter are no longer available. The repairs would entail removing and modifying the body of the generator at an approximate cost of nearly \$20,000, and would create unpredictable risks that associated with the major modification of the generator.

The Owl Creek lift station pumps approximately 260,000 gallons a day of wastewater from the west side of Fayetteville. The backup generator is required by our NPDES permit, and provides the critical back up during power outage episodes thus preventing possible sewer overflows.

DISCUSSION

The City received bids May 11, 2012. After much research, it was determined that the low bidder's product meets all City specifications. The generator will be installed by City and CH2M Hill staff.

Vendor	Quantity	Price Each	Total Bid Price
Endless Power Corp.	1	\$61,330.00	\$61,330.00
Clifford Power Systems – Option 2	1	\$63,150.00	\$63,150.00
RP Power, LLC.	1	\$63,810.00	\$63,810.00
Clifford Power Systems – Option 1	1	\$65,045.00	\$65,045.00
Taylor Power Systems	1	\$70,287.00	\$70,287.00
Leete Generators	1	\$73,615.00	\$73,615.00
United Engines, LLC.	1	\$74,050.00	\$74,050.00
Cummins Mid-South, LLC.	1	\$94,368.00	\$94,368.00

BUDGET IMPACT

The original generator was trailer mounted and thus a fleet item that accumulated replacement charges. The new generator is skid mounted for a fixed installation, and will not be a Fleet item. The budget adjustment transfers the accumulated replacement funds to the Wastewater Treatment capital project 02068.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-42 AND AUTHORIZING THE PURCHASE OF ONE (1) POWER GENERATOR FROM ENDLESS POWER CORP. IN THE AMOUNT OF \$61,330.00, PLUS APPLICABLE SALES TAX, FOR USE AT THE OWL CREEK LIFT STATION, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-42 and authorizes the purchase of one (1) power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

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

APPROVED:

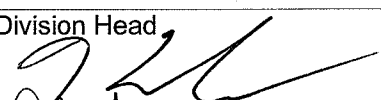
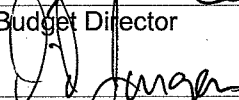
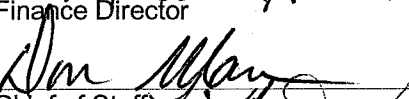
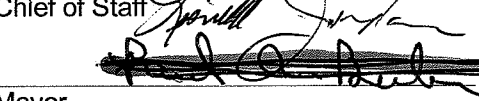
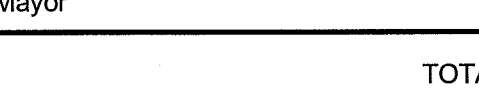
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 8 V11.0222
Bid #12-42 Endless Power Corp.
Page 4 of 20

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Division Head		Date	6-29-12
Budget Director		Date	29 Jun 12
Department Director		Date	6/29/12
Finance Director		Date	7/2/12
Chief of Staff		Date	7/3/12
Mayor		Date	7-3-2012

Prepared By:	Cheryl Partain	bfell				
Reference:						
Budget & Research Use Only						
Type:	A	B	C	D	E	P
General Ledger Date						
Posted to General Ledger	Initial		Date			
Checked / Verified	Initial		Date			

C:\Users\laatha\AppData\Local\Temp\XPgrpwise\BA - Owl Creek Lift Station Generator

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Requisition No.:

Date: A. 8

6/26/2012 Bid #12-42 Endless Power Corp

P.O Number:

Expected Delivery Date:

7/15/2012

Vendor #:

New

Vendor Name:

Endless Power Corp

Mail

Yes: _____

No: _____

Address:

22521 Hwy 365 North

Fob Point:

Taxable

Yes: x

No: _____

Quotes Attached

Yes: _____

No: _____

City:

North Little Rock

State:

AR

Zip Code:

72113

Ship to code:

Division Head Approval:

Requester:

Cheryl Partain

Requester's Employee #:

2548

Extension:

224

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost
1	Back up power generator for the Owl Creek Lift Station - Will be Fixed Asset#300913	1	Unit	61,330.00	61,330.00
2					\$0.00
3					\$0.00
4					\$0.00
5					\$0.00
6					\$0.00
7					\$0.00
8					\$0.00
9					\$0.00
10					\$0.00
*	Shipping/Handling		Lot		\$0.00

Account Numbers

5400.5800.5801.00

Project/Supproject #

02068.1

Inventory #

Fixed Asset #

Special Instructions:

Subtotal:

\$61,330.00

Tax:

\$5,673.03

Total:

\$67,003.03

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____



BID: 12-42
DATE: 05/11/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-42, Generator

BIDDER	Manufacturer and Model	TOTAL COST
1 Clifford Power Systems - Option 1	Generac SG0200KG20129N18HPLYE	\$65,045.00
2 Clifford Power Systems - Option 2	Generac SGO200KG20129N18HPLYE	\$63,150.00
3 Cummins Mid-South, LLC.	Cummins 250GFBC	\$94,368.00
4 Endless Power Corp.	Baldor IGLC210-2N	\$61,330.00
5 Leete Generators	Generac SG0200	\$73,615.00
6 RP Power, LLC.	Kohler 200REZXB	\$63,810.00
7 Taylor Power Systems	Taylor Power TG200	\$70,287.00
8 United Engines, LLC.	MTU Onsite Energy GS00200N6SRAS0984	\$74,050.00

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

CERTIFIED:


P. VICE, PURCH MGR


WITNESS

05/11/12
DATE



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

INVITATION TO BID

INVITATION TO BID: BID 12-42, Generator

DEADLINE: Friday, May 11, 2012 before 2:00 PM, Local Time

DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701

PURCHASING AGENT: Andrea Foren Rasco, CPPB, CPPO, aforen@ci.fayetteville.ar.us

DATE OF ISSUE AND ADVERTISEMENT: Saturday, April 21, 2012

INVITATION TO BID Bid 12-42, Generator

No late bids will be accepted. Bids shall be submitted in sealed envelopes labeled "Bid 12-42, Generator" with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

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

Name of Firm: ENDLESS POWER CORP.

Contact Person: DAVID THOMSSON Title: PRES.

E-Mail: david@endlesspowercorp.com Phone: 501-851-1515

Business Address: 22521 Hwy 365 N.

City: N. Little Rock State: AR Zip: 72113

Signature: David J. Thomason Date: 5-10-2012

**City of Fayetteville
Bid 12-42, Generator
Bid Form**

DATE REQUIRED AS A COMPLETE UNIT: 60 days from Date of Order

***GUARANTEED DELIVERY DATE:** 60 Days From order

F.O.B. 630 N. Double Springs Road, Fayetteville, AR 72704

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
1.	Standby Generator <u>as specified</u>	1	\$ <u>61,330⁰⁰</u>	\$ <u>61,330⁰⁰</u>
Please Specify for Unit(s) Bid:				
*MANUFACTURER: <u>BALDOR</u>		*MODEL: <u>IGLC210-2N</u>		

Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: ENDLESS POWER CORP.
Purchase Order/Payments shall be issued to this name

*BUSINESS ADDRESS: 22521 Hwy 365 N.

*CITY: N. Little Rock *STATE: AR *ZIP: 72113

*PHONE: 501-851-1515 FAX: 267-647-3858

*E-MAIL: David@endlesspowercorp.com

*BY: (PRINTED NAME) DAVID THOMAS

*AUTHORIZED SIGNATURE: David Thomas

*TITLE: President

City of Fayetteville
Bid 12-42, Generator
Technical Specification

Description: Stand-by Generator Specifications (replacement generator)

Location: Owl Creek Lift Station (LS #22)

Address: 630 N. Double Springs Road, Fayetteville, AR 72704

This bid is for the purchase of the generator only. Installation will be by the City or its designated representative.

Generator purchased shall produce 480V 3-phase power and it will supply adequate power during an emergency power outage or when the electrical company is repairing transformers and or lines, fuses. The existing lift station has a switch gear in place and is rated at 400 kW.

Generator will be installed by others at an existing lift station. The standby system will be coordinated so not to interfere with the lift station operation.

1. GENERAL:-

1.1 All unit(s) bid shall meet or exceed the minimum requirements or they will be deemed incomplete and will not be considered for bid award.

1.2 All specifications written are to minimums, unless otherwise noted.

2. MANUFACTURER / MODEL:-

2.1 Unit(s) bid shall be new standard production model as offered for commercial trade.

3. ITEM 1 – GENERATOR:

A. Generator shall be 200 kW Standby; 185 kW prime; 480/277V generator.

B. Deliver the project, as described in this exhibit, including:

1. Generation Equipment
2. Equipment and Installation Warranties
3. In-Service Training

C. The generation equipment shall include:

1. Engine Generator set rated at 480V/277V; 200 kW (standby); 185 kW (prime), 0.8pf lagging; 250 KVA, 1800 RPM max
2. Permanent Magnet Generator
3. Electronic Engine Governor
4. Charging Alternator 24V
5. 24V Lead Acid Batteries, Rack and Battery Charger
6. Engine Cooling System
7. Exhaust System with Silencer

8. Fuel source as Natural Gas
9. Sound Attenuated Enclosure (maximum 71 dBA at 7 meters)
10. Block Heater
11. Lubricating Oil and Antifreeze- Initial fill

4. WARRANTY:

- A. The entire unit shall be warranted for a minimum of two years or 1500 hours period from the start-up date.
- B. Warranty shall include all parts, labor, and transportation of parts to and from the location of the warranty service center
- C. Awarded vendor shall be responsible for warranty administration of entire unit

5. DELIVERY / DOCUMENTATION:

- A. Units shall be delivered F.O.B. to the Owl Creek Lift Station (LS #22), located at 630 N. Double Springs Road, Fayetteville, AR 72704 , for compliance review and final acceptance
- B. Units shall be fully assembled, serviced, and ready for operation as delivered.
- C. Delivery shall be coordinated with the City in advance of the unit being delivered.

6. TRAINING:

- A. Onsite in-service service training will be provided to the City's Contract Operator's staff on the operation and maintenance of the generation equipment. In-service training shall include any commissioning services necessary to validate the equipment warranty.

7. OPTIONAL PRICING (will not be considered for bid evaluation):

- A. All bidders should provide the following optional pricing, as listed below, to be purchased at the City's discretion. Optional pricing shall not be considered in bid evaluation.

1. Description for annual maintenance (provide below):

2. Cost for annual maintenance: \$ 1,300⁰⁰
Price per year

City of Fayetteville
Bid 12-42, Generator
Statement of Disclosure – To Be Submitted With ALL Bids

This page does not count towards page limitations set forth in this request for proposal or bid. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

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

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

☒ 1.) NO KNOWN RELATIONSHIP EXISTS

☐ 2.) RELATIONSHIP EXISTS (Please explain)

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

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

DAVID THOMASSON
Printed Name

David Thomason
Signature

5/10/2012
Date



Configurator Submittal Package

ENDLESS POWER CORP

Quote Number: 156466743-10

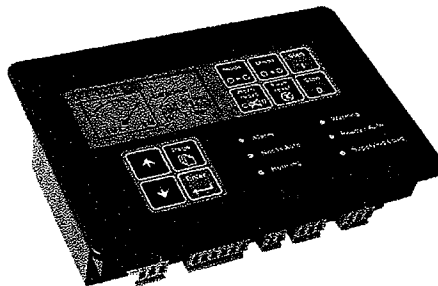
Project ID: City of Fayetteville

Project Description: CUSTOMGENSET - IGLC2102N

**BALDOR
 GENERATORS**

InteliLite NT

Genset Controller



Introduction

The InteliLite NT controller provides complete monitoring and protection for the Genset in manual or remote start mode. Provides remote control, user configuration and complete gen-set monitoring and protection.

The control features a powerful graphic display providing userfriendly information in an easy to understand format. Real time clock and event history log are valuable for troubleshooting. Instrumentation of internal values on VDO type analog gauges makes use easy even for untrained personnel.

- Controller is UL and ULC recognized
- Controller is NFPA110 compliant
- Front panel protection is IP65
- Large easy to read graphic LCD display
- LED's provide visual status information
- Password protection
- History log for rapid fault isolation
- Complete Engine, Alternator, Utility Line monitoring
- Optional Remote Keypad/Display
- Optional Remote Annunciator

Standard Features

- Microprocessor based
- Secure settings with easy to use password protection
- Engine Protection features
- Generator Protection features
- Real Time Clock with Battery back up
- Event and performance log
 - Event based history with 119 events
 - Reason, Data and Time + all important values
 - Test Run scheduler
- User interface
 - Graphic 128 x 64 pixels LCD display
 - Multiple language capability
 - Setpoints adjustable at keypad or PC
 - Keypad provides tactile feedback
- Inputs and outputs
 - 3 configurable analog inputs
 - 7 Digital inputs
 - 7 Digital outputs
 - Magnetic RPM pick-up input
 - D+ preexcitation terminal
- EFI engine support
 - Engine specific CAN J1939 EFI engine support
 - Diagnostic messages in plain text
- RS-232 Interface

LED Indications

ALARM	Indicates active or inactive, but still not reset shutdown alarm	WARNING	Indicates active or inactive, but still not reset warning alarm
NOT IN AUTO	Indication the controller in not in AUTO mode	READY/AUTO	Indicates the controller is in AUTO mode and is ready to operation. The LED goes off after the engine is started.
RUNNING	Indicates running engine	SUPPLYING LOAD	Indicates the gen-set is running, giving proper voltage and frequency and the outputs Read to Load, GCB close/open are closed.

Engine Application Data

Alarm List (WRN=Warning; SD=Shutdown)

Events	Description
Oil Press Wrn	Oil pressure is less than setpoint.
Oil Press Sd	Oil pressure is less than setpoint.
Eng Temp Wrn	Water temperature exceeds setpoint.
Eng Temp Sd	Water temperature exceeds setpoint.
Fuel Level Wrn	Fuel level is less than setpoint.
Fuel Level Sd	Fuel level is less than setpoint.
Vbat Wrn	Battery volts is out of limits.
AnInIOM Wrn	AnIn condition for IG-IOM/IGS-PTM.
AnInIOM Sd	AnIn condition for IG-IOM/IGS-PTM.
Digital IN Wrn	Digital Input condition Wrn/Sd
Battery Fail	Batt fail during start sequence.
Start fail Sd	GENSET start failed.
ParamFail	Wrong memory checksum.
Vgen <, > Sd	Output volts is out of limits.
Vgen unbl Sd	Output volts is unbalanced.
Fgen <,> Sd	Output freq is out of limits.
Igen unbl Sd	Output current is unbalanced.
Overload Sd	Output current exceeds setpoint.
Overspeed Sd	RPM exceeds setpoint.
Underspeed Sd	After start, RPM is less than setpoint.
EmergStop Sd	Emergency stop is opened.
GCB fail Sd	Generator circuit breaker failed.
Pickup Fault Sd	Speed sensor failed.
Stop fail Sd	Genset stop failed.
NextService Wrn	The NextServTimer expired.
ChrgFail Wrn	Alternator failed to charge battery.
SprinklActive Wrn	Active if Sprinkler output is closed.
RA15 fail Wrn	Lost connection to IGL-RA15 module.
IOM fail Sd	Lost connection to IG-IOM/IGS-PTM.
ECU Alarm Wrn	ECU alarm list is not empty.
LowRTCBatt Wrn	RTC backup battery is flat.

Monitored Parameters

Generator Protection

- Over/Under frequency
- Over/Under voltage
- Current/Voltage asymmetry
- Overcurrent/Overload
- Short Circuit Current detection
- True RMS Voltage measurement
 - Phase to Phase;
 - Phase to Neutral
 - PT ratio range 0.1-500
- True RMS current measurements
 - Current range 5 A
 - Maximal measured current 10 A
 - CT ratio range 1-5000
- Power measurements
 - Act / React Power and Power,
 - Power Factor per phase
 - Active and Reactive Energy counter

Engine Protection

- Oil Pressure
- Coolant Temperature
- Fuel Level
- Engine RPM
- Battery Condition
- Time to Next Service
- Total Operating Hours
- J1939 communications with ECU

Timers

- Pre Start Delay
- Maximum Crank time
- Pause time between crank attempts
- Idle time
- Stabil Time, Gen voltage output stabil time
- Gen Circuit Breaker (GCB) Close delay
- Cooling Time, unloaded Genset cool time
- After Cool Time, run cooling pump after stop
- Stop Time
- Horn Timeout

Specifications

Power Supply

Voltage	8-36VDC
Current	40-430mA depends voltage and temp
Volts tolerance	2 % at 24V

Ambient

Operating temp	-20 to +70°C
Storage temp	-30 to +80°C
Protection type	IP65
Humidity	95% no condensation
Low Voltage Directive	EN 61010-1:95 +A1:97
Electromagnetic Compatibility	EN 50081-1:94, EN 50081-2:96 EN 50082-1:99, EN 50082-2:97
Vibration	5 - 25 Hz, ± 1.6 mm 25 - 100 Hz, $a = 4$ g
Shock	$a = 200$ m/s ²

Generator

Frequency	50-60 Hz
Freq Tol.	0.2Hz

Current Monitor

IC nominal (from CT)	5A
Load (CT Zout)	<0.1 Ω
CT input burden	<0.2 VA per phase (In=5A)
Measurement tolerance	2% of Nominal
I _{max} from CT	10A
I _{peak} from CT	150 A / 1s
I _{max} continuous	12 A

Voltage Monitor

Voltage range	0 - 277 VAC phase to neutral 0 - 480 VAC phase to phase
V _{max}	340 VAC phase to neutral 600 VAC phase to phase
Input Resistance	0.6 M Ω phase to phase 0.3 M Ω phase to neutral
Measurement tolerance	2% of Nominal
Overvoltage class	III / 2 (EN61010)

Digital Inputs/Outputs

Number of In/Outputs	7 / 7
Voltage Range	0-36 VDC
Input Resistance	4.2 k Ω
Volts for closed indication	0-2VDC
Volts for open indication	8-36VDC
Max Output Current	0.5A

Analog Inputs

Number of inputs	3
Resolution	10bits
Range (jumper)	V, Ohm (default), mA
Volts range	0-2.5V
Ohms range	0-2500 Ω
mA range	0-20mA
Input impedance	> 100 k Ω for V measuring 180 Ω for mA measuring
Ω tolerance	± 2 % ± 2 Ω of measured value
V tolerance	± 1 % ± 1 mV of measured value

Speed Pick Up

Sensor Type	magnetic pick-up (shielded cable)
V _{in} Minimum	2 Vpk-pk (from 4 Hz to 4 kHz)
V _{in} Maximum	50 Veff
Freq min	4 Hz
Freq max	10 kHz (min. input voltage 6Vpk-pk)
Freq tolerance	0.2 %

D+ Function

I _{max} output	300mA
Guaranteed level for signal Charging OK	80% of supply voltage

Horn Output

Volts	0-36VDC
Current	1A maximum

BALDOR
 GENERATORS

Optional Expansion Modules and Accessories

IGL-RA15

- Remote Annunciator
- Customizable Label
- 15 LED's - Can be programmed Red, Green or Yellow
- Lamp Test
- Local Horn Button
- Connect via Can Bus
- Can be used stand alone, or with an IGS-PTM or IGS-IOM

IGS-IOM

- I/O Extension Module
- 8 Binary Inputs, 8 Binary Outputs, 4 Analog Inputs, 1 Analog Output . Measures PT 100 and NI 100 sensors
- Analog Inputs: 0-2500 Ohms
- Analog Outputs- 0-20 mA
- Connect via J1939 Can Bus
- Can be used with a IGL-RA 15
- If this extension module is used, the IGS-PTM cannot be used

IL-NT AOUT8

- Slide in card
- Connect to standard VDO, Datcon, or similar type gauges
- UP to 8 gauges can be connected

IGS-PTM

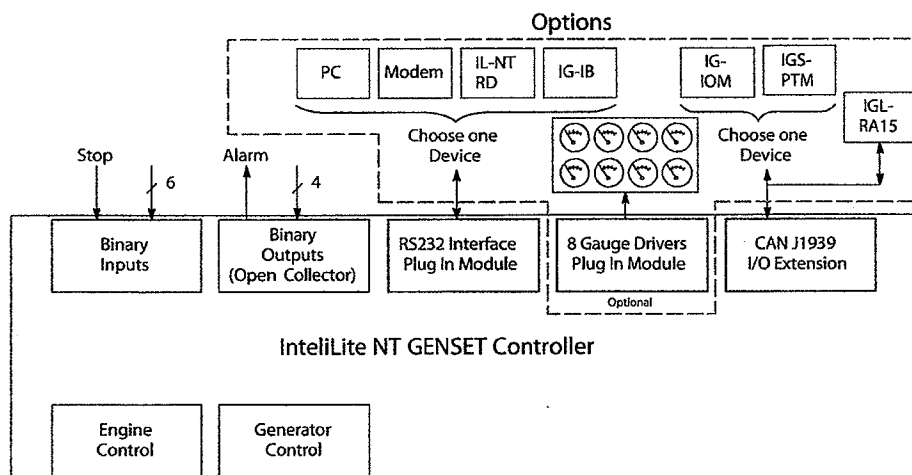
- I/O Extension Module
- 8 Binary Inputs, 8 Binary Outputs, 4 Analog Inputs, 1 Analog Output
- Measures PT 100 and NI 100 sensors
- Analog Inputs: 0-250 Ohms, 0-100mV, 0-20 mA
- Analog Outputs- 0-20 mA
- Connect via J 1939 CanBus
- Can be used with a IGL-RA 15
- If this extension module is used, the IGS-IOM cannot be used

IL-NT RD

- Remote Display
- Connects to RS-232 Interface . If this function is used, the IG-IB cannot be used

IG-IB

- Internet Module
- Connect via Ethernet or Dial-up . Control Via Internet
- Full 2 way communication
- If this module is used, the IL-NT RD cannot be used



BALDOR GENERATORS WORLD HEADQUARTERS

Baldor Electric Company • P. O. Box 2400 • Fort Smith, AR 72902-2400 U.S.A.
 Phone (479) 646-4711 • Fax (479) 648-5792 • International Fax (479) 648-5895
www.baldor.com

BALDOR High Performance Enclosure (HPE) GENERATORS

Genset Enclosure

High Performance Enclosure

HPE Weather resistant enclosures with sound attenuating material are highly engineered and are the result of many years of experience in the standby generation markets.

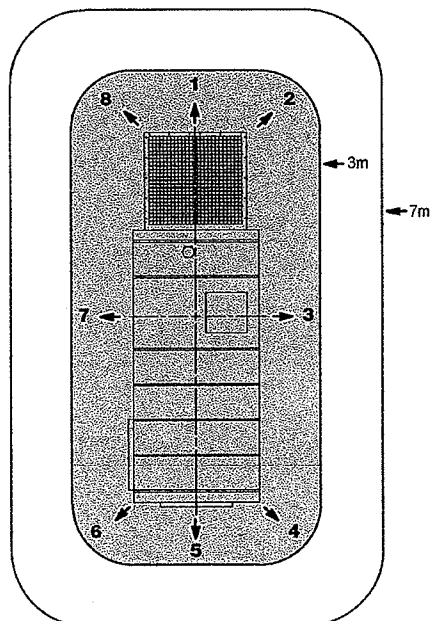
HPE Type	Noise Reduction		Silencer Grade
	@3m	@7m	
Level 0	3dbA	5dbA	Industrial
Level 1	15dbA	25dbA	Critical
Level 2	25dbA	32dbA	Hospital

Protective Coating

The walls and roof are finished with DuPont Powder Coating No. PFT500S8, Almond color, TGIC-Polyester, electrostatically applied enamel-based powder paint 1.5 to 2.5 mil. thickness that is baked at 400°F for 15 minutes. This provides a durable weather resistant finish that will protect your investment for many years to come.

Noise Measurements

Noise measurements are taken at 3 meters (and 7m) from the enclosure as indicated in this figure. The Genset exhaust hood is position #1.



Standard Features (All Levels)

- Roof and wall sections are 14 gauge ASTM A569 hot rolled steel with #4 finish
- Modular construction allows flexibility to meet various field conditions including reversing door swing, adding or moving doors, or adding sound attenuating hoods.
- Wall sections use overlapping flanges that are bolted together and to the base rail with SAE grade 5 bolts with Nylock® or Rivnut® fasteners or equivalent.
- Roof, wall and door sections are no more than 42 inch wide with folded flanges of no less than 2-1/4 inch to prevent moisture from entering the genset area and can withstand up to 120 MPH wind load.
- Weather resistant drip proof construction include a roof section load rating of 25 lb/ft² with 1 inch overhung drip edge and rain gutters over all doors and openings to maintain less than 0.01 ounces of moisture penetration per square foot of louver free area during a 4 inch per hour rainfall.
- Grade 2 hardware kit includes zinc plated fasteners, zinc plated cast aluminum keylock door handles, and heavy duty stainless steel hinges with removable brass pins.
- Heavy duty door gaskets are made from non-hygroscopic rubber to prevent doors from freezing shut during inclement weather.
- Structural steel frame includes spring vibration isolators between genset and base to decouple genset from enclosure mounting points. Frame includes integral lifting points capable of lifting the genset with the enclosure without damage.
- Internal stub up area is provided for easy access to power cabling and fuel supply connections.



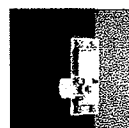
Construction

The bolt together modular design is superior to a welded box. Sections may be removed for service of major components.



Hinges

Stainless steel butt hinges with removable brass pins are long lasting and easy to open or close for routine maintenance.



Latch

Heavy duty, single-point latches are durable and easy to use.



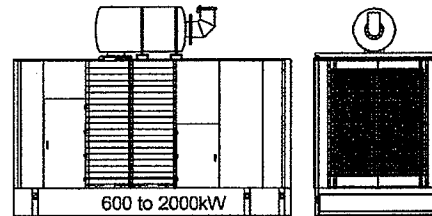
Handle

Lockable L-type door handles are keyed alike, easy to use and provide security.

Standard Features, HPE Level 0

In addition to the "Standard Features (All Levels)" the following additional features are also included for the Level 0 Enclosure:

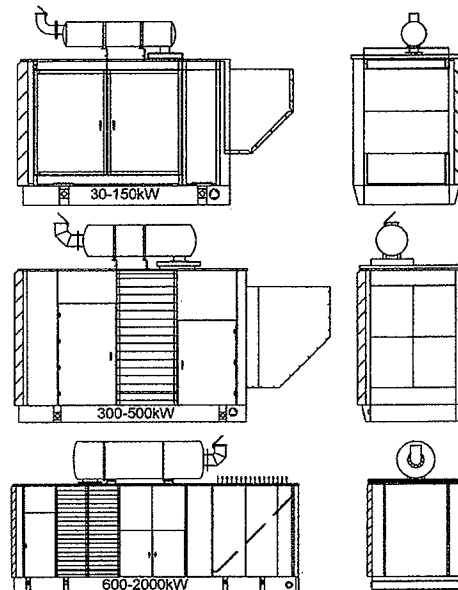
- Weather Resistant Enclosure
- Noise reduction 3dBA at 3 Meters
- Unit Mounted Radiator suitable for 40°C Ambient
- External mount Industrial Grade silencer. Silencer is mounted above the enclosure roof using heavy duty powder coated brackets. Integral rain shield is included on exhaust pipe to enclosure opening to divert rain and debris away from the genset area.
- Fixed Louvers for Cooling Air Intake are made of mil finished aluminum. Louvers divert rain and debris away from the genset area and include a bird and debris screen.
- Punched Screen Air Discharge barrier is mounted in front of the unit mounted radiator to protect from birds and debris. Air discharge barrier is made of the same enclosure material to complement the genset exterior.



See Data Sheet for dimension information.
 (<http://www.baldor.com/products/generators/idlc.asp>)

Standard Features, HPE Level 1

- Sound Attenuated Enclosure
- Noise reduction 15dBA at 3 Meters
- Unit Mounted Radiator suitable for 40°C Ambient
- External mount Critical Grade silencer. Silencer is mounted above the enclosure roof using heavy duty powder coated brackets. Integral rain shield is included on exhaust pipe to enclosure opening to divert rain and debris away from the genset area.
- Fixed Acoustic Louvers for Cooling Air Intake are made of mil finished aluminum exterior with fiberglass insulation and perforated aluminum on interior facing surface. Louvers divert rain and debris away from the genset area and include a bird and debris screen.
- Air Discharge Hood is mounted in front of the unit mounted radiator and includes an integral Punched Screen Barrier to protect from birds and falling debris. Discharge Hood is lined with acoustic foam insulation and includes a rain gutter to channel water away from the genset interior. Discharge hood and barrier is made of the same enclosure material to complement the genset exterior.
- Sound Deadening Interior Surface is designed with 3 inches of thermoset fiber material set between the exterior wall and a perforated mil finished aluminum interior wall.

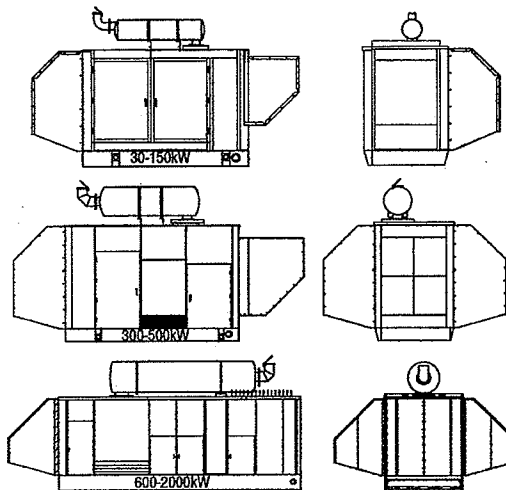


See Data Sheet for dimension information.
 (<http://www.baldor.com/products/generators/idlc.asp>)

BALDOR
 GENERATORS

Standard Features, HPE Level 2

- Sound Attenuated Enclosure
- Noise reduction 25dBA at 3 Meters
- Unit Mounted Radiator suitable for 40°C Ambient
- External mount Hospital Grade silencer. Silencer is mounted above the enclosure roof using heavy duty powder coated brackets. Integral rain shield is included on exhaust pipe to enclosure opening to divert rain and debris away from the genset area.
- Air Intake Hoods lined with acoustic foam are mounted over Fixed Acoustic Louvers for Cooling Air Intake. Hoods are manufactured of aluminum and the louvers are made of mill finished aluminum exterior with fiberglass insulation and perforated aluminum on interior facing surface. Louvers divert rain and debris away from the genset area and include a bird and debris screen.
- Air Discharge Hood is mounted in front of the unit mounted radiator and includes an integral Punched Screen Barrier to protect from birds and falling debris. Discharge Hood is lined with acoustic foam insulation and includes a rain gutter to channel water away from the genset interior. Discharge hood and barrier is made of the same enclosure material to complement the genset exterior.
- Sound Deadening Interior Surface is designed with a barium sulfate reflector sandwiched between two sections of 1-1/2 inches of thermoset fiber material. The 3+ inches of acoustic insulation is set between the exterior wall and a perforated mill finished aluminum interior wall.



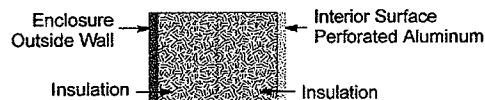
See Data Sheet for dimension information.
<http://www.baldor.com/products/generators/idlc.asp>

Noise Attenuation Methods

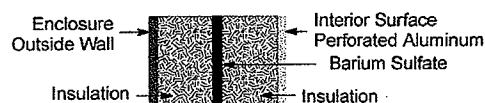
Sound Attenuation Material Specifications

- Inorganic glass fiber bonded with thermosetting resin into pre-formed 1-1/2 inch thick boards. Minimum density is 3.0 lb/ft³ (48 kg/cm³).
- Surface burning meet NFPA 90A and 90B
- Corrosive resistance meet ASTM C665 and exceeds Mil-I-24244B for stress corrosion
- Moisture absorption is less than 5% by weight when exposed to air at 120°F (49°C) and 95% humidity for 96 hours per ASTM C553
- Shrinkage is less than 0.3% linear per ASTM C356
- Interior wall is made of 0.032 inch thick perforated mill finish aluminum with a minimum of 40% open area for maximum sound absorption
- Level 2 enclosures include a Barium Sulfate Loaded Vinyl Sheet Reflector sandwiched between two layers of 1-1/2 inch glass fiber boards. Reflector is 1 lb/ft² surface mass and meet ASTM E 90-90.

Level 1 Noise Attenuation



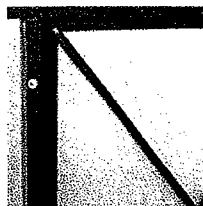
Level 2 Noise Attenuation



BALDOR
 GENERATORS

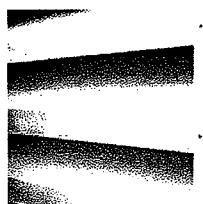
Optional Features

- **Aluminum Exterior Construction:** Roof and wall sections are manufactured with pre-painted 0.08 inch 5052-H32 aluminum formed into 3 inch thick panels with #4 finish. An aluminum exterior has superior corrosion resistance in salt spray or alkaline environment and provides a durable weather resistant finish to protect your genset investment for years to come.
- **Grade 3 Hardware Kit:** Enclosure includes stainless steel fasteners for all exterior surfaces, zinc plated cast aluminum keylock door handles, and heavy duty stainless steel hinges with removable brass pins. Recommended when an Aluminum Enclosure is requested.
- **Seismic Vibration Isolators:** Structural steel base includes Zone 4 Seismic Type spring vibration isolators between genset and base to decouple genset from enclosure mounting points. With proper mounting of the genset to foundation the increased vibration capability will better prepare the genset for a seismic event.
- **High Temperature Radiator:** Unit mounted radiator and engine cooling system can be upgraded for high ambient temperature operation. Ambient temperatures of 45°C or 50°C can be requested depending on engine manufacturers recommendations and specifications. Please review genset data sheets for maximum ambient temperature capability.
- **UL2200 Enclosure Construction:** The genset and enclosure can be designed and manufactured to the requirements of UL2200. The UL2200 Listed genset will be constructed with materials, guards, and components as necessary to carry the UL Listed markings.
- **Sub Base Fuel Tank:** For diesel powered gensets the genset and enclosure can be mounted to a sub base fuel tank. Double wall UL142 Listed tanks are recommended for all applications and are required if UL2200 Listing is requested. When specified with High Performance Enclosures the genset will mount to the sub base tank through vibration isolators while the enclosure will mount directly to the sub base flange area.
- **Intake Louver:** Intake louvers can be supplied with fixed or motorized units using acoustic or non-acoustic blades. Louvers will be designed so that water cannot be trapped and will include a bird and debris screen.
- **Discharge Louver:** Radiator cooling discharge air outlet will be protected with an extruded aluminum gravity closing damper. The damper will be constructed with lip seals to protect the genset from foreign objects and will open when the engine air flow starts and close when the air flow stops.



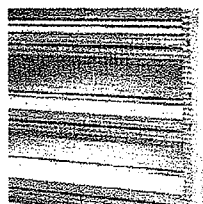
Sound Deadening Lining

Sound absorbing acoustical insulation held in place by perforated aluminum sheets, with 1/8" holes providing about 40% open area for maximum sound dampening.



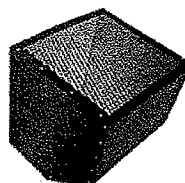
Acoustic Intake

Exterior view.
 Constructed of mill finish aluminum.



Acoustic Intake

Interior view.
 Includes bird screen, acoustic insulation and perforated aluminum.



Acoustic Exhaust Hood

Constructed of 14 gauge steel or aluminum lined with sound deadening insulation and perforated aluminum.

BALDOR GENERATORS WORLD HEADQUARTERS

Baldor Electric Company • P. O. Box 2400 • Fort Smith, AR 72902-2400 U.S.A.
 Phone (479) 646-4711 • Fax (479) 648-5792 • International Fax (479) 648-5895

www.baldor.com

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 9/08 FARR 5000

City of Fayetteville Staff Review Form

A. 9
 Bid #12-54 Instrument & Supply, Inc.
 Page 1 of 30

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

17-Jul-12

City Council Meeting Date
 Agenda Items Only

Shannon Jones
 Submitted By

Utilities Capital Projects
 Division

Utilities
 Department

Action Required:

Approval of an equipment purchase with Instrument & Supply, Inc. for \$88,800.00 plus tax, Bid 12-54, for large water pumps replacement for the South Mountain Water Pump Station.

\$ 97,014
 Cost of this request

\$ 200,000
 Category / Project Budget

South Mtn Pump Station Repair & Replace
 Program Category / Project Name

5400.5600.5808.00
 Account Number

\$ -
 Funds Used to Date

Water & Wastewater
 Program / Project Category Name

10005.1
 Project Number

\$ 200,000
 Remaining Balance

Water & Sewer
 Fund Name

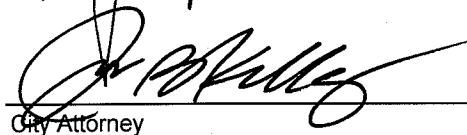
Budgeted Item ☒

Budget Adjustment Attached ☐


 Department Director

28 Jun 12
 Date

Previous Ordinance or Resolution # _____


 City Attorney

6-29-12
 Date

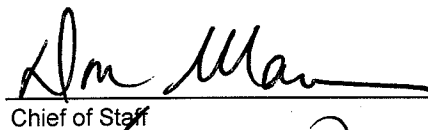
Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director

6/29/12
 Date

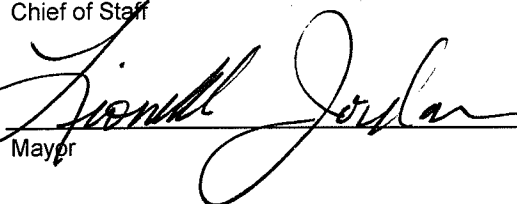
Received in City Clerk's Office 06-29-12 P12:05 RCVD


 Chief of Staff

7/2/12
 Date

Received in Mayor's Office




 Mayor

7/2/12
 Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

From: Shannon Jones, Utilities Engineer

Date: June 20, 2012

Subject: Resolution approving a pump purchase from Instrument & Supply, Inc. for \$88,800.00 plus tax

RECOMMENDATION

Fayetteville City administration recommends approval of the purchase of water pumps from Instrument & Supply, Inc. for \$88,800.00 plus tax, Bid 12-54, for the South Mountain Water Pump Station.

BACKGROUND

The project consists of replacing and upgrading the pumps, motors, variable frequency drives and electrical systems for the South Mountain water pump station on 24th Street. The pump station has been in service for over 30 years with no upgrades. The variable frequency drive is obsolete, the electrical systems are out of date, and the pumps and motors have exceeded their useful life.

DISCUSSION

This phase of the project is for the purchase of equipment to replace three of the existing water pumps with newer, more efficient pumps and variable frequency drives. The City opened three bids on June 15, 2012.

Pumps & Power Company	\$ 68,880.00
Jack Tyler Engineering of Arkansas	\$ 77,805.00
Instrument & Supply, Inc.	\$ 88,800.00

The apparent low bidder, Pumps & Power Company, did not meet the specification requirement for the size of the suction and discharge connections. Due to the incorrect size, these pumps cannot physically be installed in the existing pump station, as we are using existing hardware as much as possible. The second low bid submitted by Jack Tyler Engineering of Arkansas does not meet the specified impeller wear ring requirements. These wear rings are essential to maintaining the pump over time. A good pump should last thirty years or more, with periodic maintenance on the wear rings and seals. Instrument & Supply, Inc. meets all of the specified requirements and is the lowest responsible bidder. Staff recommends awarding the purchase to Instrument & Supply, Inc.

BUDGET IMPACT

Funds are available in the project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-54 AND AUTHORIZING THE PURCHASE OF ONE (1) LARGE WATER PUMP FROM INSTRUMENT & SUPPLY, INC. IN THE AMOUNT OF \$88,800.00, PLUS APPLICABLE SALES TAX, FOR USE AT THE SOUTH MOUNTAIN PUMP STATION

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-54 and authorizes the purchase of one (1) large water pump from Instrument & Supply, Inc. in the amount of \$88,800.00, plus applicable sales tax, for use at the South Mountain pump station.

PASSED and APPROVED this 17th day of July, 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

Requisition No.:

Date: A. 9

P.O Number:

6/27/2012 #12-54 Instrument & Supply, Inc.

Expected Delivery Date:

Vendor #:

52260

Vendor Name:

Instrument & Supply, Inc.

Mail

Yes:

No:

Address:

PO Box 1679

Fob Point:

Taxable

Yes:

No:

Quotes Attached

Yes:

No:

City:

Hot Springs

State:

AR

Zip Code:

71902

Ship to code:

Division Head Approval:

Requester:

Allison Atha

Requester's Employee #:

2613

Extension:

670

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Large Water Pumps Replacement for the South Mountain Water Pump Station	1	LOT	88,800.00	\$88,800.00	5400.5600.5808.00	10005.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Per Bid 12-54

Subtotal:

\$88,800.00

Tax:

\$8,214.00

Total:

\$97,014.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____



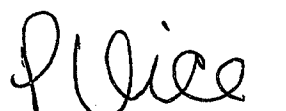
BID: 12-54
DATE: 06/15/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-54, Large Water Pumps - Equipment Only

BIDDER	MANUFACTURER/ MODEL	QUANTITY	PRICE EACH	TOTAL COST
1 Instrument & Supply, Inc.	Fairbanks Morse/ABB 1824/AC550	3	\$ 29,600.00	\$ 88,800.00
2 Jack Tyler Engineering of Arkansas	Taco	3	\$ 25,935.00	\$ 77,805.00
3 Pumps & Power Company	Peerless 4AE10	3	\$ 22,960.00	\$ 68,880.00

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

CERTIFIED:


P. VICE, PURCH MGR


WITNESS

06/15/12
DATE



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

INVITATION TO BID

INVITATION TO BID: BID 12-54, Large Water Pumps – Equipment Only
DEADLINE: Friday, June 15, 2012 before 2:00 PM, local time
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, CPPO
DATE OF ISSUE AND ADVERTISEMENT: Thursday, May 31, 2012

INVITATION TO BID **Bid 12-54, Large Water Pumps – Equipment Only**

No late bids shall be accepted. Bids shall be submitted in sealed envelopes labeled with the bid number, bid description, and with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

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

Name of Firm: Instrument & Supply, Inc.

Contact Person: Chris Enloe Title: Vice President of Operations

E-Mail: cenloe@isiequip.com Phone: 501-262-3282

Business Address: P.O. Box 1679

City: Hot Springs State: AR Zip: 71902

Signature:  Date: June 14, 2012

City of Fayetteville
Bid 12-54, Large Water Pumps – Equipment Only
Bid Form

DATE REQUIRED AS A COMPLETE UNIT: 90 days from Date of Order

*NAME OF BIDDER: Instrument & Supply, Inc.

*GUARANTEED DELIVERY DATE: 90 days from receipt of order.

F.O.B. Water & Sewer at 2435 S. Industrial Dr., Fayetteville, AR 72701

ITEM:	DESC	RIPTION: QU	ANTITY:	*PRICE EACH:	*TOT	AL PRICE
1.	Horizontal split case pumps, motors, and variable frequency drives	3		\$29,600.00		\$88,800.00
Please Specify for Unit(s) Bid:						

*MANUFACTURER: Fairbanks Morse/ABB *MODEL: 1824/AC550

TOTAL BID PRICE: \$ 88,800.00

Item 1 will be awarded to a single vendor – all or none.

Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.

THIS BID FORM CONTINUES ON THE NEXT PAGE.

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

***NAME OF FIRM:** Instrument & Supply, Inc.

Purchase Order/Payments shall be issued to this name

***BUSINESS ADDRESS:** P.O. Box 1679

***CITY:** Hot Springs ***STATE:** AR ***ZIP:** 71902

***PHONE:** 501-262-3282 **FAX:** 501-262-4847

***E-MAIL:** cenloe@isiequip.com

***BY: (PRINTED NAME)** Chris Enloe

***AUTHORIZED SIGNATURE:**  _____

***TITLE:** Vice President of Operations

City of Fayetteville
Bid 12-54, Large Water Pumps – Equipment Only
General Terms and Conditions

1. SUBMISSION OF BID & BID EVALUATION:

- a. Bids will be reviewed following the stated deadline, as shown on the cover sheet of this document.
- b. Bidders shall submit bids based on documentation published by the Fayetteville Purchasing Division.
- c. Bids shall be enclosed in sealed envelopes or packages addressed to the City of Fayetteville, Purchasing Division, Room 306, 113 W. Mountain, Fayetteville, AR 72701. The name, address of the firm and Bid, RFP, or RFQ number shall be on the outside of the packaging as well as on any packages enclosed in shipping containers or boxes.
- d. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at 479.575.8220 to ensure correct receipt of bidding documents prior to opening time and date listed on the bid form.
- e. Bidders shall have experience in providing products and/or services of the same or similar nature.
- f. Bidder is advised that exceptions to any of the terms contained in this bid shall be identified in its response to the bid. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- g. Local time is defined as the time in Fayetteville, Arkansas on the due date of the deadline. Bids shall be received before the local time as shown by the atomic clock located in the Purchasing Division Office.
- h. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City reserves the right to award bids in their entirety, none, or by line item.
- i. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City reserves the right to award bids in their entirety, none, or by line item.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.

4. RIGHTS OF CITY OF FAYETTEVILLE BID PROCESS:

- a. In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the following. The City of Fayetteville reserves the right to select the bid that it believes will serve the best interest of the City.
- b. The City of Fayetteville reserves the right to accept or reject any or all bids.
- c. The City of Fayetteville reserves the right to cancel the entire bid.
- d. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the invitation to bid or in bids submitted.

- e. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or data without changing the terms of the bid.

5. COSTS INCURRED BY BIDDERS:

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

6. CONFLICT OF INTEREST:

- a. The bidder represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Authority of City Employee to Contract with the City".
- b. All bidders shall promptly notify Andrea Foren, City Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the bidder's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the bidder may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the bidder. The City agrees to communicate with the bidder its opinion via e-mail or first-class mail within thirty days of receipt of notification.

7. WITHDRAWAL OF PROPOSAL:

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

8. LATE PROPOSAL OR MODIFICATIONS:

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

9. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

- a. The laws of the State of Arkansas apply to any purchase made under this bid. Bidders shall comply with all local, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.
- b. Pursuant to Arkansas Code Annotated §22-9-203 the City of Fayetteville encourages all *qualified* small, minority and women's business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women's business enterprises.

10. PROVISION FOR OTHER AGENCIES: N/A

11. COLLUSION:

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

12. RIGHT TO AUDIT, FOIA, AND JURISDICTION:

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

13. CITY INDEMNIFICATION:

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

14. VARIANCE FROM STANDARD TERMS & CONDITIONS:

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

15. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

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

16. PROCUREMENT POLICY FOR RECYCLED MATERIALS:

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

17. PAYMENTS AND INVOICING:

The bidder must specify in their bid the exact company name and address which must be the same as invoices submitted for payment as a result of award of this bid. Further, the successful bidder is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original bid. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest, fees, or penalty for untimely payments. **Payments can be processed through bidder's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to any nonrefundable deposit or retainer that would remain property of the bidder even if the hourly work actually performed by the bidder would not justify such fee.

The City will pay the awarded bidder based on unit prices provided on invoicing. Progress payments will be made after approval and acceptance of work and submission of invoice. Payments will be made within 30 days of accepted invoice.

18. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.

- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City

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

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

20. NON-EXCLUSIVE CONTRACT:

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

21. LOBBYING:

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

22. ADDITIONAL REQUIREMENTS:

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

23. ADD OR DELETE LOCATIONS OR SERVICES:

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

24. INTEGRITY OF BID DOCUMENTS:

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

25. CERTIFICATE OF INSURANCE:

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

This bid is considered a public improvement bid. Public improvement bids with a total of \$20,000 or more shall submit certificates of insurance within 10 days of notice to proceed, after City Council approval. Certificates of insurance are to be addressed to the City of Fayetteville, showing that the contractor carries the following insurance which shall be maintained throughout the term of the bid. Any work sublet, the contractor shall require the subcontractor similarly to provide the same insurance coverage. In case any employee engaged in work on the project is not protected under Workers' Compensation, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workers' Compensation:	Statutory	Amount
Comprehensive General & Automotive Liability:		\$250,000 each person.
\$500,000		00 aggregate.
Property Damage Liability:	\$100,000	aggregate.

26. OTHER GENERAL CONDITIONS:

- Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.
- Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. **Sales tax shall NOT be included in the bid price.** Applicable Arkansas sales tax laws will apply to this bid but not be considered for the bid evaluation process. The City is not a sales tax exempt entity.
- Each bidder should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
- The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
- The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the City to pay for any costs incurred by bidder in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the bidder's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received

within five working days following the request.

- h) **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms.**
- i) Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Andrea Foren, City of Fayetteville, Purchasing Agent via e-mail (aforen@ci.fayetteville.ar.us) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- j) Any information provided herein is intended to assist the bidder in the preparation of proposals necessary to properly respond to this bid. The bid is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements, but is not intended to limit a bid's content or to exclude any relevant or essential data.
- k) Bidders irrevocably consent that any legal action or proceeding against it under, arising out of, or in any manner relating to this bid, or any contract entered related thereto, shall be governed by Arkansas law without regard to conflicts of law principles. Proposer hereby expressly and irrevocably waives any claim or defense in any action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- k) The successful bidder shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful bidder assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the successful bidder shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the services called for in this Contract.
- l) The successful bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful bidder shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in the Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.

27. **INVOICING:** All invoices shall be presented to the City with the minimum information listed below.

- a. City Department that ordered the materials or services
- b. Order Date
- c. Delivery date or the date of service
- d. Name of the City Employee that requested or picked up the goods, materials, or service
- e. Bid Number that applies to the purchase and invoice. Amounts in the bid shall match invoicing.

28. **ADDITIONAL INFORMATION PROVIDED AND REQUIRED FOR THIS BID:** The following attachments are hereby included and are made part of the requirements for this bid package. Pricing shall be inclusive of the entire bid package, inclusive of these attachments:

City of Fayetteville
Bid 12-54, Large Water Pumps – Equipment Only
Technical Specifications: Horizontal Split Case Pumping System

HORIZONTAL SPLIT CASE PUMPING SYSTEM SPECIFICATIONS

PART 1 - GENERAL

No Exceptions taken - [Signature]

1.01. This specification includes the supply of three (3) horizontal split case pumps, motors, and variable frequency drives. Pumps shall have a maximum 4" diameter suction and 3" diameter discharge. Each unit shall be furnished with a pump, driver, and base with coupling guard. Pumps are to be connected to drivers by suitably sized flexible couplings.

1.02 QUALITY ASSURANCE

- A. All pumping equipment furnished under this Section shall be of a design and manufacture that has been used in similar applications, and it shall be demonstrated to the satisfaction of the City of Fayetteville that the quality is equal to equipment made by that manufacturer specifically named herein.
- B. Unit responsibility. Pumps, complete with motor, coupling, necessary guards, VFD's, and all other specified accessories and appurtenances shall be furnished by the pump system supplier to insure compatibility and integrity of the individual components, and provide the specified warranty for all components.
- C. Pumps are to be engineered and manufactured under a written Quality Assurance program. The Quality Assurance program is to be in effect for at least ten years, to include a written record of periodic internal and external audits to confirm compliance with such program.
- E. Pump(s) are to be engineered and manufactured under the certification of ISO-9001:2000.

1.03 PERFORMANCE

- A. The pump(s) shall be designed for continuous operation and will be operated continuously under normal service.
- B. **PERFORMANCE AND OPERATIONAL CRITERIA**

	Flow (GPM)	TDH (ft.)	Min. Efficiency (%)	Max. Pump Speed (RPM)
Operating Pt. 1	700	265	75.8	3550
Operating Pt. 2	800	252	77.8	3550
Design	884	241	78.0	3550
Operating Pt. 3	1000	220	76.8	3550

- C. Net positive suction head available at the centerline of the pump impeller is a range of 140 to 175 feet at 900 GPM.
- D. The maximum shutoff head allowed is 299 ft.
- E. Maximum solids passage through the impeller is 0.625 inches.

- F. Liquid pumped is potable water with a maximum temperature of 110 degF.
- G. Maximum motor horsepower allowed is 75 HP, and shall be non-overloading through the entire operating range of the application.

PART 2 - PRODUCTS

2.01 PUMPS

NO Exceptions taken - CL

A. Manufacturers

- 1. Pump(s) shall be the product of Fairbanks Morse Pump, model 1824, or equal.
- 2. Manufacturer shall have installations of like or similar application with a minimum of 5 years service for this pump size.

B. Design

1. Rotation

The pump will be clockwise rotation when viewed from the driver end looking at the pump.

2. Impeller

- a. The bronze impeller shall be of the enclosed type, double suction, Francis vane design, to minimize inlet losses and accommodate high suction lifts.
- b. Impeller shall be hydraulically and statically balanced to reduce bearing loading.
- c. Impellers shall be precision cast in one piece with smooth flow contours to promote maximum efficiency.
- d. Impellers shall be fixed axially along the shaft by shaft sleeves and sleeve nuts, and secured to the shaft through a precision fit and full-length key.
- e. The impeller hub shall have sufficient metal thickness to allow machining for installation of impeller wear rings.

3. Casing

- a. The casing shall be made of close-grained cast iron conforming to ASTM A48 CL30 suitable for 250 PSI working pressure when 150 lb. ANSI discharge flange is used.
- b. Casing shall withstand a minimum 375 PSI hydrostatic test.
- c. Casing shall consist of upper and lower half castings containing the volute and suction passages, and removable bearing housings that are doweled and securely bolted to the lower half casing. Inboard and outboard bearing housings shall be replaceable without the need for field alignment.
- d. Casing shall be axially split along the horizontal shaft centerline with flat-faced suction and discharge flanges and mounting feet cast integral with the lower half casing.
- e. Casing shall be lined-bored to assure concentricity and angular alignment.
- f. The upper and lower half casings shall be single volute (10"2824A double volute) doweled to permit easy removal and accurate replacement of the upper half for inspection and maintenance. The upper half casing shall be completely removable without disturbing the suction or discharge piping connections.
- g. Suction and discharge connections shall be sized to reduce hydraulic friction losses and to reduce turbulence and pipe noise. All suction and discharge flanges shall be designed for straight through nut-and-bolt flange connections. Suction flange shall be 125# ANSI drilling and the

discharge flange 125# ANSI drilling.

- h. Upper half casing shall have a drilled and tapped connection at the highest point on the casing for the purpose of pump priming and/or air release. Lower half casing shall be drilled and tapped to allow for drainage piping.

4. Wear Rings

- a. Wear rings shall be provided on both the impeller and casing so that clearances can be maintained throughout the life of the rings and minimize recirculation.
- b. Impeller wear rings shall be of the annular type.
- c. Casing wear rings shall be of the annular type pinned at the parting flange of the casing to prevent rotation.
- d. Wear rings shall be bronze.

5. Bearings

- a. Bearings shall be single row and deep groove ball type selected to carry radial and thrust loads.
- b. Interchangeable inboard and outboard bearings shall be press fit and positioned onto ground journals on both ends of an accurately machined shaft.
- c. Bearing housings shall be doweled and accurately positioned onto the bearing shoulders located on the lower half casing to ensure accurate alignment.
- d. Bearings shall be grease lubricated, however, pump and bearing construction shall be such that a change to oil lubrication can be made in the field, using the same bearings.
- e. Bearings shall be designed for an L10 life of 100,000 hours per ABMA at best efficiency point.

6. Shaft

- a. The pump shaft shall be manufactured of high quality heat treated 416SS of sufficient diameter to allow no greater than 0.003" maximum deflection as measured at the sealing box for all normal performance conditions on the curve.
- b. Shaft shall be manufactured to meet stiff shaft construction with a critical speed at least 25% in excess of operating speed, in order to prevent vibration and fatigue.
- c. Shaft shall be accurately machined along its entire length. A keyway shall be machined at the coupling end. No threads shall be machined adjacent to the impeller.

7. Sealing Box

- a. The shaft seals shall be mechanical seals with a stationary seal positioned against a rotating seal. Shaft seals will be carbon faced, and will be furnished with 316SS shaft sleeves. Shaft seals shall be non-proprietary, and shall be available locally. Seals shall be John Crane Type 21, or pre-approved equal.
- b. External piping complete with snubber valves shall be installed from the casing to each sealing box to circulate sealing water.

8. Baseplate, Coupling and Guard

- a. A fabricated steel base for pump and drive is to be supplied. Base shall be designed to resist torsional movement and support the combined weight of both pump and driver.
- b. After leveling and alignment, the base shall be grouted and completely

- filled with a non-shrinking grout.
- c. A flexible coupling and an enclosed type coupling guard shall be provided.
- 9. Coatings
 - a. Pump, baseplate, and coupling guard shall be coated with one (1) coat of Tnemec, Typox, Series 27, epoxy paint to 4.0 to 6.0 mils DMT.
- 10. Testing
 - a. A certified factory hydrostatic and performance test shall be performed on each pumping unit in accordance with Hydraulic Institute Standards, latest edition. Tests shall be sufficient to determine the curves of head input horsepower, and efficiency relative to capacity from shutoff to 150% of design flow. A minimum of six points, including shutoff, shall be taken for each test. At least one point of the six shall be taken as near as possible to each specified conditions.
 - b. Results of the performance tests shall be certified by a Registered Professional Engineer and submitted for approval before final shipment.
- 11. Quality Control
 - Pumps shall be manufactured by companies whose management system is registered to ISO 9001:2000.

2.02 MOTORS

No Exceptions Taken - CL

A. Operating Conditions

Motors shall be rated for a maximum of 75 horsepower at 3550 RPM, and for use with 480 volts, 60 Hertz, 3 phase power.

B. Manufacturers

Motors shall be the product of Baldor, GE, or WEG, and shall be furnished by the pump manufacturer.

C. Design

1. The pump will be furnished with 365TS motor frame as NEMA designates for polyphase, squirrel-cage, design B, horizontal motors.
2. The motor enclosure shall be type TEFC, totally enclosed fan-cooled.
3. The motor insulation system shall be Class F, and shall be suitable for use with a variable frequency drive.
4. Motor service factor shall be 1.15.
5. Motors shall be rated for continuous duty at 40 degrees C.
6. Motors shall be premium efficiency and shall be minimum 94.5% efficient.
7. Bearings shall be sealed, ball bearing type, and shall be lubricated with grease. Zirk type service fittings shall be provided on the drive and opposite ends for maintenance.
8. Motors shall be self-supporting type and shall be foot mounted to the pump base plate by the pump manufacturer.
9. The motor will be factory tested by the motor manufacturer prior to shipment to the pump manufacturer.

2.03 VARIABLE FREQUENCY DRIVES (VFD's)

A. General

No Exceptions Taken - CL

VFD's shall be provided for each motor.

B. Manufacturers

VFD's shall be a standard product of ABB (ACS550-U1-097A-4) or equal, and shall be provided by the pumping system supplier.

C. Construction

1. VFD's shall be UL Plenum rated.
2. All heat sink fans shall be accessible from the front with removal of the VFD power converter, and will be controlled by an internal temperature sensor.
3. The VFD enclosure shall be NEMA Type 1 with bottom mounted conduit entrances.
4. The VFD shall be designed to operate in ambient temperatures from 14 to 120degF, and relative humidity of 95% non-condensing.
5. The VFD will have removable terminal connection strips for all logic and analog inputs and outputs in the power converter.
6. The VFD shall be furnished with a 4-20madc input for a speed reference.
7. The VFD will accept two (2) dry contacts inputs for emergency stop and run/stop command.
8. The VFD will provide a three (3) relay form A outputs for VFD fault, VFD running, and loss of speed reference.
9. The VFD shall have a keypad display shall be provided for viewing and modification of VFD parameters and diagnostics. The display shall have password protection capability.

D. Operation

1. VFD's shall be sized to operate a variable torque load at a speed range from 1.0Hz to 72Hz.
2. The VFD shall be designed to operate a 75HP motor on +/- 480 volts, 3 phase, 60 hertz incoming power.
3. The overtorque rating shall be 110% for 1 minute.

E. Protection

1. The AC drive shall be rated for UL minimum short circuit currents per given horsepower rating.
2. The AC Drive shall be protected against short circuits, between output phases and to ground.
3. The AC Drive shall have under-voltage power-loss ride through performance per the SEMI F-47 voltage ride through standard and certified by a third party.

PART 3 - EXECUTION

3.01 Post-production

No Exceptions Taken - CE

- A. All installation will be provided by the City of Fayetteville. The Pumping System Supplier will provide one (1) day of installation guidance.
- B. After installation of all components is complete, City of Fayetteville will notify Pumping system Supplier for startup. Pumping system supplier will provide one (1) day of Start-up. If additional days are needed, they will be billed to the City of Fayetteville at the Suppliers standard field rate.
- C. After Startup is complete, Pumping System Supplier will provide three (3) printed sets of operation and maintenance manuals and one (1) digital copy in .pdf format.

3.02 Warranty

- A. Pumping System Supplier shall provide 24 months warranty after delivery and acceptance of equipment has been made.

3.03 Payment

- A. City of Fayetteville will pay for equipment once as it arrives at the City of Fayetteville's jobsite. The City of Fayetteville will retain 10% of each invoice for retainage. The City of Fayetteville will release the remaining 10% retainage within thirty (30) days after system has been deemed substantially complete by the City of Fayetteville.

END OF SECTION

City of Fayetteville
Bid 12-54, Large Water Pumps – Equipment Only
Statement of Disclosure – To Be Submitted With ALL Bids

This page does not count towards page limitations set forth in this request for proposal or bid. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

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

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

XXXX 1.) NO KNOWN RELATIONSHIP EXISTS

_____ 2.) RELATIONSHIP EXISTS (Please explain)

_____	_____
_____	_____
_____	_____

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

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

Printed Name: Chris Enloe



Signature

Date: June 14, 2012



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
 05/23/12

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 Rogers Insurance Agency P.O. Box 2048 Rogers, AR 72757-2048 Brad Bridgers, CIC		479-636-4551	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS:																					
INSURED Instrument & Supply, Inc. P. O. Box 1679 Hot Springs, AR 71902		<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>Cincinnati Insurance Company</td> <td>10677</td> </tr> <tr> <td>INSURER B:</td> <td>Bridgefield Casualty Insurance</td> <td>10335</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Cincinnati Insurance Company	10677	INSURER B:	Bridgefield Casualty Insurance	10335	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY				CPP1058084	09/30/11	09/30/12	EACH OCCURRENCE	\$ 1,000,000
	☒	COMMERCIAL GENERAL LIABILITY		DAMAGE TO RENTED PREMISES (Ea occurrence)				\$ 500,000	
	☐	CLAIMS-MADE	☒ OCCUR	MED EXP (Any one person)				\$ 10,000	
	☐			PERSONAL & ADV INJURY				\$ 1,000,000	
			GENERAL AGGREGATE	\$ 2,000,000					
	GEN'L AGGREGATE LIMIT APPLIES PER:		PRODUCTS - COMP/OP AGG	\$ 2,000,000					
☐	POLICY	☐ PRO-JECT	☐ LOC					\$	
A	AUTOMOBILE LIABILITY				CPA1058084	09/30/11	09/30/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	☒	ANY AUTO		BODILY INJURY (Per person)				\$	
	☐	ALL OWNED AUTOS	☐ SCHEDULED AUTOS	BODILY INJURY (Per accident)				\$	
	☒	HIRED AUTOS	☒ NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident)				\$	
	☐		☐					\$	
A	☒	UMBRELLA LIAB	☒	OCCUR	CPP1058084	09/30/11	09/30/12	EACH OCCURRENCE	\$ 3,000,000
	☐	EXCESS LIAB	☐	CLAIMS-MADE				AGGREGATE	\$ 3,000,000
	☐	DED	☒	RETENTION\$				0	\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				0196-29537	12/31/11	12/31/12	☒ WC STATUTORY LIMITS	☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH)		Y/N	E.L. EACH ACCIDENT				\$ 500,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below		☒ Y	E.L. DISEASE - EA EMPLOYEE				\$ 500,000	
			N/A	E.L. DISEASE - POLICY LIMIT				\$ 500,000	

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

Excluded Officer: Linda K White.
 RE: Daisy State Park Wastewater Plant System

CERTIFICATE HOLDER

CANCELLATION

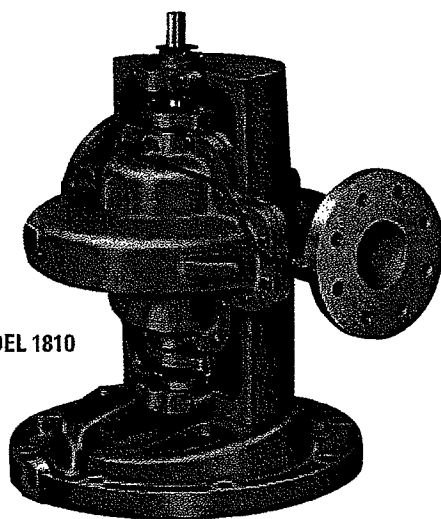
For Information Only	FORINFO	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE 		

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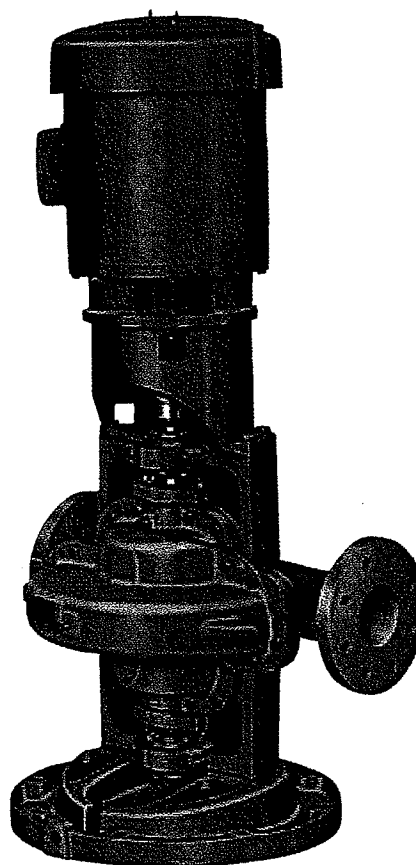
1800 Series Single-Stage Split Case Pumps

- Capacities To 15000 GPM
- Heads To 663 Feet
- Temperatures To 275° F

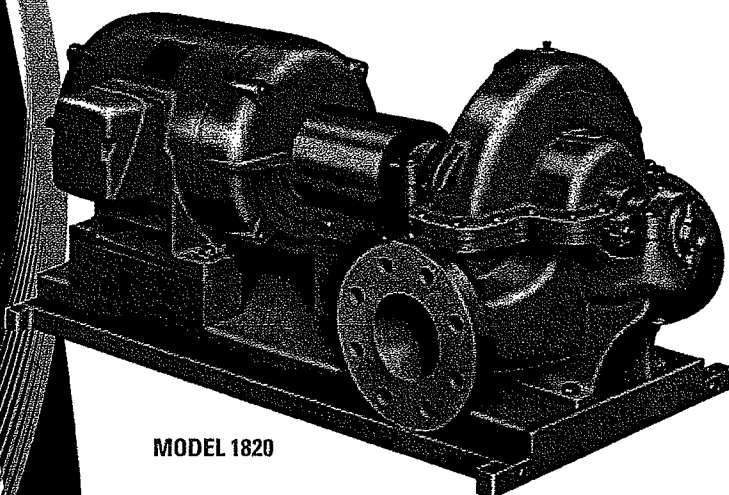
MODEL 1810



MODEL 1840



MODEL 1820

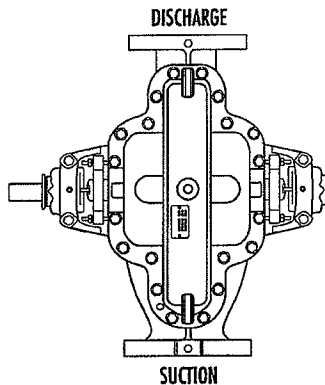


Fairbanks Morse®

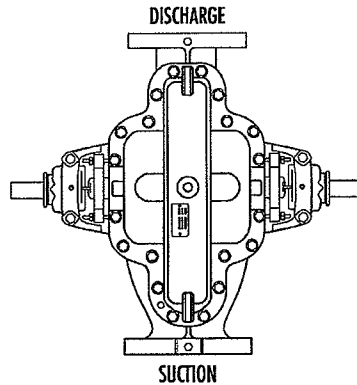
FAIRBANKS MORSE 1800 PUMPS

Fairbanks 1800 Series Pumps Introduction

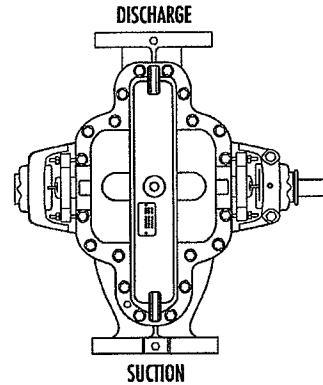
The horizontal split case pump has long and properly been used for the handling of liquids where the utmost in reliability and accessibility are paramount. Billions of gallons of liquid have been pumped by split case double suction pumps and billions more will be pumped considering the rapid industrial, agricultural and commercial expansion. The Fairbanks Morse 1800 Series pumps make a significant contribution to the customer requirements for pumps on this type of service. The 1800 Series is a modern design based on Fairbanks Morse's over 130 years of experience with the design, sales and manufacturing of split case pumps. Look through this bulletin and see what real accomplishments can be made when an imaginative approach is taken to the customer's problem of moving liquids within a piping system.



**STANDARD
RIGHT HAND ROTATION**



**OPTIONAL DUAL DRIVE
RIGHT HAND ROTATION**



**OPTIONAL
LEFTHAND ROTATION**

1800 SERIES FEATURE SELECTOR

Standard

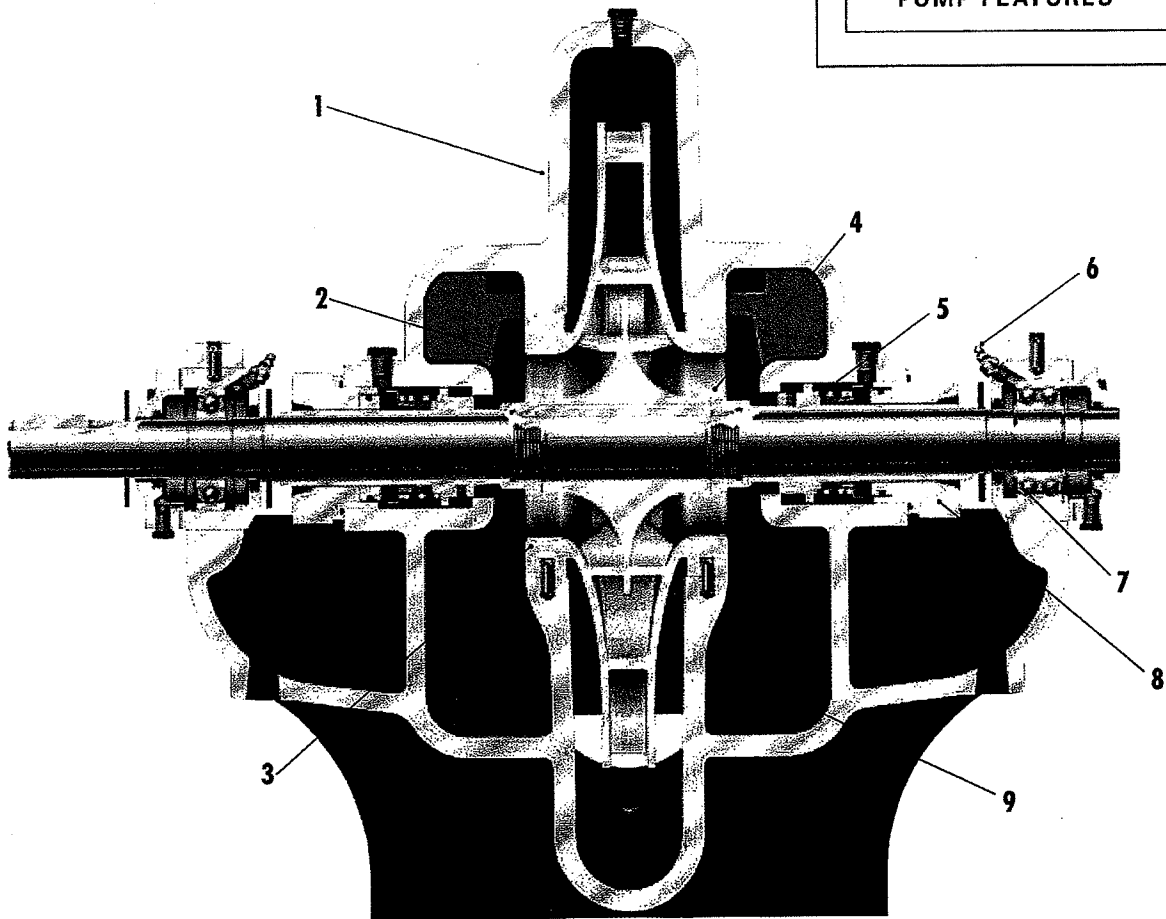
- Bronze fitted pump construction
- Bronze shaft sleeves
- Dynamically balanced impellers
- Bronze case wearing rings
- Twin volute on 10" and larger pumps
- Stainless steel impeller key
- Regreasable ball bearings
- Single row ball bearing (inboard)
- Double row ball bearing (outboard)
- Mechanical seals...single unbalanced (Model 1810 and 1840)
- Graphite and TFE lubricated acrylic packing

- Internal bypass between casing and stuffing box
- 125# ASA flanges
- 250 psi case working pressure
- Carbon steel shaft
- Stuffing box bushings
- Lifting lugs
- Hydrostatic test
- Cast integral bearing arms
- Water slingers and grease seals
- External bypass between casing and stuffing box (Model 1810 and 1840)
- Coupling guard (Model 1820)

Optional

- All iron, all bronze or special alloy pump construction
- Hardened 440C stainless steel shaft sleeves (packing only)
- 316 stainless steel shaft sleeves (mechanical seal)
- Impeller wearing rings
- Oil lubricated ball bearings (Model 1820 horizontal pump)
- Mechanical seals...single unbalanced (Model 1820) ...single balanced (All Models)
- Stainless steel or monel shaft
- External bypass between casing and stuffing box (Model 1820)
- Steel drip rim, formed steel or fabricated steel bases
- Double extended shaft (Model 1820)
- Right or left hand rotation
- Certified performance test
- Packing with lantern ring (Model 1820)
- 250# ASA suction and discharge flanges
- Bottom suction or chairmounted pumps
- Water cooled cartridge caps

HORIZONTAL PUMP FEATURES



Some of the important features of the Fairbanks Morse 1800 Series Split Case Pumps are outlined below:

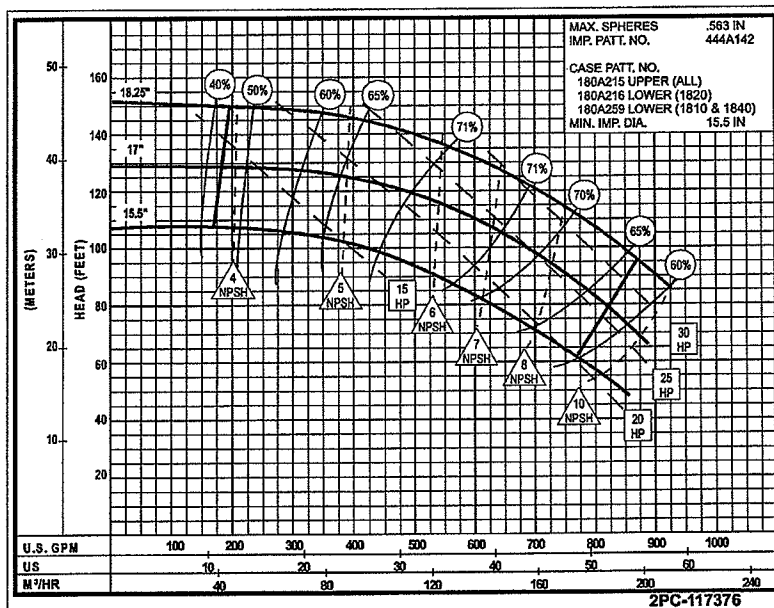
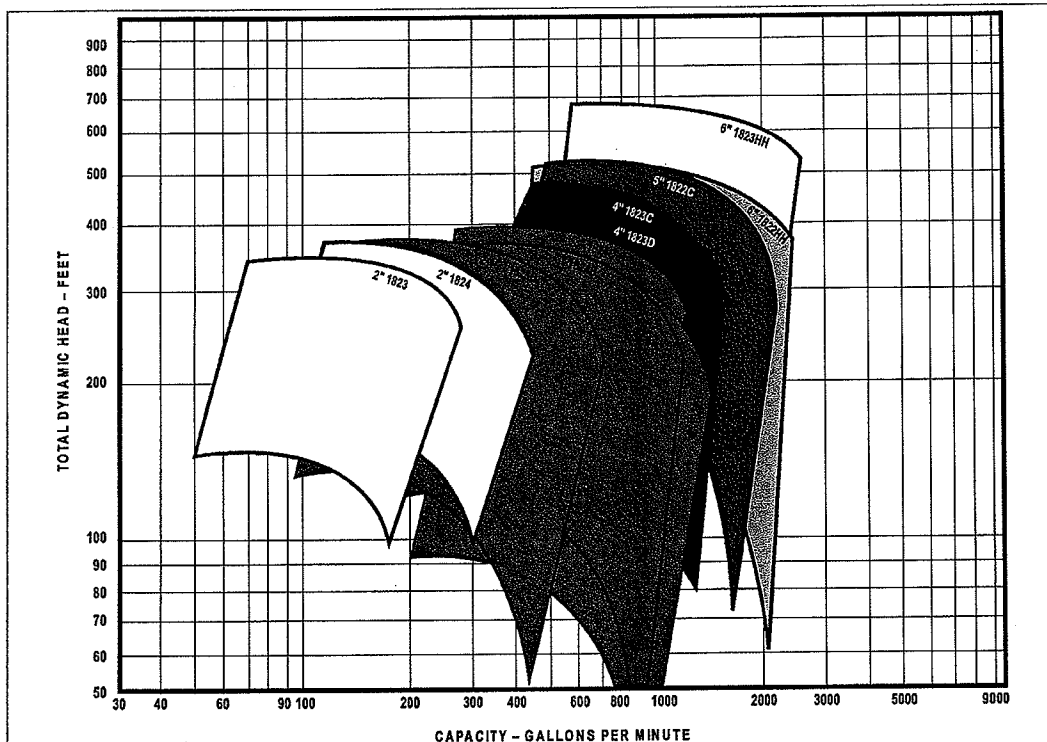
1. **Split Case Design** simplifies disassembly. The suction and discharge piping and alignment is not disturbed. Simply remove the upper casing for service or inspection. Cast lifting lugs are provided. Computer-machined major components with 360 degree registered fits assure concentricity of all parts. Twin volute design balances out radial hydraulic thrust loads on larger split case pumps (see Range Charts).
2. **Dynamically Balanced Impeller** is keyed to the shaft and secured by adjustable shaft sleeves. Double suction design balances out hydraulic thrust loads. Vacuum cast process and proven design provides high efficiency and performance.
3. **Case Wearing Rings** and throttle bushings prevent wear on the pump casing and are easily and inexpensively replaced.
4. **Bronze Shaft Sleeve** prevents shaft wear, is slip fit over the shaft, keylocked, and extends the entire length of each stuffing box. Shaft sleeves and impeller are O-ring sealed to eliminate corrosion of the shaft by the pumped liquid. This eliminates the need for high cost, special stainless steel or monel shafts.
5. **Interchangeable Stuffing Box** for mechanical seals or packing. Packing is standard on horizontal pumps. Optional lantern rings have internal water seal passages between the casing and stuffing box and cannot be damaged. Mechanical seals have carbon against Ni-Resist face. Long life is assured with 303 stainless steel metal parts and Buna-N elastomers. Several optional mechanical seals are available.
6. **Grease Lubrication** purges old grease from bearing. Oil lubrication is optional on horizontal pumps. Lube fittings are conveniently located for quick access and provide positive bearing lubrication. Oil seals and non-sparking Neoprene rotating slingers protect both bearings during pump operation and washdowns.
7. **Bearings** selected for 50,000 hour minimum life at maximum load. Average bearing life 5 x minimum. Double row thrust ball bearing is standard on all models. Short bearing span holds shaft deflection to .002" at face of stuffing box at maximum load. Integral bearing arms eliminate bearing misalignment and simplify service.
8. **Left-Hand Rotation** can be readily provided with standard parts. Tandem drive pumps require only a different shaft.
9. **Certified Performance** with positive suction pressure or with a suction lift is available on each pump for customer approval. Pumps are all hydrostatically tested.

3500 RPM PUMP PERFORMANCE

Individual performance curves must be used for final selection.
 For selections not shown on this chart please refer to the factory.

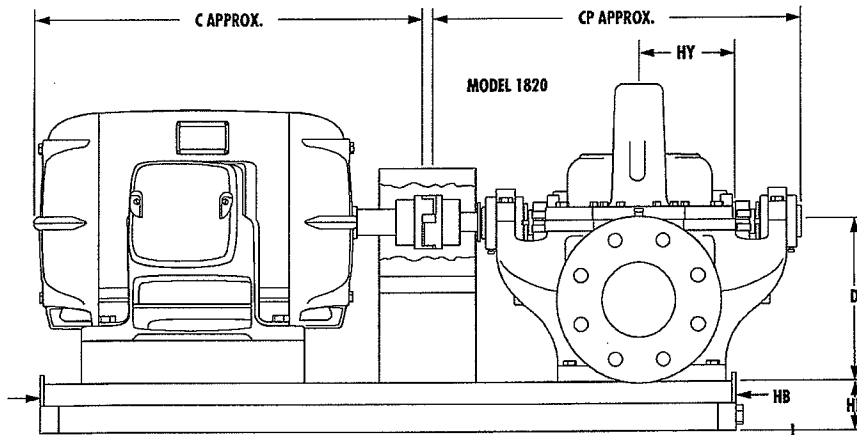
	Power Frame No. 1		Power Frame No. 5
	Power Frame No. 2		Power Frame No. 5A
	Power Frame No. 3		Power Frame No. 6B
	Power Frame No. 4		Power Frame No. 7
	Power Frame No. 4A		Power Frame No. 7A

Single
 Volute
 3500 RPM



PERFORMANCE CURVES

The individual curve for the size pump selected is found in catalog section 1800. These performance curves give complete operating characteristics, efficiency, horsepower, and N.P.S.H. required. Horsepower lines on these curves are based on specific gravity of 1.0. To obtain the horsepower for a liquid of a different specific gravity, multiply the horsepower obtained from the curves by the specific gravity of that liquid. The performance curve illustrated to the left is typical of the individual curves readily available for each pump size.



**PUMP
 DIMENSIONS**

Motor	Model 1840	143 HP	145 HP	182 HP	184 HP	213 HP	215 HP	254 HP	256 HP	284 HPH	286 HPH	324 HP	326 HP	364 HP	365 HP	404 HP	405 HP	444 HP	445 HP
Frame	Model 1820	143 T	145 T	182 T	184 T	213 T	215 T	254 T	256 T	284 TS	286 TS	324 TS	326 TS	364 TS	365 TS	404 TS	405 TS	444 TS	445 TS
3500 RPM	1-1/2	2-3	5	7-1/2	10	15	20	25	30	40	50	60	75	100	125	150	200†	200†	200†
1750 RPM	1	1-1/2	3	5	7-1/2	10	15	20	25	30	40	50	60	75	100	125	150	200†	200†
1150 RPM	—	1	1-1/2	2	3	5	4-1/2	10	15	20	25	30	40	50	60	75	100	125	125
Motor Wgt.	Model 1820	40	45	72	80	130	145	220	240	330	370	370	475	475	525	525	630	630	690
Model 1840	43	48	84	102	132	156	300	300	420	420	420	420	570	570	570	570	950	950	950
C	12	13	13	14	16	18	21	23	22	24	24	25	25	26	26	28	27	29	28
D (See Note **)	3-1/2	3-1/2	4-1/2	4-1/2	5-1/4	5-1/4	6-1/4	6-1/4	7	7	7	7	8	8	8	8	9	9	9
P Approx.	8	8	10	10	11	11	13	13	16	16	16	16	18	18	18	18	20	20	20
AG Approx.	11	12	14	15	16	17	20	21	22	23	23	23	25	25	26	26	25	25	25

Model 1820 Base Number																			
Pwr Series Model 1820	1	3	3	3	3	3	3	8	8	8*	—	8*	—	11*					
2	3	3*	3*	3*	5	5	8	8	9	9	9	9	11*	12	11*	12	12	—	12
3				5*	8	8	8	9	11	11	11	11	12	12	12	12	12	—	12
4				6*	6*	9	9*	—	11	—	11	11	12	12	12*	12*	12*	12*	12*
5								11	11	—	12	—	12	—	12	12	12	13	16
6B												13	—	13*	—	13*	13*	13	17
7																		17*	—

Base	3	5	6	8	9	11	12	13	15	16	17	18	FLANGES — ASA STD.	FURNISHED AS:
Base Wgt.	49	59	68	96	109	164	192	235	291	344	399	441	250# WITH 125# DRILLING	STANDARD
HA	15	17-1/4	17-1/4	20-1/2	20-1/2	26-3/4	26-3/4	26-3/4	30-3/4	30-3/4	30-3/4	30-3/4	250# WITH 250# DRILLING	OPTIONAL
HB	33-1/2	36-1/2	42-1/2	42-1/2	48-1/2	46-1/2	54-1/2	64-1/2	54-1/2	64-1/2	74-1/2	82-1/2		
HN	3	3	3	3	3	4	4	4	4-1/2	4-1/2	4-1/2	4-1/2		

NOTES — APPLY TO ALL MODELS

* May not be used for all pump sizes in this power series. Consult individual dimension pages for final selection.

† For motor and baseplate dimensions over 200 HP refer to the factory.

1. Dimensions and weights are approximate.
2. Complete dimensions are available.
3. Not for construction purposes unless certified for approval.
4. Frame sizes shown are for open drip proof motors only.
5. Add pump, base and motor weight for unit total weight.

6. Conduit box is shown in approximate position. Dimensions are not specified as they vary with each motor manufacturer.

7. Fairbanks Morse reserves the right to make revisions to its products and their specifications, and to this bulletin and related information without notice.

8. 10" 1824 and 12" 1823 pump sizes are also available as bottom suction horizontal Model 1820 pumps. See individual dimension pages for complete dimensions.

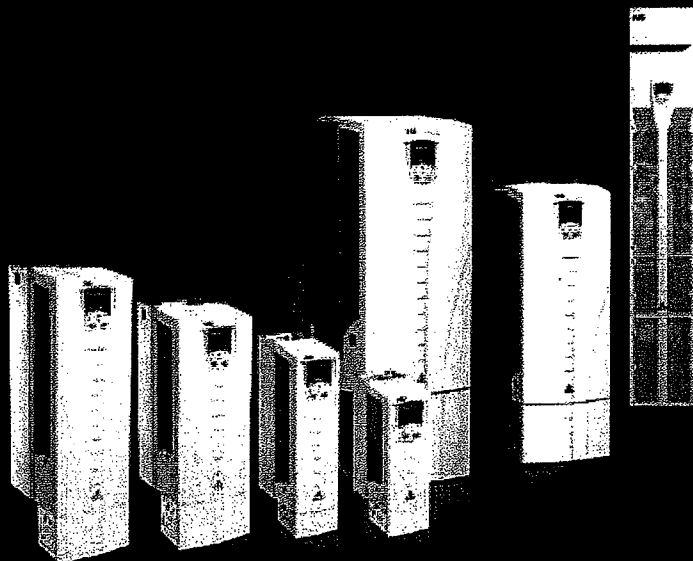


ABB low voltage drives ACS550, 0.75 - 550 Hp Technical Catalog

Power and productivity
for a better world™



Ratings, Types and Voltages

Type code

This is the unique reference number that clearly identifies the drive by mounting configuration, power rating and voltage. Once you have selected the type code, the frame size can be used to determine the drives dimensions, shown on the next page.

Voltages

The ACS550 is available in three voltage ranges:

2 = 208 - 240V

4 = 380 - 480V

6 = 500 - 600V

Notes

- I_{2N} : continuous base current with 110% overload for 1 minute / 10 minutes.
- I_{2hd} : continuous base current with 150% overload for 1 minute / 10 minutes.
- 180% I_{hd} continuous base current available for 2 seconds / 1 minute.
- The rated current of the ACS550 must be greater than or equal to the rated motor current to achieve the rated motor power given in the table.
- All -U1 models come with a conduit box and advanced control panel as standard.
- Horsepower is based on NEMA motor ratings for most 4-pole motors (1800 rpm). Check motor nameplate current for compatibility.
- All 230V product can be operated on 230V single-phase power, using a de-rate of the output current of 50%.
- All -U2 models come standard with US conduit openings, top entry / top exit, common mode filter for drives larger than 200 HP, fused disconnect and extended enclosure with advanced control panel.

Type Code UL Type 1 NEMA 1 ^(5,6)	Nominal Ratings				Frame Size
	Normal Duty (CT) (110% I _{2N})		Heavy Duty (CT) (150% I _{2N})		
	I _{2N} A ⁽⁷⁾	P ₁ HP ^(4,9)	I _{2HD} A ⁽⁷⁾	P ₂ HP ^(4,9)	
ACS550-U1-04A6-2	4.6	1.0	3.5	0.75	R1
ACS550-U1-06A6-2	6.6	1.5	4.6	1.0	R1
ACS550-U1-07A5-2	7.5	2.0	6.6	1.5	R1
ACS550-U1-012A-2	11.8	3.0	7.5	2	R1
ACS550-U1-017A-2	16.7	5.0	11.8	3	R1
ACS550-U1-024A-2	24.2	7.5	16.7	5	R2
ACS550-U1-031A-2	30.8	10	24.2	7.5	R2
ACS550-U1-046A-2	46.2	15	30.8	10	R3
ACS550-U1-059A-2	59.4	20	46.2	15	R3
ACS550-U1-075A-2	74.8	25	59.4	20	R4
ACS550-U1-088A-2	88	30	74.8	25	R4
ACS550-U1-114A-2	114	40	88	30	R4
ACS550-U1-143A-2	143	50	114	40	R6
ACS550-U1-178A-2	178	60	150	50	R6
ACS550-U1-221A-2	221	75	178	60	R6
ACS550-U1-248A-2	248	100	192	75	R6
ACS550-U1-03A3-4	3.3	1.5	2.4	1	R1
ACS550-U1-04A1-4	4.1	2	3.3	1.5	R1
ACS550-U1-06A9-4	6.9	3	5.4	2	R1
ACS550-U1-08A8-4	8.8	5	6.9	3	R1
ACS550-U1-012A-4	11.9	7.5	8.8	5	R1
ACS550-U1-015A-4	15.4	10	11.9	7.5	R2
ACS550-U1-023A-4	23	15	15.4	10	R2
ACS550-U1-031A-4	31	20	23	15	R3
ACS550-U1-038A-4	38	25	31	20	R3
ACS550-U1-045A-4	44	30	38	25	R3
ACS550-U1-059A-4	59	40	44	30	R4
ACS550-U1-072A-4	72	50	59	40	R4
ACS550-U1-078A-4	77	60	65	50	R4
ACS550-U1-097A-4	96	75	77	60	R4
ACS550-U1-125A-4	124	100	96	75	R5
ACS550-U1-157A-4	157	125	124	100	R6
ACS550-U1-180A-4	180	150	156	125	R6
ACS550-U1-246A-4	245	200	192	150	R6
ACS550-U2-316A-4	316	250	240	200	R8
ACS550-U2-368A-4	368	300	302	250	R8
ACS550-U2-414A-4	414	350	368	300	R8
ACS550-U2-486A-4	486	400	414	350	R8
ACS550-U2-526A-4	526	450	477	400	R8
ACS550-U2-602A-4	602	500	515	450	R8
ACS550-U2-645A-4	645	550	590	500	R8
ACS550-U1-02A7-6	2.7	2	2.4	1.5	R2
ACS550-U1-03A9-6	3.9	3	2.7	2.0	R2
ACS550-U1-06A1-6	6.1	5	3.9	3.0	R2
ACS550-U1-09A0-6	9	7.5	6.1	5.0	R2
ACS550-U1-011A-6	11	10	9	7.5	R2
ACS550-U1-017A-6	17	15	11	10	R2
ACS550-U1-022A-6	22	20	17	15	R3
ACS550-U1-027A-6	27	25	22	20	R3
ACS550-U1-032A-6	32	30	27	25	R4
ACS550-U1-041A-6	41	40	32	30	R4
ACS550-U1-052A-6	52	50	41	40	R4
ACS550-U1-062A-6	62	60	52	50	R4
ACS550-U1-077A-6	77	75	62	60	R6
ACS550-U1-099A-6	99	100	77	75	R6
ACS550-U1-125A-6	125	125	99	100	R6
ACS550-U1-144A-6	144	150	125	125	R6

City of Fayetteville Staff Review Form

A. 10
John David Brown Settlement Agreement
Page 1 of 6

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

7/17/2012

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Utilities Capital Projects
Division

Utilities
Department

Action Required:

Resolution approving a settlement agreement with John David Brown concerning condemnation litigation filed as part of the Highway 265 (Crossover Road) water and sewer relocation project in a total amount of \$46,666.50. This amount reflects a \$19,066.50 increase above the \$27,600.00 previously placed on deposit with the court.

\$ 19,067
Cost of this request

\$ 1,685,327
Category / Project Budget

W&S Relocations-2009 Bond Proceeds
Program Category / Project Name

5400.5640.5810.00
Account Number

\$ 1,122,858
Funds Used to Date

Water & Wastewater
Program / Project Category Name

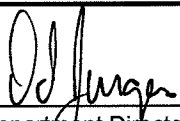
08072-1
Project Number

\$ 562,469
Remaining Balance

Water & Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director

29 Jul 12
Date

Previous Ordinance or Resolution # 193-10


City Attorney

6-29-12
Date

Original Contract Date: 11/2/2010

Original Contract Number:

Paul A. Beck
Finance and Internal Services Director

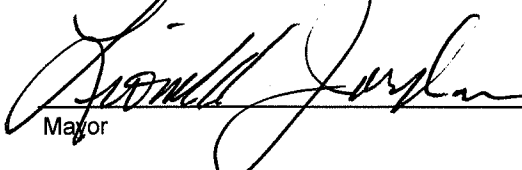
6-30-2012
Date

Received in City Clerk's Office 06-29-12 P03:06 RCVD


Chief of Staff

7-2-12
Date

Received in Mayor's Office


Mayor

7/2/12
Date



Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

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

Date: June 29, 2012

Subject: Approval of a settlement agreement with John Brown for an easement on Highway 265 (Crossover Road)

RECOMMENDATION

Staff recommends accepting a settlement agreement with John David Brown concerning condemnation litigation filed as part of the Highway 265 (Crossover Road) water and sewer relocation project in a total amount of \$46,666.50. This amount reflects a \$19,066.50 increase above the \$27,600.00 previously placed on deposit with the court.

BACKGROUND

The Arkansas Highway and Transportation Department (AHTD) is widening Highway 265 (Crossover Road) from Mission Boulevard north to Joyce Boulevard. Due to AHTD's acquisition of additional right-of-way to widen the road, utility lines have been relocated outside of the expanded right-of-way. These utility easements are adjacent to the new highway right-of-way and/or existing utility easements. On November 2, 2010, in order to not delay the project, the City Council approved condemnation proceedings against several properties, including John David Brown. Negotiations with property owners continued; of the original nine that were submitted for condemnation, only two were filed in court, including Mr. Brown's.

DISCUSSION

After continued negotiations and through meetings with a court appointed mediator, staff and Mr. Brown have reached the attached settlement agreement, which reflects a \$ 19,066.50 increase in the compensation. Both sides feel this negotiated settlement is fair and reasonable. Mr. Brown's property is the one lot on this project that received the greatest negative impact from the combined highway and utility work, because the lot is very shallow but has a wide street frontage, as shown on the attached easement plat. A significant portion of the lot was removed for right of way; the remainder was impacted such that commercial development was no longer possible on the remainder. The land was zoned for commercial development. Water and sewer construction is completed; the contractor has been notified of the changes reflected in this settlement agreement.

BUDGET IMPACT

This settlement for \$46,666.50 is \$19,066.50 above the \$27,600.00 previously placed on deposit with the court. The additional \$19,066.50 is available within the approved project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH JOHN DAVID BROWN, CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE HIGHWAY 265 WATER AND SEWER RELOCATION AND IMPROVEMENT PROJECT, IN THE TOTAL AMOUNT OF \$46,666.50

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 John David Brown, in a total amount of \$46,666.50, as full and final settlement of condemnation litigation (City of Fayetteville v. Brown, Washington County Circuit Court Case No. CV 2011-1266-4) filed as part of the Highway 265 Water and Sewer Relocation and 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 \$19,066.50 over and above the \$27,600.00 placed on deposit with the court.

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

APPROVED:

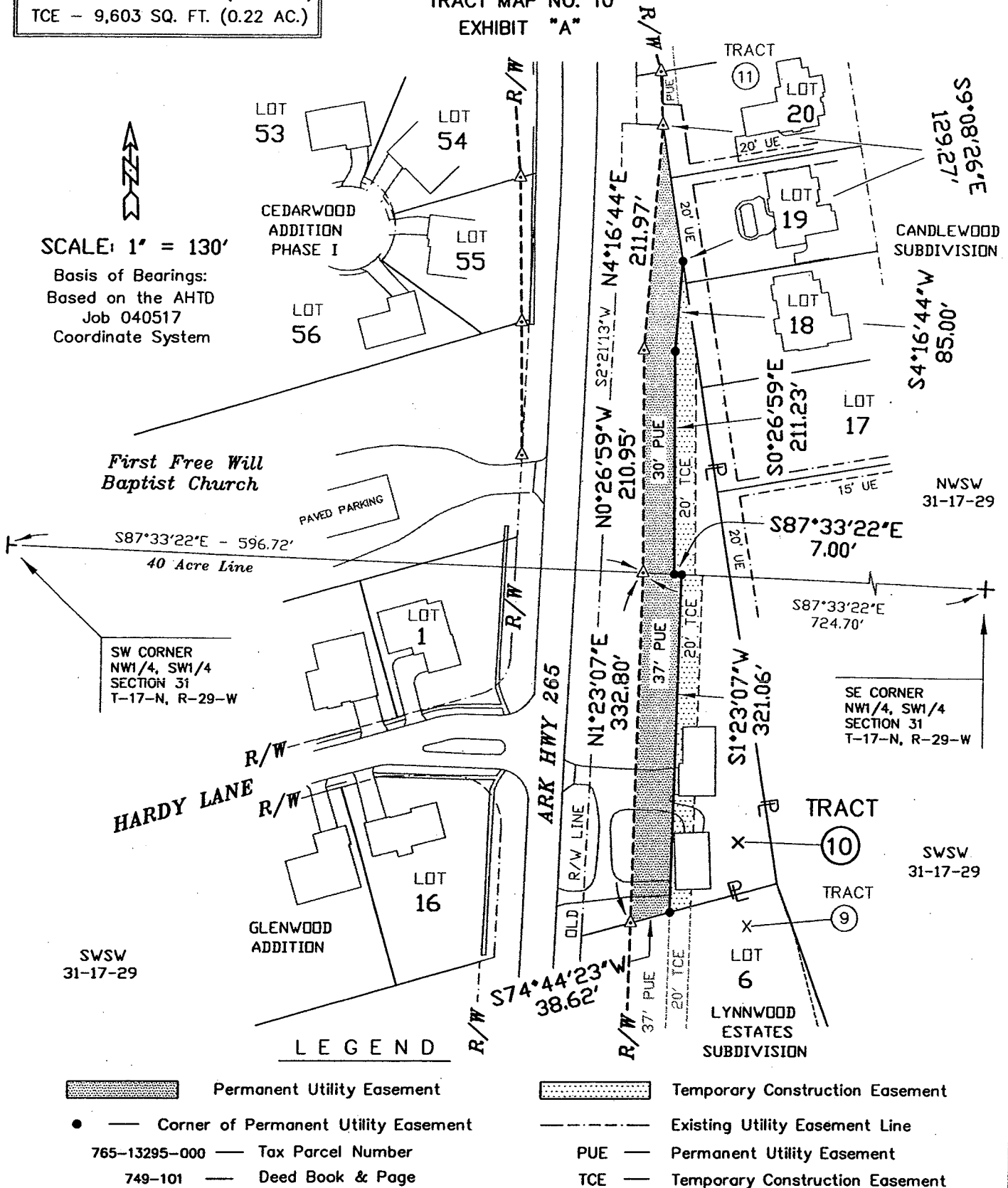
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

PUE - 22,883 SQ. FT. (0.53 AC.)
TCE - 9,603 SQ. FT. (0.22 AC.)

UTILITY EASEMENT PLAT
TRACT MAP NO. 10
EXHIBIT "A"



**CITY OF
FAYETTEVILLE**
Water & Sewer Department

Property Owner : John David Brown
Drawn by : McClelland Consulting Engineers
Date: Feb. 2010 Scale : 1" = 130'
Project No. 082146 Tract No. 10

Project Name :
Ar Hwy 265 W/S Line Relocation

No.	Revisions	Date

AHTD Tract No. 20

MEDIATION SETTLEMENT AGREEMENT

We, having participated in mediation on 3-30-12, and being satisfied that we have reached a fair and reasonable settlement, hereby agree as follows:

The City of Fayetteville agrees to pay \$46,666.50
~~IN SETTLEMENT OF THE CITY OF~~
Fayetteville vs. John David Brown Washco. CV. 2011-1266-4.
This is subject to City Council Approval and will be presented to the
City Council ^{OR ABOUT} ON July 17, 2012. John David Brown agrees to
accept said ~~\$46,666.50~~ \$46,666.50 by
the City of Fayetteville and the presentation for approval on
July 17, 2012. Said ~~\$46,666.50~~ \$46,666.50 includes the \$27,600.00
already paid by the City to the Court and is not in addition
to the \$27,600. This will settle any and all claims by
John David Brown related to this lawsuit and the
property that is the subject of it.

We recognize that James M. Hall has not given us legal advice or legal counsel, and we understand that we have the right to consult with an attorney before signing this Agreement.

We intend the above Agreement to be a legally binding and enforceable settlement contract.

Dated this 30th day of MARCH, 2012. For: Fayetteville

John D. Brown Mayor UTILITIES DIRECTOR
Attorney for John Brown For: Fayetteville

James M. Hall
JAMES M. HALL, mediator

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2012

City Council Meeting Date
Agenda Items OnlyChris Brown
Submitted ByEngineering
DivisionDevelopment Services
Department

Action Required:

Approval of a Resolution authorizing the settlement of the Hanna Condemnation Case for a total of \$1,600.

\$ 900.00
Cost of this request\$ 118,274.00
Category / Project BudgetTransportation Bond Program
Program Category / Project Name4470.9470.5810.00
Account Number\$ 101,374.00
Funds Used to DateLand Acquisition
Program / Project Category Name06035.2250
Project Number\$ 16,900.00
Remaining BalanceSales Tax Capital Improvements
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

07-02-2012
Date

Previous Ordinance or Resolution #

City Attorney

7-2-12
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Paul a. Baker
7-2-2012
Date

Received in City Clerk's Office 7-02-12 P04:15 RCVD

Chief of Staff

7-3-12
DateReceived in
Mayor's Office

Mayor

7/3/12
Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

City Council Meeting of May 15, 2012

To: Mayor Jordan and City Council

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

From: Chris Brown 

Date: July 2, 2012

Subject: Approval of a Resolution authorizing the settlement of the Hanna Condemnation Case for a total of \$1,600.

PROPOSAL:

Improvements to Garland Avenue (Highway 112) are planned as part of a City of Fayetteville and Arkansas State Highway and Transportation Department (AHTD) partnering project. Our agreement with AHTD provides that the City is responsible for 50% of the construction cost, up to \$1.5 million, and all of the cost of right of way acquisition and relocation of utility facilities.

Prior to construction work by AHTD, the City and local public utilities must relocate existing utility lines out of the widening area. In order to accomplish this work, it was necessary to acquire utility easements adjacent to the right of way. City was not able to negotiate a compensation agreement with the Hanna, therefore, the City Council authorized acquisition by condemnation at its March 6, 2012 meeting, and the City Attorney subsequently filed a complaint with the Circuit Court to acquire the necessary easement. The order of possession was received on this property after the complaint was filed and the City deposited \$700 with the Court as just compensation.

After much discussion between City staff and the Hanna's attorney, a settlement offer in the amount of \$1,600 was agreed upon contingent on City Council approval.

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing settlement of the Hanna condemnation case and authorizing an additional payment of \$900 to Caren E. and L. Richard Hanna II. This is a fair and equitable settlement to both the City and the property owners, and avoids further staff time and litigation expense on this case.

BUDGET IMPACT:

Payment of the additional amount to the Hannas will be made from the Garland Avenue Water and Sewer Relocations project of the Transportation Bond Program. There are adequate funds available for this payment.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH RICHARD AND CAREN HANNA, CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE N. GARLAND AVENUE IMPROVEMENT PROJECT, IN THE TOTAL AMOUNT OF \$1,600.00

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 Richard and Caren Hanna, in a total amount of \$1,600.00, as full and final settlement of condemnation litigation (City of Fayetteville v. Hanna, Washington County Circuit Court Case No. CV 2012-655-7) filed as part of the N. Garland Avenue 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 \$900.00 over and above the \$700.00 placed on deposit with the court.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

P.O.C.
NE Corner
SEC. 8
T-16-N, R-30-W

Not to Scale

LYNAIRE HARTSELL;
MROSANNE BROWN
765-08108-000
Bk. 1148, Pg. 38

NE, NE
8-16-30

CAREN & RICHARD HANNA
765-06277-001
Inst. No. 2005-28926

ELITE EQUITY GROUP
OF ARKANSAS LLC
765-06278-001
Inst. No. 2010-1552



PROP. UTILITY
EASEMENT-426 Sq. Ft.

N 87°16'39" W
14.47'

N 00°55'22" E
34.21'

P.O.B.

S 87°23'03" E
51.43'

S 53°14'22" E
18.15'

S 01°30'10" W
24.04'

S 02°36'57" W

678.61'

Section Line

GARLAND AVENUE

EXHIBIT
SEP. 2011

UTILITY EASEMENT
CAREN E. &
RICHARD HANNA II

MOFFITT & PHILLIPS, PLLC
ATTORNEYS AT LAW

300 Spring St., Suite 500
Little Rock, AR 72201

Tel: (501) 255-7406
Fax: (866) 557-3052

Brandon K. Moffitt, Attorney*
bmoffitt@moffittandphillips.com

Michael B. Phillips, Attorney
mphillips@moffittandphillips.com

*Licensed in AR and TN

TRANSMITTED VIA EMAIL
July 3, 2012

Mr. Jason B. Kelley
City of Fayetteville
113 W. Mountain St., Ste 302
Fayetteville, AR 72701
jkelley@ci.fayetteville.ar.us

RE: City of Fayetteville v. Hanna (CV-12-655-7)
Circuit Court of Washington Co.

Mr. Kelley:

Please accept this letter as my formal offer to settle the above referenced matter for a total sum of \$1,600. I understand your mayor and council must approve all settlement offers. As my client is interested in getting this settled ASAP, I expect settlement approval to be discussed at the upcoming 07/17/12 city council meeting. Please notify me promptly of your council's decision.

Sincerely,



Michael B. Phillips

cc: client

City of Fayetteville Staff Review Form

A. 12
 Street Name Change –
 N. Chrysler Drive
 Page 1 of 4

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

7/17/2012

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 Frazier Street to Chrysler Drive

\$80.00

Cost of this request

\$

47,020.00

Category / Project Budget

Materials/Supplies

Program Category / Project Name

2100.5315.5212.00

Account Number

\$

36,654.49

Funds Used to Date

Program / Project Category Name

\$

10,365.51

Remaining Balance

Fund Name

Project Number

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
 6-27-12 A09:55 RCVD
 USB

Chief of Staff

Date

Received in
 Mayor's Office

Mayor

Date

ENTERED
 6/27/12 SEP

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
Thru: Scott Huddleston
From: Greg Mitchell
Date: 6/26/2012
Subject: Renaming Frazier St. to Chrysler Drive

DESCRIPTION:

This is a proposal to rename a short section of Frazier Street to N Chrysler Drive. (See attached Map)

DISCUSSION:

We have a 9-1-1 issue near the north end of Vantage Drive at the intersection of Chrysler Drive. Although these two streets cross at right angles, Chrysler has different names on each side of the street – Chrysler on the west and Frazier on the east. Upon investigation, we discovered that legally the Frazier Street sign is correct: the original plat for that subdivision ("Zion Valley") shows that street name as "Frazier St." Nevertheless, it is a confusing situation and our 911 Dispatch Manager, Kathy Stocker, strongly recommends that we correct this situation so that the street is named the same on both sides. It will simplify directions and reduce the chance of errors in emergency situations.

We have contacted the POA for Bellefont Gardens (current name for Zion Valley) and they do not object to the name change. There are no addresses on this section of street so citizen inconvenience is minimal.

RECOMMENDATION:

Staff recommends approval of the Resolution.

BUDGET IMPACT:

\$80.00 for street sign.

RESOLUTION NO. _____

A RESOLUTION RENAMING FRAZIER STREET BETWEEN VANTAGE
DRIVE AND MOUNTAIN VIEW DRIVE TO N. CHRYSLER DRIVE

**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 renames
Frazier Street between Vantage Drive and Mountain View Drive to N. Chrysler Drive.

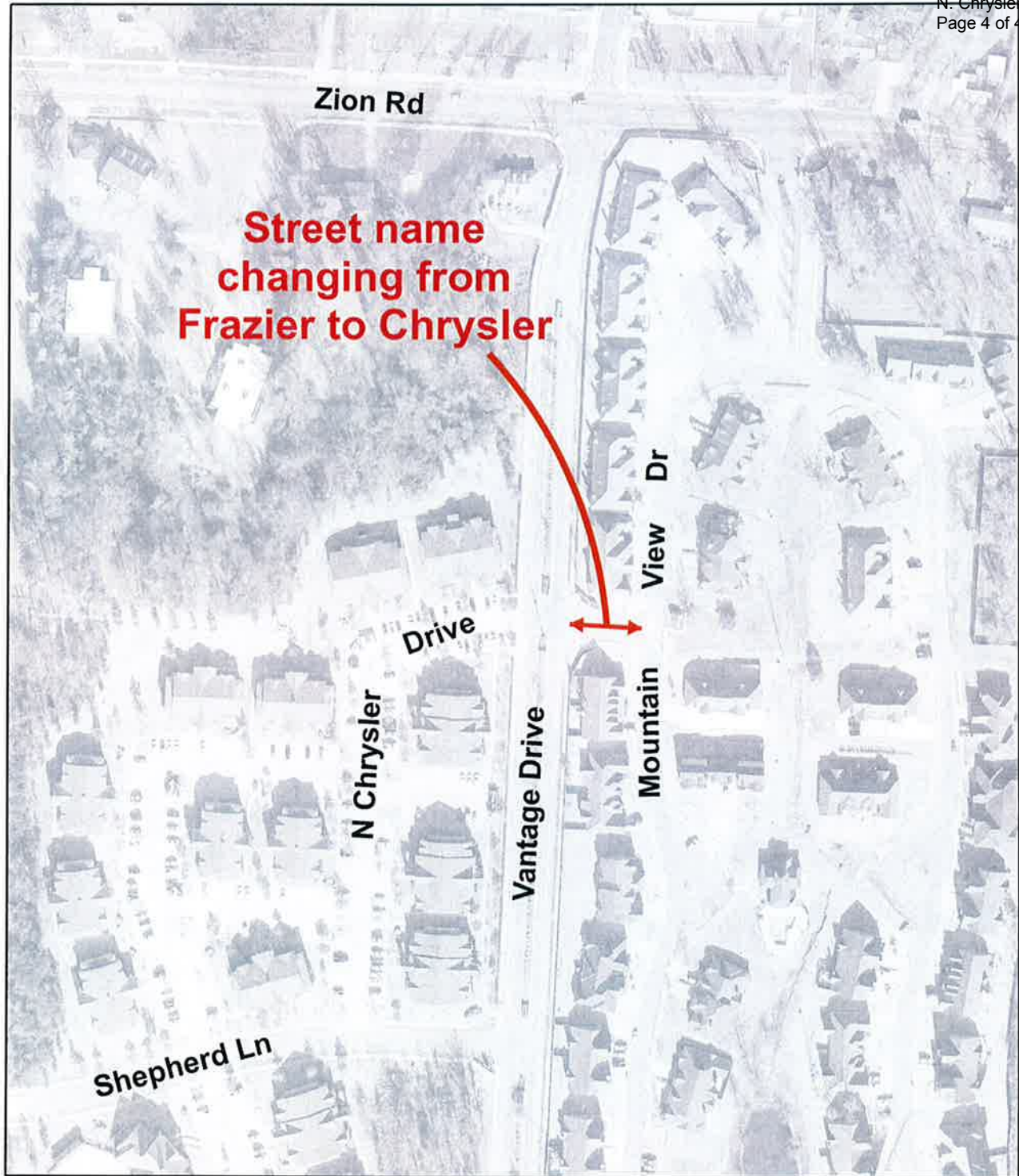
PASSED and **APPROVED** this 17th day of July, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Street Renaming Proposal: Frazier St to N Chrysler Drive



Date: 6/7/2012

250 125 0 250 Feet

A horizontal scale bar with four segments. The first segment is labeled "250", the second "125", the third "0", and the fourth "250 Feet".

AGENDA REQUEST FORM

B. 1
Amend §173.08 Arkansas Energy Code
Page 1 of 60

FOR: COUNCIL MEETING OF June 05, 2012

FROM: Mayor Lioneld Jordan
Council Member Matthew Petty
Council Member Sarah Lewis

ORDINANCE TITLE AND SUBJECT:

ADM 11-3655: Residential Energy Code

An ordinance to amend the Residential Energy Code, adopting the 2009 IECC Energy Code for Residential Construction, with the addition of a Home Energy Rating System (HERS) requirement.

APPROVED FOR AGENDA:



Mayor **Lioneld Jordan**

5/18/12
Date



Council Member **Matthew Petty**

5/21/2012
Date



Council Member **Sarah Lewis**

5/21/12
Date

Packet Prepared by:



Jeremy Pate
Director of Development Services

05.17.2012
Date

Tabled at the 6/19/12 CC Mtg. to the 7/17/12 CC Mtg.
Left on the first Reading at the 6/5/12 CC Mtg

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www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
City Council

CC: Don Marr, Chief of Staff
Kit Williams, City Attorney
Jeremy Pate, Development Services Director
David Molaschi, Building Official

From: Leif Olson, Associate Planner

Date: May 17, 2012

Subject: ADM 11-3655 Residential Building Codes

PURPOSE

In July of 2011, Mayor Lioneld Jordan and Alderman Matthew Petty co-sponsored Resolution 117-11 to have city staff examine City building codes and recommend amendments to further promote sustainable practices and energy conservation for City Council consideration.

BACKGROUND

The City of Fayetteville, along with the rest of the State, has consistently followed the State of Arkansas' lead on building code adoption to regulate construction practices in the commercial and residential sectors. Currently, the State requires compliance with an amended 2003 International Energy Conservation Code (IECC). Since the State's adoption of the 2003 IECC there have been three IECC updates (2006, 2009 and 2012). Due to Arkansas' rural nature the State Building Codes are not regularly updated to the newer standards, primarily because rural areas may not have the resources to adequately enforce these codes. Unfortunately, that leaves the more urban areas of the State regulating building practices with the older, less energy efficient standards unless a municipality chooses to adopt more stringent standards. In addition, Northwest Arkansas is unique our counterparts in the central, south and east parts of the state in that we are situated in a different climate zone. Many peer urban areas in the climate zone in which Fayetteville is situated (Springfield, Joplin, Columbia, MO; Lawrence, Manhattan, KS; Bowling Green, KY; Nashville, TN) have adopted new energy codes for building construction.

In December 2007, the Mayor's Ad-Hoc Committee on Energy Efficient Construction was assembled with the goal of improving energy efficiency. The Committee quickly narrowed its focus on new residential construction and created the voluntary Residential Energy Efficiency Program (REEP) and the Fayetteville Energy Scorecard. Unfortunately, the voluntary REEP program has not resulted in the widespread adoption of green building practices that the City had hoped for in the 4 years since it was adopted.

On July 5, 2011 the City Council passed Resolution 117-11 directing City Staff to examine Fayetteville's current building codes and recommend possible changes to encourage energy efficiency improvements for City Council consideration. A Residential Building Code Task Force was formed comprised of local home builders, architects and energy performance consultants tasked with researching, modeling and developing a recommendation for the adoption of energy code changes. Included in the staff report is the research and energy modeling analysis conducted by the Residential Building Code Task

Force as well as a report prepared by the U.S. Department of Energy titled “Impacts of the 2009 IECC on Residential Buildings in Arkansas”. Together these analyses paint a clear picture of the improvements that can be made upon the existing energy codes for residential construction, and what the cost and benefit will be to the consumer.

RECOMMENDATION

After completing substantial research and home energy modeling, the Residential Building Code Task Force and City staff recommends adopting the 2009 IECC for residential construction with an additional requirement for a Home Energy Rating (HERS) for all new residential structures. After consulting with Home Builders Association membership representatives on multiple occasions, staff is also recommending a delayed implementation date for the HERS and sticker requirement, as this is a new step in the home construction process for some builders.

Included in the staff report are the following resources:

- 1) Resolution 117-11, adopted by the City Council
- 2) Committee Summary Analysis of Residential Energy Codes
- 3) Cost/Benefit Analysis of Residential Energy Codes (3 pages)
- 4) Dept. of Energy Report, “Impacts of the 2009 IECC for Residential Buildings at State Level”
- 5) 2009 IECC, Chapter 11 Residential Energy Efficiency

BUDGET IMPACT

None.

Marked-Up Version

The following language is removed:

~~173.08 Arkansas Energy Code~~

~~(A) Adoption by reference. The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.~~

~~(B) The Arkansas Energy Code is amended by adding a provision for an Energy Efficiency Certificate for new home construction.~~

~~The Building Safety Division is authorized to design, approve and may later amend an Energy Efficiency Certificate to be affixed inside the main electrical panel indicating the operational energy efficiency measures incorporated into the building at the time of the completion of its construction.~~

The following language is added:

173.08 Energy Efficiency Code

(A) *Commercial.* The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.

(B) *Residential.* The 2009 International Energy Efficiency Code (IECC) is hereby adopted by reference for all new residential structures.

(1) The 2009 IECC is hereby amended by adding a provision requiring a Home Energy Rating (HERS) for new home construction. The City of Fayetteville requires that all new residential construction have a Home Energy Rating (HERS) completed by an independent RESNET certified home energy rater, or equivalent, prior to the issuance of a Certificate of Occupancy. Residential developments that utilize the exact same floor plan multiple times are required to have a HERS completed on a minimum of 20% of the residential units.

(2) A sticker shall be posted in a very prominent location near the front door showing the estimated monthly utility cost until the home is sold.

(3) All additions, alterations, renovations or repairs to existing residential structures shall comply with the standards of the 2009 IECC, but shall not be required to provide a HERS or post a sticker. Where it is shown to be impractical to meet the 2009 IECC, the Building Official may consider permitting additions, alterations, renovations or repairs in compliance with the Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended.

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ORDINANCE NO.

AN ORDINANCE TO AMEND §173.08 ARKANSAS ENERGY CODE OF THE BUILDING REGULATIONS CHAPTER OF THE U.D.C. TO ADOPT THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE, FOR RESIDENTIAL STRUCTURES, WITH AMENDMENTS HEREIN.

WHEREAS, Fayetteville customers spend over \$50 million annually for electricity and natural gas services; and

WHEREAS, more efficient buildings can conserve energy, reduce stress on our electricity grid and natural gas supplies while saving money and resources for our citizens; and

WHEREAS, improved building codes emphasizing energy conservation can reduce future energy consumption and the costs associated with energy production; and

WHEREAS, the existing State adopted and amended 2003 International Energy Conservation Code is inferior in comparison with the 2009 International Energy Conservation Code; and

WHEREAS, pursuant to A.C.A §14-55-206 and 207, the City of Fayetteville has published notice in the Northwest Arkansas Times that the City Council will consider enacting an ordinance to adopt and require all new residential construction and renovations to comply with the 2009 International Energy Conservation Code, three copies of which are available for public inspection and review in the Fayetteville City Clerk's Office.

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 §173.08 **Arkansas Energy Code** of the Unified Development Code and enacts a replacement §173.08 **Energy Conservation Code** as shown below:

“§173.08 Energy Conservation Code

- (A) *Commercial.* The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.
- (B) *Residential.* The 2009 International Energy Conservation Code (IECC) is hereby adopted by reference for all new residential structures with the exception of §107 **Fees** and §109 **Board of Appeals**.

(1) *New residential construction.*

The 2009 IECC is hereby amended by adding a provision requiring a Home Energy Rating System (HERS) Index rating for new residential construction. The City of Fayetteville requires that all new residential construction have a Home Energy Rating System (HERS) Index rating completed by an independent RESNET certified home energy rater, or equivalent, prior to the issuance of a Certificate of Occupancy. Residential developments that utilize the exact same floor plan multiple times are required to have a HERS Index rating completed on a minimum of 20% of the residential units.

(2) *Sticker.*

A sticker provided by the city shall be posted in a very visible location near the front entrance to the residential structure indicating the estimated monthly utility cost as derived from the HERS Index rating until the structure is sold, or for at least 90 days, whichever is less.

(3) *Additions, Alteration and renovations.*

All additions, alterations and renovations to existing residential structures shall comply with the standards of the 2009 IECC, but shall not be required to provide a HERS Index rating or post a sticker. Where it is shown to be impractical to meet the 2009 IECC, the Building Official may permit additions, alterations and renovations to comply with the Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as from time to time hereafter may be amended.

(4) *Repairs.*

All repairs to existing residential structures and mechanical systems need only be constructed to at least the same energy conservation standard as the

damaged structure or mechanical system which needed repair unless a higher standard is required by the Arkansas Energy Code.

(5) *Fees.*

§107 **Fees** of the IECC is removed to reflect that only the City Council can set required fees and any refund policy, the “code official” cannot set fees nor a refund policy. All fees shall be as prescribed in the Unified Development Code.

(6) *Appeals.*

§109 **Board of Appeals** shall be removed from the IECC and have no force or application. Appeals of the Building Official’s interpretation of this International Energy Conservation Code shall be heard by the existing Board of Construction Appeals and no new Board of Appeals for interpreting the International Energy Conservation Code shall be created by this Code.

Section 2. That in order to adequately prepare the residential construction industry for the 2009 International Energy Conservation Code (IECC) and the related new testing requirements, the effective date of the new code shall be implemented in stages as follows:

- (1) All provisions of the adopted 2009 IECC, as amended, shall become effective on September 03, 2012, with the exception that a Certificate of Occupancy may be issued even if a residential structure does not pass the air sealing/infiltration or duct sealing testing requirements.
- (2) The HERS Index rating and associated sticker requirements shall become effective on September 03, 2012.
- (3) All provisions of the adopted 2009 IECC, as amended, shall be effective on March 06, 2013.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 117-11

A RESOLUTION TO REQUEST THAT MAYOR JORDAN HAVE CITY STAFF EXAMINE CITY BUILDING CODES AND RECOMMEND AMENDMENTS TO FURTHER PROMOTE SUSTAINABLE PRACTICES AND ENERGY CONSERVATION FOR CITY COUNCIL CONSIDERATION

WHEREAS, Fayetteville customers spend over \$50 million annually for electrical and natural gas services; and

WHEREAS, over 80% of Fayetteville's electrical power is produced from coal imported from Colorado and Wyoming; and

WHEREAS, buildings in the United States consume over 40% of all energy and 70% of all electricity used in the United States; and

WHEREAS, more efficient buildings can conserve energy, reduce stress on our electric grid and natural gas supplies and save money as well as resources; and

WHEREAS, improved building codes emphasizing sustainability and energy conservation can favorably impact future energy consumption and all the costs associated with energy production.

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

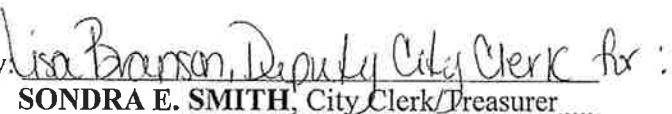
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby requests that Mayor Jordan have his City staff examine Fayetteville's current building codes and recommend possible changes to encourage feasible improvements for increased energy conservation and overall sustainability for City Council consideration.

PASSED and APPROVED this 5th day of July, 2011.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



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Analysis of Residential Energy Codes

Residential Building Code Task Force
City of Fayetteville Sustainability and Strategic Planning Department
2012

Background: On July 5, 2011 the City Council passed Resolution 117-11 directing City Staff to examine Fayetteville's current building codes and recommend possible changes to encourage energy efficiency improvements for City Council consideration. A Residential Building Code Task Force was formed comprised of local home builders, architects and energy performance consultants tasked with researching, modeling and developing a recommendation for the adoption of energy code changes.

Process: The Residential Building Code Task Force met a total of four times in 2011 and 2012. The Task Force utilized the expertise of its members to model the energy efficiency of a "typical" 1,824 sq. ft. home according to four different sets of building codes; the 2003, 2009 and 2012 International Energy Efficiency Codes (IECC) and the Energy Star Code. The results of this modeling exercise are included in the attached spreadsheets.

Comparison between the 2003, 2006, 2009 and 2012 International Energy Conservation Code (IECC) Building Envelope Requirements:

The IECC is typically published every three years. Each edition has some changes from the previous one. The residential portion of the code was heavily revised in 2004 and climate zones and building envelope requirements were restructured into a different format. This makes the post 2004 IECC codes much more concise and easier to use. However, these changes also complicate comparisons of pre-2004 codes to the newer versions. The changes between the 2006, 2009 and 2012 IECC were mainly to improve energy efficiency and make the code more stringent.

The major building thermal envelope updates to the 2003 IECC are the U-factor and Solar Heat Gain Coefficient (SHGC) requirements for fenestrations (windows) and the insulation *R*-factors for foundations and walls.

The Building Thermal Envelope is defined as what separates the building from unconditioned space. Windows are measured in terms of their thermal transmission, or U-factor. U-factor measures the rate of heat transfer through a product. The lower the U-factor, the lower the amount of heat loss, and the better a product is insulating a building. Solar Heat Gain refers to the increase in temperature in a space, object or structure that results from solar radiation. The amount of solar gain changes with the strength of the sun, and with the ability of any intervening material to transmit or resist the radiation.

The thermal building envelope changes between the 2003, 2006 and 2009 versions of the IECC are shown below:

	2003 IECC adopted by State with amendments	2006 IECC	2009 IECC
Ceiling	R-38	R-38	R-38
Skylight U-factor	N/A	0.60	0.60
Fenestration U-factor	0.41	0.40	0.35
Fenestration SHGC	N/A	N/A	0.45
Wood Frame Wall	R-13	R-13	R-13
Mass Wall	R-8.1	R-5	R-5/10*
Floor	R-19	R-19	R-19
Basement Wall	R-10/13**	R-10/13**	R-10/13**
Slab	R-4	R-10, 2 ft depth	R-10, 2 ft depth
Crawlspace Wall	R-10/13**	R-10/13**	R-10/13**

* The second R-value applies when more than half the insulation is on the interior of the mass wall.

** The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

Additional revisions to the 2009 IECC to improve energy efficiency included:

- The 2009 IECC requires that all sealed ducts located outside of the building's thermal envelope be verified by conducting a duct tightness test. The 2003 and 2006 IECC requires ducts to be sealed but not to a specific leakage rate verified by testing.
- 50% of the lighting lamps in a building have to be high efficiency in the 2009 IECC. The 2006 IECC has no lighting requirement.
- Trade off credit can no longer be obtained for high-efficiency heating, ventilation, and air conditioning (HVAC) equipment in the 2009 IECC. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed.
- A permanent sticker shall be posted on or in the electrical distribution panel that lists the predominant R-values of the insulation in the ceiling/roof, walls, foundation and ducts outside conditioned space. Also, the certificate shall list U-factors for window, the types and efficiencies of heating, cooling, and water heating equipment.

The 2012 IECC continues this trend, with all of the 2009 requirements and heightened requirements for efficiency within the thermal building envelope. Wood frame walls go from R-13 insulation to 20; 75% of lighting fixtures are required to be high-efficiency; and the infiltration standards are much more stringent. Importantly, the mechanical systems within a residence begin to get much more scrutiny. In comparison, the 2003 IECC has no duct infiltration standards, the 2009 has 8 CFM per 100sf standard, and the 2012 IECC allows no more than 4 CFM per 100 sf of infiltration. As noted in the following cost-benefit analysis, the 2012 IECC significantly increases the cost of construction when compared to the current 2003 energy code, therefore the committee chose not to pursue this option further.

Overview of the 2009 IECC with Anticipated Energy Cost/Benefit Analysis

The 2009 IECC is designed to save the consumer in utility costs because the building's thermal envelope and duct system will be tighter allowing for less air infiltration and the solar heat gain will be reduced with the improved window U-factor ratings. The efficient lighting requirements require less energy thereby increasing efficiency. The 2009 IECC scope includes residential single-family housing and multifamily housing three stories or less above-grade, intended for permanent living. The code is intended to apply to new buildings and additions/alterations/renovations/repairs.

Ceiling	R-38
Skylight U-factor	U-0.60
Window U-factor	U-0.35
Wood Frame Wall	R-13
Fenestration Solar Heat Gain Coefficient (SHGC)	0.45
Mass Wall	R-5/10*
Floor	R-19
Basement Wall	R-10/13*
Slab	R-10, 2 ft depth
Crawlspace Wall	R-10/13*

* The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

Additional requirements of the 2009 IECC include:

- Building envelope must be caulked and sealed.
- Supply ducts in attics must be insulated to R-8. Return ducts in attics and all ducts in crawlspaces, unheated basements, garages, or otherwise outside the building envelope must be insulated to R-6.
- All ducts must be sealed and either:
 1. Verified by pressure testing. The duct system is tested and the air leakage out of ducts must be kept to an acceptable maximum level.
 2. All ductwork must be installed entirely within the building envelope. Testing is not required if all ducts are inside the building thermal envelope.
- Less insulation is allowed for mass walls and more insulation is required for steel framing.
- 50% of the lighting in a building must be high efficacy.
- Standard administrative requirements apply (inspections, documentation).
- A certificate must be posted near the electrical panel listing insulation levels and other energy-efficiency measures.

Exemptions/allowances from prescriptive measures:

- One door and 15 square feet of window area are exempt.

Mandatory requirements:

Windows can never exceed an area-weighted average solar heat gain coefficient (SHGC) of 0.50.

Compliance Paths:

The 2003, 2006 and 2009 IECC all effectively contain three alternative compliance paths.

1. Prescriptive Measures. This is considered the simplest path. These requirements do not vary by building size, shape, window area or other features. The 2009 IECC has a single table of requirements for insulation R-values and window and door U-factors and SHGC.
2. Total building envelope UA (U-factor multiplied by area). This is the path predominantly used by the REScheck software. Based on the prescriptive U-factor table, it allows trade-offs whereby some energy efficiency measure can fall below code requirements if balanced by other measures that exceed code requirements.
3. Simulated performance path. This path allows compliance if the home has calculated annual energy consumption equal to or less than that of a standard reference design that meets the code's prescriptive requirements. This path allows for crediting energy efficiency measures not accounted for in other paths, such as renewable energy measures. The 2009 performance path differs from previous editions of the IECC in that it allows no trade-off credit for the use of high efficiency space heating, space cooling or water heating equipment.

Cost/Savings Analysis:

The Residential Building Code Task Force performed an analysis comparing the same 1,824 sq. ft. home constructed under both the 2003 IECC and the 2009 IECC and modeled with either gas or electric heat. The resulting analysis estimated an annual energy cost savings of \$267 for the gas home and \$344 for the electric home. The additional cost for building to the higher efficiency standards of the 2009 IECC was \$2,049, or amortized over a 30 year loan, \$132 annually. This represents **a net average annual energy savings for the home built to 2009 IECC standards of \$135 for the gas heated home and \$209 for the electric heated home.**

Overview of the Energy Star Version 3 Code with Cost/Benefit Analysis

The Energy Star Qualified Homes Version 3 goes beyond the requirements of the 2009 IECC. The Energy Star V3 code may be viewed as a stretch code to the 2009 IECC in that it requires higher efficiencies in some of the thermal building envelope requirements, and it promotes higher efficiency HVAC systems and appliances. The primary examples of this are; greater efficiencies for window U-factors, tighter building envelope requirements, tighter duct sealing requirements and increased foundation insulation installation requirements. Additionally, the Energy Star V3 code requires the installation of Energy Star certified appliances.

	2009 IECC	Energy Star Version 3
Ceiling	R-38	R-38
Skylight U-factor	U-0.60	N/A
Fenestration U-factor	U-0.35	U-0.32
Fenestration SHGC	0.45	0.40
Wood Frame Wall	R-13	R-13
Floor	R-19	R-19
Basement Wall	R-10/13*	R-19
Slab	R-10, 2 ft depth	R-19
Crawlspace Wall	R-10/13	R-13

Some additional significant features of the Energy Star Qualified Homes, Version 3 that differentiate it from the 2009 IECC include:

	2009 IECC	Energy Star V-3
HVAC	7.7 HSPF / 13 SEER / 11 EER ASHP – electric backup	8.5 HSPF / 14.5 SEER / 12 EER ASHP – electric backup
Ceiling Insulation Installation	Grade II Installation	Grade I Installation
AG Wall Insulation Installation	Grade III Installation	Grade I Installation
Foundation Insulation Installation	Grade II Installation	Grade I Installation
Infiltration	7.0 ACH50	5.0 ACH50
Water Heater	0.90 EF Electric DHW, 52 Gallons	0.92 EF Electric DHW, 52 Gallons
Dishwasher	Standard Efficiency	Energy Star
Refrigerator	Standard Efficiency	Energy Star
Lighting	50 % Fluorescent	80 % Energy Star Fluorescent
Bathroom Exhaust Fans	Standard Efficiency	Energy Star Exhaust Fans

Energy Star Cost/Saving Analysis:

Energy Star estimates that for a 2,200 sq. ft. all electric home with an unconditioned basement, located in Climate Zone 4 the improved efficiency standards would increase the annual mortgage cost by \$264. **The estimated monthly utility savings would be \$420, for a net cash flow increase of \$156/year for the homeowner.**

Conclusion

The 2003 IECC adopted and amended by the State of Arkansas has been improved on by subsequent code updates in recent years. The 2009 IECC has significantly higher thermal building envelope requirements than the 2003 IECC achieved primarily through higher efficiency windows and doors, better slab insulation, ductwork insulation and sealing requirements to reduce infiltration. The Energy Star V3 code has even higher efficiency requirements than the 2009 IECC and could be considered a stretch code. Both the 2009 IECC and the Energy Star V3 code have been shown to achieve a demonstrable net return on investment for the homeowner.

Recommendation

Based on the analysis performed calculating the cost of implementing the new energy code with the energy savings a homeowner could realize, the Residential Building Code Task Force and Staff recommends that the City adopt the 2009 IECC with the additional requirement for a Home Energy Rating (HERS) for all new residential construction. The HERS would provide a common denominator for all homebuilders and contractors to measure performance and will ensure that the construction techniques for all of these systems are sound. Staff would also recommend that the City require a Home Performance Sticker be placed in a prominent location near the front door showing the estimated monthly utility cost until the home is sold. This provides homebuyers the information needed to make an informed decision when making one of the largest investments a family can make. The Home Performance Sticker can also be a marketing tool for the homebuilders that wish to excel in this area.

IECC Cost Comparison - 1,824 SF Residential Structure

	2003 IECC State Ver.	2009 IECC	Cost	2012 IECC	Cost	Energy STAR Ver. 3	Cost
Ceiling	R-38	R-38	\$0	R-49	\$	R-38	\$
Skylight U-factor	N/A	0.6	N/A	0.55	N/A	N/A	N/A
Fenestration U-factor	0.41	0.35		0.35		0.32	
Fenestration SHGC	N/A	0.45	see windows and doors	0.4		0.4	see windows and doors
Doors	R-13	R-2.9	\$	R-2.9	\$	R-4.8	Standard
Wood Frame Wall	R-13	R-13	\$	20 or 13+5***	\$	R-13	\$
Mass Wall	R-8.1	R-5/10*	N/A	R-8/13	N/A	Not Specified	N/A
Crawlspace Floor	R-19	R-19	N/A	19	N/A	R-19	N/A
Basement Wall	R-10/13**	R-10/13**	N/A	R-10/13**	N/A	R-19	N/A
Slab	R-4	R-10, 2 ft depth	\$	R-10, 2 ft depth	\$	R-10, 2 ft depth	\$
Crawlspace Wall	R-10/13**	R-10/13**	N/A	R-10/13**	N/A	R-13	N/A
Duct Blaster Test	No	Yes	\$	Yes	\$	Yes	\$
Duct Infiltration	N/A	8CFM per 100 sf		4CFM per 100 sf		4CFM per 100 sf	\$
Duct Insulation	R-8 Attic/R-5.6 Other	R-8 Attic/R-6 Other	\$	R-8 Attic/R-6 Other	\$	R-8 Attic/R-6 Other	\$
HVAC Specs (Gas)	10 SEER w 78% AFUE	13 SEER w 78% AFUE	N/A	13 SEER 78% AFUE	N/A	13 SEER 90% AFUE	N/A
HVAC Specs (Electric)	6.8 HSPF/10 SEER	7.7 HSPF/13 SEER	\$	7.7 HSPF/13 SEER	\$	8.5 HSPF/14.5 SEER	\$
Trade Off Credits	Allowed	Not Allowed	N/A	Not Allowed	N/A	Not Allowed	N/A
Blower Door Test	No	Yes	\$	Yes	\$	Yes	\$
Infiltration	N/A	7.0 ACH50	\$	3 ACH50	\$	5.0 ACH50	\$
Caulk & Seal	Yes	Yes	\$	Yes	\$	Yes	\$
Lighting	N/A	50% High Efficacy	\$	75% High Efficacy	\$	80% Energy STAR	\$
Programmable Therm	No	Yes	\$	Yes	\$	Yes	\$
Windows SHGC	N/A	0.4	\$	0.4	\$	N/A	\$
Sticker in Panel	No	Yes	Incl. with blower door test	Yes	Incl. with blower door test	N/A	Incl. with blower door test
Dishwasher	Standard	Standard	\$	Standard	\$	Energy STAR	Standard
Water Heater	Standard	Standard	\$	Standard	\$	Energy STAR	Standard
Refrigerator	Standard	Standard	Not supplied	Standard	Not supplied	Energy STAR	Not supplied
Bathroom Exhaust	Standard	Standard	RCS	Standard	RCS	Energy STAR	\$
Total			\$ 2,189.28		\$ 3,576.35		\$ 50.00
							\$2,648.48
Additional items Required for Energy Star Version 3							
Gasketed cover for Attic insulation access or pull-down stairway							\$ 124.00
Sheetrock sealed to top plate at all attic/wall interfaces using caulk, foam, or equivalent material.							\$ 200.00
Kickout flashing required at bottom of all roof to wall intersections							Standard
Self sealing bituminous membrane at all valleys and roof deck penetrations							\$ 50.00
Cement board or equivalent moisture resistant barrier behind all tub and shower enclosures composed of tile or panel assemblies with caulked joints. Paper-faced backboard shall not be used.							\$ 35.00
Building Materials with visible water damage or mold shall not be used.							Standard
						Energy Star Version 3 TOTAL	\$ 3,057.68

* The second R-value applies when more than half the insulation is on the interior of the mass wall
 ** The first R-value applies to the continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
 ***First value is cavity insulation, second is continuous insulation or insulated siding.
 # subtotal for Energy star items listed above

CODE VERSION	FUEL TYPE*	UTILITIES \$/YR**	DESIGN LOADS Heat/Cool (kBTU/hr)	# TONS	MM BTU/YR	HERS INDEX
2003 IECC AR version "	Gas Electric	\$1,725 \$1,898	37.8/25.9 37.8/25.9	2.5 2.5	114.5 69.8	100 100
2009 IECC "	Gas Electric	\$1,458 \$1,560	32.6/21.3 32.6/21.3	2.0 2.0	94.6 61.3	84 86
2012 IECC "	Gas Electric	\$1,214 \$1,404	22.9/14.2 22.9/16.4	1.5 1.5	75.7 51	74 78
ENERGY STAR v.3 "	Gas Electric	\$1,166 \$1,227	25.3/17.7 25.3/17.7	1.5 1.5	72.1 44.3	66 65

*Gas--furnace and water heater: Electric--heat pump and water heater

** Utility rates: \$0.09/kWh elec., \$1.00/CCF gas

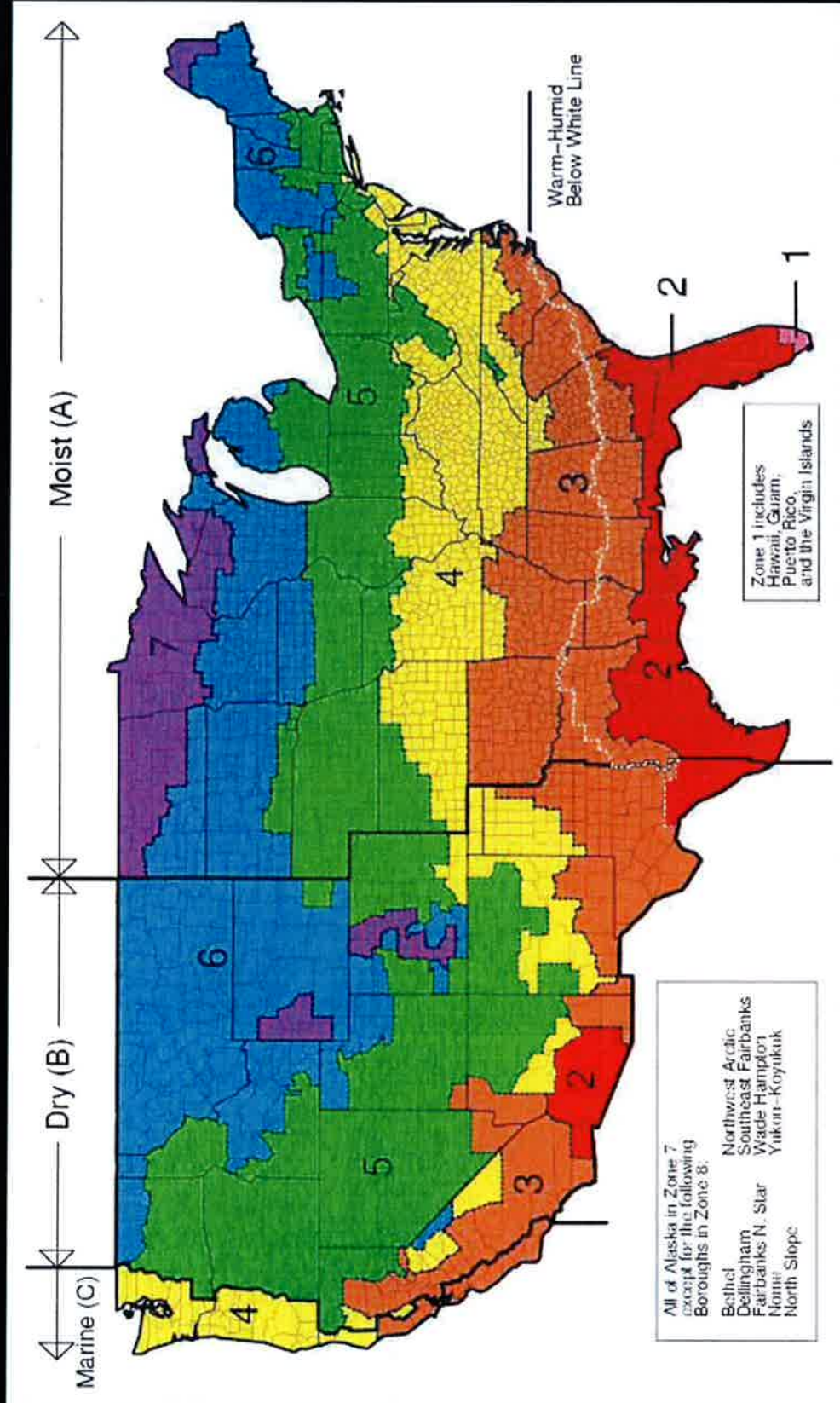
CODE VERSION	FUEL TYPE*	UTILITIES \$/YR**	DESIGN LOADS Heat/Cool (kBtu/hr)	# TONS	MM BTU/YR	HERS INDEX	ADDED COST	Avg Monthly Savings	Ammortized Cost/ Monthly Add
2003 IECC AR	Gas	\$1,725	37.8/25.9	2.5	114.5	100			
"	Electric	\$1,898	37.8/25.9	2.5	69.8	100			
2009 IECC	Gas	\$1,458	32.6/21.3	2.0	94.6	84		\$ 22.25	
"	Electric	\$1,560	32.6/21.3	2.0	61.3	86	\$ 2,049.28	\$ 28.17	\$ 11.00
2012 IECC	Gas	\$1,214	22.9/14.2	1.5	75.7	74		\$ 42.58	
"	Electric	\$1,404	22.9/16.4	1.5	51	78	\$ 3,436.35	\$ 41.17	\$ 18.45
ENERGY STAR v.3	Gas	\$1,166	25.3/17.7	1.5	72.1	66		\$ 46.58	
"	Electric	\$1,227	25.3/17.7	1.5	44.3	65	\$ 3,057.68	\$ 55.92	\$ 16.41

*Gas--furnace and water heater: Electric--heat pump and water heater

**Utility rates: \$0.09/kWh elec., \$1.00/CCF gas

***30 year fixed mortgage with 5% interest rate

Climate Zones – Chapter 3



A MEMBER OF THE INTERNATIONAL CODE FAMILY

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IECC[®]

INTERNATIONAL ENERGY CONSERVATION CODE[®]



2006

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CHAPTER 1

ADMINISTRATION

■ PART 1—SCOPE AND APPLICATION

SECTION 101

SCOPE AND GENERAL REQUIREMENTS

101.1 Title. This code shall be known as the *International Energy Conservation Code* of [NAME OF JURISDICTION], and shall be cited as such. It is referred to herein as "this code."

101.2 Scope. This code applies to *residential* and *commercial* buildings.

101.3 Intent. This code shall regulate the design and construction of buildings for the effective use of energy. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve the effective use of energy. This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.

101.4 Applicability. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

101.4.1 Existing buildings. Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.

101.4.2 Historic buildings. Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Registers of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, are exempt from this code.

101.4.3 Additions, alterations, renovations or repairs. Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. Additions, alterations, renovations or repairs shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code if the addition alone complies or if the exist-

ing building and addition comply with this code as a single building.

Exception: The following need not comply provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Glass only replacements in an existing sash and frame.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation.
4. Construction where the existing roof, wall or floor cavity is not exposed.
5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Replacement of existing doors that separate *conditioned space* from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates a *conditioned space* from the exterior shall not be removed.
7. Alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.
8. Alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the *alteration* does not increase the installed interior lighting power.

101.4.4 Change in occupancy or use. Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code. Where the use in a space changes from one use in Table 505.5.2 to another use in Table 505.5.2, the installed lighting wattage shall comply with Section 505.5.

101.4.5 Change in space conditioning. Any nonconditioned space that is altered to become *conditioned space* shall be required to be brought into full compliance with this code.

101.4.6 Mixed occupancy. Where a building includes both *residential* and *commercial* occupancies, each occupancy shall be separately considered and meet the applicable provisions of Chapter 4 for *residential* and Chapter 5 for *commercial*.

ADMINISTRATION

101.5 Compliance. *Residential buildings* shall meet the provisions of Chapter 4. *Commercial buildings* shall meet the provisions of Chapter 5.

101.5.1 Compliance materials. The *code official* shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code.

101.5.2 Low energy buildings. The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code:

1. Those with a peak design rate of energy usage less than 3.4 Btu/h-ft² (10.7 W/m²) or 1.0 watt/ft² (10.7 W/m²) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.

SECTION 102 ALTERNATE MATERIALS—METHOD OF CONSTRUCTION, DESIGN OR INSULATING SYSTEMS

102.1 General. This code is not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been *approved* by the *code official* as meeting the intent of this code.

102.1.1 Above code programs. The *code official* or other authority having jurisdiction shall be permitted to deem a national, state or local energy efficiency program to exceed the energy efficiency required by this code. Buildings *approved* in writing by such an energy efficiency program shall be considered in compliance with this code. The requirements identified as "mandatory" in Chapters 4 and 5 of this code, as applicable, shall be met.

■ PART 2—ADMINISTRATION AND ENFORCEMENT

SECTION 103 CONSTRUCTION DOCUMENTS

103.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the *code official* is authorized to require necessary construction documents to be prepared by a registered design professional.

Exception: The *code official* is authorized to waive the requirements for construction documents or other supporting data if the *code official* determines they are not necessary to confirm compliance with this code.

103.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted

when *approved* by the *code official*. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, as applicable, insulation materials and their *R*-values; fenestration *U*-factors and SHGCs; area-weighted *U*-factor and SHGC calculations; mechanical system design criteria; mechanical and service water heating system and equipment types, sizes and efficiencies; economizer description; equipment and systems controls; fan motor horsepower (hp) and controls; duct sealing, duct and pipe insulation and location; lighting fixture schedule with wattage and control narrative; and air sealing details.

103.3 Examination of documents. The *code official* shall examine or cause to be examined the accompanying construction documents and shall ascertain whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

103.3.1 Approval of construction documents. When the *code official* issues a permit where construction documents are required, the construction documents shall be endorsed in writing and stamped "Reviewed for Code Compliance." Such *approved* construction documents shall not be changed, modified or altered without authorization from the *code official*. Work shall be done in accordance with the *approved* construction documents.

One set of construction documents so reviewed shall be retained by the *code official*. The other set shall be returned to the applicant, kept at the site of work and shall be open to inspection by the *code official* or a duly authorized representative.

103.3.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

103.3.3 Phased approval. The *code official* shall have the authority to issue a permit for the construction of part of an energy conservation system before the construction documents for the entire system have been submitted or *approved*, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire energy conservation system will be granted.

103.4 Amended construction documents. Changes made during construction that are not in compliance with the *approved* construction documents shall be resubmitted for approval as an amended set of construction documents.

103.5 Retention of construction documents. One set of *approved* construction documents shall be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

SECTION 104 INSPECTIONS

104.1 General. Construction or work for which a permit is required shall be subject to inspection by the *code official*.

104.2 Required approvals. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *code official*. The *code official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *code official*.

104.3 Final inspection. The building shall have a final inspection and not be occupied until *approved*.

104.4 Reinspection. A building shall be reinspected when determined necessary by the *code official*.

104.5 Approved inspection agencies. The *code official* is authorized to accept reports of *approved* inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

104.6 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

104.7 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

104.8 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

104.8.1 Revocation. The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 105 VALIDITY

105.1 General. If a portion of this code is held to be illegal or void, such a decision shall not affect the validity of the remainder of this code.

SECTION 106 REFERENCED STANDARDS

106.1 General. The codes and standards referenced in this code shall be those listed in Chapter 6, and such codes and stan-

dards shall be considered as part of the requirements of this code to the prescribed extent of each such reference.

106.2 Conflicting requirements. Where the provisions of this code and the referenced standards conflict, the provisions of this code shall take precedence.

106.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

106.4 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

SECTION 107 FEES

107.1 Fees. A permit shall not be issued until the fees prescribed in Section 107.2 have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

107.2 Schedule of permit fees. A fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

107.3 Work commencing before permit issuance. Any person who commences any work before obtaining the necessary permits shall be subject to an additional fee established by the *code official*, which shall be in addition to the required permit fees.

107.4 Related fees. The payment of the fee for the construction, alteration, removal or demolition of work done in connection to or concurrently with the work or activity authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

107.5 Refunds. The *code official* is authorized to establish a refund policy.

SECTION 108 STOP WORK ORDER

108.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *code official* is authorized to issue a stop work order.

108.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

108.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

108.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a vio-

lation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

SECTION 109 BOARD OF APPEALS

109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the *code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The *code official* shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *code official*.

109.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training and are not employees of the jurisdiction.

CHAPTER 4

RESIDENTIAL ENERGY EFFICIENCY

SECTION 401 GENERAL

401.1 Scope. This chapter applies to residential buildings.

401.2 Compliance. Projects shall comply with Sections 401, 402.4, 402.5, and 403.1, 403.2.2, 403.2.3, and 403.3 through 403.9 (referred to as the mandatory provisions) and either:

1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive); or
2. Section 405 (performance).

401.3 Certificate. A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficien-

cies of heating, cooling and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

SECTION 402 BUILDING THERMAL ENVELOPE

402.1 General (Prescriptive).

402.1.1 Insulation and fenestration criteria. The *building thermal envelope* shall meet the requirements of Table 402.1.1 based on the climate zone specified in Chapter 3.

402.1.2 *R*-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component *R*-value. The manufacturer's settled *R*-value shall be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films.

TABLE 402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{b, c}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ⁱ	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	1.2	0.75	0.30	30	13	3/4	13	0	0	0
2	0.65 ^j	0.75	0.30	30	13	4/6	13	0	0	0
3	0.50 ^j	0.65	0.30	30	13	5/8	19	5/13 ^f	0	5/13
4 except Marine	0.35	0.60	NR	38	13	5/10	19	10/13	10, 2 ft	10/13
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 ^h	13/17	30 ^g	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 ^h	15/19	30 ^g	15/19	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	38 ^g	15/19	10, 4 ft	10/13

For SI: 1 foot = 304.8 mm.

- a. *R*-values are minimums. *U*-factors and SHGC are maximums. *R*-19 batts compressed into a nominal 2 × 6 framing cavity such that the *R*-value is reduced by *R*-1 or more shall be marked with the compressed batt *R*-value in addition to the full thickness *R*-value.
- b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. "15/19" means *R*-15 continuous insulated sheathing on the interior or exterior of the home or *R*-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with *R*-13 cavity insulation on the interior of the basement wall plus *R*-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means *R*-10 continuous insulated sheathing on the interior or exterior of the home or *R*-13 cavity insulation at the interior of the basement wall.
- d. *R*-5 shall be added to the required slab edge *R*-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Zones 1 through 3 for heated slabs.
- e. There are no SHGC requirements in the Marine Zone.
- f. Basement wall insulation is not required in warm-humid locations as defined by Figure 301.1 and Table 301.1.
- g. Or insulation sufficient to fill the framing cavity, *R*-19 minimum.
- h. "13+5" means *R*-13 cavity insulation plus *R*-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulated sheathing of at least *R*-2.
- i. The second *R*-value applies when more than half the insulation is on the interior of the mass wall.
- j. For impact rated fenestration complying with Section R301.2.1.2 of the *International Residential Code* or Section 1608.1.2 of the *International Building Code*, the maximum *U*-factor shall be 0.75 in Zone 2 and 0.65 in Zone 3.

TABLE 402.1.3
EQUIVALENT *U*-FACTORS^a

CLIMATE ZONE	FENESTRATION <i>U</i> -FACTOR	SKYLIGHT <i>U</i> -FACTOR	CEILING <i>U</i> -FACTOR	FRAME WALL <i>U</i> -FACTOR	MASS WALL <i>U</i> -FACTOR ^b	FLOOR <i>U</i> -FACTOR	BASEMENT WALL <i>U</i> -FACTOR	CRAWL SPACE WALL <i>U</i> -FACTOR ^c
1	1.20	0.75	0.035	0.082	0.197	0.064	0.360	0.477
2	0.65	0.75	0.035	0.082	0.165	0.064	0.360	0.477
3	0.50	0.65	0.035	0.082	0.141	0.047	0.091 ^c	0.136
4 except Marine	0.35	0.60	0.030	0.082	0.141	0.047	0.059	0.065
5 and Marine 4	0.35	0.60	0.030	0.057	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.057	0.060	0.033	0.050	0.065
7 and 8	0.35	0.60	0.026	0.057	0.057	0.028	0.050	0.065

a. Nonfenestration *U*-factors shall be obtained from measurement, calculation or an approved source.

b. When more than half the insulation is on the interior, the mass wall *U*-factors shall be a maximum of 0.17 in Zone 1, 0.14 in Zone 2, 0.12 in Zone 3, 0.10 in Zone 4 except Marine, and the same as the frame wall *U*-factor in Marine Zone 4 and Zones 5 through 8.

c. Basement wall *U*-factor of 0.360 in warm-humid locations as defined by Figure 301.1 and Table 301.1.

402.1.3 *U*-factor alternative. An assembly with a *U*-factor equal to or less than that specified in Table 402.1.3 shall be permitted as an alternative to the *R*-value in Table 402.1.1.

402.1.4 Total UA alternative. If the total building thermal envelope UA (sum of *U*-factor times assembly area) is less than or equal to the total UA resulting from using the *U*-factors in Table 402.1.3 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table 402.1.1. The UA calculation shall be done using a method consistent with the ASHRAE *Handbook of Fundamentals* and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

402.2 Specific insulation requirements (Prescriptive).

402.2.1 Ceilings with attic spaces. When Section 402.1.1 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves. Similarly, R-38 shall be deemed to satisfy the requirement for R-49 wherever the full height of uncompressed R-38 insulation extends over the wall top plate at the eaves. This reduction shall not apply to the *U*-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.2.2 Ceilings without attic spaces. Where Section 402.1.1 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Sec-

tion 402.1.1 shall be limited to 500 square feet (46 m²) or 20 percent of the total insulated ceiling area, whichever is less. This reduction shall not apply to the *U*-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.2.3 Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed *R*-value of the loose fill insulation.

402.2.4 Mass walls. Mass walls for the purposes of this chapter shall be considered above-grade walls of concrete block, concrete, insulated concrete form (ICF), masonry cavity, brick (other than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs.

402.2.5 Steel-frame ceilings, walls, and floors. Steel-frame ceilings, walls and floors shall meet the insulation requirements of Table 402.2.5 or shall meet the *U*-factor requirements in Table 402.1.3. The calculation of the *U*-factor for a steel-frame envelope assembly shall use a series-parallel path calculation method.

Exception: In Climate Zones 1 and 2, the continuous insulation requirements in Table 402.2.5 shall be permitted to be reduced to R-3 for steel frame wall assemblies with studs spaced at 24 inches (610 mm) on center.

TABLE 402.2.5
STEEL-FRAME CEILING, WALL AND FLOOR INSULATION
(R-VALUE)

WOOD FRAME R-VALUE REQUIREMENT	COLD-FORMED STEEL EQUIVALENT R-VALUE ^a
Steel Truss Ceilings^b	
R-30	R-38 or R-30 + 3 or R-26 + 5
R-38	R-49 or R-38 + 3
R-49	R-38 + 5
Steel Joist Ceilings^b	
R-30	R-38 in 2 × 4 or 2 × 6 or 2 × 8 R-49 in any framing
R-38	R-49 in 2 × 4 or 2 × 6 or 2 × 8 or 2 × 10
Steel-Framed Wall	
R-13	R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10
R-19	R-13 + 9 or R-19 + 8 or R-25 + 7
R-21	R-13 + 10 or R-19 + 9 or R-25 + 8
Steel Joist Floor	
R-13	R-19 in 2 × 6 R-19 + 6 in 2 × 8 or 2 × 10
R-19	R-19 + 6 in 2 × 6 R-19 + 12 in 2 × 8 or 2 × 10

a. Cavity insulation R-value is listed first, followed by continuous insulation R-value.

b. Insulation exceeding the height of the framing shall cover the framing.

402.2.6 Floors. Floor insulation shall be installed to maintain permanent contact with the underside of the subfloor decking.

402.2.7 Basement walls. Walls associated with conditioned basements shall be insulated from the top of the *basement wall* down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections 402.1.1 and 402.2.6.

402.2.8 Slab-on-grade floors. Slab-on-grade floors with a floor surface less than 12 inches (305 mm) below grade shall be insulated in accordance with Table 402.1.1. The insulation shall extend downward from the top of the slab on the outside or inside of the foundation wall. Insulation located below grade shall be extended the distance provided in Table 402.1.1 by any combination of vertical insulation, insulation extending under the slab or insulation extending out from the building. Insulation extending away from the building shall be protected by pavement or by a minimum of 10 inches (254 mm) of soil. The top edge of the insulation installed between the *exterior wall* and the edge of the interior slab shall be permitted to be cut at a 45-degree (0.79 rad) angle away from the *exterior wall*. Slab-edge insulation is not required in jurisdictions designated by the *code official* as having a very heavy termite infestation.

402.2.9 Crawl space walls. As an alternative to insulating floors over crawl spaces, crawl space walls shall be permitted to be insulated when the crawl space is not vented to the outside. Crawl space wall insulation shall be permanently fastened to the wall and extend downward from the floor to the finished grade level and then vertically and/or horizon-

tally for at least an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder in accordance with the *International Building Code*. All joints of the vapor retarder shall overlap by 6 inches (153 mm) and be sealed or taped. The edges of the vapor retarder shall extend at least 6 inches (153 mm) up the stem wall and shall be attached to the stem wall.

402.2.10 Masonry veneer. Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.

402.2.11 Thermally isolated sunroom insulation. The minimum ceiling insulation R-values shall be R-19 in Zones 1 through 4 and R-24 in Zones 5 through 8. The minimum wall R-value shall be R-13 in all zones. New wall(s) separating a sunroom from *conditioned space* shall meet the *building thermal envelope* requirements.

402.3 Fenestration. (Prescriptive).

402.3.1 U-factor. An area-weighted average of fenestration products shall be permitted to satisfy the U-factor requirements.

402.3.2 Glazed fenestration SHGC. An area-weighted average of fenestration products more than 50 percent glazed shall be permitted to satisfy the SHGC requirements.

402.3.3 Glazed fenestration exemption. Up to 15 square feet (1.4 m²) of glazed fenestration per dwelling unit shall be permitted to be exempt from U-factor and SHGC requirements in Section 402.1.1. This exemption shall not apply to the U-factor alternative approach in Section 402.1.3 and the Total UA alternative in Section 402.1.4.

402.3.4 Opaque door exemption. One side-hinged opaque door assembly up to 24 square feet (2.22 m²) in area is exempted from the U-factor requirement in Section 402.1.1. This exemption shall not apply to the U-factor alternative approach in Section 402.1.3 and the total UA alternative in Section 402.1.4.

402.3.5 Thermally isolated sunroom U-factor. For Zones 4 through 8, the maximum fenestration U-factor shall be 0.50 and the maximum skylight U-factor shall be 0.75. New windows and doors separating the sunroom from *conditioned space* shall meet the *building thermal envelope* requirements.

402.3.6 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for U-factor and SHGC in Table 402.1.1.

402.4 Air leakage (Mandatory).

402.4.1 Building thermal envelope. The *building thermal envelope* shall be durably sealed to limit infiltration. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. The following shall be caulked, gasketed, weatherstripped or otherwise sealed with an air barrier material, suitable film or solid material:

1. All joints, seams and penetrations.

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2. Site-built windows, doors and skylights.
3. Openings between window and door assemblies and their respective jambs and framing.
4. Utility penetrations.
5. Dropped ceilings or chases adjacent to the thermal envelope.
6. Knee walls.
7. Walls and ceilings separating a garage from conditioned spaces.
8. Behind tubs and showers on exterior walls.
9. Common walls between dwelling units.
10. Attic access openings.
11. Rim joist junction.
12. Other sources of infiltration.

402.4.2 Air sealing and insulation. Building envelope air tightness and insulation installation shall be demonstrated to comply with one of the following options given by Section 402.4.2.1 or 402.4.2.2:

402.4.2.1 Testing option. Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven air changes per hour (ACH) when tested with a blower door at a pressure of 50 pascals (1 psf). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
2. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers;
3. Interior doors shall be open;
4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling system(s) shall be turned off;
6. HVAC ducts shall not be sealed; and
7. Supply and return registers shall not be sealed.

402.4.2.2 Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.2, applicable to the method of construction, are field verified. Where required by the *code official*, an *approved* party independent from the installer of the insulation shall inspect the air barrier and insulation.

402.4.3 Fireplaces. New wood-burning fireplaces shall have gasketed doors and outdoor combustion air.

402.4.4 Fenestration air leakage. Windows, skylights and sliding glass doors shall have an air infiltration rate of no

more than 0.3 cfm per square foot (1.5 L/s/m²), and swinging doors no more than 0.5 cfm per square foot (2.6 L/s/m²), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and *listed* and *labeled* by the manufacturer.

Exceptions: Site-built windows, skylights and doors.

402.4.5 Recessed lighting. Recessed luminaires installed in the *building thermal envelope* shall be sealed to limit air leakage between conditioned and unconditioned spaces. All recessed luminaires shall be IC-rated and *labeled* as meeting ASTM E 283 when tested at 1.57 psf (75 Pa) pressure differential with no more than 2.0 cfm (0.944 L/s) of air movement from the *conditioned space* to the ceiling cavity. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

402.5 Maximum fenestration U-factor and SHGC (Mandatory). The area-weighted average maximum fenestration U-factor permitted using trade-offs from Section 402.1.4 or 405 shall be 0.48 in Zones 4 and 5 and 0.40 in Zones 6 through 8 for vertical fenestration, and 0.75 in Zones 4 through 8 for skylights. The area-weighted average maximum fenestration SHGC permitted using trade-offs from Section 405 in Zones 1 through 3 shall be 0.50.

SECTION 403 SYSTEMS

403.1 Controls (Mandatory). At least one thermostat shall be provided for each separate heating and cooling system.

403.1.1 Programmable thermostat. Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. This thermostat shall include the capability to set back or temporarily operate the system to maintain zone temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C).

403.1.2 Heat pump supplementary heat (Mandatory). Heat pumps having supplementary electric-resistance heat shall have controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

403.2 Ducts.

403.2.1 Insulation (Prescriptive). Supply ducts in attics shall be insulated to a minimum of R-8. All other ducts shall be insulated to a minimum of R-6.

Exception: Ducts or portions thereof located completely inside the *building thermal envelope*.

403.2.2 Sealing (Mandatory). All ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed.

Joints and seams shall comply with Section M1601.4.1 of the *International Residential Code*.

Duct tightness shall be verified by either of the following:

1. Postconstruction test: Leakage to outdoors shall be less than or equal to 8 cfm (226.5 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* or a total leakage less than or equal to 12 cfm (12 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

2. Rough-in test: Total leakage shall be less than or equal to 6 cfm (169.9 L/min) per 100 ft² (9.29 m²) of *conditioned floor area* when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 ft² (9.29 m²) of *conditioned floor area*.

Exceptions: Duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

TABLE 402.4.2
AIR BARRIER AND INSULATION INSPECTION COMPONENT CRITERIA

COMPONENT	CRITERIA
Air barrier and thermal barrier	Exterior thermal envelope insulation for framed walls is installed in substantial contact and continuous alignment with building envelope air barrier. Breaks or joints in the air barrier are filled or repaired. Air-permeable insulation is not used as a sealing material. Air-permeable insulation is inside of an air barrier.
Ceiling/attic	Air barrier in any dropped ceiling/soffit is substantially aligned with insulation and any gaps are sealed. Attic access (except unvented attic), knee wall door, or drop down stair is sealed.
Walls	Corners and headers are insulated. Junction of foundation and sill plate is sealed.
Windows and doors	Space between window/door jambs and framing is sealed.
Rim joists	Rim joists are insulated and include an air barrier.
Floors (including above-garage and cantilevered floors)	Insulation is installed to maintain permanent contact with underside of subfloor decking. Air barrier is installed at any exposed edge of insulation.
Crawl space walls	Insulation is permanently attached to walls. Exposed earth in unvented crawl spaces is covered with Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations, knee walls and flue shafts opening to exterior or unconditioned space are sealed.
Narrow cavities	Batts in narrow cavities are cut to fit, or narrow cavities are filled by sprayed/blown insulation.
Garage separation	Air sealing is provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures are air tight, IC rated, and sealed to drywall. Exception—fixtures in conditioned space.
Plumbing and wiring	Insulation is placed between outside and pipes. Batt insulation is cut to fit around wiring and plumbing, or sprayed/blown insulation extends behind piping and wiring.
Shower/tub on exterior wall	Showers and tubs on exterior walls have insulation and an air barrier separating them from the exterior wall.
Electrical/phone box on exterior walls	Air barrier extends behind boxes or air sealed-type boxes are installed.
Common wall	Air barrier is installed in common wall between dwelling units.
HVAC register boots	HVAC register boots that penetrate building envelope are sealed to subfloor or drywall.
Fireplace	Fireplace walls include an air barrier.

403.2.3 Building cavities (Mandatory). Building framing cavities shall not be used as supply ducts.

403.3 Mechanical system piping insulation (Mandatory). Mechanical system piping capable of carrying fluids above 105°F (41°C) or below 55°F (13°C) shall be insulated to a minimum of R-3.

403.4 Circulating hot water systems (Mandatory). All circulating service hot water piping shall be insulated to at least R-2. Circulating hot water systems shall include an automatic or readily *accessible* manual switch that can turn off the hot-water circulating pump when the system is not in use.

403.5 Mechanical ventilation (Mandatory). Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

403.6 Equipment sizing (Mandatory). Heating and cooling equipment shall be sized in accordance with Section M1401.3 of the *International Residential Code*.

403.7 Systems serving multiple dwelling units (Mandatory). Systems serving multiple dwelling units shall comply with Sections 503 and 504 in lieu of Section 403.

403.8 Snow melt system controls (Mandatory). Snow- and ice-melting systems, supplied through energy service to the building, shall include automatic controls capable of shutting off the system when the pavement temperature is above 50°F, and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40°F.

403.9 Pools (Mandatory). Pools shall be provided with energy-conserving measures in accordance with Sections 403.9.1 through 403.9.3.

403.9.1 Pool heaters. All pool heaters shall be equipped with a readily *accessible* on-off switch to allow shutting off the heater without adjusting the thermostat setting. Pool heaters fired by natural gas or LPG shall not have continuously burning pilot lights.

403.9.2 Time switches. Time switches that can automatically turn off and on heaters and pumps according to a preset schedule shall be installed on swimming pool heaters and pumps.

Exceptions:

1. Where public health standards require 24-hour pump operation.
2. Where pumps are required to operate solar- and waste-heat-recovery pool heating systems.

403.9.3 Pool covers. Heated pools shall be equipped with a vapor-retardant pool cover on or at the water surface. Pools heated to more than 90°F (32°C) shall have a pool cover with a minimum insulation value of R-12.

Exception: Pools deriving over 60 percent of the energy for heating from site-recovered energy or solar energy source.

SECTION 404 ELECTRICAL POWER AND LIGHTING SYSTEMS

404.1 Lighting equipment (Prescriptive). A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps.

SECTION 405 SIMULATED PERFORMANCE ALTERNATIVE (Performance)

405.1 Scope. This section establishes criteria for compliance using simulated energy performance analysis. Such analysis shall include heating, cooling, and service water heating energy only.

405.2 Mandatory requirements. Compliance with this section requires that the mandatory provisions identified in Section 401.2 be met. All supply and return ducts not completely inside the *building thermal envelope* shall be insulated to a minimum of R-6.

405.3 Performance-based compliance. Compliance based on simulated energy performance requires that a proposed residence (*proposed design*) be shown to have an annual energy cost that is less than or equal to the annual energy cost of the *standard reference design*. Energy prices shall be taken from a source *approved* by the *code official*, such as the Department of Energy, Energy Information Administration's *State Energy Price and Expenditure Report*. *Code officials* shall be permitted to require time-of-use pricing in energy cost calculations.

Exception: The energy use based on source energy expressed in Btu or Btu per square foot of *conditioned floor area* shall be permitted to be substituted for the energy cost. The source energy multiplier for electricity shall be 3.16. The source energy multiplier for fuels other than electricity shall be 1.1.

405.4 Documentation.

405.4.1 Compliance software tools. Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the *code official*.

405.4.2 Compliance report. Compliance software tools shall generate a report that documents that the *proposed design* complies with Section 405.3. The compliance documentation shall include the following information:

1. Address or other identification of the residence;
2. An inspection checklist documenting the building component characteristics of the *proposed design* as listed in Table 405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design*, and shall document all inputs entered by the user necessary to reproduce the results;
3. Name of individual completing the compliance report; and

4. Name and version of the compliance software tool.

Exception: Multiple orientations. When an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four cardinal (north, east, south and west) orientations.

405.4.3 Additional documentation. The *code official* shall be permitted to require the following documents:

1. Documentation of the building component characteristics of the *standard reference design*.
2. A certification signed by the builder providing the building component characteristics of the *proposed design* as given in Table 405.5.2(1).
3. Documentation of the actual values used in the software calculations for the *proposed design*.

405.5 Calculation procedure.

405.5.1 General. Except as specified by this section, the *standard reference design* and *proposed design* shall be configured and analyzed using identical methods and techniques.

405.5.2 Residence specifications. The *standard reference design* and *proposed design* shall be configured and analyzed as specified by Table 405.5.2(1). Table 405.5.2(1) shall include by reference all notes contained in Table 402.1.1.

405.6 Calculation software tools.

405.6.1 Minimum capabilities. Calculation procedures used to comply with this section shall be software tools capable of calculating the annual energy consumption of all building elements that differ between the *standard reference design* and the *proposed design* and shall include the following capabilities:

1. Computer generation of the *standard reference design* using only the input for the *proposed design*. The calculation procedure shall not allow the user to directly modify the building component characteristics of the *standard reference design*.
2. Calculation of whole-building (as a single *zone*) sizing for the heating and cooling equipment in the *standard reference design* residence in accordance with Section M1401.3 of the *International Residential Code*.
3. Calculations that account for the effects of indoor and outdoor temperatures and part-load ratios on the performance of heating, ventilating and air-conditioning equipment based on climate and equipment sizing.
4. Printed *code official* inspection checklist listing each of the *proposed design* component characteristics from Table 405.5.2(1) determined by the analysis to provide compliance, along with their respective performance ratings (e.g., *R*-value, *U*-factor, SHGC, HSPF, AFUE, SEER, EF, etc.).

405.6.2 Specific approval. Performance analysis tools meeting the applicable sections of Section 405 shall be permitted to be *approved*. Tools are permitted to be *approved* based on meeting a specified threshold for a jurisdiction. The *code official* shall be permitted to approve tools for a specified application or limited scope.

405.6.3 Input values. When calculations require input values not specified by Sections 402, 403, 404 and 405, those input values shall be taken from an *approved source*.

TABLE 405.5.2(1)

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Above-grade walls	Type: mass wall if proposed wall is mass; otherwise wood frame. Gross area: same as proposed U-factor: from Table 402.1.3 Solar absorptance = 0.75 Remittance = 0.90	As proposed As proposed As proposed As proposed As proposed
Basement and crawl space walls	Type: same as proposed Gross area: same as proposed U-factor: from Table 402.1.3, with insulation layer on interior side of walls.	As proposed As proposed As proposed
Above-grade floors	Type: wood frame Gross area: same as proposed U-factor: from Table 402.1.3	As proposed As proposed As proposed
Ceilings	Type: wood frame Gross area: same as proposed U-factor: from Table 402.1.3	As proposed As proposed As proposed
Roofs	Type: composition shingle on wood sheathing Gross area: same as proposed Solar absorptance = 0.75 Emittance = 0.90	As proposed As proposed As proposed As proposed
Attics	Type: vented with aperture = 1 ft ² per 300 ft ² ceiling area	As proposed
Foundations	Type: same as proposed foundation wall area above and below grade and soil characteristics: same as proposed.	As proposed As proposed
Doors	Area: 40 ft ² Orientation: North U-factor: same as fenestration from Table 402.1.3.	As proposed As proposed As proposed
Glazing ^a	Total area ^b = (a) The proposed glazing area; where proposed glazing area is less than 15% of the conditioned floor area. (b) 15% of the conditioned floor area; where the proposed glazing area is 15% or more of the conditioned floor area. Orientation: equally distributed to four cardinal compass orientations (N, E, S & W). U-factor: from Table 402.1.3 SHGC: From Table 402.1.1 except that for climates with no requirement (NR) SHGC = 0.40 shall be used. Interior shade fraction: Summer (all hours when cooling is required) = 0.70 Winter (all hours when heating is required) = 0.85 ^c External shading: none	As proposed As proposed As proposed As proposed Same as standard reference design As proposed
Skylights	None	As proposed
Thermally isolated sunrooms	None	As proposed

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TABLE 405.5.2(1)—continued
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Air exchange rate	Specific leakage area (SLA) ^d = 0.00036 assuming no energy recovery	For residences that are not tested, the same as the standard reference design. For residences without mechanical ventilation that are tested in accordance with ASHRAE 119, Section 5.1, the measured air exchange rate ^e but not less than 0.35 ACH For residences with mechanical ventilation that are tested in accordance with ASHRAE 119, Section 5.1, the measured air exchange rate ^e combined with the mechanical ventilation rate, f which shall not be less than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$ where: CFA = conditioned floor area N_{br} = number of bedrooms
Mechanical ventilation	None, except where mechanical ventilation is specified by the proposed design, in which case: Annual vent fan energy use: $kWh/yr = 0.03942 \times CFA + 29.565 \times (N_{br} + 1)$ where: CFA = conditioned floor area N_{br} = number of bedrooms	As proposed
Internal gains	$IGain = 17,900 + 23.8 \times CFA + 4104 \times N_{br}$ (Btu/day per dwelling unit)	Same as standard reference design
Internal mass	An internal mass for furniture and contents of 8 pounds per square foot of floor area.	Same as standard reference design, plus any additional mass specifically designed as a thermal storage element ^{g, f} but not integral to the building envelope or structure
Structural mass	For masonry floor slabs, 80% of floor area covered by R-2 carpet and pad, and 20% of floor directly exposed to room air.	As proposed
	For masonry basement walls, as proposed, but with insulation required by Table 402.1.3 located on the interior side of the walls	As proposed
	For other walls, for ceilings, floors, and interior walls, wood frame construction	As proposed
Heating systems ^{g, h}	As proposed Capacity: sized in accordance with Section M1401.3 of the <i>International Residential Code</i>	As proposed
Cooling systems ^{g, i}	As proposed Capacity: sized in accordance with Section M1401.3 of the <i>International Residential Code</i>	As proposed
Service water heating ^{h, k}	As proposed Use: same as proposed design	As proposed $gal/day = 30 + (10 \times N_{br})$
Thermal distribution systems	A thermal distribution system efficiency (DSE) of 0.88 shall be applied to both the heating and cooling system efficiencies for all systems other than tested duct systems. Duct insulation: From Section 403.2.1. For tested duct systems, the leakage rate shall be the applicable maximum rate from Section 403.2.2.	As tested or as specified in Table 405.5.2(2) if not tested
Thermostat	Type: Manual, cooling temperature setpoint = 75°F; Heating temperature setpoint = 72°F	Same as standard reference

(continued)

TABLE 405.5.2(1)—continued

For SI: 1 square foot = 0.93 m²; 1 British thermal unit = 1055 J; 1 pound per square foot = 4.88 kg/m²; 1 gallon (U.S.) = 3.785 L; °C = (°F-3)/1.8, 1 degree = 0.79 rad.

- a. Glazing shall be defined as sunlight-transmitting fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Glazing includes the area of sunlight-transmitting fenestration assemblies in walls bounding conditioned basements. For doors where the sunlight-transmitting opening is less than 50 percent of the door area, the glazing area is the sunlight transmitting opening area. For all other doors, the glazing area is the rough frame opening area for the door including the door and the frame.

- b. For residences with conditioned basements, R-2 and R-4 residences and townhouses, the following formula shall be used to determine glazing area:

$$AF = A_s \times FA \times F$$

where:

AF = Total glazing area.

A_s = Standard reference design total glazing area.

FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 × below-grade boundary wall area).

F = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.

and where:

Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions.

Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil.

Below-grade boundary wall is any thermal boundary wall in soil contact.

Common wall area is the area of walls shared with an adjoining dwelling unit.

- c. For fenestrations facing within 15 degrees (0.26 rad) of true south that are directly coupled to thermal storage mass, the winter interior shade fraction shall be permitted to be increased to 0.95 in the proposed design.

- d. Where leakage area (L) is defined in accordance with Section 5.1 of ASHRAE 119 and where:

$$SLA = L/CFA$$

where L and CFA are in the same units.

- e. Tested envelope leakage shall be determined and documented by an independent party approved by the code official. Hourly calculations as specified in the 2001 ASHRAE *Handbook of Fundamentals*, Chapter 26, page 26.21, Equation 40 (Sherman-Grimsrud model) or the equivalent shall be used to determine the energy loads resulting from infiltration.

- f. The combined air exchange rate for infiltration and mechanical ventilation shall be determined in accordance with Equation 43 of 2001 ASHRAE *Handbook of Fundamentals*, page 26.24 and the "Whole-house Ventilation" provisions of 2001 ASHRAE *Handbook of Fundamentals*, page 26.19 for intermittent mechanical ventilation.

- g. Thermal storage element shall mean a component not part of the floors, walls or ceilings that is part of a passive solar system, and that provides thermal storage such as enclosed water columns, rock beds, or phase-change containers. A thermal storage element must be in the same room as fenestration that faces within 15 degrees (0.26 rad) of true south, or must be connected to such a room with pipes or ducts that allow the element to be actively charged.

- h. For a proposed design with multiple heating, cooling or water heating systems using different fuel types, the applicable standard reference design system capacities and fuel types shall be weighted in accordance with their respective loads as calculated by accepted engineering practice for each equipment and fuel type present.

- i. For a proposed design without a proposed heating system, a heating system with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and proposed design. For electric heating systems, the prevailing federal minimum efficiency air-source heat pump shall be used for the standard reference design.

- j. For a proposed design home without a proposed cooling system, an electric air conditioner with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and the proposed design.

- k. For a proposed design with a nonstorage-type water heater, a 40-gallon storage-type water heater with the prevailing federal minimum energy factor for the same fuel as the predominant heating fuel type shall be assumed. For the case of a proposed design without a proposed water heater, a 40-gallon storage-type water heater with the prevailing federal minimum efficiency for the same fuel as the predominant heating fuel type shall be assumed for both the proposed design and standard reference design.

TABLE 405.5.2(2)
DEFAULT DISTRIBUTION SYSTEM EFFICIENCIES FOR PROPOSED DESIGNS^a

DISTRIBUTION SYSTEM CONFIGURATION AND CONDITION:	FORCED AIR SYSTEMS	HYDRONIC SYSTEMS ^b
Distribution system components located in unconditioned space	—	0.95
Untested distribution systems entirely located in conditioned space ^c	0.88	1
"Ductless" systems ^d	1	—

For SI: 1 cubic foot per minute = 0.47 L/s; 1 square foot = 0.093 m²; 1 pound per square inch = 6895 Pa; 1 inch water gauge = 1250 Pa.

- a. Default values given by this table are for untested distribution systems, which must still meet minimum requirements for duct system insulation.

- b. Hydronic systems shall mean those systems that distribute heating and cooling energy directly to individual spaces using liquids pumped through closed loop piping and that do not depend on ducted, forced airflow to maintain space temperatures.

- c. Entire system in conditioned space shall mean that no component of the distribution system, including the air handler unit, is located outside of the conditioned space.

- d. Ductless systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer's air handler enclosure.

Impacts of the 2009 IECC for Residential Buildings at State Level

September 2009

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Executive Summary

The Building Energy Codes Program (BECP) recently conducted a nationwide residential energy code analysis for the U.S. Department of Energy (DOE). The analysis compares the requirements of the 2009 International Energy Conservation Code® (IECC) with the residential code—or typical construction practice in the absence of a code—in most states as of June 2009. The results, which include estimated typical energy savings of updating each state's code to the 2009 IECC, are provided in this report in chapters specific to each state.

An overview of the 2009 IECC and its major chapters, as well as a brief comparison to previous versions, is provided as introductory information. The IECC is then briefly compared to the International Residential Code, which contains a chapter with energy efficiency requirements that are very similar to the IECC.

Several states have either not adopted a mandatory energy code or developed their own codes which have minimal or no connection to the IECC. The latter—including California, Florida, Oregon, and Washington—were not included in this analysis as the codes in these states would be difficult to appropriately compare to the 2009 IECC and most of these states have energy offices that have already assessed the IECC on their own.

Chapter 2 is dedicated to outlining some of the major code differences in the 2009 IECC that are not contained in any previous version of the code, and to which much of the energy savings of the 2009 IECC compared to previous versions is attributable. These energy saving differences are described in further detail in the report, and include:

- Mandatory duct pressure testing coupled with maximum allowable duct leakage rates. These requirements are applicable when any portion of the ducts are outside the conditioned space.
- A requirement that 50% of lamps in a residence must be energy efficient
- Several improvements in basic envelope requirements
- Elimination of trade-off credits for high efficiency heating, cooling, or water heating equipment.

The full results of each state specific analysis are provided in the following report.¹

¹ DISCLAIMER: The results contained in this report are complete and accurate to the best of BECP's knowledge, based on information available at the time it was written.

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1.0 Chapter 1 Overview of the 2009 IECC

1.1 Introduction

This report examines the requirements of the 2009 International Energy Conservation Code® (IECC) on residential buildings on a state-by-state basis with a separate, stand-alone chapter for each state. A summary of the requirements of the code is given for each state. The 2009 IECC is then compared to the current state code for most states² or typical current construction practice for the states that do not have a residential energy efficiency code. Estimated typical energy savings of updating each state's code to the 2009 IECC are reported.

1.2 Overview of the 2009 IECC

The International Energy Conservation Code sets requirements for the “effective use of energy” in all buildings. Certain buildings that use very low energy use (such as buildings with no heating or cooling) are exempt. The code applies to new buildings and to remodels, renovations, and additions to buildings.

Table 1 shows the organization of the 2009 IECC. The IECC has two separate categories of buildings: residential and commercial. The code requirements are almost entirely different for these two categories. Residential buildings are essentially defined as low-rise buildings (3 stories or less above grade) intended for long-term living (hotels/motels are classified as commercial buildings). The requirements for residential buildings are in Chapter 4; the requirements for commercial buildings are in Chapter 5. Chapters 1 through 3 and Chapter 6 apply to all buildings. This report only addresses the residential portion of the IECC, a separate report addresses commercial buildings³.

The only chapters of the IECC with specific requirements for residential buildings are Chapter 4 and, to a lesser extent, Chapter 1 and Chapter 3. Chapter 4 does reference certain commercial building requirements in Chapter 5 (for example, HVAC systems serving multiple dwelling units). Chapters 2 and 6 only provide supporting information.

Chapter 1 primarily addresses when the code applies and provides instruction to help confirm compliance with the code.

Table 2 below summarizes the sections in Chapter 1.

Chapter 2 defines terms used in the code.

Chapter 3 provides a U.S. map and tables of the climate zones used in the IECC. Climate zones in the code are set on county boundaries. These zones are shown in Figure 1. Section 303 specifies information required at the building site to verify insulation level and specifies National Fenestration Rating Council (NFRC) standards for

² States with their own home-developed codes are not compared to the IECC in this report. This includes California, Oregon, Washington, and Florida. This is done for two reasons. First, these states generally have codes that have little resemblance to the IECC, making a thorough comparison beyond the scope of this study. Second, these states generally have highly capable energy offices that are capable of assessing the IECC on their own (and often have). Alaska, Hawaii and Vermont also do not have an energy analysis here because of difficulties in assessing construction practice particular to those states. No energy analysis was conducted for states that have already adopted the 2009 IECC.

³ Many states adopt the ANSI/ASHRAE/IESNA Standard 90.1 for commercial buildings rather than the IECC and therefore 90.1-2007 is examined for commercial buildings in the separate report. The 2009 IECC permits compliance with Standard 90.1-2007 as one option for complying with the IECC for commercial buildings.

rating fenestration performance. Chapter 3 contains only one element that directly contains a specific construction requirement: protective covering for insulation on the exterior of foundations (Section 303.2.1).

Table 1. IECC Table of Contents

CHAPTER 1 ADMINISTRATION
101 Scope and General Requirements
102 Alternate Materials—Method of Construction, Design or Insulating Systems
103 Construction Documents
104 Inspections
105 Validity
106 Reference Standards
107 Fees
108 Stop Work Order
109 Board of Appeals
CHAPTER 2 DEFINITIONS
201 General
202 General Definitions
CHAPTER 3 CLIMATE ZONES
301 Climate Zones
302 Design Conditions
303 Materials, Systems and Equipment
CHAPTER 4 RESIDENTIAL ENERGY EFFICIENCY
401 General
402 Building Thermal Envelope
403 Systems
404 Electrical Power and Lighting Systems
405 Simulated Performance Alternative
CHAPTER 5 COMMERCIAL ENERGY EFFICIENCY
501 General
502 Building Envelope Requirements
503 Building Mechanical Systems
504 Service Water Heating
505 Electrical Power and Lighting Systems
506 Total Building Performance
CHAPTER 6 REFERENCED STANDARDS

Table 2. Overview of IECC Chapter 1

Section	Overview/summary
101 Scope and General Requirements	Defines how code applies to additions, alterations, renovations, and repairs. Exempts certain low energy buildings.
102 Alternate Materials—Method of Construction, Design or Insulating Systems	Provides code official leeway in interpreting requirements.
103 Construction Documents	Construction documents as required by the code official must be provided.
104 Inspections	Inspections must be permitted and code officials must give approval before allowing further construction or occupancy.
105 Validity	Instructs that remainder of code applies even if a portion is found to be illegal or void.
106 Referenced Standards	Referenced standards must be complied with; the IECC takes precedence if there are any conflicts.
107 Fees	Fees for permits.
108 Stop Work Order	Authority and conditions for stop work orders
109 Board of Appeals	For hearing and deciding appeals.

1.3 Residential Building Requirements – Chapter 4 of the IECC

The 2009 IECC sets construction requirements related to energy efficiency for four energy end-uses:

- 1) Space heating
- 2) Space cooling (air conditioning)
- 3) Water heating
- 4) Lighting⁴

Table 3 shows the organization of the IECC requirements in Chapter 4.

Most of the requirements in the IECC are contained in Section 402 for the building envelope (ceilings, walls, windows, floor/foundation). Figure 1 shows the prescriptive requirements for most envelope measures (there are also separate requirements for skylights, high mass walls, and steel-framed ceilings, walls, and floors).

⁴ Lighting is new to the scope of the IECC for residential buildings in 2009. Previous editions of the IECC only had requirements for space heating, space cooling, and water heating.

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Table 3. Overview of IECC Chapter 4

Section	Overview/summary
401 General	Identifies the two compliance paths: prescriptive and performance. Requires a certificate to be posted on the building listing R-values and other energy efficiency information.
402 Building Thermal Envelope	This section contains most of the prescriptive requirements in the code. Insulation and fenestration requirements are given by climate zone. Air sealing requirements.
403 Systems	Contains requirements for heat pump controls, duct testing and sealing, piping insulation, and equipment sizing.
404 Electrical Power and Lighting Systems	Contains requirements for efficient lighting.
405 Simulated Performance Alternative	The performance approach. This utilizes the requirements of Sections 401 through 404 as a starting point and allows trade-offs. Unlike previous versions of the IECC this does not give extra credit for high efficiency heating, cooling, and water heating equipment. Compliance is determined using computer software. Allows more flexibility in meeting the code.

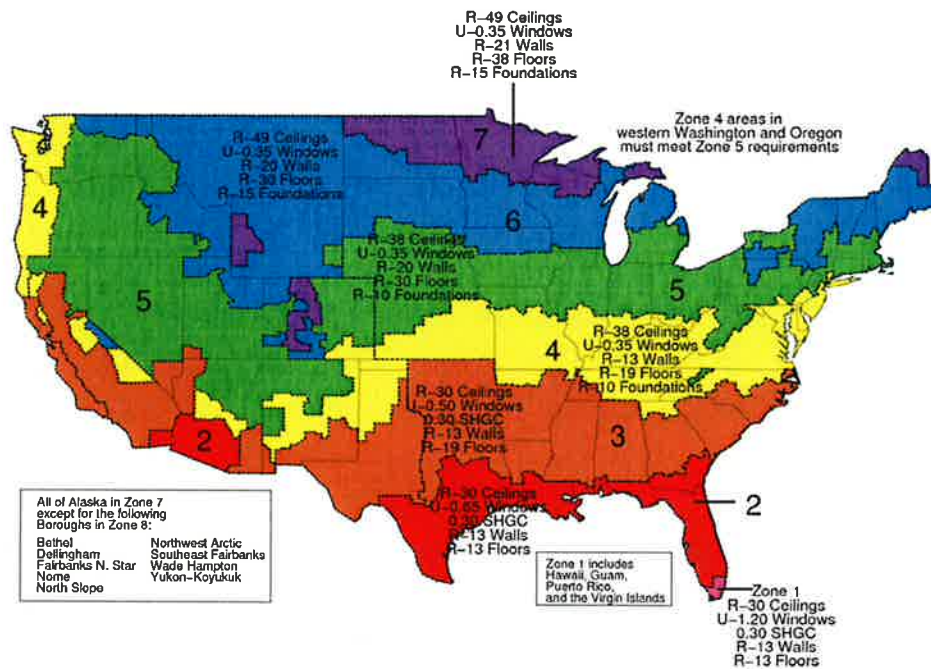


Figure 1. Prescriptive Envelope requirements

1.4 Comparison to Previous Versions of the IECC

The IECC is typically published every three years, though there are some exceptions. In the last two decades, full editions of the MEC came out in 1989, 1992, 1993, and 1995, and full editions of the IECC came out in 1998, 2000, 2003, 2006, and 2009⁵.

Though there were changes in each edition of the IECC from the previous one, the IECC can be categorized into two general eras: 2003 and before, and 2004 and after. This is because the residential portion of the IECC was heavily revised in 2004. The climate zones were completely revised (reduced from 17 zones to 8 primary zones in 2004) and the building envelope requirements were restructured into a different format. The code became much more concise and much simpler to use. These changes complicate comparisons of state codes based on pre-2004 versions of the IECC to the 2009 IECC.

The IECC also had substantial revisions from 2006 to 2009. These revisions were not to the code format, but rather were changes to specific requirements to improve energy efficiency and make the code more stringent. The 2009 has some important new requirements:

- The duct system now has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though the ducts still have to be sealed.
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building have to be energy efficient. Compact fluorescents qualify, standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high efficiency HVAC equipment. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed. This will have a great impact on reducing the flexibility allowed by the REScheckTM software. No energy impact is assigned to this code change in the analysis of updating state codes to the 2009 IECC in this report.
- Vertical fenestration U-factor requirements are reduced from 0.75 to 0.65 in Climate Zone 2, 0.65 to 0.5 in Climate Zone 3, and 0.4 to 0.35 in Climate Zone 4.
- The maximum allowable solar heat gain coefficient is reduced from 0.40 to 0.30 in Climate Zones 1, 2, and 3.
- R-20 walls in climate zones 5 and 6 (increased from R-19)
- Modest basement wall and floor insulation improvements
- R-3 pipe insulation on hydronic distribution systems (increased from R-2)
- Limitation on opaque door exemption both size and style (side hinged)
- Improved air-sealing language
- Controls for driveway/sidewalk snow melting systems
- Pool covers are required for heated pools.

1.5 The IECC Compared to the International Residential Code (IRC)

Chapter 11 of the IRC contains energy efficiency requirements that are very similar to the IECC. This Chapter allows compliance with the IECC as an option for IRC compliance. The scope of the IRC is limited to one- and two-family dwellings and to townhouses, whereas the IECC includes other low-rise multifamily buildings such

⁵ There was also a published version of the IECC in 2004, but that version is referred to as a “supplement” edition.

as apartments. States can adopt the IRC, the IECC, or both. While nearly all the requirements in the IRC are identical to those in the IECC, there are a few differences between the 2009 IECC and 2009 IRC. Most notably:

- The IRC requires 0.35 solar heat gain coefficient (SHGC) glazing in Climate Zones 1-3, the IECC requires 0.30 SHGC. Impact resistant fenestration in Climate Zones 2 and 3 is allowed to have an SHGC of up to 0.40 in the IRC only.
- The IECC has higher basement wall and floor insulation levels in colder zones.
- The IRC has no “mandatory” (cannot be traded off) requirements related to fenestration U-factor or SHGC, the IECC does.
- Compliance with the IECC is allowed as an alternative to Chapter 11 of the IRC. The IRC does not directly contain a simulated performance alternative; the IECC must be used instead for this compliance alternative.

Because of these changes, the 2009 IRC does not achieve equivalent energy savings to the 2009 IECC.

1.6 Current State Codes

This report addresses each state code individually, but a brief summary of state codes is presented here. Almost 40 states have adopted the IECC or its predecessor, the Model Energy Code (MEC), as their mandatory state code. Many of these states have made some modifications or amendments to the IECC or MEC. These modifications can vary from a few minor changes to extensive revisions.

Some states have no mandatory codes. As of the date of this report, these states are:

- Alabama
- Hawaii
- Kansas
- Mississippi
- Missouri
- North Dakota
- South Dakota
- Wyoming

Four states have developed their own codes that have minimal or no connection to the IECC:

- California
- Florida
- Oregon
- Washington

In certain cases, cities or counties within a state have a different code from the rest of the state. For example, Austin and Houston have adopted progressive energy codes that exceed the minimum Texas statewide code.

2.0 Chapter 2 – Energy Analysis of Major Improvement in 2009 IECC

The 2009 IECC contains major differences that are not contained in any previous version of the IECC. These changes account for much of the energy savings attributable to the 2009 IECC compared to any of the older versions of the IECC.

2.1 Duct Testing

Section 403.2.2 of the 2009 IECC requires air ducts systems, where any of the ducts pass outside of the conditioned space (into attics, garages, etc.), to be pressure tested for leakage with maximum leakage rates specified. The duct system now has to be tested to prove that the air leakage out of ducts is kept to an acceptable level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though all ducts are required to be sealed.

The IECC has always required ducts to be sealed. However, multiple studies have shown that visual inspection of ducts is not adequate. Ducts are often located in difficult to access areas such as attics and crawl spaces. Cracks and other leakage points in ducts may not be visible because they are covered by insulation, hidden from view, or simply too small to be readily apparent to the human eye. Testing of completed homes in Washington state, where prescriptive code requirements for duct sealing apply, “showed no significant improvement” over non-code homes (Washington State University 2001). Another study from Washington state concluded: “Comparisons to air leakage rates reported elsewhere for homes built before the implementation of the 1991 WSEC show no significant improvement by the general population” despite years of training emphasizing duct sealing (Hales et al. 2003). The requirement to meet a specific leakage limit will result in improving the buildings that would have had the leakiest ducts. Figure 2 illustrates this effect.

Numerous other studies around the nation show substantial duct leakage in new homes, including those in states with codes requiring duct sealing. For example, a 2001 study of 186 houses built under the MEC in Massachusetts reported “serious problems were found in the quality of duct sealing in about 80% of these houses” (Xenergy 2001). Pressurization tests in 22 of these houses found an average leakage to the outside of the house of 183 cfm, or 21.6% of the system flow, at a pressure of 25 Pascals.

The IECC allows a variety of compliance methods. Notably, the testing can be done at rough-in stage immediately after the ducts are installed. This allows potentially costly call backs to be avoided if the tested leakage rate exceeds code requirements.

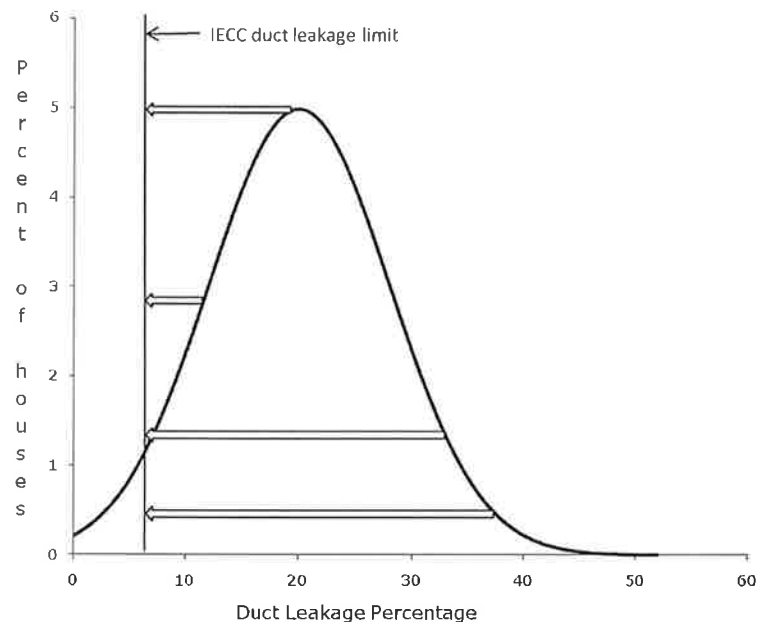


Figure 2. Impact of improved duct sealing. The curve illustrates the approximate distribution of leakage rate in new homes. The arrows show the reduction in duct leakage necessary to meet the code requirement.

2.2 Lighting

The 2009 IECC requires 50% of lamps (bulbs, tubes) within a residence to be energy efficient. There were no requirements for lighting in single-family homes in previous versions of the IECC. This includes but is not limited to CFLs. Standard incandescent bulbs do not qualify. Savings attributable to the lighting requirements in the IECC will decrease as Federal law requires improved light bulbs in 2012 to 2014.

2.3 Envelope Improvements

The 2009 IECC has a number of improvements in basic envelope requirements over the 2006 IECC. Allowable glazed fenestration (windows and skylights) SHGC has been reduced to a maximum of 0.30, meaning that no more than 30% of the sun's heat can pass through the window into the home. Fenestration U-factor requirements have improved in Climate Zones 2, 3, and 4. Wall insulation for wood frame walls has been bumped up from R-19 to R-20 in Climate Zones 5 and 6. Floor insulation and basement wall insulation have increased in the very coldest zones.

2.4 Elimination of Equipment Trade-offs

Previous versions of the IECC allow reductions in envelope measures to below-code levels if heating and cooling equipment efficiency is improved to above-code levels. For example, a popular trade-off in colder climates is to use a high efficiency gas furnace allowing a reduction of wall insulation. The 2009 IECC eliminates these types of trade-offs. Since these trade-offs are by definition energy neutral, their elimination in theory would not impact energy use. However, building envelope measures often have longer lifetimes than heating and cooling equipment so there can be long-term impacts. Additionally, there is expected to be some "free rider" effect where high efficiency equipment will be used regardless of the IECC requirements and the trade-offs, so the older IECC allowed envelope reductions as an unintended side effect.

3.0 References

Washington State University. 2001. *Washington State Energy Code Duct Leakage Study Report*. WSUCEEP01105. Washington State University Cooperative Extension Energy Program, Olympia, Washington.

Hales, D., A. Gordon, and M. Lubliner. 2003. 2003. *Duct Leakage in New Washington State Residences: Findings and Conclusions*. ASHRAE transactions. KC-2003-1-3.

Hammon, R. W., and M. P. Modera. 1999. "Improving the Efficiency of Air Distribution Systems in New California Homes-Updated Report." Consol. Stockton, California.
http://www.energy.ca.gov/title24/ducttape/documents/IMPROVE_EFFICIENCY_RES.PDF

Journal of Light Construction. April 2003. "Pressure-Testing Ductwork." Michael Uniacke.

Sherman et al. 2004. Instrumented HERS and Commissioning.
http://www.energy.ca.gov/pier/final_project_reports/500-04-012.html

Xenergy. 2001. Impact Analysis Of The Massachusetts 1998 Residential Energy Code Revisions.
http://www.mass.gov/Eeops/docs/dps/inf/inf_bbrs_impact_analysis_final.pdf



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U.S. DEPARTMENT OF
ENERGY | Energy Efficiency &
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PNNL-18545 • September 2009

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Impacts of the 2009 IECC on Residential Buildings in Arkansas

September 2009

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(9/2003)

Analysis of 2009 International Energy Conservation Code Requirements for Residential Buildings in Arkansas

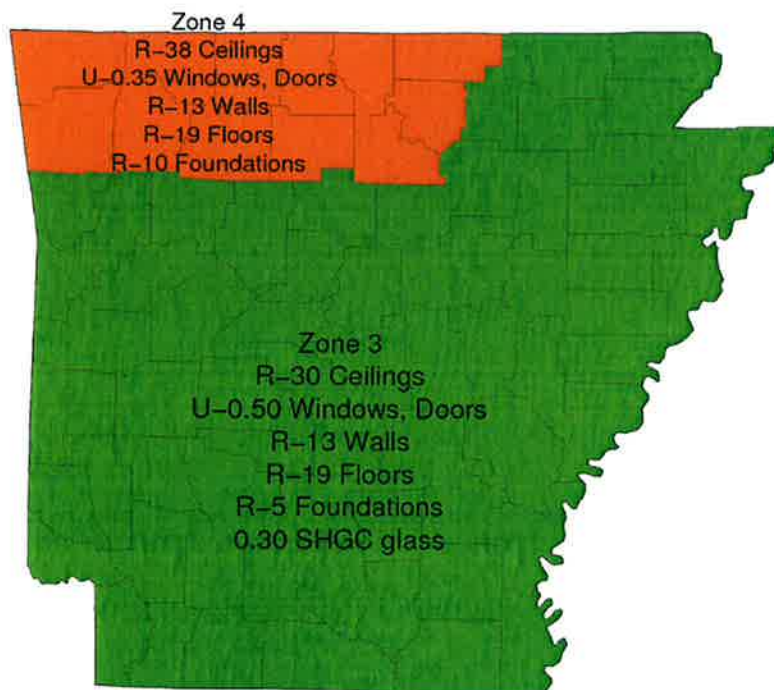
Summary

The 2009 International Energy Conservation Code (IECC) contains several major improvements in energy efficiency over the current state code, the 2003 IECC with amendments. The most notable changes are improved duct sealing and efficient lighting requirements. A limited analysis of these changes resulted in estimated savings of \$242 to \$245 a year for an average new house at recent fuel prices.

Overview of the 2009 IECC

The IECC scope includes residential single-family housing and multifamily housing three stories or less above-grade intended for permanent living (hotel/motel is not “residential”). The code applies to new buildings and additions/alterations/renovations/repairs.

The map below shows the primary building envelope requirements for all residential buildings in the 2009 IECC.



Notable requirements in the 2009 IECC:

- Building envelope must be caulked and sealed.
- Slab-on-grade insulation is R-10 to a depth of 2 feet in Zone 4. Insulation is not required for slab-on-grade foundations in Zone 3.
- Supply ducts in attics must be insulated to R-8. Return ducts in attics and all ducts in crawlspaces, unheated basements, garages, or otherwise outside building envelope must be insulated to R-6.

- All ducts must be sealed and either:
 - *verified by pressure testing* – the duct system has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level.
 - *installed entirely within the building thermal envelope* – testing is not required if all ducts are inside the building thermal envelope (for example in heated basements), though the ducts still have to be sealed.
- Piping for hydronic (boiler) heating systems must be insulated to R-3.
- Although vapor retarders are not required by the IECC, the I-codes do set wall vapor retarder requirements in Section R601.3 of the 2009 IRC. However, vapor retarders are not required in Arkansas.
- Less insulation is allowed for mass walls and more insulation is required for steel framing.
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building must be high efficacy. Compact fluorescents qualify, standard incandescent bulbs do not. Standard I-code administrative requirements (inspections, documentation) apply.
- A certificate must be posted near the electrical panel listing insulation levels and other energy efficiency measures.

Exemptions/Allowances from prescriptive measures:

- One door and 15 ft² of window area are exempt
- Skylight U-factors are allowed to be U-0.65 in Zone 3 and U-0.60 in Zone 4
- 500 ft² or 20% of ceiling area of cathedral ceiling, whichever is less, is allowed to have R-30 insulation

Mandatory Requirements:

Windows can never exceed an area-weighted U-factor of 0.48 in Zone 4 and cannot exceed an area-weighted SHGC of 0.50 in Zone 3. The 2009 IECC also identifies a set of other requirements that are strictly “mandatory” that must be done in all buildings, such as building envelope and duct sealing.

Compliance Paths:

The IECC effectively contains three alternative compliance paths.

- 1) Prescriptive measures. This is considered the simplest path. These requirements do not vary by building size, shape, window area, or other features. The IECC has a single table of requirements for insulation R-values and window and door U-factors and SHGC. There is a corresponding U-factor table that permits compliance of less common component types (e.g., structural insulated panels), albeit without any cross-component trade-offs.
- 2) Total building envelope UA (U-factor multiplied by area). This is the path predominantly used by the REScheck™ software. Based on the prescriptive U-factor table, it allows trade-offs whereby some energy efficiency measures can fall below code requirements if balanced by other measures that exceed code requirements.
- 3) Simulated performance (requires software programs). This path allows compliance if the home has a calculated annual energy consumption (or energy cost) equal to or less than that of a standard reference design that just meets the code’s prescriptive requirements. This path allows for crediting energy efficiency measures not accounted for in the other paths, such as renewable energy measures. The 2009 performance path differs from previous editions of the IECC in that it allows no tradeoff credit for the use of high efficiency space heating, space cooling, or water heating equipment.

Main Difference between the Current Arkansas Code and the 2009 IECC

Arkansas has adopted the 2003 IECC with amendments, including:

- No glazed fenestration SHGC requirement. The 2003 IECC requires a maximum SHGC of 0.40 in south and central Arkansas.
- Duct insulation is set to R-5.6. The 2003 IECC duct insulation values vary from R-2 to R-8.

Major differences between the 2009 IECC and the Arkansas code are listed below:

- The current state code requires ducts to be sealed but not to a specific leakage rate verified by testing as is required in the 2009 IECC (if any ducts are outside the building envelope).
- 50% of the lighting “lamps” (bulbs, tubes, etc.) in a building have to be high efficacy in the 2009 IECC; the 2003 IECC has no lighting requirement. Compact fluorescents qualify, standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high efficiency HVAC equipment in the 2009 IECC. For example, if a high efficiency furnace is used, no reduction in wall insulation is allowed. (This will have a substantial impact on the flexibility allowed by the REScheck™ software and other energy performance analysis tools.)
- The format of the 2003 IECC and 2009 IECC are substantially different. The 2009 IECC has new climate zones that cover larger geographic regions than the zones in the 2003 IECC. The envelope insulation and window requirements in the 2003 IECC vary by window-to-wall area percentage, but not in the 2009 IECC. This change in format makes a simple comparison of the envelope requirements in the two codes impossible.

Energy Analysis

A brief energy analysis was conducted comparing the current state code to the 2009 IECC. The EnergyGauge™ software was used to determine the energy impacts of changes in envelope requirements. EnergyGauge™ is based on the DOE-2 energy simulation software developed by DOE (Lawrence Berkeley National Laboratory 1981).

Two sets of buildings were simulated: one with energy efficiency levels set to the prescriptive requirements of the current state code, and one with energy efficiency levels set to the prescriptive requirements of the 2009 IECC. All inputs other than the changes in energy efficiency levels were identical in the two sets of simulations.

The analysis assumed a two-story, single-family house with a conditioned floor area of 2,400 ft². It was assumed that the house had 8.5-ft high ceilings, a ceiling area (bordering the unconditioned attic) of 1,200 ft², a gross exterior wall area of 2,380 ft², and a window area of 357 ft² (15% of the wall area) equally oriented north, south, east, and west. Heating with a natural gas furnace (\$1.20/therm) and central electric air conditioning (\$.12/kWh) were assumed.

High-efficacy lighting was assumed to increase from 10% to 50% of all lighting within the building, reducing lighting energy use by 26%, or \$74 a year. Savings attributable to the lighting requirements in the IECC will decrease as Federal law requires improved light bulbs in 2012 to 2014. Improved duct sealing was assumed to save 10% of the heating and cooling costs. Actual savings will vary depending on many factors, including how well ducts are currently sealed in the absence of any testing requirements.

Table 1 shows the estimated annual energy savings per house that result from meeting the improved requirements in the 2009 IECC. Total savings includes heating, cooling, and lighting and is shown as a percentage of the end-uses covered by the 2009 IECC (heating, cooling and water heating).

Table 1. Energy End Use and Percentage Savings

<i>Climate Zone</i>	<i>Annual Energy Cost (\$)</i>				<i>Savings 2009 IECC vs. Arkansas Code</i>	
	<i>Arkansas Code</i>		<i>2009 IECC</i>		<i>Savings (\$/yr)</i>	<i>Percent Savings</i>
	<i>Heating</i>	<i>Cooling</i>	<i>Heating</i>	<i>Cooling</i>		
Little Rock (CZ 3A)	965	300	853	244	242	15
Springfield MO (CZ 4A)	1185	213	1034	193	245	14



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ORDINANCE NO.

AN ORDINANCE TO AMEND §173.08 ARKANSAS ENERGY CODE OF THE BUILDING REGULATIONS CHAPTER OF THE U.D.C. TO ADOPT THE 2009 RESIDENTIAL INTERNATIONAL ENERGY EFFICIENCY CODE, WITH AMENDMENTS HEREIN.

WHEREAS, Fayetteville customers spend over \$50 million annually for electricity and natural gas services; and

WHEREAS, more efficient buildings can conserve energy, reduce stress on our electricity grid and natural gas supplies while saving money and resources for our citizens; and

WHEREAS, improved building codes emphasizing energy conservation can reduce future energy consumption and the costs associated with energy production; and

WHEREAS, the existing State adopted and amended 2003 International Energy Efficiency Code is inferior in comparison with the 2009 International Energy Efficiency Code;

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 §173.08 **Arkansas Energy Code** of the Unified Development Code and enacts a replacement §173.08 **Energy Efficiency Code** as shown below:

“§173.08 Energy Efficiency Code

- (A) *Commercial.* The Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended, is hereby adopted by reference pursuant to A.C.A. § 14-55-206 and § 14-55-207.
- (B) *Residential.* The 2009 International Energy Efficiency Code (IECC) is hereby adopted by reference for all new residential structures.
- (1) The 2009 IECC is hereby amended by adding a provision requiring a Home Energy Rating (HERS) for new home construction. The City of Fayetteville requires that all new residential construction have a Home Energy Rating (HERS) completed by an independent RESNET certified home energy rater, or equivalent, prior to the issuance of a Certificate of Occupancy. Residential developments that utilize the exact same floor plan multiple times are required to have a HERS completed on a minimum of 20% of the residential units.
 - (2) A sticker shall be posted in a very prominent location near the front door showing the estimated monthly utility cost until the home is sold.
 - (3) All additions, alterations, renovations or repairs to existing residential structures shall comply with the standards of the 2009 IECC, but shall not be required to provide a HERS or post a sticker. Where it is shown to be impractical to meet the 2009 IECC, the Building Official may consider permitting additions, alterations, renovations or repairs in compliance with the Arkansas Energy Code, its Rules and Regulations as adopted and promulgated by the Arkansas Energy Office, and as may from time to time hereafter may be amended.”

Section 2. That in order to adequately prepare the residential construction industry for the new requirement for a Home Energy Rating (HERS) for new home construction, the effective date for subsections 173.08 (B)(1) and (2) shall be January 01, 2013.

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Staff Review Form

C. 1
Amend §154.03 Private
Parties/Zoning Amendment
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2012

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 12-4170: Administrative Item (UDC SECTION 154.03(C)(2)): Submitted by the CITY PLANNING DIVISION to repeal UDC section 154.03(C)(2).

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 ☐

June 28, 2012
Department Director

06-28-2012
Date

Previous Ordinance or Resolution #

A large rewrite was needed.

Original Contract Date:

City Attorney

June 28, 2012
Date

Original Contract Number:

Marsha Hester
Finance and Internal Services Director

6/25/12
Date

Received in City
Clerk's Office

06-22-12 A09:29 RCVD

Chief of Staff

6/26/12
Date

Received in
Mayor's Office

Mayor

6/26/12
Date

Comments:



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CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director

Date: June 20, 2012

Subject: ADM 12-4170 Repeal UDC Section 154.03(C)(2) Petition opposed to rezoning

BACKGROUND:

Chapter 154.03(C)(2) states that if a certain number of property owners have signed a petition opposed to a rezoning, then the rezoning cannot become effective except by a three-fourths vote of the City Council. This code section appears to have been enacted with all other zoning and development code sections for the City during a Special Meeting of the City Board of Directors on June 29, 1970. The City Attorney does not believe this section of the code has ever been used in an attempt to require a super majority vote. Further, the City Attorney believes that this code section is illegal because it is beyond our statutory power. A memo from the City Attorney is attached.

RECOMMENDATION:

Staff recommends approval of an ordinance to amend the Unified Development Code to repeal Section 154.03(C)(2).

BUDGET IMPACT:

None.

CHAPTER 154: AMENDMENTS

154.03 Private Parties/Zoning Amendment

(A) *Petition.* Any private party or parties desiring an amendment to Chapter 160, upon payment of the appropriate fee, shall submit to the Planning Commission a petition giving the following information:

- (1) Legal description of the property involved;
- (2) Zoning classification request for the property; and,
- (3) Statement explaining why the proposed changes will not conflict with the surrounding land uses.

(B) *Action by Planning Commission.* The Planning Commission may take one of the following actions:

- (1) *Approval.* The proposed amendment may be approved as presented.
- (2) *Approval in modified form.* Approved in modified form by a majority of the Planning Commission and recommended for adoption by the City Council with the reasons for such recommendations stated in writing.
- (3) *Disapproval.* If the Planning Commission disapproves a proposed amendment, the reason for such disapproval shall be given in writing to the petitioner.
- (4) *Neither approves nor disapproves.* If the Planning Commission neither approves nor disapproves a proposed amendment within 45 days after the public hearing the action on such amendment by said Planning Commission shall be deemed favorable; this period may be further extended by vote of the Planning Commission if all the parties involved agree in writing to an extension.

(C) *Action by the City Council.*

- (1) *Action.* The City Council, may take one of the following actions:
 - (a) *Approval.* The City Council, by majority vote, may by ordinance adopt the recommended amendment submitted by the Planning Commission.
 - (b) *Modify and adopt.* By ordinance, may modify and adopt the proposed amendment.

(c) *Return to Planning Commission.* By resolution, may return the proposed amendment to the Planning Commission for further study and recommendation.

~~(2) *Vote.* When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 300 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths of the City Council.~~

(D) *Re-petitions for amendment.* No application for zoning amendments will be considered by the Planning Commission within 12 months from the date of final disapproval of a proposed amendment unless there is evidence submitted to the Planning Commission which justifies reconsideration.

(E) *Withdrawal.*

- (1) *Before publication.* A petition for amendment may be withdrawn at any time before publication of the notice and posting signs for the public hearing.
- (2) *After publication and posting of notice.* After the publication and posting of notice, the petition may be withdrawn at the discretion of the Planning Commission. If the petition is permitted to be withdrawn after the public hearing, it shall be in the Planning Commission's discretion whether or not a petition affecting part or all of the same property may be refiled sooner than one year from the date of withdrawal.

(Code 1965, App. A., Art. 12(1); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Notification and Public Hearings, Ch. 157.

154.04-154.99 Reserved



Departmental Correspondence



www.accessfayetteville.org

**LEGAL
DEPARTMENT**

**TO: Mayor Jordan
City Council**

**Kit Williams
City Attorney**

**Jason B. Kelley
Assistant City Attorney**

**CC: Andrew Garner, Senior Planner – Current Planning
Sondra Smith, City Clerk**

FROM: Kit Williams, City Attorney

DATE: June 18, 2012

RE: Update on §154.03 (C)(2) Petition opposed to rezoning

HISTORY

My research reveals that this code section was enacted along with all other zoning and development code sections for the City during a Special Meeting of the City Board of Directors on June 29, 1970. The Board of Directors suspended the rules to get to the third and final reading at this Special Meeting. The minutes do not reflect any discussion or questions before Ordinance No. 1747 was passed unanimously. Current Code §154.03 (C) was on pages 85 and 86 of Ordinance No. 1747. During my six plus years as an Alderman and eleven plus years as City Attorney, I do not believe this section has ever been used in an attempt to require a super majority vote. I do not believe the City Board of Directors then nor the City Council now could require such a three-fourths vote to rezone property because it is probably beyond our statutory power to do so. Therefore I recommend the repeal of this probably illegal subsection of the UDC.

A.C.A. §14-55-203 **Voting requirements for passage** -- **Effective dates** is the general state statute detailing how many votes are needed to pass an Ordinance or resolution: "To pass any bylaw, ordinance, resolution, or order, a concurrence of a majority of a whole number of members elected to the council shall be required." There are a few specific exemptions to this rule (for example a two-thirds vote is required to pass a business license tax).

The state statutes are clear that an amendment to the zoning of a district shall be "by a majority vote of the city council." A.C.A. §14-56-423. Can the Board of Directors or City Council place more strenuous requirements for passage of a zoning amendment than specified in state law? I do not think so.

"[4-6] Cities have no inherent authority to enact legislation. That authority is dependent upon the Constitution and the General Assembly. Municipal zoning authority is conferred solely by state enabling legislation. Failure to comply with mandatory procedural requirements of the enabling statute renders a zoning ordinance invalid." *Brooks v. City of Benton*, 308 Ark. 571, 826 S.W. 2d 259, 261 (1992) (Citations omitted). (emphasis added)

Arkansas Attorney General David Pryor opined in Opinion NO. 2002-132: **"a municipality may not, by the adoption of procedural rules, deviate from the requirement of state law.** The procedure for the passage of municipal ordinances is a state, rather than a municipal affair." (emphasis added).

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §154.03 PRIVATE PARTIES/ZONING AMENDMENT TO CLARIFY THE POWERS OF THE PLANNING COMMISSION AND CITY COUNCIL WHEN A PROPERTY OWNER SEEKS REZONING

WHEREAS, the provision of §154.03 **Private Parties/Zoning Amendment** relating to the Planning Commission should clarify that it cannot approve a rezoning request, but only recommend approval to the City Council; and

WHEREAS, subsection (C) should be repealed as it does not comply with statutorily required procedures for approving a rezoning request.

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 §154.03 (B) of the Unified Development Code and enacts a replacement §154.03 (B) as shown below:

“§154.03 (B) Action by Planning Commission.

- (1) The Planning Commission may forward the rezoning request as submitted or amended by the Planning Commission to the City Council with a recommendation of approval.
- (2) The Planning Commission may disapprove the rezoning request so that the rezoning request will not be considered by the City Council unless the applicant properly appeals.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §154.03 (C) and enacts a new (C) as shown below:

“(C) Action by the City Council.

- (1) The City Council may by majority vote approve and enact the rezoning ordinance as recommended by the Planning Commission or as requested by the applicant who has properly appealed the Planning Commission’s denial of the requested rezoning.
- (2) The City Council may amend the proposed rezoning request and approve such amended rezoning ordinance by majority vote.
- (3) The City Council may refuse to approve the rezoning request which is thereby denied.
- (4) The City Council can by motion return the proposed rezoning to the Planning Commission for further study and recommendation.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Staff Review Form

C. 2
Amend §167.04 Tree Preservation and
Protection During Development and
§177.05 Street Tree Planting Standards
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2012

City Council Meeting Date
Agenda Items Only

Megan Dale



Submitted By

Park Planning / Urban Forestry

Division

Parks and Recreation

Department

Action Required:

Staff recommends approving the proposed ordinance amendments to Chapter 167: Tree Preservation and Protection and Chapter 177: Landscape Requirements.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

6-29-12
Date

Previous Ordinance or Resolution #


City Attorney

7-2-12
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

7-2-2012
Date

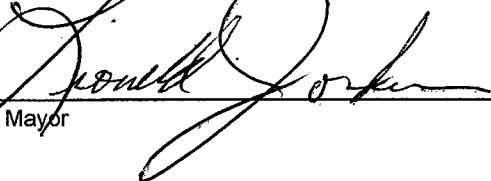
Received in City Clerk's Office 6-29-12 P03:56 RCVD


Chief of Staff

7-3-12
Date

Received in
Mayor's Office

ENTERED
7/2/12 RB


Mayor

7/3/12
Date

Comments:



CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *CE*
Alison Jumper, Park Planning Superintendent *aj*

CC: Jeremy Pate, Development Services Director

From: Megan Dale, Urban Forester *MD*

Date: 29 June 2012

Subject: Amendments to Chapter 167: Tree Preservation and Protection Ordinance and Chapter 177: Landscape Requirements

PROPOSAL:

Chapter 167 of the Unified Development Code encourages tree preservation as our top priority during development. Since this cannot always be fully achieved, the City Council authorized tree mitigation (including street trees) and payment into the Tree Escrow Account for the cost to plant and maintain a mitigation tree for three years. Although the City had determined the normal cost to obtain and plant a replacement tree to be \$250.00, we did not have proper data to determine the reasonable maintenance costs to ensure the tree would survive three years. This would give the tree a much better chance to reach maturity.

Therefore, the City competitively bid out a large number of street trees to be maintained for three years. Maintenance includes pruning, mulching, watering and weed removal. The City Council approved this maintenance contract which established the approximate three year maintenance cost to be \$141.67 annually per tree or \$425.00 per tree for three years of maintenance. This figure should now be incorporated into the Tree Preservation and Landscape Regulations Chapters of the U.D.C. to replace the language: "the developer shall submit cost estimates" and "the reasonable maintenance costs to ensure each tree survives at least three years."

Using the newly determined fair market cost of \$425.00 per tree and eliminating the option of the developer submitting cost estimates will ensure a uniform and fair treatment for all developers who are approved to use the Tree Escrow Account to meet the requirement of the Tree Preservation Code.

With this change, when payments are made into the Tree Escrow Account, the developer shall pay \$250 as the price of each tree plus \$425 for three years of maintenance for a total of \$675 per tree required.

RECOMMENDATION:

Staff recommends approving the proposed ordinance amendments to Chapter 167: Tree Preservation and Protection and Chapter 177: Landscape Requirements.

BUDGET IMPACT:

The ordinance requirement will have not impact on the City budget. Rather, collecting a reasonable fee from developers for maintenance of trees will protect the City's urban forest infrastructure and provide for proper maintenance during the three year establishment period.

ORDINANCE NO. _____

AN ORDINANCE AMENDING § 167.04 TREE PRESERVATION AND PROTECTION DURING DEVELOPMENT AND § 177.05 STREET TREE PLANTING STANDARDS OF THE CODE OF FAYETTEVILLE TO PROVIDE A FIXED AMOUNT TO BE PAID INTO THE TREE ESCROW ACCOUNT RATHER THAN REASONABLE MAINTENANCE COST ESTIMATES

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the first paragraph of subsection (J)(4) of § 167.04 **Tree Preservation and Protection During Development** of the Code of Fayetteville, so that after amendment, it shall read as follows:

“(4) *Tree escrow account.* Tree preservation on-site is always the preferred option, with on-site mitigation, off-site preservation and off-site forestation to be considered in descending order only if the more preferred option cannot be fully achieved. If none of these options can completely fulfill a developer’s obligation under this Tree Preservation and Protection Chapter, the developer shall pay into the City Tree Escrow Account \$250.00 for each tree required to meet the Base Density requirements which fairly represents the costs of material and labor to plant a tree. The developer shall also pay into the Tree Escrow Fund \$425.00 as three years of maintenance costs to ensure each tree survives for that period of time. Tree planting and maintenance costs should be reviewed at least every four years to ensure it remains the fair market costs for tree planting and maintenance for three years.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends subsection (A)(2)(f) of § 177.05 **Street Tree Planting Standards** of the Code of Fayetteville, so that after amendment, it shall read as follows:

“(f) Approval of a Maintenance Agreement and Landscape Establishment Guarantee shall be contingent upon the Developer depositing with the City of Fayetteville one of the following: currency, bond, irrevocable letter of credit or other surety. The amount shall be equal to that provided in § 167.04(J)(4).”

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

A meeting of the Fayetteville City Council will be held on July 17, 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:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the June 19, 2012 and July 3, 2012 City Council meeting minutes.

2. **Parkland Dedication Fees:** A resolution approving a budget adjustment in the total amount of \$38,426.00 recognizing parkland dedication fees from the Northeast Quadrant to be applied for additions to Gulley Park and insurance proceeds related to the destruction of the Red Oak Park playground.

Remove -
Add to next
agenda

3. **Drake Field Pavement Rehab & Re-Marking Phase II Project:** A resolution approving a budget adjustment in the amount of \$7,012.00 to reflect modifications to the Drake Field Pavement Rehab & Re-Marking Phase II Project necessitated by grant program changes.

4. **Bid #12-40 Luber Bros. Inc.:** A resolution awarding Bid #12-40 and authorizing the purchase of one (1) Deweze ATM72LG slope mower from Luber Bros., Inc. of Tulsa, Oklahoma in the total amount of \$41,209.40, for use by the Transportation Division, and approving a budget adjustment.

5. **Bid #12-48 Williams Tractor:** A resolution awarding Bid #12-48 and authorizing the purchase of one (1) large square baler from Williams Tractor of Fayetteville in the total amount of \$81,488.00, for use by wastewater treatment, and approving a budget adjustment.

6. **Bid #12-49 Sellers Trading Post:** A resolution awarding Bid #12-49 and authorizing the purchase of two (2) Rhino FR180 batwing cutters from Sellers Trading Post of Siloam Springs in the total amount of \$30,192.00, for use by the Parks Department and wastewater treatment.

7. **Bid #12-50 Countryside Farm & Lawn:** A resolution awarding Bid #12-50 and authorizing the purchase of one (1) mower conditioner from Countryside Farm & Lawn of Springdale in the total amount of \$19,145.00, for use by wastewater treatment.

8. **Bid #12-42 Endless Power Corp.:** A resolution awarding Bid #12-42 and authorizing the purchase of one (1) power generator from Endless Power Corp. in the amount of \$61,330.00, plus applicable sales tax, for use at the Owl Creek lift station, and approving a budget adjustment.

9. **Bid #12-54 Instrument & Supply, Inc.:** A resolution awarding Bid #12-54 and authorizing the purchase of one (1) large water pump from Instrument & Supply, Inc. in the amount of \$88,800.00, plus applicable sales tax, for use at the South Mountain pump station.

10. **John David Brown Settlement Agreement:** A resolution approving a settlement agreement with John David Brown, concerning condemnation litigation filed as part of the Highway 265 Water and Sewer Relocation and Improvement Project, in the total amount of \$46,666.50.

11. **Richard and Caren Hanna Settlement Agreement:** A resolution approving a settlement agreement with Richard and Caren Hanna, concerning condemnation litigation files as part of the N. Garland Avenue Improvement Project, in the total amount of \$1,600.00.

12. **Street Name Change – N. Chrysler Drive:** A resolution renaming Frazier Street between Vantage Drive and Mountain View Drive to N. Chrysler Drive.

B. Unfinished Business:

1. **Amend §173.08 Arkansas Energy Code:** An ordinance to amend §173.08 Arkansas Energy Code of the Building Regulations chapter of the U.D.C. to adopt the 2009 International Energy Conservation Code, for residential structures, with amendments herein. *This ordinance was left on the First Reading at the June 05, 2012 City Council meeting. This ordinance was left on the First Reading at the June 19, 2012 City Council meeting and Tabled to the July 17, 2012 City Council meeting.*

Left of the First Reading

C. New Business:

1. **Amend §154.03 Private Parties/Zoning Amendment:** An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning.
2. **Amend §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards:** An ordinance amending §167.04 Tree Preservation and Protection During Development and §177.05 Street Tree Planting Standards of the Code of Fayetteville to provide a fixed amount to be paid into the tree escrow account rather than reasonable maintenance cost estimates.

City Council Agenda Session Presentations: *NONE*

City Council Tour: *July 16, 2012 - Hughmont Estates
Wedington Drive.*

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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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.

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Pre Agenda Meeting 7/3/12

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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City Council Meeting
July 17, 2012**

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Mayor's Announcements, Proclamations and Recognitions:

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Agenda Additions:

A. Consent:

(Add)
June 19th ✓

1. Approval of the July 3, 2012 City Council meeting minutes.
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City Council Agenda Session Presentations:

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