

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
August 21, 2012**

A meeting of the Fayetteville City Council will be held on August 21, 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 August 7, 2012 City Council meeting minutes. **APPROVED**
2. **2012-2013 Edward Byrne Memorial Justice Assistance Grants:** A resolution authorizing acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of \$197,333.59.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 163-12

3. **2012 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of \$72,707.00 for the Police Department, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 164-12

4. **Bid #12-57 Williams Tractor:** A resolution awarding Bid #12-57 and authorizing the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of \$27,203.00 for use by Wastewater Treatment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 165-12

5. **Bid #12-59 Williams Tractor:** A resolution awarding Bid #12-59 and authorizing the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of \$45,276.00 for use by the Fire Department, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 166-12

6. **Bid #12-63 Hilbilt Sales Corporation-Arkansas:** A resolution awarding Bid #12-63 and authorizing the purchase of one (1) end dump trailer from Hilbilt Sales Corporation-Arkansas in the total amount of \$43,361.00 for use by Wastewater Treatment, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 167-12

7. **Bid #12-64 Warrior of Arkansas:** A resolution awarding Bid #12-64 and authorizing the purchase of one (1) articulated wheel loader from Warrior of Arkansas, Inc. in the total amount of \$119,950.00 for use by Wastewater Treatment, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 168-12

8. **Solid Waste Agreement Extensions:** A resolution approving one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the city.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 169-12

9. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 170-12

B. Unfinished 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 ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting.***

TABLED UNTIL ATTORNEY GENERAL OPINION IS RECEIVED.

C. New Business:

1. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of \$28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street.

THIS ITEM WAS LEFT ON THE FIRST READING.

2. **Seven Valley's Construction Co.:** A resolution awarding Bid #12-58 and authorizing a contract with Seven Valleys Construction Co., Inc. in the amount of \$1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, approving a project contingency of \$75,000.00 and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 171-12

3. **Sunbridge Villas Subdivision Private Street Acceptance:** A resolution accepting dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from the Sunbridge Villas Property Owners Association, Inc. upon completion of the current private milling and overlay project to City standards as approved by the City Engineer.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 172-12

4. **Proposed Employee Benefits Renewal:** A resolution approving a 2013 employee benefits package.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 173-12

5. **RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD):** An ordinance rezoning that property described in rezoning petition RZN 12-4146, for approximately 1.80 acres, located at 4054 and 4076 West Starry Night View and 1907 North Best Friend Lane from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single Family, 8 Units Per Acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5517

6. **RZN 12-4164 (1420 N. Garland Ave./Bonds):** An ordinance rezoning that property described in rezoning petition RZN 12-4164, for approximately 0.28 acres, located at 1420 North Garland Avenue from RMF-24, Residential Multi-Family, 24 units Per Acre to NS, Neighborhood Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5518

7. **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre.

TABLED TO THE SEPTEMBER 18, 2012 CITY COUNCIL MEETING.

8. **ADM 12-4171 (Amend UDC Ch. 166: Development):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville §166.24 to amend the applicability of non-residential design standards.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5519

City Council Tour:

Announcements:

Adjournment: 7:15 p.m.

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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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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.

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Subject:	Roll				
<u>Alderman Gray arrived at 6:10 p.m.</u>	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Mayor Jordan	✓			

9-0

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

Subject:	Consent				
Motion To:					
Motion By:		<i>Approve</i>			
		<i>Lewis</i>			
Seconded:					
<u>Passed</u> <u>Minutes</u> <u>approved</u> 163-12 thru 170-12	Gray	<i>Tennant</i> <i>Absent during</i> <i>the vote.</i>			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Mayor Jordan				

7-0

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

Subject:		Amend §154.03 Private Parties/Zoning Amendment			
Motion To:			<i>Table until an Attorney General opinion is received</i>		
Motion By:			<i>Lewis</i>		
Seconded:			<i>Fernell</i>		
B. 1 Unfinished Business <i>Tabled until Attorney General Opinion is received</i>	Gray		<i>Absent during the vote</i>		
	Boudreaux		✓		
	Kinion		✓		
	Petty		✓		
	Tennant		✓		
	Ferrell		✓		
	Adams		✓		
	Lewis		✓		
	Mayor Jordan				

7-0

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

Subject:	Amerlux Exterior, LLC				
Motion To:					
Motion By:					
Seconded:					
C. 1 New Business <i>Left on</i> <i>the</i> <i>Just</i> <i>Reading</i>	Gray				
	Boudreaux				
	Kinion				
	Petty				
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Mayor Jordan				

Subject:	Seven Valley's Construction Co				
Motion To:		<i>Approve</i>			
Motion By:		<i>Lewis</i>			
Seconded:		<i>Adams</i>			
C. 2 New Business <i>Approved</i> <i>171-12</i>	Gray	<i>✓</i>			
	Boudreaux	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>✓</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Adams	<i>✓</i>			
	Lewis	<i>✓</i>			
	Mayor Jordan				

Subject:	Sunbridge Villas Subdivision Private Street Acceptance				
Motion To:		<i>Approve</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Adams</i>			
C. 3 New Business <i>Passed</i> 172-12	Gray	✓			
	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Mayor Jordan				

8-0

Subject:	Proposed Employee Benefits Renewal				
Motion To:		<i>Amend - New employees as of 01-01-2013 higher rate.</i>	<i>Ind. 18% PPO Group 24% And High deductible</i>	<i>Approve</i>	
Motion By:		<i>Petty</i>		<i>Lewis</i>	
Seconded:		<i>Ferrell</i>		<i>Tennant</i>	
C. 4 New Business <i>Passed</i> 173-12	Gray	✓		✓	
	Boudreaux	✓		✓	
	Kinion	✓		✓	
	Petty	✓		✓	
	Tennant	✓		✓	
	Ferrell	✓		✓	
	Adams	✓		✓	
	Lewis	✓		✓	
	Mayor Jordan				

8-0

8-0

Subject:		RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Lewis	Lewis	
Seconded:			Ferrell	Adams	
C. 5 New Business <u>passed</u> 5517	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:		RZN 12-4164 (1420 N. Garland Ave./Bonds)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Ferrell	Gray	
Seconded:			Boudreaux	Kinion	
C. 6 New Business <u>passed</u> 5518	Gray	✓	✓	✓	
	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:		RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins)			
Motion To:			<i>Move to #1 under new business</i>	<i>Table to Sept. 18, 2012</i>	
Motion By:			<i>Kinion</i>	<i>Ferrell</i>	
Seconded:			<i>Boudreaux</i>	<i>Tennant</i>	
C. 7 New Business <i>Tabled to Sept. 18, 2012</i>	Gray		<i>absent during the vote.</i>	<i>absent during the vote.</i>	
	Boudreaux		✓	✓	
	Kinion		✓	✓	
	Petty		✓	✓	
	Tennant		✓	✓	
	Ferrell		✓	✓	
	Adams		✓	✓	
	Lewis		✓	✓	
	Mayor Jordan				

7-0

7-0

Subject:		ADM 12-4171 (Amend UDC Ch. 166: Development)			
Motion To:			<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>
Motion By:			<i>Ferrell</i>	<i>Lewis</i>	
Seconded:			<i>Lewis</i>	<i>Kinion</i>	
C. 8 New Business <i>passed</i> 5519	Gray		✓	✓	✓
	Boudreaux		✓	✓	✓
	Kinion		✓	✓	✓
	Petty		✓	✓	✓
	Tennant		✓	✓	✓
	Ferrell		✓	✓	✓
	Adams		✓	✓	✓
	Lewis		✓	✓	✓
	Mayor Jordan				

8-0

8-0

8-0



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney



DATE: August 22, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of August 22, 2012

1. **2012-2013 Edward Byrne Memorial Justice Assistance Grants:** A resolution authorizing acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of \$197,333.59.
2. **2012 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of \$72,707.00 for the Police Department, and approving a budget adjustment.
3. **Bid #12-57 Williams Tractor:** A resolution awarding Bid #12-57 and authorizing the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of \$27,203.00 for use by Wastewater Treatment.
4. **Bid #12-59 Williams Tractor:** A resolution awarding Bid #12-59 and authorizing the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of \$45,276.00 for use by the Fire Department, and approving a budget adjustment.
5. **Bid #12-64 Warrior of Arkansas:** A resolution awarding Bid #12-64 and authorizing the purchase of one (1) articulated wheel loader from Warrior of

Arkansas, Inc. in the total amount of \$119,950.00 for use by Wastewater Treatment, and approving a budget adjustment.

6. Solid Waste Agreement Extensions: A resolution approving one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the city.

7. Animal Services Donation Revenue: A resolution approving a budget adjustment in the amount of \$14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

8. Bid #12-58 Seven Valley's Construction Co.: A resolution awarding Bid #12-58 and authorizing a contract with Seven Valleys Construction Co., Inc. in the amount of \$1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, approving a project contingency of \$75,000.00 and approving a budget adjustment.

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10. Proposed Employee Benefits Renewal: A resolution approving a 2013 employee benefits package.

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CERTIFICATION OF EMPLOYMENT OF QUALIFIED PERSONNEL

By acceptance of this subgrant provided through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, I certify the following:

- 1) All personnel employed on a salaried or contractual basis, and who function as law enforcement personnel under my authority for the purposes identified in this grant will be currently certified by the Arkansas Law Enforcement Training Academy, are in training at the Arkansas Law Enforcement Training Academy, or have applied and are awaiting admission to the Academy.

For those personnel who are not certified and who are awaiting admission to the Academy, I agree to their participation in training activities designated as mandatory pre-Academy training by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council.

- 2) All personnel other than attorneys and law enforcement officers who are employed for purposes identified in this grant and who are paid from grant or grant matching funds have been determined to be qualified for the position they hold, based on my review of their education, training and experience.

Lioneld Jordan
Printed Name

Mayor
Title

Signature of Contracting Official

Date



CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

City of Fayetteville, 100 West Rock Street, Fayetteville, AR 72701

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4th Judicial District Drug Task Force

71-6018462

4. Typed Name and Title of Authorized Representative

Lioneld Jordan, Mayor

5. Signature

6. Date

*New Resolution C.3.
Added at Agenda Session 8/14/12*

C. 3
Sunbridge Villas Subdivision
Private Street Acceptance
Page 1 of 2

RESOLUTION NO. _____

A RESOLUTION ACCEPTING DEDICATION OF STREET RIGHT-OF-WAY AND MAINTENANCE RESPONSIBILITY FOR STREETS IN THE SUNBRIDGE VILLAS SUBDIVISION FROM THE SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC. UPON COMPLETION OF THE CURRENT PRIVATE MILLING AND OVERLAY PROJECT TO CITY STANDARDS AS APPROVED BY THE CITY ENGINEER

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 accepts dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from Sunbridge Villas Property Owners Association, Inc. as described in the attached Exhibit "A" upon completion of the current private milling and overlay project to City standards as approved by the City Engineer.

PASSED and APPROVED this 21st day of August, 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

**City of Fayetteville Arkansas
City Council Meeting Minutes
August 7, 2012**

A meeting of the Fayetteville City Council was held on August 7, 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, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Petty

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

2nd Quarter Financial Report 2012

Paul Becker, Finance Director gave the 2nd Quarter Financial Report. He stated that we are running a small surplus. We should be able to cover the employee increases with the surplus. Water usage is high due to the drought.

Alderman Ferrell: You said water usage is running high. Can you give me an idea of about how much above projection it's running?

Paul Becker: About 12%.

Agenda Additions: None

Consent:

Approval of the July 17, 2012 City Council meeting minutes.

Approved

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.

Resolution 152-12 as recorded in the office of the City Clerk.

Pavement Maintenance Unlimited, LLC Change Order No. 2: A resolution approving Change Order No. 2 to a contract with Pavement Maintenance Unlimited, LLC reducing the contract by \$22,050.00 for the Pavement Rehab & Remarking Phase II Project at Drake Field, and approving a budget adjustment.

Resolution 153-12 as recorded in the office of the City Clerk.

Bid #12-51 Truck Centers of Arkansas: A resolution awarding Bid #12-51 and authorizing the purchase of two (2) Freightliner M2 trucks with Kann Versa Haul recycle bodies in the total amount of \$314,366.00 from Truck Centers of Arkansas for use by the Solid Waste Division.

Resolution 154-12 as recorded in the office of the City Clerk.

Preferred Office Products, Inc.: A resolution authorizing the purchase of five (5) Canon copiers in a total amount of \$63,723.00, pursuant to a state procurement contract, from Preferred Office Products, Inc.

Resolution 155-12 as recorded in the office of the City Clerk.

Federal and State Law Enforcement Forfeiture Revenue: A resolution approving a budget adjustment in the amount of \$28,558.00 representing federal and state law enforcement forfeiture revenue received during 2012 and establishing a corresponding expense budget.

Resolution 156-12 as recorded in the office of the City Clerk.

Arkansas Department of Parks and Tourism's Outdoor Recreation Grant: A resolution authorizing an application for a 50/50 matching grant, through the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program, in the amount of \$50,000.00 for improvements at Mount Sequoyah Gardens.

Resolution 157-12 as recorded in the office of the City Clerk.

Arkansas Recreational Trails Program: A resolution expressing the willingness of the City of Fayetteville to utilize Federal-Aid Recreational Trails funds and authorizing application for a 20% local match grant through the Arkansas Recreational Trails Program in an amount up to \$100,000.00 for construction of a section of Lake Fayetteville Trail.

Resolution 158-12 as recorded in the office of the City Clerk.

2012 Arkansas Department of Environmental Quality Recycling Grant: A resolution authorizing application for a 2012 Arkansas Department of Environmental Quality Recycling Grant through the Boston Mountain Solid Waste District in the amount of \$25,000.00 to fund apartment recycling containers.

Resolution 159-12 as recorded in the office of the City Clerk.

McClelland Consulting Engineers: A resolution approving an engineering contract with McClelland Consulting Engineers in the amount of \$131,328.00, plus a \$20,000.00 project contingency, for design services for the State Highway 16 Water and Sewer Relocation Project at the West Fork of the White River.

Resolution 160-12 as recorded in the office of the City Clerk.

Alderman Gray moved to approve the Consent Agenda as read. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Petty was absent.

Unfinished Business:

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 ordinance was left on the First reading at the July 17, 2012 City Council meeting.***

Alderman Gray 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 Petty was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: I had some citizen's request that we leave this on the second reading. They have also requested an opinion from the Attorney General.

Alderman Ferrell: Does this in any way affect the current litigation?

City Attorney Kit Williams: This does not. There was no official petition presented that claimed to be operative for this section. I would have informed you that that petition could not

affect the amount of votes needed to pass that ordinance. I do not object to leaving it on the second reading.

Alderman Ferrell: Could you give an average amount of time it takes to seek an opinion?

City Attorney Kit Williams: It usually takes the Attorney General 2 to 3 months to respond unless it is a critical issue.

This ordinance was left on the Second Reading.

New Business:

United States Tennis Association: A resolution authorizing acceptance of renovation services to tennis courts at Wilson Park by the United States Tennis Association as part of its Two Court Renovation Grant Program at no cost to the City of Fayetteville.

Connie Edmonston, Parks and Recreation Director gave a brief description of the resolution.

Alderman Gray: I am very happy that we are doing this. Anything we can do to encourage our children in sports takes care of lots of problems. The earlier we can start the better.

Alderman Lewis: What is the cost of a brand new court?

Connie Edmonston: It's somewhere around \$40,000 to \$50,000 at least. We did have some concerns from citizens at the Parks Board meeting and we have some of the members here if you have any questions for them.

Alderman Tennant: The comments I received were that there will be fencing around this court that will inhibit the play on the adult court next to it. My concern is are we trying too hard to do the right thing and then we are going to end up taking too much away on the other side?

Chase Gipson, Recreation Superintendent stated we addressed that last week. With the youth courts you do not have to give as much length on the base lines and so that fence will be shifted and will not split right down the middle. It will be offset about four feet to the east side.

Alderman Tennant: So you won't need the space on the side.

Chase Gipson: Right.

Alderman Tennant: Okay, good, thank you very much.

Alderman Ferrell: There have been people coming to the Council over the years asking if we could have more adult tennis courts. In the process of planning, how do you assess where the parks are going to go? How do you weigh the wants of different parts of the community?

Chase Gipson: It just depends on the situation. We do a lot of public input meetings. Every year when we do our outdoor recreation grant we take public input at that meeting. When we talked about the regional park people were overwhelmingly in favor of a group of 6 to 8 courts together rather than having smaller complexes spread out throughout the community. That is why the regional park made the most sense.

Bill Ward, a citizen stated there is a current need for adult tennis courts. He went on to express his concerns.

Alderman Ferrell: Do you know Alan Beauchamp?

Bill Ward: Sure.

Alderman Ferrell: Do you know if he has an opinion on this?

Bill Ward: I talked to him at the park one time in passing and he knows we need courts in this town.

Jennifer Lee, a citizen spoke on the importance of youth courts in Fayetteville.

Kennedy Lee, who is 10 years old, stated why she preferred youth courts.

McKenzie Lee, who is 7 years old, stated she liked the smaller tennis courts better because she can play a full game.

Paul Williams stated if promoting youth tennis is a policy goal then we need to look at all the ways that we can go about doing this. He encouraged everyone to see what our options really are because we do not know what will really be gained here.

Alderman Ferrell: You had inquired about who would provide instruction and have not received a response.

Paul Williams: No one has been able to tell me.

Alderman Ferrell: Can anyone tell us who is going to provide the instruction for the child's tennis?

Chase Gipson: We are not setting the courts up to have instructors come in and charge fees for organized instruction. There will be organized programming there to bring kids in but the point is that you create somewhere that kids can come and play on their own and have an opportunity to play.

Paul Williams: So there is no provision for any instruction.

Chase Gipson: We currently do not have plans but we do have plans to provide programming there.

Phillip Watson, Parks and Recreation Advisory Board member stated I am available for any questions on how the board came to the conclusion that we came to of approving this. This seems to be a good fit because it's in Wilson Park and gives access to most of Fayetteville for the children to come and play.

Alderman Tennant: Did you or anybody get any feed back from any elementary schools and their P.E. teachers on whether this was something good or not? I asked a P.E. teacher and they said anytime you have courts, for kids to play tennis, they will probably play tennis. Does anyone from the schools have any input?

Phillip Watson: Not with me directly. That was brought up. There were some requests for courts for that age bracket.

Chase Gipson: I haven't spoken with any P.E. teachers but we have over 2,000 youth participants in our programs and have heard overwhelmingly from the majority of them that this will be a wonderful thing.

Alderman Lewis: Is there any numbers on the use of our courts?

Phillip Watson: The high school is reserving those courts from 3:00 to 6:00 p.m. most afternoons and once they are gone that will open up a lot of space.

Chase Gipson: We did two separate surveys and those numbers show that it's rare that all six of those courts are full. There is more use late in the evening but it's not that often that you find all six of them full. We are not denying that there is a need for more courts for adults. We think this is a great opportunity and a great time for this to take place.

Alderman Kinion: What were the dates again?

Chase Gipson gave the dates of the surveys.

Alderman Kinion: I think this is a general idea but I do not think that the variables are valid that we are looking at. The need is there for more courts. A lot of towns have modular courts that seem to be more affordable for youth tennis programs. I think there is a valid concern that this might be a sacrifice and that it's not a balance with what we are getting in our current Parks and Recreation program. Using numbers from June to July is probably the most inappropriate time to look at activity in the park because the pool is open at this time and other programs.

Chase Gipson: This grant is just for renovation that includes permanent youth courts. With the modular courts someone has to be there and set them up and oversee everything that is happening.

Alderman Kinion: There is no doubt that we have the need. I can't validate the sacrifice when I am looking at the variables that we are currently using in our parks at this time. I see on a personal level people waiting to get onto the courts.

Chase Gipson: We have in the past rented all six of those to the high school from 3:00 to 6:00 p.m. and then when they had a match it would last sometimes until 7:30 p.m. Obviously the main time where there were wait periods, the majority of it will be alleviated when they move to the new courts.

Alderman Adams: I heard someone say strictly age 10 and under would be permitted on these courts. Will it be appropriate for seniors or others to use those courts?

Chase Gipson: It would be open to anyone at anytime.

Alderman Adams: I understand that we are planning for the regional park but do we have any short term plans to do anything in the tennis court area?

Chase Gipson: We have discussed the possibility. We are aware of it but we do not have any plans for the construction of new ones.

Connie Edmonston: I talked to Barry Gebhart who is the Athletic Director at the high school and he said they will be opening up their eight courts to the public for a small fee. They will also be opening it up to the school staff and members of their family. They are looking at doing some kind of tennis program there to encourage and support our tennis community. That helped us with our decision. We have a lot of needs out there and a lot of people to serve.

Alderman Lewis: What is the deadline for the grant application? Does it have to be a two court area?

Chase Gipson: Yes.

Alderman Lewis: So you can't put resurfacing money towards a new court. It is a very strict grant.

Chase Gipson: Right and the original deadline was July 1st and they contacted the director and got permission to extend it.

Alderman Kinion: On the USTA website they talk about the blended court. It seemed to me that you looked at the grant guidelines, rather than taking a complete court or blended court. The blended court allowed some opportunity to use a court and line it both ways. Is this correct?

Chase Gipson: We have the blended 60 foot courts already at Wilson Park and that was a grant a couple of years ago. This one is specific for a two court facility to take one full size court and convert it to a youth court.

Phillip Watson: Looking in the future it does leave a gap in the north east which is where we are going to be looking at next as far as adding tennis courts. In my vision that is what I see.

Aubrey Shepherd, a citizen pointed out that it would be nice for the kids to be able to use the same courts as the adults.

Alderman Lewis: It doesn't seem like we are gaining enough and we are going to lose something. This is not a win win here and unfortunately I am not going to be able to support this. I would rather spend staff time figuring out how to expand the services in this area as well as the lighting and other types of parks services.

Alderman Kinion: Going to the USTA site, the blended court idea kept catching my attention. I would like to move forward in a compromise situation. It says on the USTA website that there are grants to develop a blended court situation. We need youth programs and need to develop our youth. I have a feeling right now that we are not going to gain as much as we lose if we move forward.

Alderman Boudreaux stated I feel like staff had good reasons to do this and I will support this. I think this is worth a try.

Alderman Adams: I did not receive much public comment on this. The fact that the Parks and Recreation Advisory Board voted 8 for and 0 against this and I respect the employee's expertise therefore I am going to support this.

Alderman Ferrell: I am not opposed to youth courts. I believe if you look at the amount of money that has been spent, in the last 10 years at Wilson Park, you could have built several tennis courts. The Parks Board is just an advisory board. I will not support it.

Alderman Gray: I do not believe what we are losing is comparable to what we are gaining. I will support this for lots of reasons.

Alderman Tennant: I think it's important to trust the people on the advisory board. They put a lot of thought in planning before making recommendations. It's a very difficult decision but I will support it.

Alderman Boudreaux moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the resolution passed 5-3. Alderman Gray, Boudreaux, Tennant, and Adams voting yes. Alderman Lewis, Kinion, and Ferrell voting no. Mayor Jordan voted yes to approve the resolution. Alderman Petty was absent.

Resolution 161-12 as recorded in the office of the City Clerk.

RZN 12-4135 (521 N. College Ave./Roddey): An ordinance rezoning that property described in rezoning petition RZN 12-4135, for approximately 0.34 acres, located at 521 North College Avenue from C-2, thoroughfare commercial to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

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 Petty was absent.

City Attorney Kit Williams read the ordinance.

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

Alderman Lewis: Jeremy, can you talk about what Downtown General allows that C-2 doesn't?

Jeremy Pate explained the differences.

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

Ordinance 5514 as Recorded in the office of the City Clerk

VAC 12-4147 (510 W. 11th St. & 989 S. School Ave./The Grove): An ordinance approving VAC 12-4147 submitted by Morrison Shipley Engineers, Inc. for property located at 510 West 11th Street and 989 South School Avenue to vacate a portion of right-of-way, a total of 0.01 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Aubrey Shepherd asked is this going to narrow the street or just the right-of-way that was not being used.

Jeremy Pate: It will only narrow the right-of-way that is not being utilized and the street will stay the same.

Aubrey Shepherd: So we are going to have at least a five foot sidewalk on that side?

Jeremy Pate: That's correct.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5515 as Recorded in the office of the City Clerk

ADM 12-4136 (2768 E. Shagbark Bend/Zweig): An ordinance amending a Residential Planned Zoning District entitled R-PZD 04-05.00, Hickory Park Subdivision, located north of 2730 East Township Street, containing approximately 4.4 acres, to reflect revised building setbacks for Lot 14.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Boudreaux: So this house has a 20 foot setback all the way around it?

Jeremy Pate: It has a 15 foot around Shagbark Bend and Mockernet Crossing. The reason it was shown as a 20 foot setback was because there was going to be a shared driveway. That ended up not being the way the homes were constructed, so it's not needed anymore.

Alderman Boudreaux: It's an unusual way of approaching this but I guess its okay.

Jeremy Pate: Normally the Board of Adjustments would see something like this but because it is a planned zoning district the City Council approved the zoning criteria.

Alderman Lewis: It says it's not built out yet, is that still true?

Jeremy Pate: The subdivision?

Alderman Lewis: Yes.

Jeremy Pate: I don't believe so.

Alderman Ferrell: There are still some left.

Alderman Lewis: So there are still some left. Does this affect those?

Jeremy Pate: This is just one lot.

Alderman Lewis: So they won't come back and say we want a different setback?

Jeremy Pate: They could.

City Attorney Kit Williams: This does not do that. They would have to come back.

Alderman Ferrell 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 Petty was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5516 as Recorded in the office of the City Clerk

ADM 12-4174 (Complete Neighborhood Plan): A resolution to authorize City Staff to prepare a complete Neighborhood Plan for the Wedington Drive Corridor.

Jeremy Pate gave a brief description of the resolution.

Alderman Boudreaux: Why didn't you all consider going on out to 54th Street?

Jeremy Pate: We actually considered going all the way to Double Springs Road as we have been asked to go east of I-540 as well. Part of it becomes a capacity issue. We would rather move farther west to see that rural area coming into more of a commercial nature instead of moving further east.

Alderman Boudreaux: I just wondered why you didn't go to another street. According to this map you are not at 51st, you are on past there.

Jeremy Pate: We are about a section line past 51st.

Alderman Boudreaux: Wouldn't it be easier to define it by street boundaries?

Jeremy Pate: We try to stay a lot or block on the other side of a street to show how both sides of that street would develop.

Alderman Lewis: One thing that came up during the Ward 4 meeting was the discussion about the east side of this. Is there a way to go beyond I-540 a bit capturing the entry way both ways to the city in order to not perpetuate the perception of a divide there? I would like to propose that the commercial area on the southeast side of the intersection be included in the consideration.

Jeremy Pate stated they looked at two different options. The highway department may dictate in the future what changes may occur around I-540.

Alderman Lewis: So we as a community would be communicating ideas for the part that would be on the eastern side of the interchange. The interchange we do not have much say in. I say invite the highway department to the meetings.

Jeremy Pate: That is certainly one of the plans because Wedington is a state highway. Part of that acreage increase was because we took in the hotels that you recommended at the Ward 4 meeting.

Alderman Adams: I have not heard any negative comments and have heard a lot of positive comments. One thing that was brought up at our meeting was the enduring green network and how that works into a plan like this.

Jeremy Pate gave an explanation of the enduring green network and how it will be incorporated into this analysis.

Mike Emery, who lives in the middle of this project, stated there is so much potential for growth out there and this is a viable plan that can hinder out of control suburban sprawl. He spoke in favor of the resolution.

Charlie Sloan, who lives in this area, encouraged the council to go forward with this. He spoke in favor of the resolution.

Alderman Lewis: I would like to hold this.

City Attorney Kit Williams: You will have to do a motion to table.

Alderman Lewis: Jeremy said he had presented two different approaches and that is why I am not clear on what we are voting on. If there is a plan that captured the other side of I-540 I would be supportive of that. Does it require an amendment to the resolution?

City Attorney Kit Williams: It would require an amendment of the exhibit.

Alderman Ferrell: Will this affect the time or manpower involved to do this if we amend it?

Jeremy Pate: I don't believe so. We could be supportive of that and we will get a map with a new exhibit in your packets so you can see it.

Alderman Lewis moved to amend the Neighborhood Plan map to include a small portion of property east of I-540. Alderman Adams seconded the motion.

A discussion followed on the location.

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

Alderman Adams: You have to draw a line somewhere and I look forward to you doing whatever you need to do to present to our ward the very best plan you can.

Jeremy Pate: Thank you, that is what we utilized in all our master plans when you see something that needs to be addressed we don't just ignore it.

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

Resolution 162-12 as recorded in the office of the City Clerk.

Petition for Writ of Certiorari and Appeal to United States Supreme Court: A resolution to authorize the City Attorney to file a petition for Writ of Certiorari to the United States Supreme Court and appeal the awarding of attorneys fees in the Rock Quarry Case.

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

Alderman Lewis stated there is a precedent here that needs to be considered. She read a portion of the memo submitted by the City Attorney and stated in long term the cities can face increased cost. This has weakened our ability as a community to establish legislation. That is not something to take lightly. She gave a recap of why the rock quarry ordinance was created in the first place. There is a long term risk associated with not moving forward. She went on to express her concerns and stated I am supportive of moving forward.

Alderman Ferrell: Kit, does this go before one federal judge or the Eighth District three judge panel?

City Attorney Kit Williams: This was originally decided by the local district judge and appealed to the Eighth Circuit where a three judge panel did hear that. We felt it was important to go straight to the Supreme Court on this.

Alderman Ferrell: I don't think this diminishes our ability to pass legislation. I do not think this is the wisest choice because there is a 90% chance that we will lose and it will be a bad decision for our taxpayers.

Alderman Boudreaux moved to approve the resolution. Alderman Tennant seconded the motion.

Alderman Lewis: I just don't want people to forget those folks on the west side of town who are still suffering.

Alderman Ferrell: Please don't forget all the taxpayers that are on the other end of this too.

Alderman Gray: I struggle with this decision too but I feel like with a 90% chance that we could lose it is probably not wise for us to make this decision. I believe in our attorney and what he recommends to us and how he feels cities are going to be affected.

City Attorney Kit Williams: If we do not go forward then we now know that we could pay attorney fees if a case is dismissed as moot. In the future, throughout the Eighth Circuit, city attorneys will know you cannot allow a case to be dismissed as moot. You have to demand that you get a judgment and hearing on that particular case.

Alderman Adams: I have every confidence in our City Attorney but this probably won't change anything anyway. I am not going to be able to support that risk.

Upon roll call the resolution failed 1-6. Alderman Lewis voting yes. Alderman Petty was absent.

The Resolution failed.

Announcements:

Adjournment: 8:10 p.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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 21, 2012**

A meeting of the Fayetteville City Council will be held on August 21, 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 August 7, 2012 City Council meeting minutes.
2. **2012-2013 Edward Byrne Memorial Justice Assistance Grants:** A resolution authorizing acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of \$197,333.59.
3. **2012 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of \$72,707.00 for the Police Department, and approving a budget adjustment.

4. **Bid #12-57 Williams Tractor:** A resolution awarding Bid #12-57 and authorizing the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of \$27,203.00 for use by Wastewater Treatment.
5. **Bid #12-59 Williams Tractor:** A resolution awarding Bid #12-59 and authorizing the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of \$45,276.00 for use by the Fire Department, and approving a budget adjustment.
6. **Bid #12-63 Hilbilt Sales Corporation-Arkansas:** A resolution awarding Bid #12-63 and authorizing the purchase of one (1) end dump trailer from Hilbilt Sales Corporation-Arkansas in the total amount of \$43,361.00 for use by Wastewater Treatment, and approving a budget adjustment.
7. **Bid #12-64 Warrior of Arkansas:** A resolution awarding Bid #12-64 and authorizing the purchase of one (1) articulated wheel loader from Warrior of Arkansas, Inc. in the total amount of \$119,950.00 for use by Wastewater Treatment, and approving a budget adjustment.
8. **Solid Waste Agreement Extensions:** A resolution approving one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the city.
9. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

B. Unfinished 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 ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting.***

Left on the Second Reading

C. New Business:

1. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of \$28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street.

2. **Seven Valley's Construction Co.:** A resolution awarding Bid #12-58 and authorizing a contract with Seven Valleys Construction Co., Inc. in the amount of \$1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, approving a project contingency of \$75,000.00 and approving a budget adjustment.
3. **Sunbridge Villas Subdivision Private Street Acceptance:** A resolution accepting dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from the Sunbridge Villas Property Owners Association, Inc.
4. **Proposed Employee Benefits Renewal:** A resolution approving a 2013 employee benefits package.
5. **RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD):** An ordinance rezoning that property described in rezoning petition RZN 12-4146, for approximately 1.80 acres, located at 4054 and 4076 West Starry Night View and 1907 North Best Friend Lane from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single Family, 8 Units Per Acre.
6. **RZN 12-4164 (1420 N. Garland Ave./Bonds):** An ordinance rezoning that property described in rezoning petition RZN 12-4164, for approximately 0.28 acres, located at 1420 North Garland Avenue from RMF-24, Residential Multi-Family, 24 units Per Acre to NS, Neighborhood Services.
7. **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre.
8. **ADM 12-4171 (Amend UDC Ch. 166: Development):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville §166.24 to amend the applicability of non-residential design standards.
9. **Hughmount Village Development Sewer Extension:** A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

D. City Council Agenda Session Presentations:

1. **2011 Comprehensive Annual Financial Report given by Tony Uth, Jr., Audit Committee Chairman.**

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

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

City of Fayetteville Staff Review Form

A. 2
 2012-2013 Edward Byrne Memorial
 Justice Assistance Grants
 Page 1 of 6

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

8/21/2012

City Council Meeting Date
 Agenda Items Only

Greg Tabor
 Submitted By

Drug Enforcement
 Division

Police
 Department

Action Required:

Acceptance of the Edward Byrne Memorial Justice Assistance Grant for federal and state funding of the 4th Judicial District Drug Task Force in the amount of \$164,444.66 and \$32,888.93, respectively.

\$ 424,391.00

Cost of this request

\$ 654,851.00

Drug Enforcement

Program Category / Project Name

2930-2960

Account Number

\$ 273,127.52

Funds Used to Date

Drug Enforcement

Program / Project Category Name

08064-1213

Project Number

\$ 381,723.48

Remaining Balance

Drug Enforcement

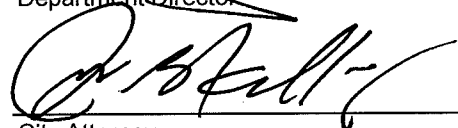
Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐


 Department Director

Date

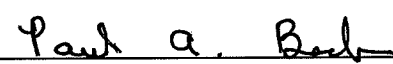
Previous Ordinance or Resolution #


 City Attorney

Date

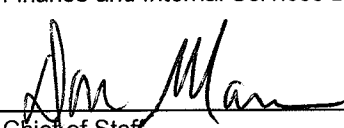
Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director

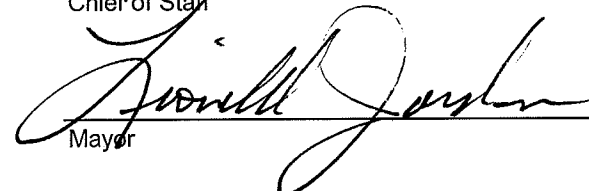
Date

Received in City 07-30-12 P02:31 RCVD
 Clerk's Office


 Chief of Staff

Date

Received in
 Mayor's Office


 Mayor

Date

ENTERED
 7/30/12


Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Chief of Police 

Date: July 27, 2012

Subject: Grant Award for 4th Judicial District Drug Task Force

PROPOSAL:

The 4th Judicial District Drug Task Force's (DTF) total projected budget for the 2012-2013 JAG grant period is \$424,391. We are applying to the State Office of Intergovernmental Services for grant funding through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program for grant funding in the following amounts: federal - \$164,444, state - \$32,889, and local match - \$21,926. The JAG grant defines required local matching funds based on a percentage split of 75/15/10 in awarded federal and state funds plus local funds. To receive the federal and state portion of the JAG, the 4th JDTF must commit to a match of at least \$21,926. However, Fayetteville provides additional funds in the amount of \$233,000 to maintain the same level of effectiveness for the Drug Enforcement program. The other member agencies also contribute additional funds totaling \$89,560. The 2012-2013 fiscal year grant award is the same amount as funded in the 2011-2012 grant period.

RECOMMENDATION:

Staff recommends acceptance of the 2012-2013 Justice Assistance Grant award for federal and state funding in the amount of \$164,444 and \$32,889, respectively, for the funding of the 4th Judicial Drug Task Force. If you should have any comments or questions regarding this grant acceptance, please contact me at extension 500 or Judy Cohea at extension 581.

BUDGET IMPACT:

The existing budget will be sufficient for the balance of 2012 and will remain stable in 2013.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING ACCEPTANCE OF THE 2012-2013
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS IN THE
TOTAL AMOUNT OF \$197,333.59**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of \$197,333.59.

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



**ARKANSAS DEPARTMENT OF
 FINANCE AND ADMINISTRATION**

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400
 P. O. Box 8031
 Little Rock, Arkansas 72203-8031
 Phone: (501) 682-1074
 Fax: (501) 682-5206
<http://www.state.ar.us/dfa>

☒ JAG	☐ RSAT
	☐ LLEBG

Edward Byrne Memorial
 Justice Assistance Grant (JAG) Program

CFDA #:16.738

1. SUBGRANTEE NAME AND ADDRESS (Including Zip Code)

The Honorable Lioneld Jordan,
 City of Fayetteville
 100-A West Rock Street
 Fayetteville, Arkansas 72701

4. SUBGRANT NUMBER: J 12-014

5. START DATE: July 1, 2012
END DATE: June 30, 2013

6. AWARD DATE: July 1, 2012

2. MODIFICATION EFFECTIVE DATE:

7. ACTION: ☒ Initial
☐ Modification

2A. MODIFICATION AMOUNT \$
 FEDERAL \$
 STATE MATCH \$
 LOCAL MATCH \$

8. AWARD AMOUNT \$219,259.54
 FEDERAL \$164,444.66
 STATE MATCH \$ 32,888.93
 LOCAL MATCH \$ 21,925.95

3. COMMON NAME: 4th Judicial District Drug Task Force

4. Project Description: Identify arrest and prosecute individuals who are manufacturing, selling, or transporting drugs in or through the Programs jurisdictional area of operations. – Maintenance, Operations and Equipment Project.

9. SPECIAL CONDITIONS (check if applicable)

☒ THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS SET FORTH IN IT'S APPLICATION AND ALL CERTIFICATIONS, ASSURANCES AND SPECIAL CONDITIONS PREVIOUSLY AGREED TO.

This project is supported under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3750).

AGENCY APPROVAL		SUBGRANTEE APPROVAL	
10. TYPED NAME AND TITLE OF APPROVING IGS OFFICIAL Doris Smith, Administrator Intergovernmental Services		12. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL The Honorable Lioneld Jordan, City of Fayetteville	
11. SIGNATURE OF APPROVING OFFICIAL		13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE



**ARKANSAS DEPARTMENT OF
 FINANCE AND ADMINISTRATION**

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☒ JAG	☐ RSAT
	☐ LLEBG

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 Justice Assistance Grant (JAG) Program

CFDA #:16.738

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The Honorable Lioneld Jordan,
 City of Fayetteville
 100-A West Rock Street
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☐ Modification

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10. TYPED NAME AND TITLE OF APPROVING IGS OFFICIAL Doris Smith, Administrator Intergovernmental Services		12. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL The Honorable Lioneld Jordan, City of Fayetteville	
11. SIGNATURE OF APPROVING OFFICIAL		13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE

City of Fayetteville Staff Review Form

A. 3
2012 Justice Assistance Grant
Local Solicitation Award
Page 1 of 16

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

8/21/2012

City Council Meeting Date
Agenda Items Only

G. Tabor
Submitted By

Patrol
Division

Police
Department

Action Required:

Acceptance of the 2012 Justice Assistance Grant (JAG) Local Solicitation award in the amount of \$72,707. This grant does not require matching funds.

\$ 72,707.00
Cost of this request

\$ -
Category / Project Budget

JAG Local Solicitation - 2012
Program Category / Project Name

1010-2920-various
Account Number

\$ -
Funds Used to Date

Grant
Program / Project Category Name

09022-2012
Project Number

\$ -
Remaining Balance

General
Fund Name

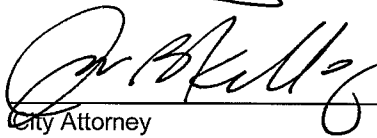
Budgeted Item ☐

Budget Adjustment Attached ☒


Department Director

8-3-12
Date

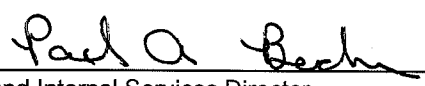
Previous Ordinance or Resolution #


City Attorney

8-3-12
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

8-3-2012
Date

Received in City
Clerk's Office

08-03-12 P01:56 RCVD


Chief of Staff

8-3-12
Date

Received in
Mayor's Office

ENTERED
8/3/12
JH


Mayor

8/6/12
Date

Comments:

STAFF REVIEW MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Chief of Police 

Date: August 3, 2012

Subject: 2012 Justice Assistance Grant Local Solicitation Award

PROPOSAL:

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance has awarded the 2012 Justice Assistance Grant for local agencies. This award is based in part on population and violent crime rates and is given to Fayetteville, Springdale and Washington County to share. This grant does not require local cash matching funds. This is the eighth year for this grant to be a shared grant with these other agencies.

The Fayetteville Police Department will be the lead agency for this grant award in the amount of \$72,707. Fayetteville will receive \$30,707 to be spent on specialized training. Within this grant award, Springdale will receive \$28,249 to purchase 17 automatic vehicle locators (AVL), and Washington County will receive \$13,751 to purchase bulletproof vest replacements.

RECOMMENDATION:

Staff recommends acceptance of the 2012 JAG Local Solicitation Grant Award in the amount of \$72,707. If you should have any comments or question regarding this grant award, please contact me at extension 500.

BUDGET IMPACT:

This grant does not require local cash matching funds.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A 2012 JUSTICE ASSISTANCE GRANT LOCAL SOLICITATION AWARD IN THE AMOUNT OF \$72,707.00 FOR THE POLICE DEPARTMENT, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of \$72,707.00 for the Police Department.

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 21st day of August, 2012.

APPROVED:

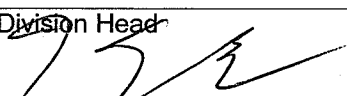
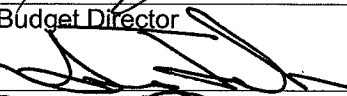
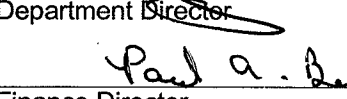
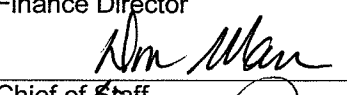
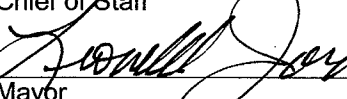
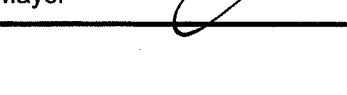
ATTEST:

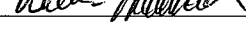
By: _____
LIONELD JORDAN, Mayor

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

A. 3 V11.0425
2012 Justice Assistance Grant
~~Local Solicitation Award~~

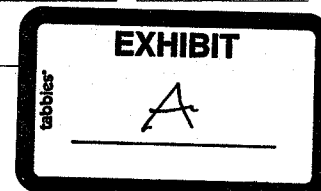
Establish budget for the 2012 JAG Local Solicitation.

Division Head		Date	8-3-12
Budget Director		Date	8-3-12
Department Director		Date	8-3-2012
Finance Director		Date	8-3-12
Chief of Staff		Date	8/6/12
Mayor		Date	

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

	TOTAL BUDGET ADJUSTMENT	<u>72,707</u>	<u>72,707</u>	
		Increase /	(Decrease)	Project.Sub
Account Name	Account Number	Expense	Revenue	Number
Federal Grant-Operational	1010.0001.4309.01		72,707	09022 . 2012
Travel & training	1010.2920.5304.00	30,707		09022 . 2012
Trans to Springdale	1010.2920.5737.00	28,249		09022 . 2012
Trans to Wash Co Sheriff	1010.2920.5738.00	13,751		09022 . 2012
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EXHIBIT





Department of Justice
Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs

Washington, D.C. 20531

July 31, 2012

Chief Greg Tabor
City of Fayetteville
100 West Rock Street
Fayetteville, AR 72701-6057

Dear Chief Tabor:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation in the amount of \$72,707 for City of Fayetteville.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Jennifer Luge, Program Manager at (202) 305-8064; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Denise O'Donnell".

Denise O'Donnell
Director

Enclosures



Department of Justice
Office of Justice Programs
Office for Civil Rights

Washington, D.C. 20531

July 31, 2012

Chief Greg Tabor
City of Fayetteville
100 West Rock Street
Fayetteville, AR 72701-6057

Dear Chief Tabor:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

Ensuring Access to Federally Assisted Programs

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at <http://www.ojp.usdoj.gov/ocr/etfbo.htm>.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith-based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements: (1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

1) Meeting the EEOP Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization has received an award for \$500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEOP and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEOP, please consult OCR's website at <http://www.ojp.usdoj.gov/ocr/eeop.htm>. You may also request technical assistance from an EEOP specialist at OCR by dialing (202) 616-3208.

If your organization received an award between \$25,000 and \$500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

If your organization received an award for less than \$25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

2) Submitting Findings of Discrimination

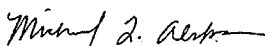
In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at <http://www.ojp.usdoj.gov/ocr/>.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

 Department of Justice Office of Justice Programs Bureau of Justice Assistance		Grant		PAGE 1 OF 6																	
1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Fayetteville 100 West Rock Street Fayetteville, AR 72701-6057		4. AWARD NUMBER: 2012-DJ-BX-0464																			
		5. PROJECT PERIOD: FROM 10/01/2011 TO 09/30/2015 BUDGET PERIOD: FROM 10/01/2011 TO 09/30/2015																			
		6. AWARD DATE 07/31/2012		7. ACTION Initial																	
1A. GRANTEE IRS/VENDOR NO. 716018462		8. SUPPLEMENT NUMBER 00																			
		9. PREVIOUS AWARD AMOUNT \$ 0																			
3. PROJECT TITLE Fayetteville City, Springdale City & Washington County FY 2012 JAG Project		10. AMOUNT OF THIS AWARD \$ 72,707																			
		11. TOTAL AWARD \$ 72,707																			
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).																					
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY12(BJA - JAG) 42 USC 3750, et seq.																					
15. METHOD OF PAYMENT GPRS																					
AGENCY APPROVAL			GRANTEE ACCEPTANCE																		
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Denise O'Donnell Director			18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Greg Tabor Chief of Police Lioneld Jordan Mayor																		
17. SIGNATURE OF APPROVING OFFICIAL 			19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL		19A. DATE																
AGENCY USE ONLY																					
20. ACCOUNTING CLASSIFICATION CODES <table border="1"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>72707</td> </tr> </tbody> </table>			FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00		72707	21. LDJUGT1136		
FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT														
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OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 2 OF 6
PROJECT NUMBER 2012-DJ-BX-0464		AWARD DATE 07/31/2012	
<i>SPECIAL CONDITIONS</i>			
1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide. 2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance. 3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide. 4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP. 5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by - mail: Office of the Inspector General U.S. Department of Justice Investigations Division 950 Pennsylvania Avenue, N.W. Room 4706 Washington, DC 20530 e-mail: oig.hotline@usdoj.gov hotline: (contact information in English and Spanish): (800) 869-4499 or hotline fax: (202) 616-9881 Additional information is available from the DOJ OIG website at www.usdoj.gov/oig. 6. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP. 7. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.			

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 3 OF 6
PROJECT NUMBER 2012-DJ-BX-0464		AWARD DATE 07/31/2012	
<i>SPECIAL CONDITIONS</i>			
8. The recipient agrees to comply with applicable requirements regarding Central Contractor Registration (CCR) and applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ccr.htm (Award condition: Central Contractor Registration and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name). 9. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers. 10. The recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on pertinent laws, regulations, policies, and guidance is available at www.ojp.gov/funding/confcost.htm. 11. The recipient understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm. 12. The recipient agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this OJP award, and those award funds have been, are being, or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this OJP award, the recipient will promptly notify, in writing, the grant manager for this OJP award, and, if so requested by OJP, seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding. 13. The recipient agrees to comply with applicable requirements to report first-tier subawards of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ffata.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name). 14. The recipient agrees that all income generated as a direct result of this award shall be deemed program income. All program income earned must be accounted for and used for the purposes of funds provided under this award, including such use being consistent with the conditions of the award, the effective edition of the OJP Financial Guide and, as applicable, either (1) 28 C.F.R. Part 66 or (2) 28 C.F.R. Part 70 and 2 C.F.R. Part 215 (OMB Circular A-110). Further, the use of program income must be reported on the quarterly Federal Financial Report, SF 425.			

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 4 OF 6
PROJECT NUMBER 2012-DJ-BX-0464		AWARD DATE 07/31/2012	
<i>SPECIAL CONDITIONS</i>			
15. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.			
The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:			
a. New construction; b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places; c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.			
The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html, for programs relating to methamphetamine laboratory operations.			
Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.			
16. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.			
17. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: http://www.it.ojp.gov/gsp_grantcondition. Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.			

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 5 OF 6
PROJECT NUMBER 2012-DJ-BX-0464		AWARD DATE 07/31/2012	
<i>SPECIAL CONDITIONS</i>			
18. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Federal Financial Report (SF-425). 19. JAG funds may be used to purchase bulletproof vests for an agency, but may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program. 20. The recipient agrees to submit a signed certification that that all law enforcement agencies receiving vests purchased with JAG funds have a written "mandatory wear" policy in effect. Fiscal agents and state agencies must keep signed certifications on file for any subrecipients planning to utilize JAG funds for bulletproof vest purchases. This policy must be in place for at least all uniformed officers before any FY 2012 JAG funding can be used by the agency for bulletproof vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. 21. Bulletproof vests purchased with JAG funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards. In addition, bulletproof vests purchased with JAG funds must be American-made. The latest NIJ standard information can be found here: http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm. 22. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds. 23. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to http://www.it.ojp.gov/default.aspx?area=policyAndPractice&page=1046. 24. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocfr/equal_fbo.htm. 25. The recipient acknowledges that all programs funded through subawards, whether at the state or local levels, must conform to the grant program requirements as stated in BJA program guidance.			

	Department of Justice Office of Justice Programs Bureau of Justice Assistance	AWARD CONTINUATION SHEET Grant	PAGE 6 OF 6
PROJECT NUMBER 2012-DJ-BX-0464		AWARD DATE 07/31/2012	
<i>SPECIAL CONDITIONS</i>			
26. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtaining of Institutional Review Board approval, if appropriate, and subject informed consent. 27. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23. 28. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities. 29. Award recipients must submit quarterly a Federal Financial Report (SF-425) and annual performance reports through GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation. 30. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award. 31. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes. 32. The grantee agrees that within 120 days of award acceptance, each member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). All current and new task force members are required to complete this training once during the life of the award, or once every four years if multiple awards include this requirement. This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).			



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Fayetteville

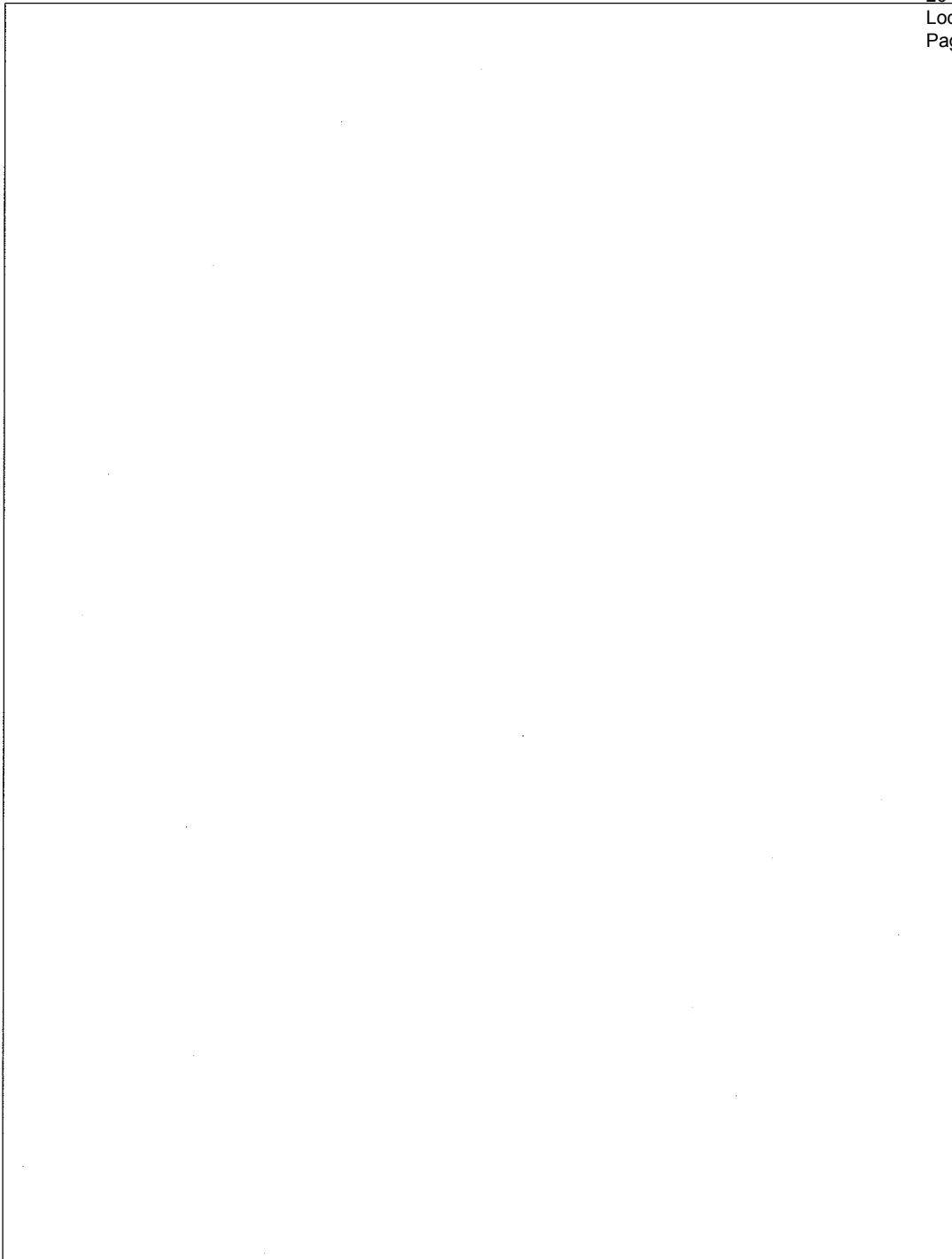
The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <http://www.ojp.usdoj.gov/BJA/resource/nepa.html>. Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

	Department of Justice Office of Justice Programs Bureau of Justice Assistance		GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY Grant	
	PROJECT NUMBER 2012-DJ-BX-0464	PAGE 1 OF 1		
This project is supported under FY12(BJA - JAG) 42 USC 3750, et seq.				
1. STAFF CONTACT (Name & telephone number) Jennifer Luge (202) 305-8064		2. PROJECT DIRECTOR (Name, address & telephone number) Judy Cohea Support Services Manger 100 West Rock Street Fayetteville, AR 72701-6057 (479) 587-3581		
3a. TITLE OF THE PROGRAM BJA FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program			3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT Fayetteville City, Springdale City & Washington County FY 2012 JAG Project				
5. NAME & ADDRESS OF GRANTEE City of Fayetteville 100 West Rock Street Fayetteville, AR 72701-6057		6. NAME & ADDRESS OF SUBGRANTEE		
7. PROGRAM PERIOD FROM: 10/01/2011 TO: 09/30/2015		8. BUDGET PERIOD FROM: 10/01/2011 TO: 09/30/2015		
9. AMOUNT OF AWARD \$ 72,707		10. DATE OF AWARD 07/31/2012		
11. SECOND YEAR'S BUDGET		12. SECOND YEAR'S BUDGET AMOUNT		
13. THIRD YEAR'S BUDGET PERIOD		14. THIRD YEAR'S BUDGET AMOUNT		
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse) The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation). The city of Fayetteville, the city of Springdale and the county of Washington will support criminal justice initiatives. JAG funds will be used to purchase law enforcement equipment and supplies, and an advanced range training system. The goal is to improve criminal justice services. NCA/NCF				



City of Fayetteville Staff Review Form

A. 4
 Bid #12-57
 Williams Tractor
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

8/21/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid #12-57 to Williams Tractor of Fayetteville, AR in the amount of \$27,203 (tax included) for the purchase of one Round Baler for use by Wastewater Treatment Plant East.

\$ 27,203.00

Cost of this request

\$ 56,614.00

Category / Project Budget

Tractors / Mowers

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 20,916.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.2011

Project Number

\$ 35,698.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Tracy Gully
 Department Director

8-1-12
 Date

Previous Ordinance or Resolution #

Barbara Olsen
 City Attorney

8-2-12
 Date

Original Contract Date:

Original Contract Number:

Paul a. Buhner
 Finance and Internal Services Director

8-2-2012
 Date

08-01-12 P04:48 RCVD
 Received in City
 Clerk's Office

Kim G.

Alm Man
 Chief of Staff

8-2-12
 Date

Received in
 Mayor's Office

ENTERED
 8/2/12
[Signature]

Donald J. [Signature]
 Mayor

8/3/12
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: August 1, 2012

Subject: Purchase of Round Baler for Wastewater Treatment Plant East

PROPOSAL: That City Council approve the purchase of one Round Baler in the amount of \$27,203 (including tax) from Williams Tractor of Fayetteville, AR for use by Wastewater Treatment Plant East.

RECOMMENDATION: Re-bid 12-57 was opened on July 6, 2012. Three bids were received; a bid tab sheet is attached.

Unit #583 is a 2004 New Holland Round Baler that was due for replacement in 2010. We pushed replacement back to 2012. Now it is worn out and no longer dependable for full time front line use.

The low bid from Williams Tractor meets all specs. I recommend the purchase of the New Holland BR7060 Round Baler from Williams Tractor of Fayetteville, AR in the amount of \$27,203 including tax.

This purchase was unanimously approved by the Equipment Committee on July 31, 2012.

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

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-57 AND AUTHORIZING THE PURCHASE OF ONE (1) ROUND BALER FROM WILLIAMS TRACTOR OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$27,203.00 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 #12-57 and authorizes the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of \$27,203.00 for use by wastewater treatment.

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



#5032

BID: 12-57
DATE: 07/06/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-57, Round Baler Re-Bid

BIDDER	Make & Model	Est. Quantity	TOTAL COST
1 Country Side Farm & Lawn	John Deere 458	1	\$24,942.00
2 Larson Farm & Lawn	John Deere 458	1	\$28,017.88
3 Williams Tractor, Inc.	New Holland BR7060	1	\$24,900.00 PLUS TAX

OK

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

CERTIFIED:

P. Vice
P. VICE, PURCHASING MGR

Julie Paladino
WITNESS

07/06/12
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: **8/1/2012** Bid #12-57 Williams Tractor
 P.O Number: _____ Expected Delivery Date: _____ Page 5 of 6

Vendor #: **11133** Vendor Name: **WILLIAMS TRACTOR** Mail Yes: _____ No: **X**

Address: _____ Fob Point: _____ Taxable Yes: **X** No: _____ 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	NEW HOLLAND BR7060 ROUND BALER, PER	1	EA	24,900.00	\$24,900.00	9700.1920.5802.00	02083.2011		
2	BID SPECS 12-57. TO BE UNIT #5032, FIXED				\$0.00				705032
3	ASSET #705032				\$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: **\$24,900.00**Total: **\$27,203.25**

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 #12-59 Williams Tractor
 Page 1 of 6

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

8/21/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding bid #12-59 to Williams Tractor of Fayetteville, AR in the amount of \$45,276 for the purchase of two Polaris Rangers with Kimtek Transport units for use by Fire Department, and approval of a Budget Adjustment to move funds to the Fleet expense account.

\$ 45,276.00

Cost of this request

\$ 684,990.00

Category / Project Budget

Other Vehicles and Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 411,036.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080.2012

Project Number

\$ 273,954.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

8-1-12
 Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

8-2-12
 Date

Original Contract Number:

Finance and Internal Services Director

8-3-2012
 Date

Received in City
 Clerk's Office

08-01-12 P04:48 RCVD

Chief of Staff

8-3-12
 Date

Received in
 Mayor's Office

ENTERED
 8/2/12
 PH

Mayor

8/6/12
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TJG*

From: Dennis Pratt, Fleet Operations Supt.

Date: August 1, 2012

Subject: Purchase of two Utility Rescue vehicles for Fire Department use

PROPOSAL: That City Council approve the purchase of two Utility Rescue vehicles with skid units from Williams Tractor of Fayetteville in the amount of \$45,276 for use by the Fire Department, and approval of a Budget Adjustment to move funds from Fire Dept. Capital Improvement fund to the Shop Fund.

RECOMMENDATION: Bid 12-59 was opened on July 13, 2012. Four bids were received; a bid tab sheet is attached.

Units #9168 and #9169 are two expansion 6 wheel utility vehicles with emergency rescue skid units that the Fire Department will use for fire/rescue/ems on the trail system. These new units will allow the Fire Dept. to offer assistance as the growth of the City's trail system generates a greater need for fire services along the trails.

I recommend the purchase of two Polaris Ranger Utility Vehicles with Kimtek Rescue Units from Williams Tractor of Fayetteville, bid Option #3 which is the lowest bid.

This purchase was unanimously approved by the Equipment Committee on July 31, 2012.

BUDGET IMPACT: Funds for the purchase are available in Fire's Capital Improvement fund; operating funds are available in Fire Department operating budget.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-59 AND AUTHORIZING THE PURCHASE OF TWO (2) POLARIS RANGERS WITH KIMTEK TRANSPORT UNITS FROM WILLIAMS TRACTOR OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$45,276.00 FOR USE BY THE FIRE DEPARTMENT, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-59 and authorizes the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of \$45,276.00 for use by the Fire Department.

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

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 5 V11.0425
Bid #12-59 Williams Tractor
Page 4 of 6

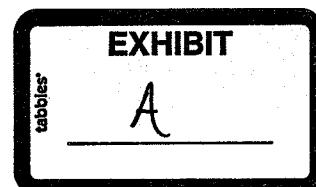
Budget Year	Division: Fire Department Department: Fire Department	Request Date	Adjustment Number
2012		7/18/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funds are requested for the Fire Department to purchase the following expansion vehicles; Unit 9168 Polaris 6x6 Ranger ATV/UTV with Kimtek Firelight Supermax Transport FST-12 skid unit and Unit 9169 Polaris 6x6 Ranger ATV/UTV with Kimtek Firelight Supermax Transport FST-12 skid unit

Division Head 8-3-12 Budget Director 8-3-12 Department Director Finance Director 8-3-2012 Chief of Staff 8-3-12 Mayor 8/8/12	Prepared By: <u>Ginny Gundlach</u> Reference: _____ Budget & Research Use Only Type: A B C <u>D</u> E P General Ledger Date _____ SIGN HERE Posted to General Ledger Initial _____ Date _____ Checked / Verified Initial _____ Date _____
--	---

TOTAL BUDGET ADJUSTMENT		45,426	45,426		
		Increase / (Decrease)		Project.Sub	
Account Name	Account Number	Expense	Revenue	Number	
Transfer to Shop	4470.9470.7602.70	45,426		03019	1
Vehicles and equipment	4470.9470.5802.00	(45,426)		03019	1
Vehicles and equipment	9700.1920.5802.00	45,426		02080	2012
Trans from Cap Improv	9700.0970.6602.47		45,426		





9168 + 9169

BID: 12-59
 DATE: 07/13/12
 TIME: 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-59, Utility Rescue Vehicles

BIDDER	Line Item Details	Make & Model	UNIT PRICE	EST. QUANTITY	TOTAL BASE BID	
1	Alternative Support Apparatus (ASAP)	Line Item 1: Utility Vehicle Line Item 2: Rescue Unit	ASAP Wildfire ES	\$ 32,192.50	2	\$ 64,385.00
Line items were combined into one						
2	Williams Tractor - Option #1	Line Item 1: Utility Vehicle Line Item 2: Rescue Unit	Polaris - 6x6 Ranger Maintainer - Fire Skid Package	\$ 11,988.00	2	\$ 23,976.00
				\$ 21,648.00	2	\$ 43,296.00
						\$ 67,272.00
3	Williams Tractor - Option #2	Line Item 1: Utility Vehicle Line Item 2: Rescue Unit	Polaris - 6x6 Ranger NO BID	\$ 11,988.00	2	\$ 23,976.00
				\$ -	2	\$ -
				Line item #2 not included		\$ 23,976.00
4	Williams Tractor - Option #3	Line Item 1: Utility Vehicle Line Item 2: Rescue Unit	Polaris - 6x6 Ranger Kimtek - Firelight Supermax Transport FST-12	\$ 11,988.00	2	\$ 23,976.00
				\$ 10,650.00	2	\$ 21,300.00
						\$ 45,276.00

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

CERTIFIED:

[Signature]

P. VICE, PURCH MGR

[Signature]
 WITNESS

7/13/12
 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: 8/1/2012	A. 5
P.O Number:	Expected Delivery Date: 6 of 6	Bid #12-59 Williams Tractor

Vendor #:	11133	Vendor Name:	WILLIAMS TRACTOR		Mail Yes: ☐ No: ☒
Address:			Fob Point:	Taxable Yes: ☐ No: ☒	Quotes Attached Yes: ☐ No: ☒
City:	State:	Zip Code:	Ship to code:	Division Head Approval:	
Requester:			Requester's Employee #:	Extension:	
BARBARA OLSEN			1940	485	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 POLARIS 6 X 6 RANGER UTILITY VEHICLES	2	EA	22,638.00	\$45,276.00	9700.1920.5802.00	02080.2012		
2	WITH KIMTEK TRANSPORT UNITS, PER BID SPEC				\$0.00				
3	12-59, TO BE UNITS 9168, FIXED ASSET 709168				\$0.00				709168
4	AND 9169, FIXED ASSET 709169				\$0.00				709169
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: \$45,276.00

Total: \$45,276.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

City of Fayetteville Staff Review Form

A. 6
 Bid #12-63 Hilbilt Sales
 Corporation-Arkansas
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

8/21/2012

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding bid #12-63 to Hilbilt Sales Corp, Arkansas in the amount of \$43,361 (tax included) for the purchase of one end dump Trailer for use by Wastewater Treatment Plant East, and approving a budget adjustment to move funds to the Fleet expense account.

\$ 43,361.00

Cost of this request

\$ 639,744.00

Category / Project Budget

Other Vehicles and Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 582,876.00

Vehicles and Equipment

Program / Project Category Name

02080.2012

Project Number

\$ 56,868.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature]
 Department Director

8-1-12
 Date

Previous Ordinance or Resolution #

[Signature]
 City Attorney

8-2-12
 Date

Original Contract Date:

Original Contract Number:

Paul a. Behn
 Finance and Internal Services Director

8-3-2012
 Date

08-01-12 P04:48 RCVD
 Received in City
 Clerk's Office

[Signature]
 Chief of Staff

8-3-12
 Date

Received in
 Mayor's Office

[Signature]
 Mayor

8/6/12
 Date

ENTERED
 8/21/12
[Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council
Thru: Terry Gulley, Director of Transportation *TG*
From: Dennis Pratt, Fleet Operations Supt.
Date: August 1, 2012
Subject: Purchase of one end dump Trailer for Wastewater Treatment Plant East

PROPOSAL: That City Council approve the purchase of one end dump Trailer in the amount of \$43,361 (tax included) from Hilbilt Sales Corp of Arkansas for use by Wastewater Treatment Plant East, and approve a budget adjustment to move funds to the Fleet expense account.

RECOMMENDATION: Bid 12-63 was opened on July 27, 2012. One bid was received; a bid tab sheet is attached.

Unit 9083 is a 2000 Lufkin hydraulic end dump trailer that is completely worn out and needs to be replaced.

I recommend the purchase of the Clement Starlite end dump trailer from Hilbilt Sales Corp – Arkansas in the amount of \$43,361 (tax included).

This purchase was unanimously approved by the Equipment Committee on July 31, 2012

BUDGET IMPACT: This unit was budgeted for on both the capital and operating sides. The Budget Adjustment will cover the difference in estimated price and actual price including tax.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-63 AND AUTHORIZING THE PURCHASE OF ONE (1) END DUMP TRAILER FROM HILBILT SALES CORPORATION-ARKANSAS IN THE TOTAL AMOUNT OF \$43,361.00 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 #12-63 and authorizes the purchase of one (1) end dump trailer from Hilbilt Sales Corporation-Arkansas in the total amount of \$43,361.00 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 21st day of August, 2012.

APPROVED:

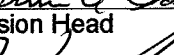
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 6
 Bid #12-83 Hilbilt Sales
 Corporation-Arkansas
 Page 4 of 6

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

	8-1-12
Division Head	Date
	8-3-12
Budget Director	Date
	8-1-12
Department Director	Date
	8-3-2012
Finance Director	Date
	8-3-12
Chief of Staff	Date
	8/6/12
Mayor	Date

Checked / Verified

<u>Initial</u>	<u>Date</u>
----------------	-------------

tabbles®

EXHIBIT

A

Fayetteville
ARKANSAS

9165

BID: 12-63
07/27/12
2:00 PM
CITY OF FAYETTEVILLE

Bid 12-63, Dump Trailer Re-Bid

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Hilbilt Sales Corporation - Arkansas	Clement Ind.	Starlite	\$39,690.00

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

CERTIFIED:


P. VICE, PURCH MGR


WITNESS

07/27/12
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. 6 Bid #12-63 Hilbilt Sales Corporation-Arkansas
P.O Number:	Expected Delivery Date:	8/1/2012 Page 6 of 6

Vendor #:	13491	Vendor Name:	HILBILT SALES		Mail Yes: ☐ No: ☒
Address:			Fob Point:	Taxable Yes: ☒ No: ☐	Quotes Attached Yes: ☐ No: ☒
City:		State:		Zip Code:	Ship to code: 50
Requester:			Requester's Employee #:		Division Head Approval: <i>Dennis E. Olsen</i>
BARBARA OLSEN			1940		Extension: 485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	ONE CLEMENT IND, STARLITE MODEL END	1	EA	39,690.00	\$39,690.00	9700.1920.5802.00	02080.2012		
2	DUMP TRAILER, PER BID SPECS, BID #12-63,				\$0.00				
3	TO BE UNIT #9165, FIXED ASSET 709165				\$0.00				709165
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: \$39,690.00

Total: \$43,361.33

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. 7
 Bid #12-64
 Warrior of Arkansas
 Page 1 of 6

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

8/21/2012

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding bid #12-64 to Warrior of Arkansas, Inc in Springdale, AR in the amount of \$119,950 for the purchase of one articulated wheel loader for use by Wastewater Treatment Plant East, and approving a budget adjustment to move funds to the Fleet expense account.

\$ 119,950.00
 Cost of this request

\$ 337,000.00
 Category / Project Budget

Backhoes / Loaders
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ 266,151.00
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02076.2012
 Project Number

\$ 70,849.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature]
 Department Director

8-1-12
 Date

Previous Ordinance or Resolution # _____

[Signature]
 City Attorney

8-2-12
 Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becher
 Finance and Internal Services Director

8-3-2012
 Date

Received in City Clerk's Office 08-01-12 P04:48 RCVD
King.

[Signature]
 Chief of Staff

8-3-12
 Date

Received in Mayor's Office
 ENTERED 8/2/12
[Signature]

[Signature]
 Mayor

8/6/12
 Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *TG*

From: Dennis Pratt, Fleet Operations Supt.

Date: August 1, 2012

Subject: Purchase of one Articulated Wheel Loader for Wastewater Treatment Plant East

PROPOSAL: That City Council approve the purchase of one articulated wheel loader in the amount of \$119,950 from Warrior of Arkansas, Inc. of Springdale, AR for use by Wastewater Treatment Plant East, and approve a budget adjustment to move funds from Water & Sewer Fund to the Fleet expense account.

RECOMMENDATION: Bid 12-64 was opened on July 27, 2012. Nine bids were received; a bid tab sheet is attached. The bid from Warrior of Arkansas is the low bid.

This unit is an expansion for use by the Wastewater Treatment Plant as part of the Biosolids Management project for processing Beaver Water District waste water residuals.

I recommend acceptance of the low bid from Warrior of Arkansas in the amount of \$119,950.

This purchase was unanimously approved by the Equipment Committee on July 31, 2012.

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

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-64 AND AUTHORIZING THE PURCHASE OF ONE (1) ARTICULATED WHEEL LOADER FROM WARRIOR OF ARKANSAS, INC. IN THE TOTAL AMOUNT OF \$119,950.00 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 #12-64 and authorizes the purchase of one (1) articulated wheel loader from Warrior of Arkansas, Inc. in the total amount of \$119,950.00 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 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



6000

BID: 12-64
DATE: 07/27/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-64, Articulated Wheel Loader

BIDDER	Make & Model	Quantity	TOTAL BASE BID
1 Alma Tractor & Equipment	Doosan DL250TC	1	\$ 110,175.00
	3.5 Cubic Yard General Purpose Material Bucket	1	\$ 9,970.00
			\$ 120,145.00
2 Equipment Resource Management	Hyundai HL740TM-9	1	\$ 121,950.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 4,979.00
			\$ 126,929.00
3 H&E Equipment Services	Komatsu WA250-6	1	\$ 139,300.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 6,525.00
			\$ 145,825.00
4 Hugg & Hall Equipment Company	Volvo L60F	1	\$ 120,236.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 3,473.00
			\$ 123,709.00
5 JCB of Arkansas	JCB 426 HT	1	\$ 122,646.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 5,240.00
			\$ 127,886.00
6 Riggs Cat	Caterpillar 924K	1	\$ 125,838.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 5,440.00
			\$ 131,278.00
7 Scott Equipment Company, LLC	Case 621F XR	1	\$ 122,532.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 3,941.33
			\$ 126,473.33
8 Warrior of Arkansas, Inc.	John Deere	1	\$ 114,750.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 5,200.00
			\$ 119,950.00
9 Williams Tractor, Inc.	Terex TL210 Extended Loader Frame	1	\$ 126,209.00
	2.5 Cubic Yard General Purpose Material Bucket	1	\$ 8,100.00
			\$ 134,309.00

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

CERTIFIED:

P. VICE, PURCH MGR

WITNESS

07/27/12
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: 8/1/2012
P.O Number:
Expected Delivery Date: 8/6/12

Bid #12-64

Warrior of Arkansas

Page 6 of 6

Vendor #: 6986 Vendor Name: WARRIOR OF ARKANSAS Mail Yes: No: ☒

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

City: State: Zip Code: Ship to code: 50 Division Head Approval: *Dennis E. [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	ONE ARTICULATED WHEEL LOADER PER BID	1	EA	119,950.00	\$119,950.00	9700.1920.5802.00	02076.2012		
2	SPECS, BID 12-64. TO BE UNIT 6000, FIXED				\$0.00				706000
3	ASSET #706000				\$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: \$119,950.00

Total: \$119,950.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville Staff Review Form

A. 8
Solid Waste
Agreement Extensions
Page 1 of 26

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

21-Aug-12

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Utilities
Division

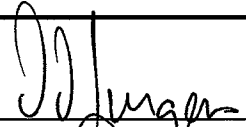
Utilities
Department

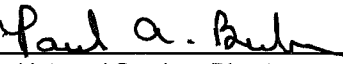
Action Required:

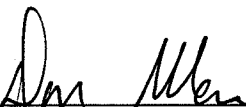
Approval a one year extension agreements with Deffenbaugh Industries, Hog Box, and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling within the City of Fayetteville.

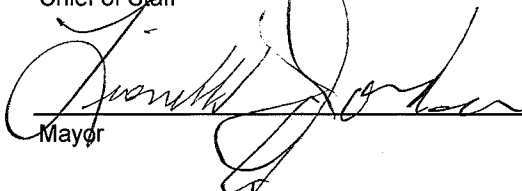
_____	\$ _____	_____
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____	_____
Account Number	Funds Used to Date	Program / Project Category Name
_____	\$ _____	_____
Project Number	Remaining Balance	Solid Waste Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

	3 Aug 12	245-08,12/16/08
Department Director	Date	55-07, 4/3/07
	8-6-12	157-07, 9/4/07
City Attorney	Date	Previous Ordinance or Resolution #
		Original Contract Date:
		Original Contract Number:

 8-6-2012
Finance and Internal Services Director Date

 8-8-12
Chief of Staff Date

 8/8/12
Mayor Date

08-03-12 P04:20 RCVD
Received in City Clerk's Office

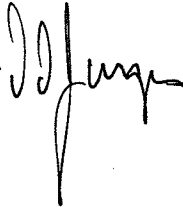

Received in Mayor's Office
8/6/12


Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director



Date: August 3, 2012

Subject: Approval of one year extension agreements with Deffenbaugh Industries, Hog Box, and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling

RECOMMENDATION

Staff recommends approval a one year extension agreements with Deffenbaugh Industries, Hog Box, and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling within the City of Fayetteville.

BACKGROUND

The City allows private haulers to collect solid waste when there is an approved franchise agreement in place. The agreement allows the hauler to collect and haul solid waste in roll off style open top or roll off style compactor containers of at least 20 cubic yards or greater within the City of Fayetteville for a monthly fee of 10% of the gross revenue of services. The first agreement to haul and dispose of solid waste in the City of Fayetteville was executed with an outside vendor in 2004 for a term of 3 years. As of December 31, 2011, all franchise agreements have expired, but have been operating under informal letter extensions while the City evaluates the franchise hauling program.

DISCUSSION

A one year extension was requested by haulers while the City evaluates the franchise hauling program. Both City staff and haulers have had the opportunity to review and provide comments. Primary changes include:

- To cover a one year term
- Added recycling requirements and fee
- Eliminated restriction on recyclable containers
- Increased accountability on monthly/annual reporting
- Paragraph 9 (FOIA and other legal liability issues)

City staff also recommends that the "Recycling Fee" of 5% of gross revenue received for providing the hauling of recyclables shall not go into effect until the Solid Waste Ordinances are updated to add recycling under the franchise hauling program. This is expected to occur later this year.

BUDGET IMPACT

None.

RESOLUTION NO. _____

**A RESOLUTION APPROVING ONE (1) YEAR EXTENSION AGREEMENTS
WITH DEFFENBAUGH INDUSTRIES, HOG BOX AND WASTE
MANAGEMENT OF NORTHWEST ARKANSAS TO HAUL AND DISPOSE
OF SOLID WASTE AND RECYCLING IN THE CITY**

**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 one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the City. Copies of each of the agreements are attached to this Resolution and incorporated herein.

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE & RECYCLING IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this ____ day of _____ 2012, between the **City of Fayetteville, Arkansas**, a municipal corporation (the "City"), and _____ (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for one (1) year, with the option to renew for one (1) additional year, unless otherwise terminated pursuant to the terms hereof.
2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.
3. Hauler agrees and understands that it may only collect and haul solid waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal as set forth in ADEQ Reg. No. 22. Hauler shall not collect any Class 1 or Class 4 material in other containers.

Hauler agrees and understands that it may only collect and haul recyclables outside the residential recycling program. Unseparated recyclables shall not be allowed unless Hauler has been given authority by the City to do so on a program specific basis, approval to be determined by the appropriate department director. As of the signing of this agreement, there are two unseparated recycling programs that are approved:
 - a) construction and demolition waste; and
 - b) University of Arkansas event comingled containers.
4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of:
 - a) ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services
 - b) five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of the recyclables.
5. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.
6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor

generated report, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all source separated recycling; (ii) for any approved non-source separated program, the Hauler shall submit to the City by June 30th on annual basis, copies of contracts with processing mills; (iii) for any approved non-source separated program, the amounts, in tons, of recycling collected within Fayetteville, with disposition by destination market. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff. Any Hauler found providing services for non-source separated recyclables without prior approval by the City shall be subject to a fee of \$500.00.
8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information

Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.
10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required under Section 16.
11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
12. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
13. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
14. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
15. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.
16. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.
17. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Utilities Director. The Point of Contact for the Hauler shall be

_____. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

18. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
19. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
- a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - c) City will be added as an additional insured on General Liability and Auto Liability policies.
 - d) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate
Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

20. Termination:

- a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this

- a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.
 - b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.
 - c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.
21. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract, by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:
- | | |
|--|---|
| <p>City of Fayetteville
Utilities Director
113 West Mountain Street
Fayetteville, AR 72701</p> | <p><u>DEFFENBAUGH INDUSTRIES</u>
Attn: <u>ANGELA BOWDWIN</u>
<u>PO Box 1700</u>
<u>LOWELL, AR 72745</u></p> |
|--|---|
22. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.
23. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
24. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
25. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
26. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.

27. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.
28. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
29. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

DEFFENBAUGH INDUSTRIES

By: _____
LIONELD JORDAN, Mayor

By: Bob Mattis
BOB MATTIS
GENERAL MANAGER

ATTEST:

By: _____
SONDRA SMITH, City Clerk

By: _____

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE & RECYCLING IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this 6th day of August 2012 2012, between the **City of Fayetteville, Arkansas**, a municipal corporation (the "City"), and HOLLYR MFG Co. Inc. dba HOGBOX (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for one (1) year, with the option to renew for one (1) additional year, unless otherwise terminated pursuant to the terms hereof.
2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.
3. Hauler agrees and understands that it may only collect and haul solid waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal as set forth in ADEQ Reg. No. 22. Hauler shall not collect any Class 1 or Class 4 material in other containers.

Hauler agrees and understands that it may only collect and haul recyclables outside the residential recycling program. Unseparated recyclables shall not be allowed unless Hauler has been given authority by the City to do so on a program specific basis, approval to be determined by the appropriate department director. As of the signing of this agreement, there are two unseparated recycling programs that are approved:

- a) construction and demolition waste; and
 - b) University of Arkansas event comingled containers.
4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of:
 - a) ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services
 - b) five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of the recyclables.
 5. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.
 6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor

generated report, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all source separated recycling; (ii) for any approved non-source separated program, the Hauler shall submit to the City by June 30th on annual basis, copies of contracts with processing mills; (iii) for any approved non-source separated program, the amounts, in tons, of recycling collected within Fayetteville, with disposition by destination market. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff. Any Hauler found providing services for non-source separated recyclables without prior approval by the City shall be subject to a fee of \$500.00.
8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information

Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.
10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required under Section 16.
11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
12. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
13. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
14. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
15. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.
16. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.
17. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Utilities Director. The Point of Contact for the Hauler shall be

BRIAN DEVECSERY. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

18. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
19. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
- a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - c) City will be added as an additional insured on General Liability and Auto Liability policies.
 - d) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate
Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

20. Termination:
- a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this

Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

- b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.
 - c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.
21. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract, by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:
- City of Fayetteville
Utilities Director
113 West Mountain Street
Fayetteville, AR 72701

HOGUE MFG CO. INC. DBA HOGBOX
Attn: BRIAN DEVECSERY
2900 S. CITY LAKE RD
FAYETTEVILLE, AR 72701
22. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.
23. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
24. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
25. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
26. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.
27. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

28. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
29. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Hogeye Mfg Co. Inc. dba HogBox
By: [Signature]
President

By: [Signature]

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE & RECYCLING IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this _____ day of _____ 2012, between the **City of Fayetteville, Arkansas**, a municipal corporation (the "City"), and Waste Management of Arkansas, Inc. (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for one (1) year, with the option to renew for one (1) additional year, unless otherwise terminated pursuant to the terms hereof.
2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.
3. Hauler agrees and understands that it may only collect and haul solid waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal as set forth in ADEQ Reg. No. 22. Hauler shall not collect any Class 1 or Class 4 material in other containers.

Hauler agrees and understands that it may only collect and haul recyclables outside the residential recycling program. Unseparated recyclables shall not be allowed unless Hauler has been given authority by the City to do so on a program specific basis, approval to be determined by the appropriate department director. As of the signing of this agreement, there are two unseparated recycling programs that are approved:

- a) construction and demolition waste; and
 - b) University of Arkansas event comingled containers.
4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of:
 - a) ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services
 - b) five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of the recyclables.
5. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.
6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor

generated report, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all source separated recycling; (ii) for any approved non-source separated program, the Hauler shall submit to the City by June 30th on annual basis, copies of contracts with processing mills; (iii) for any approved non-source separated program, the amounts, in tons, of recycling collected within Fayetteville, with disposition by destination market. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff. Any Hauler found providing services for non-source separated recyclables without prior approval by the City shall be subject to a fee of \$500.00.
8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information

Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.
10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required under Section 16.
11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
12. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
13. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
14. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
15. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.
16. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.
17. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Utilities Director. The Point of Contact for the Hauler shall be the District Mananger.

Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

18. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
19. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
 - a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - c) City will be added as an additional insured on General Liability and Auto Liability policies.
 - d) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
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Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate
Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

20. Termination:

- a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this

Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

- b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.
 - c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.
21. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract, by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:
- | | |
|--|---|
| <p>City of Fayetteville
Utilities Director
113 West Mountain Street
Fayetteville, AR 72701</p> | <p>Waste Management
Attn: Market Area Vice President
2555 Meridian Blvd, Suite 200
Franklin, TN 37067</p> |
|--|---|
22. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.
23. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
24. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
25. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
26. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.
27. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

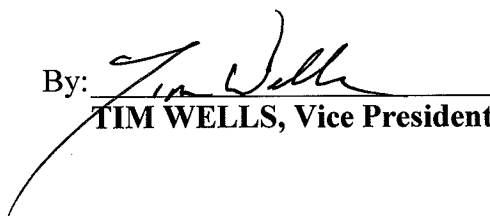
28. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
29. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

WASTE MANAGEMENT

By: _____
LIONELD JORDAN, Mayor

By: 
TIM WELLS, Vice President

ATTEST:

By: _____
SONDRA SMITH, City Clerk

By: _____

Attachment A: Solid Waste Documentation

Due on or before the 15th of each calendar month for the immediately preceding calendar month.
Payments of the fees received after the due date shall be assessed a 10% penalty per month.

Hauler: _____

Month/Year: _____

- 1 Number of permanent customer accounts within Fayetteville City limits for the month reported. _____
- 2 Number of temporary customer accounts within Fayetteville City limits for the month reported. _____
- 3 Total number of containers placed with all your customer accounts within Fayetteville City limits for the month reported. _____
- 4 For each account identified above, please complete page two of this attachment.
- 5 Page two of this attachment should include all normal billing charges for free, donated, or discounted services. These normal billing charges should include but not be limited to delivery, pull charges, disposal charges, transportation charges,
- 6 Total fee remitted to the City of Fayetteville for the month reported.
(10% of gross revenue received for month) \$ _____

I swear or affirm that all of the information provided above and on all attached form is true, correct, and complete to the best of my knowledge and belief.

The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

Printed Name

Title

Signature

Phone Number

Date

[illegible]

\$

Page 2 of 2

Attachment B: Recycling Documentation

Hauler: _____

Month/Year: _____

Commodity	Total Tons	Processor / Mill Name	City	State	Number of Loads To Date	End Market / Use
Aluminum Cans						
Mixed Glass						
Cardboard						
Chipboard						
Clear Glass						
Green Glass						
Mixed paper						
Newspaper						
Steel Cans						
Scrap Metal						
# 1 Bottles						
# 2 Bottles						
# 3-7 Bottles						
Other: _____						
Other: _____						

Recycling Totals: -

I swear or affirm that all of the information provided above and on all attached form is true, correct, and complete to the best of my knowledge and The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

Total Monthly Revenues & Billing Charges	\$	\$
5% Fee to be Remitted to the City	\$	

Page 2 of 2

City of Fayetteville Staff Review Form

A. 9
Animal Services
Donation Revenue
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

8/21/12
City Council Meeting Date
Agenda Items Only

Justine Middleton

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Recognize donation revenue to Animal Services for the 2nd quarter of 2012. Approval of a Budget Adjustment in the total amount of \$14,655.00

\$14,655

Cost of this request

\$

-

Category / Project Budget

Animal Services Donations

Program Category / Project Name

see attached detail

Account Number

\$

-

Funds Used to Date

Animal Services Project

Program / Project Category Name

see attached detail

Project Number

\$

-

Remaining Balance

General

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
Clerk's Office

08-03-12 A09:24 RCVD

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date



Comments: Staff recommends approval of the budget adjustment in the amount of \$14655



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: City Council

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

From: Justine Middleton, Animal Services Superintendent

Date: August 2, 2012

Subject: Approval of a Budget Adjustment for Animal Services Division

PROPOSAL:

Animal Services would like to recognize donation revenue from the second quarter of 2012. These funds are donated by private citizens and organizations to benefit the animals cared for by Animal Services.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the Animal Services Donation Revenue for the first quarter of 2012.
second

BUDGET IMPACT:

Recognize Animal Shelter Donations in the amount of \$14,655.00

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$14,655.00 REPRESENTING DONATION REVENUE TO ANIMAL SERVICES FOR THE SECOND QUARTER OF 2012

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 \$14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its sincere gratitude for these donations.

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

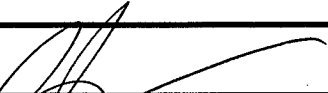
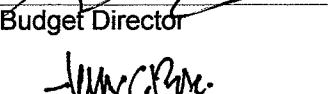
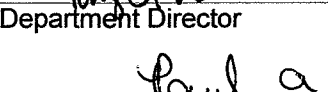
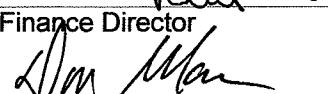
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 9
 11/01/25
 Animal Services
 Donation Revenue
 Page 4 of 4

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

	8-2-12	Prepared By:	Justine Middleton					
Division Head	Date	Reference:	jmiddleton					
	8-6-2012							
Budget Director	Date		Budget & Research Use Only					
	08-03-2012	Type:	A	B	C	D	E	P
Department Director	Date							
	8-8-2012	General Ledger Date						
Finance Director	Date							
	8-8-12	Posted to General Ledger						
Chief of Staff	Date		Initial	Date				
	8/8/12	Checked / Verified						
Mayor	Date		Initial	Date				

[illegible]

A

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 ☐

Department Director

06-11-2012
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

June 28, 2012
Date

Original Contract Number:

Finance and Internal Services Director

6/25/12
DateReceived in City
Clerk's Office

06-22-12 A09:29 RCVD

Chief of Staff

6/26/12
DateReceived in
Mayor's Office

Mayor

6/26/12
Date

Comments:

Left on the second Reading at the 8/7/12 CC mtg.
Left on first Reading at the 7/17/12 CC mtg.



www.accessfayetteville.org

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

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

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

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 specificaly 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.

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney



DATE: July 12, 2012

RE: State Statutory Procedural Rules To Adopt Ordinances Must Be Obeyed

I understand there is still some question about the legal need to repeal §154.03 (C)(2) of the Unified Development Code. This section reads as follows:

“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.”
§154.03 (C)(2)

By requiring a 75% super majority to pass a rezoning ordinance if a proper opposition petition has been presented, this U.D.C. Code section directly conflicts with at least three State statutes. State law provides that a rezoning amendment shall be “made in conformance with the procedure prescribed in §14-56-422, or by **majority vote** of the City Council.” A.C.A. §14-56-423 **Change in plans, etc.** (emphasis added).

A.C.A. §14-56-422 **Adoption of plans, ordinances and regulations** states that the ordinances recommended by the Planning Commission to the City Council may be adopted by the City Council “by a **majority vote of the entire**

membership” and that “nothing in this subchapter shall be construed to limit the city council’s authority to recall the ordinances ... by **a vote of majority of the council**. (emphasis added).

Therefore both of the statutes that prescribe the procedure for the adoption of the zoning code (§14-56-422) and amendment of that code and all rezoning (§14-56-423) clearly specify that the permissible procedure for passage will be “by a **majority** vote of the city council.”

The general State statute which prescribes the procedure for passing all ordinances by city councils also requires a simply majority.

“To pass any ... ordinance ..., a concurrence of a **majority** of a whole number of members elected to the council shall be required.” A.C.A. §14-55-203 **Voting requirements for passage – Effective dates** (emphasis added).

With these State statutes requiring a majority vote to pass an ordinance, can the city council require 75% rather than a simple majority? The answer is “No”.

In my initial memo to you, I quoted the Arkansas Supreme Court in *Brooks v. City of Benton*, 308 Ark. 571, 826 S.W. 2d 259, 261 (1992) holding that the earlier quoted statutory procedural requirements are **MANDATORY** and must be complied with. Adopting a conflicting procedural rule that a 75% super majority is needed for passage rather than a simple majority is not legally allowed.

“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.**” *Id.* (emphasis added).

This has been a consistent holding by the Arkansas Supreme Court. For example in *Osborne v. City of Camden*, 301 Ark. 420, 784 S.W. 2d 596, 597 (1990), the Arkansas Supreme Court stated: “Municipal zoning authority is conferred solely by State enabling legislation (such as A.C.A. §§14-56-422 and 423). **Failure to comply with a mandatory procedural requirement of the enabling statute renders a zoning ordinance invalid.**” (citations omitted). (emphasis added).

In an issue of how a rezoning ordinance must be adopted to be valid, the Arkansas Supreme Court stated:

“As we read the statutes, §14-56-423 is controlling, and it permits a change in the zoning plan, or **rezoning**, by **‘majority vote** of the city council’” *Russellville v. Banner Real Estate*, 326 Ark. 673, 933 S.W. 2d 803, 805 (1996) (emphasis added).

Thus, we must follow state law and state law prescribes votes by a majority (not 75%) of the City Council to pass a rezoning ordinance.

ARKANSAS ATTORNEY GENERAL OPINIONS

Arkansas Attorney Generals have interpreted the clear holdings of the Arkansas Supreme Court on the requirement to follow State statutory procedure not only for passage of ordinances, but in other similar contexts. I quoted Arkansas Attorney General Pryor’s Opinion No. 2002-132 in my earlier memo to you: **“a municipality may not, by adoption of procedural rules, deviate from the requirements of state law.”** (page 2, emphasis added). Let me provide you with a longer explanation from that same Arkansas Attorney General Opinion:

“State law sets the requisite majority requirement for passage of such matters. A municipality may not adopt local procedural rules that conflict with the requirements of state law. I will also point out that the procedure for the passage of ordinances by a municipality is not a ‘municipal affair’ under A.C.A. §14-43-601 (a)(0), but is rather a ‘state affair’ subject to the general laws of the state. A municipality may not, therefore, deviate from state law on this issue.” *Id.* at page 3

Arkansas Attorney General Mark Pryor’s Opinion is in agreement with both earlier and more recent Arkansas Attorney General Opinions. For example when the City of Conway sought to make the civil service promotion process “more strict” than the statutory process, the Arkansas Attorney General opined such an effort would not be allowed.

“Cities are prohibited by state law from enacting any ordinance that is inconsistent with or contrary to state law.”
Arkansas Attorney General Opinion No. 99-055, page 1

“(I)t is clear under state law that city ordinances – whether more stringent or less stringent than state law – must be consistent with and not contrary to state law.” *Id.* at page 2

Since §154.03 (C)(2) conflicts with state law by requiring a much greater super majority to pass a rezoning ordinance than the simple majority required by state law, this code section must be repealed and is not enforceable.

“Because Conway City Ordinance 2.28.06, No. 6 directly conflicts with this requirement of state law, I must conclude that it is impermissible under Article 12, §4 of the Arkansas Constitution, and under the various statutes limiting cities’ authority to the requirements and parameters of state law.”
Id. at pages 2-3

A very recent Arkansas Attorney General Opinion (No. 2011-064) agrees with these earlier opinions. This opinion deals with state mandated procedure for a mayor to employ when issuing a veto of a ordinance or resolution. The Pine Bluff City Council had enacted a procedural requirement which would have required an earlier presentation to the City Council of the Mayor’s written reasons for vetoing an ordinance than is required by statute. Arkansas Attorney General Dustin McDaniel responded that “the ordinance conflicts with state law and is consequently unenforceable.” (page 1). The Attorney General explains his response later in his Opinion.

“In my opinion, given that the legislature has clearly delineated the mayor’s procedural obligations following a veto, it is equally clear that the city council cannot burden the mayor beyond these statutory obligations. Simply stated, a mayor is obliged to observe only the statutory procedural formalities, which cannot be enhanced by city ordinance.

‘Municipalities are creatures of the legislature and as such have only the powers bestowed upon them by statute or the constitution. ... **The validity of a city**

ordinance thus depends upon the authority granted by the legislature or constitution.' (citations omitted, emphasis in original).

"In the present case, the legislature has unambiguously stated what a mayor is obliged to do following a veto. A city council cannot by ordinance enhance that obligation." *Id.* at page 4

CONCLUSION

As I stated in my memo of June 18, 2012 to you, §154.03 (C)(2) clearly conflicts with at least three State statutes that mandate only a **majority** of the City Council is needed to pass a rezoning amendment. Because §154.03 (C)(2) would sometimes require a 75% super majority in conflict with these State statutes, §154.03 (C)(2) is unenforceable and should be repealed. All of the decisions of the Arkansas Supreme Court and all of the Arkansas Attorney General Opinions that I could find relevant to this issue agree that **"a municipality may not, by adoption of procedural rules, deviate from the requirement of State law."** Arkansas Attorney General Opinion No. 2002-132.

I do not believe that the issue of trying to apply or enforce §154.03 (C)(2) had come up during either my Alderman years (1992-1998) or my service as City Attorney (2001 to date) prior to the Cleveland Street Project. When it was brought to my attention that someone might attempt to use §154.03 (C)(2) to require a 75% super majority, I analyzed and researched this old (and unused) code section and determined it was unenforceable because it conflicts with State law. That is why I have presented the City Council with a revised §154 to remove this invalid subsection as well as to clarify and simplify the procedural options for the Planning Commission and City Council when dealing with proposed rezoning amendments.

City of Fayetteville Staff Review Form

C. 1
Amerlux Exterior, LLC
Page 1 of 12City Council Agenda Items
and
Contracts, Leases or Agreements

August 21, 2012

City Council Meeting Date
Agenda Items OnlyTerry Gulley
Submitted ByTransportation
DivisionTransportation Services
Department

Action Required:

An ordinance waiving the requirements of formal competitive bidding for the purchase of seventeen (17) Dynamic Lighting, Inc. light poles and fixtures and approving a purchase from Amerlux Exterior, LLC for the amount of \$26,010.00 plus sales tax.

\$ 28,415.93

Cost of this request

4470.9470.5418.00

4470.9470.5814.00

Account Number

02053 / 1

Project Number

\$ 1,491,380.00

Category / Project Budget

\$ 323,417.15

Funds Used to Date

\$ 1,167,962.85

Remaining Balance

Sidewalk Improvements

Program Category / Project Name

Transportation Improvements

Program / Project Category Name

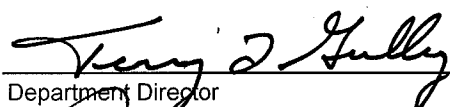
Sales Tax Capital Improvements

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

 Department Director

7-24-12

Date

Previous Ordinance or Resolution #

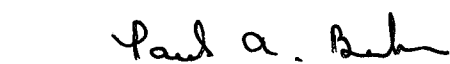
Original Contract Date:


 City Attorney

7-25-12

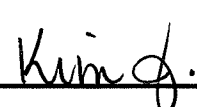
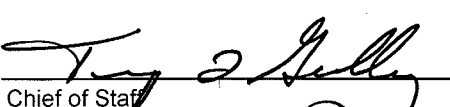
Date

Original Contract Number:


 Finance and Internal Services Director

7-25-2012

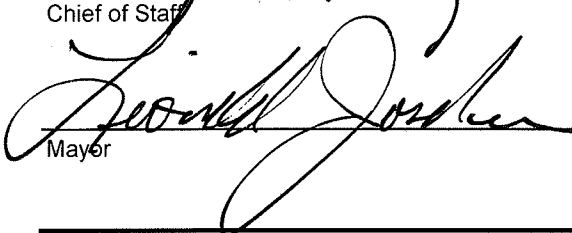
Date

 Received in City Clerk's Office 07-25-12 P01:40 RCVD


 Chief of Staff

7-26-12

Date

 Received in Mayor's Office


 Mayor

7/27/12

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Services Department Director *TG*

Date: August 21, 2012

Subject: Bid Waiver for Light Poles & Fixtures

PROPOSAL:

Staff proposes an ordinance waiving the requirements of formal competitive bidding for the purchase of light poles and fixtures needed to complete the improvements project currently under construction in downtown Fayetteville, including Mountain Street, College Avenue, Center Street, East Avenue, and Meadow Street.

RECOMMENDATION:

In order to remain consistent with the existing light poles and fixtures in the downtown area, the purchase of materials manufactured by Dynamic Lighting, Inc. and distributed by Amerlux Exterior, LLC will be necessary.

Staff recommends waiving the requirements of formal competitive bidding and approving the purchase of 17 Dynamic Lighting, Inc. poles and fixtures from Amerlux Exterior, LLC for a unit price of \$1,530.00 and a total purchase amount of \$26,010.00, plus sales tax.

BUDGET IMPACT:

Funds for the acquisition of light poles and fixtures are budgeted in the Sidewalk Improvements capital project.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING AN AGREEMENT WITH AMERLUX EXTERIOR, LLC FOR THE PURCHASE OF SEVENTEEN (17) STREETLIGHT POLES AND FIXTURES MANUFACTURED BY DYNAMIC LIGHTING, INC. IN THE TOTAL AMOUNT OF \$28,415.93 FOR INSTALLATION ON DOWNTOWN IMPROVEMENT PROJECTS ALONG MOUNTAIN STREET, COLLEGE AVENUE, CENTER STREET, EAST AVENUE AND MEADOW STREET

WHEREAS, the City desires to complete an improvements project currently under construction in downtown Fayetteville, including along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street; and

WHEREAS, in order to remain consistent with existing, previously installed streetlight poles and fixtures in the downtown area, the purchase of additional matching streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. and distributed by Amerlux Exterior, LLC is necessary;

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 finds that such circumstances constitute an exceptional situation where competitive bidding is deemed not feasible or practical, and therefore waives the requirements of formal competitive bidding and authorizes an agreement with Amerlux Exterior, LLC for the purchase of seventeen (17) streetlights and poles manufactured by Dynamic Lighting, Inc. in total amount of \$28,415.93.

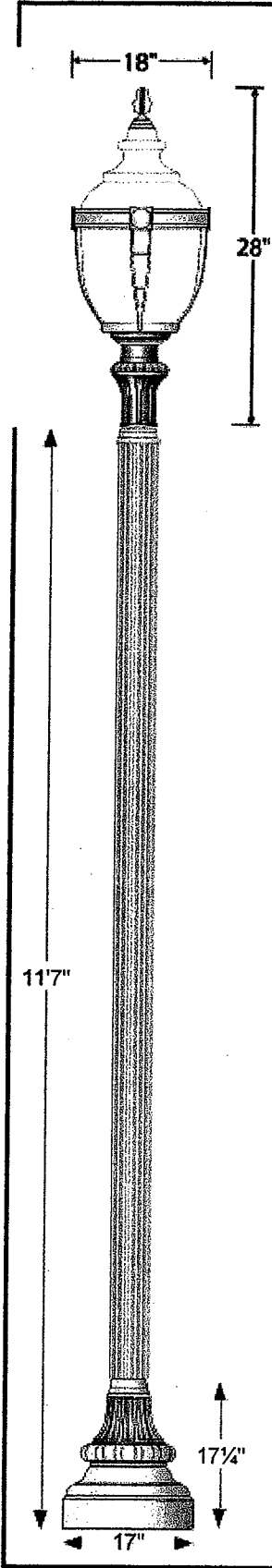
PASSED and APPROVED this 21st day of August, 2012.

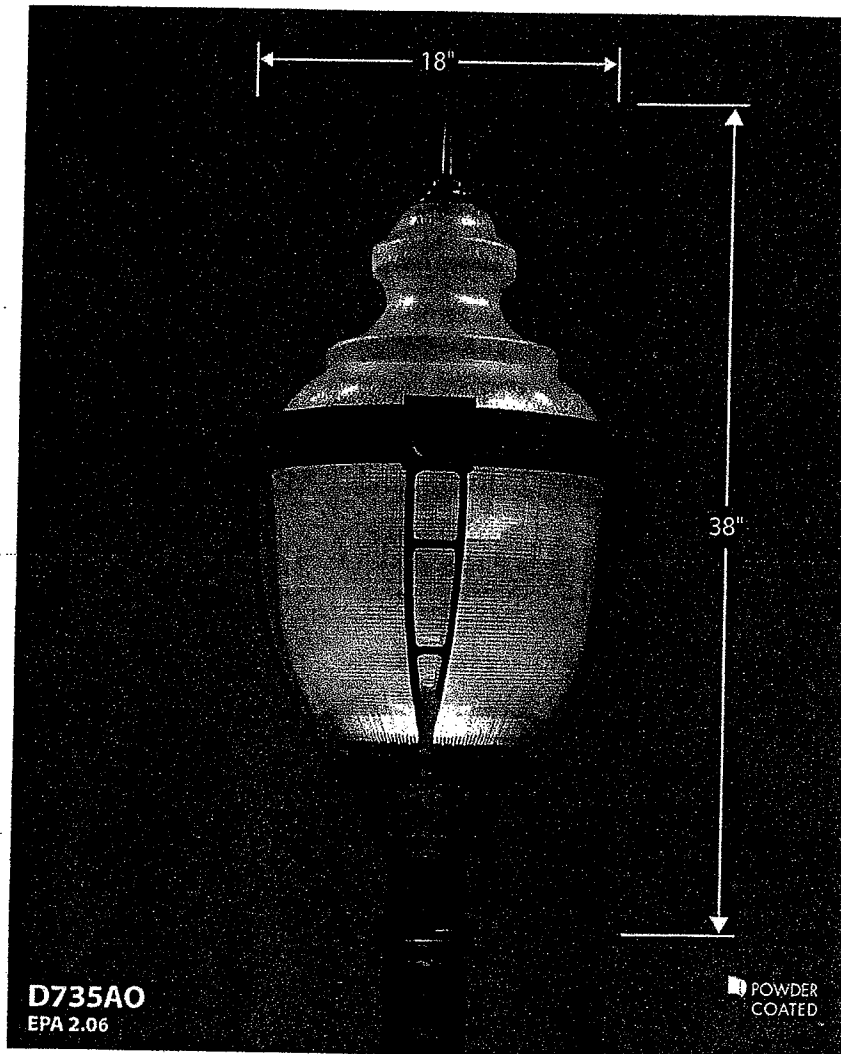
APPROVED:

ATTEST:

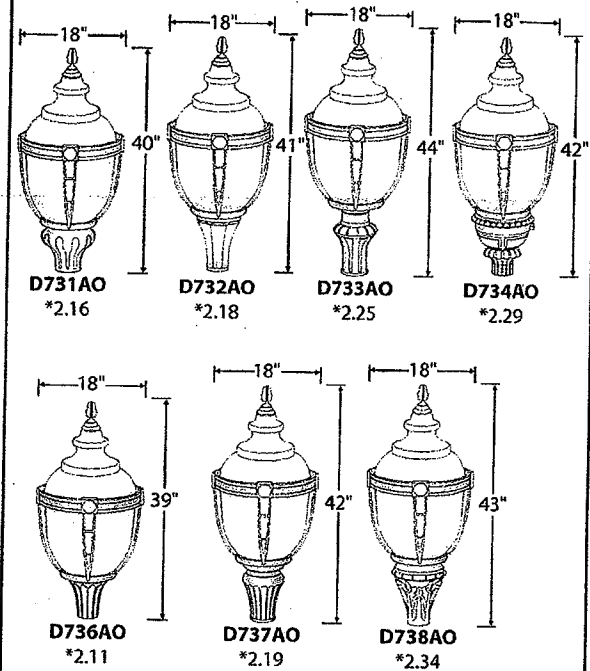
By: _____
LIONELD JORDAN, Mayor

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

 Luminaire: D733AO -Cast aluminum fixture -Refractive Acrylic Lens -Clear Textured Top -Type III or V Light Distribution -ETL listed for Wet Location -Max. 250w HPS or MH Pole: D1305-12 -5" OD Fluted Extruded Shaft (.155" wall thickness) -Cast aluminum base (A319 alloy)	<i>DYNAMIC</i> LIGHTING INC. 5220 Shank Road Pearland, Texas 77581 (800) 364-0098 (281) 997-5400 (281) 997-5441 Fax www.dynamiclighting.com Luminaire D733AO Light Source 175 MH Voltage ☐ 120 ☐ 208 ☐ 240 ☐ 277 ☐ 480 ☐ Other Bracket Pole D1305-12 Finish Undecided No selection made Accessories Please Note Due to the nature of the selection process and limitations of our web based system the information contained on this sheet must be confirmed with the factory before being used as a formal specification sheet.
--	---

**DESCRIPTION**

The **D730AO** Series consists of a refractive Acrylic or optional Polycarbonate acorn surrounded by a decorative cage with a choice of cast aluminum fitters. An available perforated light reflector can help minimize light to the upper hemisphere. It offers state-of-the-art optical technology and nostalgic styling.

**SPECIFICATIONS****MATERIALS**

The fixture base, cage assembly and finial are cast aluminum. All hardware is stainless steel, and exterior hardware is tamper resistant. The highly efficient refractive lens will be molded in Acrylic (standard) or Polycarbonate (optional).

FINISH

The fixture will be finished with a premium quality thermoset polyester powdercoat for a durable finish.

Standard solid colors are:

GRN - Green
WHT - White
CLB - Classic Bronze

TBK - Textured Black
BLK - Satin Black

Premium finishes are:

GTG - Granite Green

ATC - Antique Copper

INSTALLATION

The luminaire will mount to a 3" OD post or tenon with 5/16" cone point stainless steel set screws to ensure a solid connection. The diffuser will be held to the fitter by (4) 5/16" stainless steel socket set screws.

ELECTRICAL

The easily accessible ballast will be High Power Factor (HPF), core and coil type, pre-wired and tested. The ballast can be removed by loosening two set screws and releasing the quick disconnect wiring harness. The glazed white porcelain socket will be medium or mogul base, 4KV pulse rated with a copper alloy nickel plated screw shell and center contact. All components are UL recognized and will be an integral part of the luminaire. The luminaire will carry an ETL label "Suitable for wet location".

DIFFUSER

The fixture will have a high performance refractive lens molded in (standard) Acrylic or (optional) Polycarbonate. Type III or V distribution is available in either material. Specify material and distribution type as shown below.

Standard

AC - T3 (Acrylic Type III)

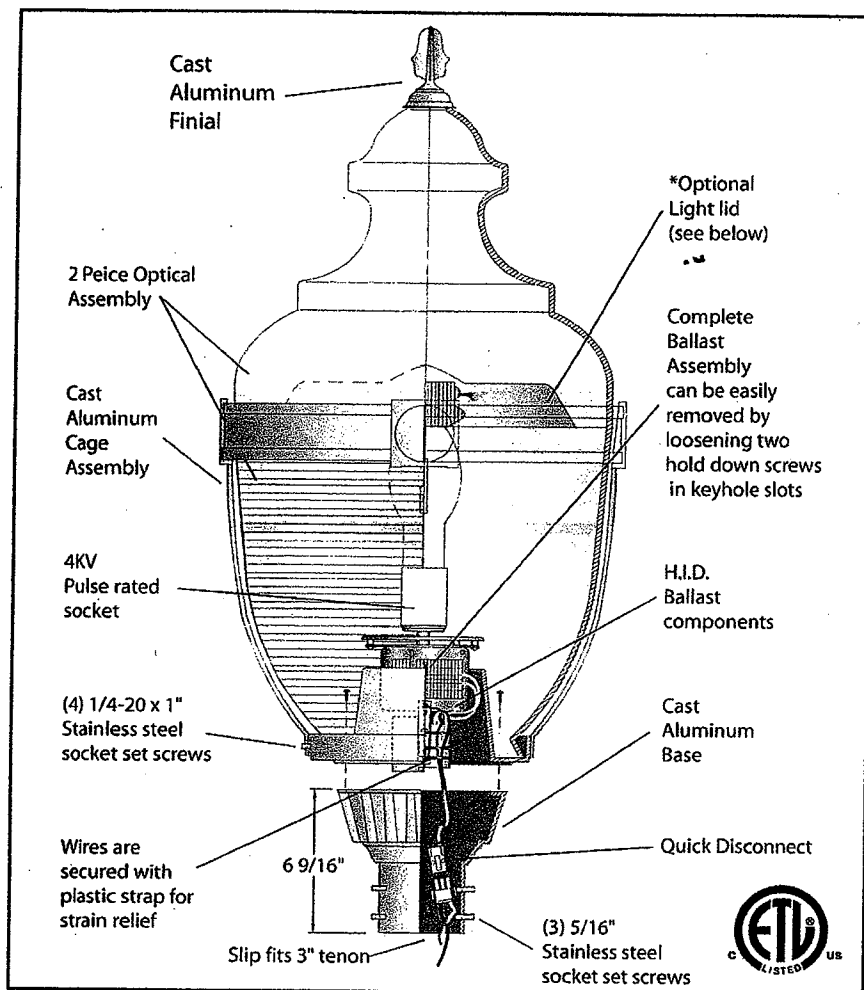
AC - T5 (Acrylic Type V)

Optional

PC - T3 (Polycarbonate Type III)

PC - T5 (Polycarbonate Type V)



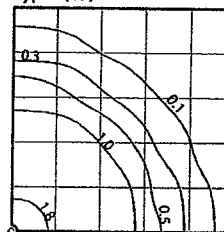
***OPTIONAL REFLECTOR** (specify part # LL or SLL after fixture)

The SLL is a solid light lid that minimizes uplight. The LL is a perforated reflector that minimizes uplight while providing an aesthetically pleasing glow to the top of the diffuser.

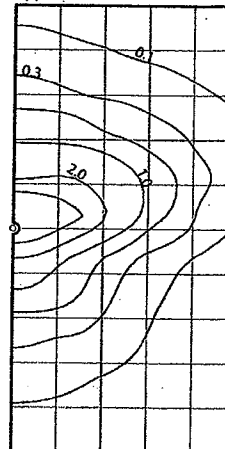
Standard Photometrics**D735AO**

with 175MH lamp
14,000 Lumen
12' Mounting Height
Grid Spacing is 12'

Type V(T5)



Type III(T3)

**Ordering Guide** (see "Accessories" for option details)

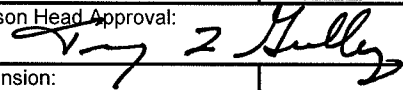
Diffuser Material	Light Source	Finish	Options
D735AO / AC-T3 / 100HPS - 120v / BLK / TR			LL SLL PCL HSS
Luminaire	Distribution T5	Voltage	

LIGHT SOURCES

Order Code	Description	Voltage	Ballast Circuit Type	Min. Starting Temperature	Standard Socket
50MH	50 watt Metal Halide	120, 277	R / HX*	-20°F	Medium
70MH	70 watt Metal Halide	120, 208, 240, 277	HX	-20°F	Medium
100MH	100 watt Metal Halide	120, 208, 240, 277	HX	-20°F	Medium
150MH	150 watt Metal Halide	120, 208, 240, 277	HX	-20°F	Medium
175MH	175 watt Metal Halide	120, 208, 240, 277	CWA	-20°F	Mogul
250MH *	250 watt Metal Halide	120, 208, 240, 277	CWA	-20°F	Mogul
50HPS	50 watt High Pressure Sodium	120, 277	R	-40°F	Medium
70HPS	70 watt High Pressure Sodium	120, 208, 240, 277	R	-40°F	Medium
100HPS	100 watt High Pressure Sodium	120, 208, 240, 277	R / HX*	-40°F	Medium
150HPS	150 watt High Pressure Sodium	120, 208, 240, 277	R / HX*	-40°F	Mogul
250HPS *	250 watt High Pressure Sodium	120, 208, 240, 277	CWA	-40°F	Mogul
PL-13 or (2) PL-13	13 watt Compact Fluorescent	120, 277	MAGNETIC	20°F	2 - pin
Q28	28 watt Compact Fluorescent	120, 277	MAGNETIC	-20°F	2 - pin
CFL 26, 32, or 42	Compact Fluorescent	120, 208, 240, 277	ELECTRONIC	0°F	4 - pin

Ballast Circuit Type Codes: R - Reactor HX - High Reactance Autotransformer CWA - Constant Wattage Autotransformer (R / HX* depends on voltage selected)
480v is available on some light sources. Contact factory for details.

* Not Available In D735AO

City Of Fayetteville - Purchase Order (PO) Request (Not a Purchase Order) <i>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)</i> <i>All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us</i>							Requisition No.:	Date: C. 1	
							P.O Number:	8/21/2012 Amerlux Exterior, LLC	
								Expected Delivery Date: Page 8 of 12	
Vendor #: 20058		Vendor Name: Amerlux Exterior LLC					Mail Yes:___ No:___ x___		
Address: 5220 Shank Rd.					Fob Point:		Taxable Yes:___ x___ No:___ Quotes Attached Yes:___ No:___ x___		
City: Pearland		State: Texas		Zip Code: 77581	Ship to code: 104	Divison Head Approval: 			
Requester: Carolyn Smith					Requester's Employee #: 2644		Extension: 348		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Poles & Fixtures for Downtown Improvements	6	Ea	1,530.00	\$9,180.00	4470.9470.5418.00	02053 / 1		
2	Poles & Fixtures for Downtown Improvements	11	Ea	1,530.00	\$16,830.00	4470.9470.5814.00	02053 / 1		
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: Sole Source Justification Attached Mountain St. (Alley to College Ave.) (3) College Ave. (Center St. to Mountain St.) (3) Center St. (Alley to College Ave.) (7) East Ave. (Meadow St. to Center St.) (2) Meadow St. (East Ave. to College Ave.) (2)							Subtotal: \$26,010.00 Tax: \$2,405.93 Total: \$28,415.93		
Approvals: Mayor: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____ Department Director: _____ Budget Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____ Other: _____									

Date: Jul 18, 2012

Quote: PLGSPR12-5286-1

Quote
Page 1/1



Premier Lighting Group
8040 B Counts Massie RD
North Little Rock AR 72113
Phone: (501) 753-6599
Fax: (501) 753-6567
From: Justin Long
Quoter Ph: [(501) 753-6599x201]
email: justinlong@premier-ltg.com

Project CITY OF FAYETTEVILLE / DOWNTOWN
IMPROVEMENTS
Location
Quote PLGSPR12-5286-1

To: Carolyn Smith
CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE AR 72701

For
Bid Date Jul 18, 2012
Expires Aug 17, 2012

Remarks:

NOTE: NO CUSTOM COLOR FEE IF ORDERED AT THE SAME TIME AS
QUOTE#PLGSPR12-5272 AS DISCUSSED

QTY	Type	MFG	Part	Price	UQ	ExtPrice
17		AMERLUX EXT	D1305-12/CST/D733AO/AC-T3/175MH-MT-240/ SLLFDR/CST CUSTOM COLOR - OFG BROWN GRAY-IFS PRSS 71503	\$1,530.00		\$26,010.00
Total:						\$26,010.00

Terms and conditions of sale:

PLEASE INCLUDE QUOTE # WITH ALL REMITTANCE.

SOLE SOURCE JUSTIFICATION

PURPOSE:

This form, with one or more categories completed, must accompany purchase requisitions for the sole source procurement of equipment, services or supplies exceeding \$1000 (purchased from State Contract vendors excepted). The purpose of sole source justification is to show that competitive bidding is impractical because only one product or service provider can meet a specific need. Therefore, an equitable evaluation of comparable products or services must be made and documented by the requester who shows that rejection of other products or services is based solely on their failure to meet that need. In cases where no other comparable source can be identified, a technical description of the product requested and a listing of those companies which were considered as alternative sources must be provided. Quality can be a subjective evaluation based upon opinion. Municipal (public) procurement law requires price considerations be evaluated via competitive quoting or bidding.

While all sole source justifications are subject to review, sole source justified purchases of \$20,000.00 or more must be publicly bid or a bid waiver approved by Council. Justifications must contain clear, in-depth, and accurate information in order to avoid protests and the possibility of delaying the procurement.

INSTRUCTIONS:

1. Please type or print legible in ink.
2. Complete all categories and sections that apply.
3. Provide full explanation, complete descriptions, and/or list all relevant reasons where space has been provided. Sole Source Justification forms lacking sufficient detail cannot be approved.
4. Sign and date the form in the space provided for "signature".
5. Improperly completed, and/or unsigned forms will be returned to the sender.

TO: Purchasing Division Date: 8-8-11
FROM: Brad Anderson Dept: Transportation
Names of Requisitioner and Dept. Head
SUBJECT: Sole Source Justification
Purchase Requisition (attached)
Proposed Vendor Premier Lighting Group Distributor for Amerlux
Product Description D737A0/AC-TS/DMH-240V/CC/FDR Exterior
fixture with D1305-14-5"OD Fluted "J" tenon custom
color pole. (College Ave Decorative lighting)
(Square District Decorative lighting)

STATEMENT

I am aware that Fayetteville Code of Ordinances, Title III Administration, Chapter 34, Article II mandates that the procurement of services, materials, equipment and supplies be via competitive quotes whenever the amount is over \$1,000.00. However, I am requesting sole source procurement based on the following criteria. (Attach additional sheets as necessary):

1. The requested product is an integral repair part or accessory compatible with existing equipment. (please state the manufacturer and model number of existing equipment):

Dynamic Lighting parts - D733A0/AC-TJ/175MH-240V/CC/FDR
" " " - D1205-14-5"OD Fluted-3" tenon-CC

To match existing poles & fixtures

2. The requested product has special design/performance features which are essential to my needs.

Both A and B portions of this category must be completed.

A. These features are:

- B. In addition to the product requested, I have contacted other suppliers and considered their product of similar capabilities. I find their product unacceptable for the following reasons (identify companies contacted, individuals contacted, model number and specific technical deficiency).

3. I have standardized the requested product/service; the use of another would require considerable time and money to evaluate.

Explain: Manufacturer specific design.

4. The requested product is one which I (or my staff) have specialized training and/or extensive experience. Retraining would incur substantial cost in money and/or time.

Explain: NA

5. Please consider sole source approval for this reason(s) (e.g. trade-in allowance; availability of services, parts and maintenance; product is a prototype; inventory of parts are maintained, etc.):

NA

Authorization:

Full Name and Title of Requisitioner Brad Anderson Traffic Control Sup.
(typed or printed in ink)

Signature [Signature] Date 8-8-11

Full Name of Division Head Terry L. Gully
(typed or printed in ink)

Signature [Signature] Date 8-8-11

City Council Agenda Items
and
Contracts, Leases or Agreements~~7/27/2012~~ 8/21/12
City Council Meeting Date
Agenda Items Only

Shannon Jones

Submitted By

Utility Division

Division

Utility Division

Department

Action Required:

Approval of a construction contract with Seven Valleys Construction co. for \$1,368,379.00 with a \$75,000.00 contingency to construct Hwy. 265 Water & Sewer replacements - Joyce to Albright and a budget adjustment for same. **B. 12-56.**

(\$978,775) Federal Grants-Capital

Waterline Imprvs. \$398,022.00

Sewer Imprvs. \$41,983.00

Waterline Imprvs. \$1,003,374.00

Cost of this request

\$ 1,443,379.00

Category / Project Budget

Hwy. 265 North W/S relocations

Program Category / Project Name

5400.5640.5815.00

5400.5740.5808.00

5400.5600.5808.00

Account Number

Funds Used to Date

Hwy. 265 North W/S relocations

Program / Project Category Name

08072.1102

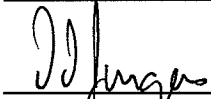
Project Number

\$ 1,443,379.00

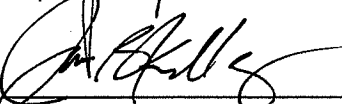
Remaining Balance

W/S Improvements

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

 Department Director
2 Aug 12
Date

Previous Ordinance or Resolution # _____

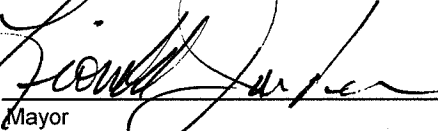
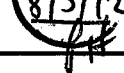

 City Attorney
8-3-12
Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director
8-3-2012
Date
 08-02-12 P03:33 RCVD
 Received in City
 Clerk's Office


 Chief of Staff
8-3-12
Date
 Received in
 Mayor's Office


 Mayor
8/5/12
Date
 ENTERED
 8/3/12


Comments:

To: Fayetteville City Council

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

From: Shannon Jones, Utilities Engineer
Fayetteville Water and Sewer Committee

Date: July 27, 2012

Subject: Construction contract with Seven Valleys Construction Co., Inc. for \$1,368,379.00 with a \$75,000 contingency to construct Highway 265 Water & Sewer Replacement - Joyce to Albright, and a budget adjustment

RECOMMENDATION

Staff recommends approval of a construction contract with Seven Valleys Construction Co., Inc. for \$1,368,379.00 with a \$75,000 contingency to construct Highway 265 Water & Sewer Replacement - Joyce to Albright, and a budget adjustment.

BACKGROUND

This project consists of relocating water and sewer lines as a result of the combined Arkansas Highway Department (AHTD) and City widening of Phase II of Crossover Road (Hwy 265) between Joyce and Albright. Work includes relocating existing 6-inch to 12-inch diameter water and sewer lines to a location outside of the new highway right-of-way. Additionally, this work will complete a water line grid from Joyce Street to the Botanical Garden.

DISCUSSION

The City opened three bids on July 20, 2012. The bid submitted by Dean Crowder Construction, Inc. did not contain fully completed documents and must be deemed non-responsive. A summary of the responsive bids are listed below.

Seven Valleys (low bid)	\$1,368,379.00
Goodwin & Goodwin	\$1,437,489.00
Engineer's Estimate	\$1,427,385.00

The bids were reviewed by McClelland Engineers; their letter recommending award is attached. Seven Valleys Construction Co., Inc. has completed projects to the satisfaction of the City of Fayetteville. Construction will begin this fall and will be completed by spring 2013.

BUDGET IMPACT

Based on the bids and AHTD agreement, the City is responsible for 28.47% (\$389,604.00) of the cost of this construction contract, and the AHTD is responsible for 71.53% (\$978,775.00). The City's portion will be funded proceeds of from Water and Sewer revenue bonds and Water and Sewer capital funds. The attached budget adjustment moves funds from the revenue bond fund to the construction fund, and reflects the revenue from the AHTD.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-58 AND AUTHORIZING A CONTRACT WITH SEVEN VALLEYS CONSTRUCTION CO., INC. IN THE AMOUNT OF \$1,368,379.00 FOR CONSTRUCTION OF WATER AND SEWER IMPROVEMENTS ALONG STATE HIGHWAY 265 BETWEEN JOYCE BOULEVARD AND ALBRIGHT ROAD, APPROVING A PROJECT CONTINGENCY OF \$75,000.00, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-58 and authorizes a contract with Seven Valleys Construction Co., Inc. in the amount of \$1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, and further approves a project contingency of \$75,000.00.

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 21st day of August, 2012.

APPROVED:

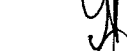
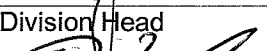
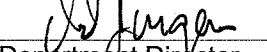
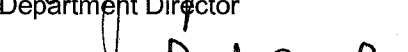
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

C. 2
V11.0426 Son Valley's
Construction Co.
Page 4 of 34

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

 Division Head	<u>2 Aug 12</u> Date	Prepared By: <u>Peggy Bell</u>	
 Budget Director	<u>8-2-22</u> Date	Reference: _____	bfe
 Department Director	<u>2 Aug 12</u> Date	Budget & Research Use Only	
 Finance Director	<u>8-3-2012</u> Date	Type: A B C <u>D</u> E P	
 Chief of Staff	<u>8-3-12</u> Date	General Ledger Date _____	
 Mayor	<u>8/5/12</u> Date	Posted to General Ledger _____	Initial _____ Date _____
		Checked / Verified _____	Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT		978,775	978,775	Project.Sub
Account Name	Account Number	Increase / (Decrease)	Revenue	Number
Federal Grants-Capital	5400.0940.4309.00		978,775	08072 . 1102
Water line improvements	5400.5640.5808.00	(174,049)		09018 . 0903
Sewer improvements	5400.5740.5815.00	(41,983)		09018 . 0902
Water line improvements	5400.5600.5808.00	(248,572)		11011 . 1
Water line improvements	5400.5640.5808.00	174,049		08072 . 1102
Sewer improvements	5400.5740.5815.00	41,983		08072 . 1102
Water line improvements	5400.5600.5808.00	978,775		08072 . 1102
Water line improvements	5400.5600.5808.00	248,572		08072 . 1102
				.
				.
				.
				.
				.
				.
				.

EXHIBIT

A

A

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____, by and between Seven Valley's Construction Company, Inc., Cassville, MO, herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

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

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Crossover Road Water and Sewer Main Replacement-Phase II, dated June 2012.

Advertisement for Bids	Maintenance Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplemental Conditions
Performance Bond	Specifications
Payment Bond	Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Index, Legend & Location Maps
3-7	Highway 265 Water, Plan/Profile
8-10	Highway / Road Crossing, Cross Sections
FM1	Force Main, Plan and Prof. Sta 0+00 to Sta 14+00
FM2	Force Main, Plan and Prof. Sta 14+00 to Sta 16+62
	Fayetteville Athletic Club Sewer Service, Plan and Prof. Sta. 0+00 to Sta 1+25
	Kisor Sewer Service, Plan and Prof. Sta 0+00 to Sta 4+75
S1	Plan/Prof. Sewer Line 1 & 2
S2	Plan/Prof. Sewer Line 3 & 4
15-18	Details

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of: One Million Three Hundred Sixty-Eight Thousand, Three Hundred Seventy-Nine Dollars & 00/100 (\$1,368,379.00).

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **180** calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. **Liquidated Damages:** The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Seven Hundred Dollars (\$700.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. § 25-19-101 et. Seq.). Only Legally authorized photocopying cost pursuant to the FOIA may be assessed for this compliance.

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

SEAL:

Seven Valley's Construction Co., Inc.
CONTRACTOR

WITNESSES:

By _____

Secretary

President
Title

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

City Clerk

By _____
Mayor

July 23, 2012

Mr. Shannon Jones, PE
Utilities Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Highway 265 Water and Sewer Replacement, Phase II
Bid Tabulation

Dear Mr. Jones:

Bids were received on July 20, 2012 at 2:00 pm on the referenced project. Three bids were submitted. One of the bidders, Dean Crowder Construction, Inc., did not execute the Contractor's Act of Assurance Form, so his bid has not been tabulated. The other two bids appear to be in order, the bidders are properly licensed, the assurance forms were executed and appropriate bid bonds were submitted. A copy of the bid tabulation is attached.

The low bidder was Seven Valley's Construction Co. Inc., of Cassville, Missouri. Their bid total was \$1,368,379.00 which compares favorably to our construction cost estimate of \$1,427,385. This contractor has completed similar projects for our firm in the last several years, and is currently working on water and sewer relocation work along Highway 265 in Springdale, immediately north of this Phase II project in Fayetteville. Consequently, we believe they are competent and recommend award of the construction contract to Seven Valley's Construction Co., Inc., in the amount of \$1,368,379.00.

Very Truly Yours,



Robert W. White, PE
Project Engineer

Encl: Bid Tabulation

cc: Ms. Allison Atha with enclosure

BID TABULATION
City of Fayetteville
Crossover Road (Arkansas Highway 265) Water & Sewer Main Replacement, Phase II
Fayetteville, AR
MCE Project #FY112118
July 20, 2012

C. 2
Seven Valley's
Construction Co.
Page 10 of 34

Item #	<u>BID SCHEDULE</u> Description	Qty.	Units	Seven Valley's		Goodwin & Goodwin	
				Unit Cost	Extended	Unit Cost	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$65,000.00	\$65,000.00	\$31,000.00	\$31,000.00
2	12-Inch PVC, C-900, DR-14 Water Main	2,989	LF	\$60.00	\$179,340.00	\$46.00	\$137,494.00
3	12-Inch Restrained Joint PVC, C-900, DR-14 Water Main Installed by Horizontal Directional Drilling	465	LF	\$80.00	\$37,200.00	\$280.00	\$130,200.00
4	8-Inch PVC, C-900, DR-14 Water Main	1,821	LF	\$45.00	\$81,945.00	\$34.00	\$61,914.00
5	6-Inch Ductile Iron, Class 350 Fire Hydrant Stubs with Double Polywrap	80	LF	\$55.00	\$4,400.00	\$15.00	\$1,200.00
6	2-Inch Polyethylene Service Tubing	50	LF	\$20.00	\$1,000.00	\$15.00	\$750.00
7	1-Inch Polyethylene Service Tubing	475	LF	\$15.00	\$7,125.00	\$8.00	\$3,800.00
8	12-Inch Class 250B Butterfly Valve with Box	13	EA	\$3,200.00	\$41,600.00	\$3,200.00	\$41,600.00
9	8-Inch Gate Valve with Box	6	EA	\$1,600.00	\$9,600.00	\$1,800.00	\$10,800.00
10	6-Inch Gate Valve with Box	13	EA	\$900.00	\$11,700.00	\$1,400.00	\$18,200.00
11	2-Inch Gate Valve with Box	2	EA	\$500.00	\$1,000.00	\$800.00	\$1,600.00
12	Three Way Fire Hydrant	13	EA	\$3,400.00	\$44,200.00	\$4,200.00	\$54,600.00
13	Remove Existing Fire Hydrant	8	EA	\$600.00	\$4,800.00	\$700.00	\$5,600.00
14	12-Inch x 12-Inch Tapping Sleeve, 12-Inch Tapping Valve with Box	2	EA	\$7,000.00	\$14,000.00	\$6,000.00	\$12,000.00
15	12-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve with Box	1	EA	\$2,600.00	\$2,600.00	\$3,000.00	\$3,000.00
16	8-Inch x 8-Inch Tapping Sleeve, 8-Inch Tapping Valve with Box	8	EA	\$2,800.00	\$22,400.00	\$3,400.00	\$27,200.00
17	6-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve with Box	1	EA	\$2,200.00	\$2,200.00	\$2,800.00	\$2,800.00
18	12-Inch x 12-Inch Connection	1	EA	\$800.00	\$800.00	\$1,500.00	\$1,500.00
19	8-Inch x 8-Inch Connection	1	EA	\$400.00	\$400.00	\$1,250.00	\$1,250.00
20	Abandon Existing Valve	20	EA	\$100.00	\$2,000.00	\$125.00	\$2,500.00
21	Epoxy Lined Ductile Iron Water Main Fittings	5,700	LB	\$7.00	\$39,900.00	\$6.00	\$34,200.00
22	Single Meter Setting, Complete, Including Plumber Connection to Existing Building Service	4	EA	\$600.00	\$2,400.00	\$800.00	\$3,200.00
23	Dual Meter Setting, Complete, Including Plumber Connection to Existing Building Services	1	EA	\$750.00	\$750.00	\$1,200.00	\$1,200.00
24	Dual Meter Setting in Pavement Area, Complete, Including Plumber Connection to Existing Building Services	5	EA	\$1,000.00	\$5,000.00	\$1,800.00	\$9,000.00
25	1-Inch Meter Setting, Complete, Including Plumber Connection to Existing Building Service	5	EA	\$750.00	\$3,750.00	\$1,000.00	\$5,000.00
26	1-Inch High Pressure Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service	1	EA	\$1,100.00	\$1,100.00	\$1,400.00	\$1,400.00
27	Relocate Existing Backflow Preventer	1	EA	\$400.00	\$400.00	\$800.00	\$800.00
28	Service Line Connection to Existing Meter Setting	4	EA	\$200.00	\$800.00	\$300.00	\$1,200.00
29	1" Valve in Meter Box at Water Meter Setting Outlet	1	EA	\$300.00	\$300.00	\$400.00	\$400.00
30	Remove Existing Meter Setting	16	EA	\$200.00	\$3,200.00	\$200.00	\$3,200.00
31	12-Inch Saddle, 1-Inch Corporation Stop & Tap	12	EA	\$200.00	\$2,400.00	\$250.00	\$3,000.00
32	12-Inch Saddle, 2-Inch Corporation Stop & Tap	1	EA	\$500.00	\$500.00	\$500.00	\$500.00
33	8-Inch Saddle, 1-Inch Corporation Stop & Tap	4	EA	\$175.00	\$700.00	\$225.00	\$900.00
34	8-Inch Saddle, 2-Inch Corporation Stop & Tap	1	EA	\$350.00	\$350.00	\$500.00	\$500.00
35	24-Inch Bored Steel Casing	363	LF	\$300.00	\$108,900.00	\$375.00	\$136,125.00
36	24-Inch Direct Bury Steel Casing	138	LF	\$190.00	\$26,220.00	\$125.00	\$17,250.00

BID TABULATION (Page 2)
City of Fayetteville
Crossover Road (Arkansas Highway 265) Water & Sewer Main Replacement, Phase II
Fayetteville, AR
MCE Project #FY112118
July 20, 2012

Item #	Description	Qty.	Units	Seven Valley's		Goodwin & Goodwin	
				Unit Cost	Extended	Unit Cost	Extended
37	16-Inch Bored Steel Casing	455	LF	\$200.00	\$91,000.00	\$215.00	\$97,825.00
38	16-Inch Direct Bury Steel Casing	115	LF	\$150.00	\$17,250.00	\$100.00	\$11,500.00
39	8-Inch Direct Bury Steel Casing	66	LF	\$140.00	\$9,240.00	\$80.00	\$5,280.00
40	Short Bore Under Trees, for 8-Inch and 12-Inch Main, No Casing	80	LF	\$120.00	\$9,600.00	\$200.00	\$16,000.00
41	Short Bore or Punch Under Trees, for 2-Inch to 1-Inch Pipe, No Casing	80	LF	\$50.00	\$4,000.00	\$40.00	\$3,200.00
42	Protective Fencing for Trees	6	EA	\$500.00	\$3,000.00	\$400.00	\$2,400.00
43	Cut & Cap Existing 12-Inch Main	4	EA	\$1,200.00	\$4,800.00	\$1,200.00	\$4,800.00
44	Cut & Cap Existing 8-Inch Main	6	EA	\$1,100.00	\$6,600.00	\$1,000.00	\$6,000.00
45	Cut & Cap Existing 6-Inch Main	2	EA	\$1,100.00	\$2,200.00	\$750.00	\$1,500.00
46	10-Inch Epoxy Lined Ductile Iron Sewer Main, Class 350 with Double Polywrap	460	LF	\$84.00	\$38,640.00	\$80.00	\$36,800.00
47	8-Inch PVC Sewer Main, SDR-26	1,084	LF	\$30.00	\$32,520.00	\$28.00	\$30,352.00
48	4-Inch PVC Sewer Service, SCH 40, Including Trenching & Backfilling	265	LF	\$25.00	\$6,625.00	\$20.00	\$5,300.00
49	Sewer Main Trenching & Backfilling, 0-6 Feet Deep	707	LF	\$4.00	\$2,828.00	\$10.00	\$7,070.00
50	Sewer Main Trenching & Backfilling, 6-10 Feet Deep	717	LF	\$20.00	\$14,340.00	\$15.00	\$10,755.00
51	Sewer Main Trenching & Backfilling, 10-14 Feet Deep	40	LF	\$100.00	\$4,000.00	\$30.00	\$1,200.00
52	4 Foot Diameter Standard Manhole, 0 Feet to 6 Feet Deep	10	EA	\$2,400.00	\$24,000.00	\$2,300.00	\$23,000.00
53	Extra Manhole Depth, Over 6 Feet Deep	13	VF	\$150.00	\$1,950.00	\$200.00	\$2,600.00
54	Remove Existing Manhole	3	EA	\$1,000.00	\$3,000.00	\$1,000.00	\$3,000.00
55	Abandon Existing Manhole	3	EA	\$800.00	\$2,400.00	\$800.00	\$2,400.00
56	Watertight Hinged Cover on Manhole	2	EA	\$400.00	\$800.00	\$600.00	\$1,200.00
57	Sewer Service Wye on 8-Inch PVC, 8" SDR-26 x 4" SCH 40	4	EA	\$300.00	\$1,200.00	\$250.00	\$1,000.00
58	10" x 4" Sewer Service Tap on Existing 10" VCP Sewer	1	EA	\$500.00	\$500.00	\$800.00	\$800.00
59	Cut & Cap Existing 10" x 4" Sewer Service Tap	1	EA	\$500.00	\$500.00	\$600.00	\$600.00
60	4-Inch Manhole Tap for Sewer Service	1	EA	\$600.00	\$600.00	\$400.00	\$400.00
61	TV Inspection of Existing Sewer to be Abandoned and/or Replaced	1,560	LF	\$8.30	\$12,948.00	\$4.00	\$6,240.00
62	Sewer Service Cleanout	6	EA	\$250.00	\$1,500.00	\$150.00	\$900.00
63	Plug Existing Sewer at Manhole Wall	3	EA	\$200.00	\$600.00	\$800.00	\$2,400.00
64	Connect 10" or 8" Sewer to Existing Manhole, Core Drill Manhole Wall	3	EA	\$1,000.00	\$3,000.00	\$1,300.00	\$3,900.00
65	Clay or Concrete Dam on Gravity Sewer	9	EA	\$500.00	\$4,500.00	\$800.00	\$7,200.00
66	6-Inch PVC, C-900, DR-14 Sewage Force Main	1,174	LF	\$32.00	\$37,568.00	\$26.00	\$30,524.00
67	Connect 6-Inch Force Main to Existing Force Main	3	EA	\$400.00	\$1,200.00	\$1,000.00	\$3,000.00
68	Connect 6-Inch Force Main to 8-Inch Sewer Stubout at Existing Manhole	1	EA	\$400.00	\$400.00	\$1,300.00	\$1,300.00
69	6-Inch Epoxy Lined Ductile Iron Force Main Fittings	600	LB	\$10.00	\$6,000.00	\$8.00	\$4,800.00
70	Force Main Trace Wire Access Ports	13	EA	\$80.00	\$1,040.00	\$100.00	\$1,300.00
71	Abandon Existing Force Main Trace Wire Access Ports	4	EA	\$25.00	\$100.00	\$50.00	\$200.00
72	Two-Inch Combination Air/Vacuum Valve and Vault on Force Main	1	EA	\$8,000.00	\$8,000.00	\$7,500.00	\$7,500.00
73	Remove Existing Force Main Air Valve Vault	1	EA	\$500.00	\$500.00	\$1,500.00	\$1,500.00
74	Asphalt Surface Restoration	1,040	SY	\$100.00	\$104,000.00	\$95.00	\$98,800.00

BID TABULATION (Page 3)
City of Fayetteville
Crossover Road (Arkansas Highway 265) Water & Sewer Main Replacement, Phase II
Fayetteville, AR
MCE Project #FY112118
July 20, 2012

Item #	BID SCHEDULE Description	Qty.	Units	Seven Valley's		Goodwin & Goodwin	
				Unit Cost	Extended	Unit Cost	Extended
75	Asphalt Highway Restoration	20	SY	\$110.00	\$2,200.00	\$115.00	\$2,300.00
76	Concrete Surface Restoration	1,000	SY	\$51.00	\$51,000.00	\$80.00	\$80,000.00
77	Concrete Sidewalk Restoration	330	SY	\$45.00	\$14,850.00	\$60.00	\$19,800.00
78	Curb and Gutter Restoration	360	LF	\$20.00	\$7,200.00	\$20.00	\$7,200.00
79	Granular Fill	1,800	TON	\$16.00	\$28,800.00	\$22.00	\$39,600.00
80	Trench Stabilization Material	120	TON	\$20.00	\$2,400.00	\$18.00	\$2,160.00
81	Erosion Control	1	LS	\$15,000.00	\$15,000.00	\$22,000.00	\$22,000.00
82	Sod Restoration on Lawns	7,500	SY	\$6.00	\$45,000.00	\$6.00	\$45,000.00
83	Audio / Video Tape Recordings	1	LS	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00
84	Site Photographs	1	LS	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00
Total Bid Price					\$1,368,379.00		\$1,437,489.00

Signature: Robert W White
Robert White, PE #4695

Date: 7/23/2012

DOCUMENT 00300

BID FORM
UNIT PRICE

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

To: The City of Fayetteville, Arkansas

Address: 113 West Mountain
Fayetteville, AR 72701

Project Title: Fayetteville Crossover Road Water and Sewer Main Replacement – Phase II

Engineer's
Project No.: FY112118

Date: 7-20-12

Arkansas Contractor's
License No.: 0047820413

Bidder: SEVEN VALLEY'S CONSTR. CO. INC.

Address: P.O. Box 88
CASSVILLE, MO. 65625

Contact Person for additional information on this Bid:

Name: BOBBY ENNES

Telephone: 417-847-2355

Fax: 417-847-5811

ADDENDA

The Bidder hereby acknowledges that he has received Addenda Numbers:

NO 1 to these Specifications.
(Bidder insert No. of each Addendum received.)

BIDDER'S DECLARATION AND UNDERSTANDING

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Bid is made without any connection or collusion with any person submitting another Bid on this Contract.

The Bidder further declares that he has carefully examined the Contract Documents for the construction of the project, that he has personally inspected the site, that he has satisfied himself as to the quantities involved, including materials and equipment, and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that this Bid is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Bid.

The Bidder further agrees that he has exercised his own judgement and has utilized all data which he believes pertinent from the Engineer, Owner, and other sources in arriving at his own conclusions.

The Bidder states that he has experience in and is qualified to perform the work herein specified and, if he does not have craftsmen experienced and qualified in any phase of the work for which this Bid is offered, that he will subcontract the work under said phase to a contractor who does have the necessary experience and qualifications.

CONTRACT EXECUTION AND BONDS

The Bidder agrees that if this Bid is accepted, he will, within 15 days after notice of award, sign the Contract in the form annexed hereto, and will at that time, deliver to the Owner the Performance Bond and Payment Bond required herein, and will, to the extent of his Bid, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete all work as specified or indicated in the Contract Documents.

CERTIFICATES OF INSURANCE, PAYMENT BOND, AND PERFORMANCE BOND

The Bidder further agrees to furnish the Owner, before executing the Contract, the certificates of insurance, Payment Bond, and Performance Bond as specified in these Documents.

START OF CONSTRUCTION, CONTRACT COMPLETION TIME, AND LIQUIDATED DAMAGES

Start of Construction, Contract Completion Time, and Liquidated Damages are stated in Document 00500 - Contract.

SALES AND USE TAXES

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

UNIT PRICE BASE BID

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

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
1.	1	LS	Act 291, 1993 Trench and Excavation Safety System <u>SIXTY FIVE THOUSAND</u> Dollars/LS Words	(\$ <u>65,000.00</u>)	(\$ <u>65,000.00</u>)
2.	2,989	LF	12-Inch PVC, C-900, DR-14 Water Main <u>SIXTY</u> Dollars/LF Words	(\$ <u>60.00</u>)	(\$ <u>179,340.00</u>)
3.	465	LF	12-Inch Restrained Joint PVC, C-900, DR-14 Water Main Installed by Horizontal Directional Drilling <u>EIGHTY</u> Dollars/LF Words	(\$ <u>80.00</u>)	(\$ <u>37,200.00</u>)
4.	1,821	LF	8-Inch PVC, C-900, DR-14 Water Main <u>FORTY FIVE</u> Dollars/LF Words	(\$ <u>45.00</u>)	(\$ <u>81,945.00</u>)
5.	80	LF	6-Inch Ductile Iron, Class 350 Fire Hydrant Stubs with Double Polywrap <u>FIFTY FIVE</u> Dollars/LF Words	(\$ <u>55.00</u>)	(\$ <u>4,400.00</u>)

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
6.	50	LF	2-Inch Polyethylene Service Tubing <u>TWENTY</u> Dollars/LF Words	(\$ <u>20.00</u>)	(\$ <u>1,000.00</u>)
7.	475	LF	1-Inch Polyethylene Service Tubing <u>FIFTEEN</u> Dollars/LF Words	(\$ <u>15.00</u>)	(\$ <u>7,125.00</u>)
8.	13	EA	12-Inch Class 250B Butterfly Valve w/ Box <u>THIRTY TWO</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>3,200.00</u>)	(\$ <u>41,600.00</u>)
9.	6	EA	8-Inch Gate Valve w/Box <u>SIXTEEN HUNDRED</u> Dollars/EA Words	(\$ <u>1,600.00</u>)	(\$ <u>9,600.00</u>)
10.	13	EA	6-Inch Gate Valve w/Box <u>NINE HUNDRED</u> Dollars/EA Words	(\$ <u>900.00</u>)	(\$ <u>11,700.00</u>)
11.	2	EA	2-Inch Gate Valve w/Box <u>FIVE HUNDRED</u> Dollars/EA Words	(\$ <u>500.00</u>)	(\$ <u>1,000.00</u>)
12.	13	EA	Three Way Fire Hydrant <u>THIRTY FOUR</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>3,400.00</u>)	(\$ <u>44,200.00</u>)
13.	8	EA	Remove Existing Fire Hydrant <u>SIX HUNDRED</u> Dollars/EA Words	(\$ <u>600.00</u>)	(\$ <u>4,800.00</u>)
14.	2	EA	12-Inch x 12-Inch Tapping Sleeve, 12- Inch Tapping Valve w/Box <u>SEVEN THOUSAND</u> Dollars/EA Words	(\$ <u>7,000.00</u>)	(\$ <u>14,000.00</u>)

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
15.	1	EA	12-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve w/Box <u>TWENTY SIX</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>2,600.⁰⁰</u>)	(\$ <u>2,600.⁰⁰</u>)
16.	8	EA	8-Inch x 8-Inch Tapping Sleeve, 8-Inch Tapping Valve w/Box <u>TWENTY EIGHT</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>2,800.⁰⁰</u>)	(\$ <u>22,400.⁰⁰</u>)
17.	1	EA	6-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve w/Box <u>TWENTY TWO</u> <u>HUNDRED</u> Dollars/EA Words	(\$ <u>2,200.⁰⁰</u>)	(\$ <u>2,200.⁰⁰</u>)
18.	1	EA	12-Inch x 12-Inch Connection <u>EIGHT HUNDRED</u> Dollars/EA Words	(\$ <u>800.⁰⁰</u>)	(\$ <u>800.⁰⁰</u>)
19.	1	EA	8-Inch x 8-Inch Connection <u>FOUR HUNDRED</u> Dollars/EA Words	(\$ <u>400.⁰⁰</u>)	(\$ <u>400.⁰⁰</u>)
20.	20	EA	Abandon Existing Valve <u>ONE HUNDRED</u> Dollars/EA Words	(\$ <u>100.⁰⁰</u>)	(\$ <u>2,000.⁰⁰</u>)
21.	5,700	LB	Epoxy Lined Ductile Iron Water Main Fittings <u>SEVEN</u> Dollars/LB Words	(\$ <u>7.⁰⁰</u>)	(\$ <u>39,900.⁰⁰</u>)
22.	4	EA	Single Meter Setting, Complete, Including Plumber Connection to Existing Building Service <u>SIX HUNDRED</u> Dollars/EA Words	(\$ <u>600.⁰⁰</u>)	(\$ <u>2,400.⁰⁰</u>)

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
23.	1	EA	Dual Meter Setting, Complete, Including Plumber Connection to Existing Building Services <u>SEVEN HUNDRED</u> <u>FIFTY</u> Dollars/EA Words	(\$ <u>750.00</u>)	(\$ <u>750.00</u>)
24.	5	EA	Dual Meter Setting in Pavement Area, Complete, Including Plumber Connection to Existing Building Services <u>ONE THOUSAND</u> Dollars/EA Words	(\$ <u>1,000.00</u>)	(\$ <u>5,000.00</u>)
25.	5	EA	1-Inch Meter Setting, Complete, Including Plumber Connection to Existing Building Service <u>SEVEN HUNDRED</u> <u>FIFTY</u> Dollars/EA Words	BE 750.00 (\$ <u>1,100.00</u>)	(\$ <u>3,750.00</u>)
26.	1	EA	1-Inch High Pressure Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service <u>ELEVEN HUNDRED</u> Dollars/EA Words	(\$ <u>1,100.00</u>)	(\$ <u>1,100.00</u>)
27.	1	EA	Relocate Existing Backflow Preventer <u>FOUR HUNDRED</u> Dollars/EA Words	(\$ <u>400.00</u>)	(\$ <u>400.00</u>)
28.	4	EA	Service Line Connection to Existing Meter Setting <u>TWO HUNDRED</u> Dollars/EA Words	(\$ <u>200.00</u>)	(\$ <u>800.00</u>)
29.	1	EA	1" Valve in Meter Box at Water Meter Setting Outlet <u>THREE HUNDRED</u> Dollars/EA Words	(\$ <u>300.00</u>)	(\$ <u>300.00</u>)

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
30.	16	EA	Remove Existing Meter Setting	(\$ <u>200.⁰⁰</u>)	(\$ <u>3,200.⁰⁰</u>)
			<u>TWO HUNDRED</u> Dollars/EA Words		
31.	12	EA	12-Inch Saddle, 1-Inch Corporation Stop and Tap	(\$ <u>200.⁰⁰</u>)	(\$ <u>2,400.⁰⁰</u>)
			<u>TWO HUNDRED</u> Dollars/EA Words		
32.	1	EA	12-Inch Saddle, 2-Inch Corporation Stop and Tap	(\$ <u>500.⁰⁰</u>)	(\$ <u>500.⁰⁰</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
33.	4	EA	8-Inch Saddle, 1-Inch Corporation Stop and Tap	(\$ <u>175.⁰⁰</u>)	(\$ <u>700.⁰⁰</u>)
			<u>ONE HUNDRED</u> <u>SEVENTY FIVE</u> Dollars/EA Words		
34.	1	EA	8-Inch Saddle, 2-Inch Corporation Stop and Tap	(\$ <u>350.⁰⁰</u>)	(\$ <u>350.⁰⁰</u>)
			<u>THREE HUNDRED</u> <u>FIFTY</u> Dollars/EA Words		
35.	363	LF	24-Inch Bored Steel Casing	(\$ <u>300.⁰⁰</u>)	(\$ <u>108,900.⁰⁰</u>)
			<u>THREE HUNDRED</u> Dollars/LF Words		
36.	138	LF	24-Inch Direct Bury Steel Casing	(\$ <u>190.⁰⁰</u>)	(\$ <u>26,220.⁰⁰</u>)
			<u>ONE HUNDRED</u> <u>NINETY</u> Dollars/LF Words		
37.	455	LF	16-Inch Bored Steel Casing	(\$ <u>200.⁰⁰</u>)	(\$ <u>91,000.⁰⁰</u>)
			<u>TWO HUNDRED</u> Dollars/LF Words		
38.	115	LF	16-Inch Direct Bury Steel Casing	(\$ <u>150.⁰⁰</u>)	(\$ <u>17,250.⁰⁰</u>)
			<u>ONE HUNDRED</u> <u>FIFTY</u> Dollars/LF Words		

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
39.	66	LF	8-Inch Direct Bury Steel Casing <u>ONE HUNDRED FORTY</u> Dollars/LF Words	(\$ <u>140.00</u>)	(\$ <u>9,240.00</u>)
40.	80	LF	Short Bore Under Trees, for 8-Inch and 12-Inch Main, No Casing <u>ONE HUNDRED TWENTY</u> Dollars/LF Words	(\$ <u>120.00</u>)	(\$ <u>9,600.00</u>)
41.	80	LF	Short Bore or Punch Under Trees, for 2-Inch to 1-Inch Pipe, No Casing <u>FIFTY</u> Dollars/LF Words	(\$ <u>50.00</u>)	(\$ <u>4,000.00</u>)
42.	6	EA	Protective Fencing For Trees <u>FIVE HUNDRED</u> Dollars/EA Words	(\$ <u>500.00</u>)	(\$ <u>3,000.00</u>)
43.	4	EA	Cut and Cap Existing 12-inch Main <u>TWELVE HUNDRED</u> Dollars/EA Words	(\$ <u>1,200.00</u>)	(\$ <u>4,800.00</u>)
44.	6	EA	Cut and Cap Existing 8-Inch Main <u>ELEVEN HUNDRED</u> Dollars/EA Words	(\$ <u>1,100.00</u>)	(\$ <u>6,600.00</u>)
45.	2	EA	Cut and Cap Existing 6-Inch Main <u>ELEVEN HUNDRED</u> Dollars/EA Words	(\$ <u>1,100.00</u>)	(\$ <u>2,200.00</u>)
46.	460	LF	10-Inch Epoxy Lined Ductile Iron Sewer Main, Class 350 with Double Polywrap <u>EGHTY FOUR</u> Dollars/LF Words	(\$ <u>84.00</u>)	(\$ <u>38,640.00</u>)
47.	1,084	LF	8-Inch PVC Sewer Main, SDR-26 <u>THIRTY</u> Dollars/LF Words	(\$ <u>30.00</u>)	(\$ <u>32,520.00</u>)

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
48.	265	LF	4-Inch PVC Sewer Service, SCH 40, Including Trenching and Backfilling	(\$ <u>25.00</u>)	(\$ <u>6,625.00</u>)
			<u>TWENTY FIVE</u> Dollars/LF Words		
49.	707	LF	Sewer Main Trenching and Backfilling, 0-6 Feet Deep	B.E. 4.00 (\$ <u>28.00</u>)	(\$ <u>2,828.00</u>)
			<u>TWENTY FOUR</u> Dollars/LF Words		
50.	717	LF	Sewer Main Trenching and Backfilling, 6-10 Feet Deep	(\$ <u>20.00</u>)	(\$ <u>14,340.00</u>)
			<u>TWENTY</u> Dollars/LF Words		
51.	40	LF	Sewer Main Trenching and Backfilling, 10-14 Feet Deep	(\$ <u>100.00</u>)	(\$ <u>4,000.00</u>)
			<u>ONE HUNDRED</u> Dollars/LF Words		
52.	10	EA	4 Foot Diameter Standard Manhole, 0 Feet to 6 Feet Deep	(\$ <u>2,400.00</u>)	(\$ <u>24,000.00</u>)
			<u>TWENTY FOUR</u> <u>HUNDRED</u> Dollars/EA Words		
53.	13	VF	Extra Manhole Depth, Over 6 Feet Deep	(\$ <u>150.00</u>)	(\$ <u>1,950.00</u>)
			<u>ONE HUNDRED</u> <u>FIFTY</u> Dollars/VF Words		
54.	3	EA	Remove Existing Manhole	(\$ <u>1,000.00</u>)	(\$ <u>3,000.00</u>)
			<u>ONE THOUSAND</u> Dollars/EA Words		
55.	3	EA	Abandon Existing Manhole	(\$ <u>800.00</u>)	(\$ <u>2,400.00</u>)
			<u>EIGHT HUNDRED</u> Dollars/EA Words		

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
56.	2	EA	Watertight Hinged Cover on Manhole	(\$ <u>400.00</u>)	(\$ <u>800.00</u>)
			<u>FOUR HUNDRED</u> Dollars/EA Words		
57.	4	EA	Sewer Service Wye on 8-Inch PVC, 8" SDR-26 x 4" SCH 40	(\$ <u>300.00</u>)	(\$ <u>1,200.00</u>)
			<u>THREE HUNDRED</u> Dollars/EA Words		
58.	1	EA	10" x 4" Sewer Service Tap on Existing 10" VCP Sewer	(\$ <u>500.00</u>)	(\$ <u>500.00</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
59.	1	EA	Cut and Cap Existing 10" x 4" Sewer Service Tap	(\$ <u>500.00</u>)	(\$ <u>500.00</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
60.	1	EA	4-Inch Manhole Tap for Sewer Service	(\$ <u>600.00</u>)	(\$ <u>600.00</u>)
			<u>SIX HUNDRED</u> Dollars/EA Words		
61.	1,560	LF	TV Inspection of Existing Sewer to be Abandoned and/or Replaced	(\$ <u>8.30</u>)	(\$ <u>12,948.00</u>)
			<u>EIGHT</u> $\frac{30}{100}$ Dollars/LF Words		
62.	6	EA	Sewer Service Cleanout	(\$ <u>250.00</u>)	(\$ <u>1,500.00</u>)
			<u>TWO HUNDRED</u> <u>FIFTY</u> Dollars/EA Words		
63.	3	EA	Plug Existing Sewer at Manhole Wall	(\$ <u>200.00</u>)	(\$ <u>600.00</u>)
			<u>TWO HUNDRED</u> Dollars/EA Words		
64.	3	EA	Connect 10" or 8" Sewer to Existing Manhole, Core Drill Manhole Wall	(\$ <u>1,000.00</u>)	(\$ <u>3,000.00</u>)
			<u>ONE THOUSAND</u> Dollars/EA Words		

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
65.	9	EA	Clay or Concrete Dam on Gravity Sewer	(\$ <u>500.00</u>)	(\$ <u>4,500.00</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
66.	1,174	LF	6-Inch PVC, C-900, DR-14 Sewage Force Main	(\$ <u>32.00</u>)	(\$ <u>37,568.00</u>)
			<u>THIRTY TWO</u> Dollars/LF Words		
67.	3	EA	Connect 6-Inch Force Main to Existing Force Main	(\$ <u>400.00</u>)	(\$ <u>1,200.00</u>)
			<u>FOUR HUNDRED</u> Dollars/EA Words		
68.	1	EA	Connect 6-Inch Force Main to 8-Inch Sewer Stubout at Existing Manhole	(\$ <u>400.00</u>)	(\$ <u>400.00</u>)
			<u>FOUR HUNDRED</u> Dollars/EA Words		
69.	600	LB	6-Inch Epoxy Lined Ductile Iron Force Main Fittings	(\$ <u>10.00</u>)	(\$ <u>6,000.00</u>)
			<u>TEN</u> Dollars/LB Words		
70.	13	EA	Force Main Trace Wire Access Ports	(\$ <u>80.00</u>)	(\$ <u>1,040.00</u>)
			<u>EGHTY</u> Dollars/EA Words		
71.	4	EA	Abandon Existing Force Main Trace Wire Access Ports	(\$ <u>25.00</u>)	(\$ <u>100.00</u>)
			<u>TWENTY FIVE</u> Dollars/EA Words		
72.	1	EA	Two-Inch Combination Air/Vacuum Valve and Vault on Force Main	(\$ <u>8,000.00</u>)	(\$ <u>8,000.00</u>)
			<u>EIGHT THOUSAND</u> Dollars/EA Words		

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
73.	1	EA	Remove Existing Force Main Air Valve Vault	(\$ <u>500.⁰⁰</u>)	(\$ <u>500.⁰⁰</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
74.	1,040	SY	Asphalt Surface Restoration	(\$ <u>100.⁰⁰</u>)	(\$ <u>104,000.⁰⁰</u>)
			<u>ONE HUNDRED</u> Dollars/SY Words		
75.	20	SY	Asphalt Highway Restoration	(\$ <u>110.⁰⁰</u>)	(\$ <u>2,200.⁰⁰</u>)
			<u>ONE HUNDRED TEN</u> Dollars/SY Words		
76.	1,000	SY	Concrete Surface Restoration	(\$ <u>51.⁰⁰</u>)	(\$ <u>51,000.⁰⁰</u>)
			<u>FIFTY ONE</u> Dollars/SY Words		
77.	330	SY	Concrete Sidewalk Restoration	(\$ <u>45.⁰⁰</u>)	(\$ <u>14,850.⁰⁰</u>)
			<u>FORTY FIVE</u> Dollars/SY Words		
78.	360	LF	Curb and Gutter Restoration	(\$ <u>20.⁰⁰</u>)	(\$ <u>7,200.⁰⁰</u>)
			<u>TWENTY</u> Dollars/LF Words		
79.	1,800	TON	Granular Fill	(\$ <u>16.⁰⁰</u>)	(\$ <u>28,800.⁰⁰</u>)
			<u>SIXTEEN</u> Dollars/TON Words		
80.	120	TON	Trench Stabilization Material	(\$ <u>20.⁰⁰</u>)	(\$ <u>2,400.⁰⁰</u>)
			<u>TWENTY</u> Dollars/TON Words		
81.	1	LS	Erosion Control	(\$ <u>15,000.⁰⁰</u>)	(\$ <u>15,000.⁰⁰</u>)
			<u>FIFTEEN THOUSAND</u> Dollars/LS Words		

BID SCHEDULE CROSSOVER ROAD WATER AND SEWER REPLACEMENT					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
82.	7,500	SY	Sod Restoration on Lawns	(\$ 6.00)	(\$ 45,000.00)
			<u>55X</u> Dollars/SY Words		
83.	1	LS	Audio/ Video Tape Recordings	(\$ 5,000.00)	(\$ 5,000.00)
			<u>FIVE THOUSAND</u> Dollars/LS Words		
84.	1	LS	Site Photographs	(\$ 4,000.00)	(\$ 4,000.00)
			<u>FOUR THOUSAND</u> Dollars/LS Words		
TOTAL BID				\$ 1,368,379.00	

DEDUCTIVE ALTERNATES

Not used.

BASIS OF AWARD

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

MAJOR EQUIPMENT SCHEDULE

Not used.

PAYMENT SCHEDULE

Not used.

SUBCONTRACTORS

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

BORING SUBCONTRACTOR

Arkansas Contractor License # 0091820413

H & H DIRECTIONAL BORING, INC.

Name

FAYETTEVILLE, AR 72701

Street Address, City, State, Zip Code

SUBCONTRACTOR

Arkansas Contractor License # _____

Name _____

Street Address, City, State, Zip Code _____

PERFORMANCE OF WORK BY CONTRACTOR

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

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

ALL EXCEPT BORING

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

Dollars (\$ 1,189,629.⁰⁰)

(Words)

EXPERIENCE OF BIDDER

The Bidder, with his own forces, shall show satisfactorily completion of work of type and size comparable to the Work required by these Bid Documents. Minimum requirement shall be three projects within the past five years. A list of comparable projects, including pertinent information and identification of the owners, shall be submitted with the Bid. Contractor shall provide evidence that projects have included 12-inch diameter pipe and larger.

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

HYW 265 WATER & SEWER RELOCATE 1.6 MILLION

SPRINGDALE WATER UTILITIES RICK PULVERENTS

OAK GROVE SEWER 1.6 MILLION SPRINGDALE WATER UTILITIES

ANNUAL WATER REHAB. 2. MILLION SPRINGDALE WATER

SURETY

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

RAMSEY, KRUG, FARRELL & LENSING whose address is:

P.O. BOX 251510 LITTLE ROCK, AR 72225

Street, City, State, Zip, Code

INSURANCE

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

BIDDER

The name of the Bidder submitting this Bid is:

SEVEN VALLEY'S CONSTR. CO. INC. doing business at:

P.O. BOX 88 CASSVILLE, MO. 65625

Street, City, State, Zip, Code

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

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

BOBBY ENNES

PRES.

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this ____ day of _____, 2012.

Signature of Bidder

Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed
and its seal affixed by its duly authorized officers this 20th day of July, 2012.

(SEAL)

Name of Corporation

By Bobby Ednes BOBBY EDNES

Title PRES.

Attest Ann Ednes
Secretary

CONTRACTOR'S ACT OF ASSURANCE FORM

Bidder shall execute the following Contractor's Act of Assurance Form and submit it with other bid documents. Bids not including an executed Act of Assurance Form will not be accepted.

CONTRACTOR'S ACT OF ASSURANCE FORM

As the authorized representative of the individual, incorporation, or corporation (hereinafter referred to as the company) bidding on or participating in the project, I certify that I have read and understand the requirements of the General and/or Supplemental Conditions and that the principles, agents and employees of the company will comply with these requirements including all relevant statutes and regulations issued pursuant thereto. I further certify as the authorized agent of the company that:

EQUAL OPPORTUNITY I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each sub-contract awarded in excess of \$10,000 and I will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

NONSEGREGATED FACILITIES The company that I represent does not and will not maintain any facilities provided for its employees in a segregated manner, or permit its employees to perform their services at any location under company control where segregated facilities are maintained; and that the company will obtain a similar certification prior to the award of any subcontract exceeding \$10,000 which is not exempt from the equal opportunity clause.

OSHA REQUIREMENTS I will comply with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in the performance of the contract.

PROCUREMENT PROHIBITIONS As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

DEBARMENT AND SUSPENSION I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

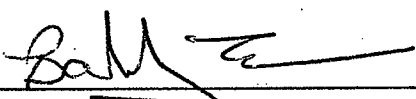
(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

AUTHORIZED REPRESENTATIVE

COMPANY NAME: SEVEN VALLEY'S CONSTR. CO. INC.

SIGNATURE:  DATE: 7-20-12

PRINTED NAME: BOBBY ENNES TITLE: PRES.

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we

(Here insert full name and address or legal title of Contractor)

Seven Valleys Construction Co., Inc.
P.O. Box 88, Cassville, Missouri 65625

as Principal, hereinafter called the Principal, and
The Cincinnati Insurance Company
P.O. Box 145496, Cincinnati, Ohio 45250-5496

(Here insert full name and address or legal title of Surety)

a corporation duly organized under the laws of the State of Ohio
as Surety, hereinafter called the Surety, are held and firmly bound unto

(Here insert full name and address or legal title of Owner)

City of Fayetteville, Arkansas
113 W. Mountain Street, Fayetteville, Arkansas 72701

as Obligee, hereinafter called the Obligee, in the sum of

Five Percent (5%) of the Amount Bid----- Dollars (5%)

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

(Here insert full name, address and description of project)

Water and Sewer Main Replacement-Crossover Road (Arkansas Highway 265), Phase II

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this

20th

day of July, 2012

<u>Ann Ennes</u> (Witness)	Seven Valleys Construction Co., Inc. (Principal) (Seal) <u>[Signature]</u> PRES (Title)
<u>[Signature]</u> (Witness)	The Cincinnati Insurance Company (Surety) (Seal) <u>[Signature]</u> Sylvia A. Young (Title) Attorney-In-Fact



THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

C. 2
Seven Valley's
Construction Co.
Page 33 of 34

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint

Michael Halter; Kevin Bruick; Rolfe Kennedy; Sylvia A. Young; Carolyn Hunter;
Sherese D. Escovedo; Randy Irvin; Ken Estes and/or Alfred Williams

of Little Rock, Arkansas its true and lawful Attorney(s)-in-Fact to sign, execute, seal and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:

Any such obligations in the United States, up to
Ten Million and No/100 Dollars (\$10,000,000.00).

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 6th day of December, 1958, which resolution is still in effect:

"RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

"RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Vice President this 10th day of October, 2008.



THE CINCINNATI INSURANCE COMPANY

Thomas H. Kelly
Vice President

STATE OF OHIO) ss:
COUNTY OF BUTLER)

On this 10th day of October, 2008, before me came the above-named Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



Mark J. Huller
MARK J. HULLER, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration
date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above is a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.
this 20th day of July, 2012



Bruce J. Schlemmer
Secretary

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

8/21/2012

City Council Meeting Date
Agenda Items Only

Chris Brown
Submitted By

Engineering
Division

Development Services
Department

Action Required:

Approval of a Resolution accepting the dedication of right of way and accepting ownership and maintenance responsibility for the private streets within the Sunbridge Villas Subdivision.

\$ _____	_____	_____
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 ☐	

Jimmy C. Pate
Department Director

08-03-2012
Date

Previous Ordinance or Resolution # _____

Paul A. Kelly
City Attorney

8-3-12
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Berlin
Finance and Internal Services Director

8-3-2012
Date

08-03-12 A09:18 RCVD
Received in City
Clerk's Office

King

Don Mann
Chief of Staff

8-3-12
Date

Received in
Mayor's Office



Frank Jordan
Mayor

8/5/12
Date

Comments:



www.accessfayetteville.org

C. 3
Sunbridge Villas Subdivision
THE CITY OF FAYETTEVILLE, ARKANSAS
ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Mayor Jordan
Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *X*

From: Chris Brown, City Engineer *CB*

Date: August 3, 2012

Subject: Acceptance of Private Streets in Sunbridge Villas Subdivision

BACKGROUND:

Sunbridge Villas Subdivision is located north of Sunbridge Drive, just west of College Avenue. In 1970, the subject property was developed as the Villa Mobile home park. The park included 141 mobile home lots and one lot for a community laundry and playground area. All streets within the development were private asphalt paved streets with curb and gutter. A minimum amount of storm sewer was installed at that time.

In 2006, the City Council approved the R-PZD for Sunbridge Villas. Sunbridge Villas is a residential subdivision with 138 lots and one community space area. This development utilized the existing street infrastructure to provide access to the lots. The storm sewer, public water and public sanitary sewer lines were all replaced or expanded to meet current code requirements and the time of development. Street lights, sidewalks and an asphalt overlay of all the private streets were required with the PZD. The City currently holds a guarantee for the asphalt overlay, which has not yet been completed. Street lights have been installed and the sidewalks are being constructed with each home construction.

DISCUSSION:

Homes have been constructed on a majority of the lots at this time. The owner of the remaining lots has requested that the City take ownership of the street infrastructure within the development. Fortunately with the platting of the subdivision, a private right of way was reserved for the streets. Dedication of public right of way will not be required from every lot within the development. The private right of way could be dedicated to the City upon approval of the City Council. The Sunbridge Villas Property Owners Association, Inc. currently owns the streets and the private right of way.

In addition to acceptance of the streets and sidewalks, acceptance of the existing street lights for operation and maintenance by the City is also being requested.

The owner of the remaining lots and the right of way met with City Engineering and Transportation staff to evaluate the condition of the streets in the subdivision. All agreed that the streets have held up well for the past

40+ years and there was no visible sign of subgrade failure. The pavement is aged and in need of the required overlay. Much of the curb and gutter have been replaced with the individual lot construction. With the narrow lots, and a 24' wide driveway accessing each lot, the builders have opted to replace most of the curb during the home construction. The owner intends to continue this practice for the remaining lots.

Since the streets are planned to be improved with an asphalt overlay, and curbs and sidewalks have been or will be newly constructed, only minimal maintenance on the street infrastructure is expected for the 15 year expected life of the asphalt.

Acceptance of the street lights would have an impact on the City's operational budget. The City typically pays for the maintenance and operation of street lights that are owned by the local utility company, and are installed as un-metered lights, which is the case with the lighting in this subdivision. There are 23 lights total, representing a monthly cost of \$391.00.

RECOMMENDATION:

Staff recommends that the City take ownership of the right of way and maintenance responsibility for the streets within this development after the streets have been milled and received a minimum of 2" asphalt overlay on each private street. Acceptance of the operational and maintenance cost of the street lighting is also recommended. This item was reviewed by the Street Committee and recommended for approval at the June 26th meeting.

This request is unique in that the developer has brought the public infrastructure (water, sewer and storm drainage) up to standards and is planning to improve the street pavement prior to the City's acceptance. Acceptance of this right of way is similar to acceptance of right of way and infrastructure on any new subdivision, in that the developer is required to construct the infrastructure, which is then dedicated to the City as part of the final plat process. Additionally, these streets are all interconnected, and create a street network and therefore serve the entire neighborhood.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING DEDICATION OF STREET RIGHT-OF-WAY
AND MAINTENANCE RESPONSIBILITY FOR STREETS IN THE
SUNBRIDGE VILLAS SUBDIVISION FROM THE SUNBRIDGE VILLAS
PROPERTY OWNERS ASSOCIATION, INC.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby accepts
dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge
Villas Subdivision from Sunbridge Villas Property Owners Association, Inc. as described in the
attached Exhibit "A".

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

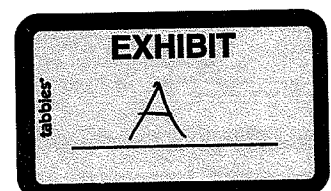
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

SUNBRIDGE VILLAS STREET DEDICATION

Property Description:

A part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) and a part of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-Five (35), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows:

All those portions of private street(s) as shown on Instrument Number 023A-00289 as filed with the Circuit Clerk of said Washington County. Said street(s) being named on said Instrument as Granada Street, Valencia Avenue, Madrid Street, Barcelona Avenue, Sierra Avenue, Miranda Avenue, and Arroyo Avenue each having a width of 34 feet.



 NORTH

 0 60 120

 GRAPHIC SCALE IN FEET

 R-PZD 06-2213

RPZD
SUNBRIDGE VILLAS SUBDIVISION
COVER SHEET
FAYETTEVILLE, ARKANSAS

Bates & Associates, Inc.
www.batesinfo.com
Civil Engineering & Surveying

Phone: 410 442 9100 Fax 410 431 4300
1 W. Calhoun Dr. Suite 1

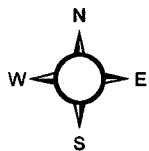
PROJECT NO
10-041

DRAWING NO
1



SUNBRIDGE VILLAS

4260 LF OF PRIVATE STREETS



1 inch = 200 feet

STATE OF ARKANSAS

SECRETARY OF STATE

Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

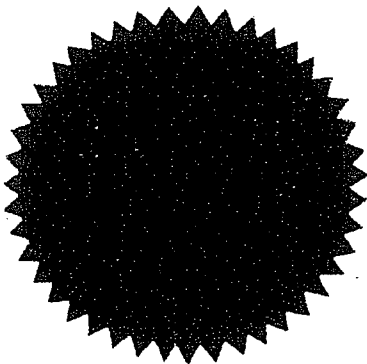
Articles of Incorporation

of

SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC.

filed in this office November 19, 2007 in compliance with the provisions of the law and are hereby declared a body politic and corporate, by the name and style aforesaid, with all the powers, privileges and immunities granted in the law thereunto appertaining.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 19th day of November 2007.



Charlie Daniels

Secretary of State

Document Number: 8217210002

SUNBRIDGE VILLAS PROPERTY OWNERS

ARTICLES OF INCORPORATION

FILED: 11/19/07, #Pages: 4

Arkansas Secretary of State
Business Services Division

ARTICLES OF INCORPORATION
OF
SUNBRIDGE VILLAS
PROPERTY OWNERS ASSOCIATION, INC.

The undersigned, in order to form a nonprofit corporation for the purposes hereinafter stated, under and pursuant to the provisions of the laws of the State of Arkansas, particularly the Arkansas Nonprofit Corporation Act of 1993, Chapter 33 of Title 4 of the Arkansas Code of 1987 Annotated, does hereby certify as follows:

1. Name. The name of this Corporation shall be SUNBRIDGE VILLAS PROPERTY OWNERS ASSOCIATION, INC. (the "Corporation").

2. Mutual Benefit. This Corporation is a mutual benefit corporation.

3. Purposes. This Corporation is organized as a nonprofit corporation to operate exclusively as a residential and community facility real estate management association for the mutual benefit of its members. The purposes for which the Corporation is formed are more specifically described as follows:

(a) To provide for the acquisition, construction, management, maintenance, and care of Association Property. For the purposes hereof the term "Association Property" shall mean: (1) property owned by the Corporation; (2) property commonly owned by the members of the Corporation; (3) residential property privately owned by the members but situated within the geographical boundaries of the area served by the Corporation; and, (4) property owned by a municipality or other governmental unit and used for the benefit of the residents.

(b) To receive and to maintain a fund or funds of real or personal property, or both, and, subject to the restrictions hereinafter set forth, to use and apply the whole, or any part, of the income therefrom and the principal thereof exclusively for the purpose of carrying on the exempt functions of a homeowners association as defined in Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law).

4. Powers. The Corporation shall have and exercise all powers, privileges and rights conferred on corporations by the laws of the State of Arkansas and all powers and rights incidental to carrying out the purposes for which this Corporation is formed, except such as are inconsistent with the express provisions of the Act under which this Corporation is incorporated.

5. Prohibitions.

(a) Other than by the acquisition, construction, management, maintenance, and care of Association Property, no part of the net earnings of the Corporation shall inure to the benefit of any member, director, or officer of the Corporation, or to any other interested individual; provided, however, reasonable compensation may be paid for services rendered to, or for, the Corporation, effecting one or more of its purposes, and the Corporation may make reimbursement to its members, directors, officers or employees for expenses incurred in attending to their authorized duties.

(b) Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law (the "Code").

6. Dissolution, Liquidation, and Termination. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Corporation, dispose of all assets of the Corporation exclusively to such persons or organizations as are permitted distributees under Section 528 of the Code. Any of such assets not so disposed of shall be disposed of by the Circuit Court of the county in which the principal office of the Corporation is located exclusively to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

7. Principal Office. The principal office or place of business of this Corporation shall be located at 1747 N. College Avenue, Fayetteville, Arkansas 72703.

8. Registered Agent. The name and address of the registered agent of this Corporation is Robert N. Schmitt, 1747 N. College Avenue, Fayetteville, Arkansas 72703.

9. No Stock or Dividends. The Corporation shall not have or issue shares of stock and no dividends shall be paid, and no part of the income of the Corporation shall be distributed to its members, directors, or officers.

10. Membership. The Corporation shall have members, and the classes of membership shall be as provided in the Bylaws.

11. Directors. The business of the Corporation shall be conducted by the Board of Directors. The Board of Directors may employ for the Corporation, a Managing Agent, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including but not limited to all of the powers granted to the Board of Directors by these Articles and the By-Laws of the Corporation. The number of the directors of the Corporation shall be provided in the Bylaws; provided, however, at no time shall the number of directors be less than

three (3). The terms of office of the directors shall be provided in the Bylaws. The initial Board of Directors shall have the direction of the affairs of this Corporation and shall meet as soon as is practicable after the issuance of the Articles of Incorporation by the Arkansas Secretary of State for the purposes of electing officers, adopting Bylaws and taking such other action as may be necessary to perfect the organization of the Corporation. Thereafter, the Bylaws may be amended and officers elected as provided in the Bylaws. The directors shall be permitted to hold office for more than one term by re-election.

12. Name of Incorporator. The name and address of the Incorporator is as follows:

Robert T. Smith
400 West Capitol
Suite 2000
Little Rock, Arkansas 72201-3522

13. Amendments. From time to time any of the provisions of the Articles of Incorporation may be amended, altered, or repealed, and other provisions authorized by the Code and the laws of the state of Arkansas at the time in force may be added or inserted in the manner and at the time prescribed by said laws and the Bylaws.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed his hand this 19th day of November, 2007.



Robert T. Smith

**BY-LAWS
OF
SUNBRIDGE VILLAS
PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I
DEFINITIONS**

Unless the context otherwise specifies or requires, the terms defined in Article I hereunder shall, for all purposes of the By-Laws have the meaning herein specified.

Articles. The term "Articles" shall mean the Articles of Incorporation of Sunbridge Villas Property Owners Association, Inc. which are filed in the office of the Secretary of the State of Arkansas, a true copy of which is on file at the principal office of the Association, together with such amendments to the Articles as may from time to time be properly made.

Association. The term "Association" shall mean Sunbridge Villas Property Owners Association, Inc., an Arkansas nonprofit corporation.

Board. The term "Board" shall mean the Board of Directors of the Association.

By-Laws. The term "By-Laws" shall mean this instrument as it may be amended from time to time pursuant to the provisions of this instrument.

Common Area. The term "Common Area" shall mean all real property, including any roadway and streets, owned or maintained by the Association for the common use and enjoyment of the Owners.

Common Charges. The term "common charge" or "common expense" shall be those common expenses incurred for the operation of the Common Area in Sunbridge Villas as set forth in Article VIII of this instrument.

Declaration of Covenants and Restrictions. The term "Declaration of Covenants and Restrictions" shall mean the Declaration of Covenants and Restrictions and subsequent amendments and supplements thereto, filed in the office of the Circuit Clerk of Washington County, Arkansas, affecting the Sunbridge Villas Neighborhood.

Developer. The term "Developer" shall collectively mean Sunbridge Villas Holdings, LLC, Sunbridge Villas Development 1, LLC, and their respective successors and assigns.

Fiscal Year. The term "fiscal year" shall mean the calendar year, unless changed or modified by the Board of Directors of the Association.

Grantor. The term "Grantor" shall collectively mean Sunbridge Villas Holdings, LLC and Sunbridge Villas Development 1, LLC.

Lot. The term "Lot" shall mean any Lot within the Property which may be purchased by any Person or owned by the Grantor. For purposes of the definition of "Lot" all four plexes in the Property shall contain four (4) lots, one for each residential dwelling and all duplexes in the Property shall contain (2) lots, one for each residential dwelling.

Managing Agent. The term "Managing Agent" shall mean an individual or corporation hired by the Board to oversee the maintenance and management of Sunbridge Villas Property Owners Association, Inc. as the Board may direct.

Member. The term "Member" shall mean and refer to any Owner who by virtue of holding title to any Lot is a Member of the Association. If any Owner holds title to more than one Lot, he shall be entitled to an additional membership for each additional Lot he owns. The Developer may be a Member if it owns real property.

Owner. The term "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Person. The term "Person" shall mean an individual or individuals, corporation, unincorporated association, partnership, joint venture, trustee, conservator, administrator, or other legal entity which has the right to hold title to real property.

Property. The term "Property" shall mean the land, buildings, and all other improvements thereon (including the Common Areas owned or maintained by the Association) which is subject to the Declaration of Covenants and Restrictions of Sunbridge Villas, and all amendments thereto.

Rules and Regulations. The term "Rules and Regulations" shall mean the rules and regulations as adopted by the Board pursuant to the Declaration of Covenants and Restrictions and this instrument, as they may be amended from time to time.

ARTICLE II GENERAL

SECTION 1. The Property. The Property is located in Washington County, Arkansas. It is all that Property known as Sunbridge Villas as defined in the Declaration of Covenants and Restrictions of Sunbridge Villas.

SECTION 2. The Association. The Association has been organized to perform the functions described herein except for those performed by others as set forth herein. The Association is charged with the duties and has the powers prescribed by law and set forth in the Articles, By-Laws and the Declaration of Covenants and Restrictions of Sunbridge Villas. Neither the Articles

nor the By-Laws shall, for any reason be amended or otherwise changed or interpreted so as to be inconsistent with the Declaration of Covenants and Restrictions of Sunbridge Villas.

The Association is an organization owned by the Owners of Lots in Sunbridge Villas and used by them to manage and regulate Sunbridge Villas. Each Owner of a Lot shall have the same proportion of interest in the Association as the number of Lots in Sunbridge Villas except as provided in Article III.

Each Owner, for so long as he is such an Owner, shall be deemed a Member of the Association. Upon becoming a Member of the Association, the rights, duties, privileges, immunities and liabilities of being an Owner shall be those set forth in and shall be exercised in accordance with the Declaration of Covenants and Restrictions of Sunbridge Villas, the Articles, and these By-Laws and may be amended or adopted by the Association or by the Board, as provided therein.

Membership in the Association shall not be transferred, pledged or alienated in any way except upon transfer of title of a Lot, and then only to the transferee of title, except in the instance of suspension as provided hereunder. Any attempt to make a prohibited transfer shall be null and void.

SECTION 3. Provisions of By-Laws Applicable. The provisions of these By-Laws are applicable to Sunbridge Villas Property Owners Association, Inc.

SECTION 4. By-Laws Applicable to Present and Future Owners. All present and future Owners, mortgagees, lessees, and occupants of Lots and their employees, and any other Person(s) who may use the Common Area facilities of Sunbridge Villas in any manner, are subject to these By-Laws, all covenants, agreements, restrictions, easements and declarations of record, and the Declaration of Covenants and Restrictions of Sunbridge Villas. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a Lot shall constitute an agreement that all of the above documents, restrictions and conditions, as they may be amended from time to time, are accepted, ratified and will be complied with.

SECTION 5. Office of the Association. The Office of the Association and the Board shall be located in Fayetteville, Washington County, Arkansas or such other locations in the State of Arkansas as may be selected from time to time by the Board which the Owners and listed mortgagees have been given written notice of.

SECTION 6. Documents Available for Review. Copies of these By-Laws, the Articles, the Declaration of Covenants and Restrictions of Sunbridge Villas, as they may be amended from time to time, and all books and records of the Association shall be made available for inspection by Members of the Association and their authorized agents during regular business hours.

ARTICLE III MEMBERSHIP, VOTING RIGHTS, AND SHARES

SECTION 1. Membership. Every Person who is an Owner of record of a fee or individual fee interest in any Lot which is subject by the Declaration of Covenants and Restrictions of Sunbridge Villas to assessments by the Association shall be a Member of the Association, provided that any such Person who holds such interest merely as a security for the performance of an obligation shall not be a Member. As herein defined, Person may be one or more and all such Persons or entities constituting one Person or Member shall vote their membership as they, among themselves, determine but in no event shall more than one membership be held in the Association for any one Lot. If any Person is an Owner of more than one Lot, then such Owner shall have the same number of memberships as the number of Lots to which he holds title.

SECTION 2. Voting Rights. Every Member shall be entitled to one vote per Lot owned by it in the election of Directors for the Board. Where more than one membership is held by a Member, then such Member shall be entitled to one vote for each such membership in the election of Directors for the Board. For all other purposes, the Association shall have two classes of voting membership.

(a) Class A - Class A Members shall be all those Owners of Lots with the exception of the Grantor. A Class A Member shall be entitled to one vote for each Lot in which he holds the interest required for membership as described in Section 1 above.

(b) Class B - Class B Members shall be each Grantor and shall be entitled to ten (10) votes for each Lot, whether built upon or not, in which either Grantor holds the title.

SECTION 3. Shares. For purposes of dissolution, or distribution of assets only, Class A and B Members shall be deemed to hold one equal share of the assets of the Association for each Lot in which they hold the interest required for membership, provided that when more than one individual or entity shall hold such interest in any Lot, they shall determine among themselves the distribution of such shares, provided that there shall be no more than one share with respect to any Lot.

ARTICLE IV BOARD OF DIRECTORS

SECTION 1. Directors. The number of Directors which shall constitute the whole Board shall be three (3). Until succeeded by the Directors elected by the Members, the Directors need not be Owners. Upon expiration of the term of each member of the first Board, the successors to such Director, elected by the Members of the Association, shall be an Owner. Except as provided in the Articles with respect to the first Board, Directors shall be elected on a staggered basis. In any event however, each Director shall hold office until such time as his successor has been elected. In the event that a corporation, limited liability company or other legal entity is a Member of the Association, it may designate one or more Persons who shall be eligible to serve as Director on its behalf.

SECTION 2. Election of Directors. Subject to the provisions of these By-Laws concerning the first Board, at each Annual Meeting of the Association or at a Special Meeting called for this purpose, the Members shall elect Directors to fill such vacancies as may exist on the Board. There shall be no cumulative voting. Voting by written proxy is permitted for Members. The candidates receiving the highest number of votes, up to the number of Directors to be elected shall be deemed elected. A quorum of the membership at an annual or special called meeting shall be twenty-five percent (25%) of the memberships.

SECTION 3. Resignation. Any Director may resign at any time by giving written notice to the President or to the Secretary of the Board.

SECTION 4. Powers and Duties of the Board. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things, except for those things and matters which are by these By-Laws and by the Declaration of Covenants and Restrictions of Sunbridge Villas reserved to the Members of the Association acting at a properly called meeting. Such powers and duties of the Board shall include, but shall not be limited to the following:

(a) Provisions for the operation, care, upkeep and maintenance of the Common Areas and Lot open areas.

(b) Determination of the common expenses, including assessments for a maintenance reserve fund, required for the affairs of the Association including, subject to the limitations imposed by the Association or by the Declaration of Covenants and Restrictions of Sunbridge Villas, the operation and maintenance of the Property and the allocation of income and expenses.

(c) Collection of the common charges from the Owners, including the right to enforce these collections by methods described elsewhere in these By-Laws and the Declaration of Covenants and Restrictions of Sunbridge Villas.

(d) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

(e) Leasing, managing and otherwise dealing with the Common Areas.

(f) Owning, conveying, encumbering, leasing and otherwise dealing with Lots conveyed to it or purchased by it as the result of enforcement of a lien for common expenses, or otherwise, and also as to other property, real or personal.

(g) Obtaining of insurance for the Common Areas.

(h) Making of repairs, additions, improvements to or alterations of the Property and Lots in accordance with the other provisions of these By-Laws and as described in the Declaration of Covenants and Restrictions of Sunbridge Villas.

(i) Enforcement of obligations of the Owners.

(j) Adoption of Rules and Regulations relating to the use, upkeep or preservation of Sunbridge Villas Neighborhood and the Common Areas.

SECTION 5. Employment of Managing Agent. The Board may employ for the Association, a Managing Agent at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to all of the powers granted to the Board by these By-Laws. The management agreement shall be terminable for cause or upon reasonable notice and run for a period of from one year, renewable by consent of the Association and the Managing Agent.

SECTION 6. The First Board and Subsequent Boards. The first Board shall be appointed by the Grantor and shall consist of three (3) Directors who shall serve until the first Annual Meeting held pursuant to Article V, Section 1 of these By-Laws. At the first Annual Meeting, the Directors shall be elected by the Members of the Association to serve for staggered terms, one Director having a term of one (1) year from the first Annual Meeting, one Director having a term of two (2) years from the first Annual Meeting, and, one Director having a term of three (3) years from the first Annual Meeting. As a vacancy occurs in each of the Board positions, then the newly elected Director shall serve a term of three (3) years. Upon the vacancy occurring in each of these Board positions, the newly elected Director shall hold a three (3) year term. Each election shall result in staggered terms for the various Directors in order that all Directors will not be elected during one year in order to provide continuity of membership.

SECTION 7. Removal of Directors. Except for the members of the initial Board, Directors may be removed for cause and successors elected by an affirmative vote of Persons, individually or collectively, holding two-thirds (2/3) (a "Super Majority") of the memberships of the Association. However, removal of members of the initial Board prior to the expiration of their respective terms shall require a Super Majority vote of all memberships and approval of the Developer.

SECTION 8. Vacancies in the Board. Vacancies in the Board caused by any reason other than the removal of a Director under Section 7 of this Article, shall be filled by vote of a majority of the remaining Directors at a special meeting of the Board held for that purpose, which meeting shall be held promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum and each person so elected shall be a Director until the next Annual Meeting of the Association, or until a Special Meeting of the Association is duly called and held for the express purpose of electing a Director to fill the vacancy until the expiration of the term. Except for members of the first Board, no Director shall continue to serve as such if, during his term of office, he shall cease to be an Owner.

SECTION 9. Board Meeting Following First Annual Meeting. Following the first Annual Meeting of the Association, there shall be a meeting of the Board within ninety (90) days thereafter.

SECTION 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings of the Board shall be given to each Director, by mail, at least five (5) business days prior to the day named for such meeting. Members may attend the meetings by telephone.

SECTION 11. Special Meetings. Special meetings of the Board may be called by the President on five (5) business days notice to each Director given by mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors. Members may attend the meetings by telephone.

SECTION 12. Waiver of Notice of Meeting. Any Director may at any time waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of such notice.

SECTION 13. Quorum. At all meetings of the Board, a majority of the Directors thereof shall constitute a quorum for the transacting of business and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board. If at any meeting of the Board, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

SECTION 14. Fidelity Bonds. The Board may obtain adequate fidelity bonds or insurance policies for all officers and employees of the Association handling or responsible for the Association funds. If so obtained the premium on such bonds or insurance policies shall constitute a common expense.

SECTION 15. Compensation of Board. No elected Director shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

SECTION 16. Directors Not Liable. The Directors shall not be liable to the Members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall and does indemnify and hold harmless each Director against all contractual liability to others arising out of contract made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas or contrary to these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. It is also intended that the liability of any Owner arising out of any contract made by the Board out of the aforesaid indemnity in favor of the Directors shall be limited to such proportion of the total liability thereunder as the number of Lots owned by him bears to the total number of Lots in Sunbridge Villas. Every agreement made by the Board or by

the Managing Agent on behalf of the Association shall provide that the Directors or the Managing Agent as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as an Owner), and that each Owner's liability thereunder shall be limited to that proportion which the number of Lots owned by him bears to the total number of Lots in Sunbridge Villas.

SECTION 17. Records. The Board shall cause to be kept detailed records of the actions of the Board and of the Managing Agent, if any, minutes of the meetings of the Board, minutes of the meetings of the Members and financial records and books of account of the Association.

SECTION 18. Annual Report. An annual report of the receipts and expenditures of the Association shall be made at the end of each fiscal year. The Board shall cause this report to be made and a copy of said report shall be kept on file at the office of the Association and shall be made available for inspection by Members and their authorized agents during reasonable business hours.

ARTICLE V ASSOCIATION MEMBERS' MEETINGS

SECTION 1. Annual Meetings; Election of Directors. Within two (2) years following the date the Association is organized, the Board shall call the first Annual Meeting of the Members. Thereafter, Annual Meetings shall be held in each succeeding year on a date established by the Board; the date of the Annual Meeting may be changed by a proper amendment of these By-Laws. At such meeting, Directors shall be elected by ballot of the Members of the Association, in accordance with the requirements of Article IV of these By-Laws. The Association may also transact such other business as may properly come before it. For purposes of this Article, the term Member shall include both Class A and Class B Members as defined in Article III hereof.

SECTION 2. Location of Annual Meetings. The Annual Meetings shall be held at the principal office of the Association, or at such suitable place convenient to the Members as may be designated by the Board.

SECTION 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by the Board or upon petition signed by at least one-third of the memberships, delivered to the Secretary.

SECTION 4. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member, at least ten (10) but not more than sixty (60) days prior to such meeting. The mailing or delivery of a notice in the manner provided in these By-Laws shall be considered notice served. Notice of a meeting need not be given to a Member if a written waiver thereof executed before, during or after the meeting by such Member or his duly authorized attorney or agent, is filed with the records of the meeting.

SECTION 5. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of twenty-five percent (25%) of the memberships shall constitute a quorum at all meetings of the Association. If any meeting of the Association cannot be held because a quorum has not attended, a majority in interest of the memberships who are present at such meeting, either in person or by proxy, shall adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called for.

SECTION 6. Voting. The Member(s), or some person designated by such Member(s) to act as proxy on his or their behalf, who need not be an Owner, shall be entitled to cast their vote(s) at any meeting. The designation of any proxy shall be made in writing to the Secretary and shall be revocable at any time upon written notice to the Secretary. Any or all Members may be present at any meeting and may vote or take any other action as a Member either in person or by proxy. Each Member (including the Grantor, if the Grantor shall then own one or more Lots) shall be entitled to cast one vote at all meetings which vote shall be weighed by multiplying it by the number of Lots, whether built upon or not, owned by each Member, and the vote of the Grantor shall be weighed by multiplying it by five (5) times the total number of Lots, whether built upon or not. The votes attributable to each Member must be voted as an entirety and if Owners of a Lot shall be unable to agree on the vote to be cast on any issue their right to vote on that issue shall be deemed to have been waived.

SECTION 7. Majority Defined. As used in these By-Laws, the term "majority of Members" shall mean those Members having more than fifty percent (50%) of the total authorized votes of all Members present in person or by proxy and voting at any meeting determined in accordance with the provisions of Section 6 of this Article. The vote of the majority of Members present at a meeting at which a quorum shall be present shall be binding upon all Members for all purposes except when a higher percentage vote is required by law, the Declaration of Covenants and Restrictions of Sunbridge Villas or these By-Laws.

ARTICLE VI OFFICERS

SECTION 1. Principal Officers of the Corporation. The principal officers of the Association shall be the President, Secretary and the Treasurer, and such other officer as may be approved by the Board from time to time, and shall be elected by the Board. The President shall be a member of the Board. Any vacancies which may occur in the offices of Secretary and Treasurer shall be filled by the Board. The Secretary and Treasurer need not be Members of the Association. The Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary.

SECTION 2. Officers Chosen by Board. Those officers of the Association to be chosen by the Board shall be elected annually at a meeting of the Board described in Article IV, Section 6 of these By-Laws, and shall hold office at the pleasure of the Board and until their successors are elected.

SECTION 3. Removal of Officers Chosen by Board. Upon the affirmative vote of the majority of the Board at a regular or special meeting called for that purpose, any officer chosen by the Board may be removed, either with or without cause, and his successor elected.

SECTION 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are incidental to the office of President, including but not limited to the power to appoint committees from among the Owners from time to time, as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association. He is elected by the Board and need not be an Owner.

SECTION 5. Vice-President. The Vice-President shall take the place of the President, and shall perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Director to act in place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President. The Vice-President is elected by the Board and need not be an Owner.

SECTION 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board; shall have charge of such books and papers as the Board may direct; and shall perform all the duties incidental to the office of Secretary, and as described elsewhere in these By-Laws or the Declaration of Covenants and Restrictions. The Secretary is elected by the Board and need not be an Owner.

SECTION 7. Treasurer. The Treasurer shall have the responsibility for all funds and securities and shall be responsible for keeping full and accurate financial and books of account showing all receipts and disbursements and for the preparation of required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board or the Managing Agent in such depositories as may from time to time be designated by the Board and he shall perform all duties incidental to the office of Treasurer. No payment voucher shall be paid unless and until approved by the Treasurer, or in his absence the Assistant Treasurer. The Treasurer is elected by the Board and need not be an Owner. The Assistant Treasurer is appointed by the Board and need not be an Owner.

SECTION 8. Execution of Documents for the Board. All agreements, contracts, deeds, leases, checks, and other instruments of the Association may be executed by the President or by such other person(s) as may be authorized by the Board.

SECTION 9. Compensation of Officers. No elected officer shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

SECTION 10. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Any such resignation shall take effect at the date of the

receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE VII NOTICES

SECTION 1. Notice Procedure. Whenever under the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas or the By-Laws, notice is required to be given to the Board, any Managing Agent, or Member, it shall not be construed to mean personal notice; but such notice may be given in writing, either by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board, such Managing Agent or Member, respectively, at such address as appears on the books of the Association. Notice shall be deemed given as of the date of mailing or by delivery to such person's address, provided that such mailing is made in the State of Arkansas.

SECTION 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Declaration of Covenants and Restrictions of Sunbridge Villas, the law, or these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE VIII OPERATION OF THE PROPERTY

SECTION 1. Budget. The Board shall from time to time and at least annually, prepare a budget for the Association and in connection therewith, determine the amount of common expenses of the Association and allocate and assess each common charge among the Owners according to their respective needs of various types of Lots within Sunbridge Villas. The common expenses shall include among other things, the cost of all insurance premiums on all policies of insurance, the amount charged for the operation, care, upkeep and maintenance of the entire Sunbridge Villas subdivision, including without limitation, any amount for working capital of the Association, an amount for a general operating reserve or a reserve fund for replacements, and an amount to make up any deficit in the common expenses of any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Board on behalf of all Owners, any Lot which is to be sold at foreclosure or other judicial sale, such purchase or lease to be in accordance with provisions of Article VIII of this instrument.

The Board shall advise all Owners promptly and in writing of the amount of the common charges payable by each of them as determined by the Board, and shall make available at the office of the Association copies of each budget on which such charges are based.

In lieu of assessments being imposed upon such Lots owned by the Developer, the Developer may, but shall not be obligated to, underwrite all reasonable costs for the operation of the Association not covered by assessments paid by owners of Lots other than Developer until twenty

percent (20%) of all Lots are owned by persons or entities other than Developer. Once twenty percent (20%) of all Lots are owned by persons or entities other than the Developer, the remaining Lots owned by the Developer shall be subject to the same assessments as Lots by Owners other than the Developer.

No assessment may be used to maintain property in which the Association does not have an interest. However, the Association shall maintain, as necessary, all highway rights-of-ways that are adjacent to or adjoining the Property and all entrance ways into the property. This expense may be shared with other property owner associations.

SECTION 2. Payment of Common Charges. All Owners shall pay the common charges assessed by the Board pursuant to the provisions of these By-Laws, annually or in advance or at such other time that the Board shall determine in its sole and absolute discretion.

No Owner shall be liable for the payment of any part of the common charges assessed against his Lot subsequent to the transfer of a conveyance by him recorded in the records of the Circuit Clerk's office of Washington County, including conveyance to the Board made in accordance with the provisions of Article VIII of these By-Laws. A purchaser of a Lot shall be liable for the payment of the common charges assessed and unpaid against such Lot prior to the acquisition by him of such Lot, and a mortgagee or other purchaser of a Lot and at a foreclosure sale of such Lot shall be subject to and liable for a lien for the payment of common charges assessed both prior to and subsequent to the foreclosure sale.

SECTION 3. Power to Suspend Membership. In the event of default by any Owner in the payment of the common charges, or any other amounts owed the Association, or the Owner being in violation of any Bylaw or Rule of the Association, the Board shall have the power to suspend the Owner's membership in the Association, and such suspension shall remain in effect only until such amounts as are owed are paid and until Owner is in compliance with the Bylaws and Rules of the Association.

SECTION 4. Foreclosure. In any action brought by the Board to foreclose a lien on a Lot because of unpaid common charges, the Owner shall be required to pay a reasonable rental for the use of his Lot, if such continues after the foreclosure, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board acting on behalf of the Owners, shall have the power to bid upon such Lot at the foreclosure sale and to acquire, hold, lease, convey, mortgage (but not to vote the share(s) appurtenant thereto), or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or without waiving the lien securing same.

SECTION 5. Statement of Unpaid Common Charges. The Board shall promptly provide any Owner requesting same in writing, with a written statement of all unpaid common charges due from such Owner in a form suitable for recording and the same when recorded in the Circuit Clerk's office of Washington County, Arkansas shall operate to discharge the Lot from any other sums not

included in such statement then unpaid, at least as to bonafide third parties relying on such statement.

In all events the lien for assessments created herein shall be subject to and subordinate to the lien or any recorded first mortgage or deed of trust.

SECTION 6. Maintenance. All maintenance, repair, and replacements to the Common Areas as defined in the Declaration of Covenants and Restrictions of Sunbridge Villas or in the Plat or to those areas concerning which easements have been conveyed to the Association, and the painting and decorating of the exterior of the Tracts described in the Plat shall be done by the Board or its appointee and shall be included as a common expense of the Association.

SECTION 7. Cost Allotment of Improvements.

(a) If twenty five percent (25%) or more but less than fifty percent (50%) of the memberships agree to make an improvement to the Common Areas or to areas concerning which an easement has been granted to the Association, the cost of such improvement shall be borne by the Members so agreeing.

(b) If fifty percent (50%) or more of the memberships agree to make an improvement to the Common Areas or to areas concerning which an easement has been granted to the Association, the cost of such improvement shall be borne by all Members as a common expense.

(c) All improvements undertaken pursuant to this Section 7 shall be subject to the written approval of the Board.

SECTION 8. Rules and Regulations. The use of the Tracts described in the Plat and the Common Areas shall be subject to rules and regulations from time to time adopted by the Board and to rules and regulations from time to time adopted by the Association; copies of said rules and regulations shall be made available at the office of the Association to each Owner prior to their effective date.

**ARTICLE IX
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

SECTION 1. Mandatory Indemnification. In accordance with Ark. Code Ann. §§ 4-33-852 and 4-33-856, the Association shall indemnify any director or officer and his or her estate or personal representative who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which the officer or director is a party by virtue of his or her status as an officer or director of the Association.

SECTION 2. Permissible Indemnification. Pursuant to Ark. Code Ann. § 4-33-851, and except as provided in Section 3 below, the Association may indemnify an officer or director made a party to a proceeding by virtue of his or her status as an officer or director, against liability incurred in the proceeding if the following conditions are met: (1) the officer or director conducted himself

or herself in good faith; (2) with respect to conduct in his or her official capacity, the officer or director had reason to believe that his or her conduct was in the best interests of the Association; and (3) in cases of conduct not in his or her official capacity, the officer or director had reason to believe that his or her conduct was at least not opposed to the best interests of the Association.

SECTION 3. Prohibition of Indemnification in Certain Cases. The Association shall not indemnify an officer or director in connection with any proceeding by or in the right of the Association in which the officer or director was adjudged liable to the Association, or in connection with any other proceeding charging improper personal benefit to the officer or director, whether or not involving action in his or her official capacity, in which the officer or director was adjudged liable on the basis that personal benefit was improperly received by the officer or director.

SECTION 4. Procedure for Authorizing Indemnification of Directors. Before the Association may indemnify any director pursuant to Section 2 above, a determination must be made that indemnification of a director is permissible because the director has met the standards of conducts set forth in Section 2 of this Article IX. The Board of Directors shall make that determination by a majority vote of a quorum consisting of directors who are not at the time parties to the proceeding; provided, however, that if such a quorum cannot be obtained, then the determination shall be made either by a committee designated by the Board of Directors or by special legal counsel in accordance with Ark. Code Ann. § 4-33-855(b)(2) and (3). Furthermore, the Association may not indemnify a director until twenty (20) days after the effective date of the written notice of the proposed indemnification to the Attorney General of the State of Arkansas. The Association may pay for or reimburse the reasonable expenses incurred by an officer or director who is a party to a proceeding in advance of final disposition of the proceeding upon authorization made in accordance with Ark. Code Ann. § 4-33-855 and upon satisfaction of all the conditions prescribed in § 4-33-853.

SECTION 5. Insurance. The Association may purchase and maintain insurance on behalf of its officers and directors to insure against liabilities inserted against or incurred by the Association's officers and directors in that capacity or arising from their status as officers and directors, whether or not the Association would have the power to indemnify them against the same liability under the preceding sections of this Article IX.

SECTION 6. Definitions. The following definitions apply to the indemnification provisions of this Article IX:

(a) Proceeding. "Proceeding" means any threatened, pending or completed civil action, suit or proceeding, whether judicial, administrative, or investigative, and whether formal or informal.

(b) Liability. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise regarding an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.

(c) Expenses. Indemnification against expenses which is mandated or permitted under this Article IX is limited to reasonable expenses, including attorneys' fees, incurred in connection with a proceeding.

ARTICLE X INSURANCE

SECTION 1. Physical Damage. All buildings and improvements owned by the Association, and all of the personal property owned by the Association, may be insured for the benefit of the Association, the Owners and mortgagees of a Lot as their interest may appear, against risks of physical damage as follows:

(a) Amounts - As to real property, for an amount equal to not less than the agreed amount of its replacement cost; as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance on real property under this section, and at least annually thereafter, the Board may obtain an appraisal from a qualified appraiser for the purpose of determining the replacement cost of such real property.

(b) Risks Insured Against - The insurance shall afford protection against loss or damage by reason of:

- (1) fire and other perils normally covered by extended coverage;
- (2) vandalism and malicious mischief;
- (3) such other risk of physical damage as from time to time may be customarily covered with respect to buildings and improvements similar in construction, location and use as those on the Property, including without limitation, builder's risk coverage for improvements under construction; and
- (4) such other risks of physical damage as the Board may from time to time deem appropriate.

SECTION 2. Liability Insurance. The Board may obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board may from time to time determine, insuring the Association, the Board, the Managing Agent (at the discretion of the Board), with respect to their liability arising from operation, maintenance or repair of Sunbridge Villas, which is the responsibility of the Association including, without limitation, liability arising from construction operations, and Common Area maintenance, and also insuring each Owner including the Grantor with respect to its liability arising from ownership of the said Lot. Such liability insurance may also cover cross-liability claims among Owners and the Association. The Board shall review such limits at least annually. The insurance provided under this section shall include, without limitation, the following provisions:

(a) That the insurance shall not be affected or diminished by any act or neglect of any Owner or any occupants or Owners of any improvements when such act or neglect is not within the control of the Association;

(b) That the insurance shall not be affected or diminished by failure of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association; and

(c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association or the Owners.

ARTICLE XI

DAMAGE TO OR DESTRUCTION OF PROPERTY

SECTION 1. Duty to Repair or Restore. Any portion of Sunbridge Villas owned by the Association which is damaged or destroyed may be repaired or restored promptly by the Association, as provided in this Article. The Architectural Control Committee as established by the Declaration of Covenants and Restrictions (the "Architectural Control Committee") may waive this requirement.

SECTION 2. Estimate of Cost. Promptly after damage to or destruction of some portion of the buildings, and thereafter as it deems advisable, the Board shall obtain reliable and detailed estimates of the cost of repair or restoration. If the cost in the opinion of the Board may exceed \$5,000, the Board may retain the services of an architect or engineer or construction consultant to assist in the determination of such estimate and in the supervision of repair and restoration.

SECTION 3. Collection of Construction Funds. Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Owner, payments by Owners for damage to or destruction of lots or improvements thereto, and other funds received on account of or arising out of injury or damage to the buildings, etc.

(a) Insurance Proceeds - The Board shall adjust losses under physical damage insurance policies of the Association.

(b) Assessments against Owners - Notwithstanding the limitations of Article VIII, Section 2, if the insurance proceeds are insufficient to effect the necessary repair or restoration of the Common Areas, such deficiency shall be charged against all Owners as a common expense. The proceeds of assessments for such common expenses shall be paid by the Board directly to the vendor making the repairs and restoration.

(c) Payments by Others - Any other funds received on account of or arising out of injury or damage to the buildings, etc. shall be administered directly by the Board.

ARTICLE XII AMENDMENTS TO BY-LAWS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Directors at any regular or special meeting of the Board of Directors. Unless notice is waived, the Association shall provide seven (7) days written notice to the directors that the amendment will be voted upon at the meeting, and the notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment of the Bylaws, and the notice shall also contain or be accompanied by a copy or a summary of the amendment or state the general nature of the amendment. Any amendment must be approved by a majority of the Directors in office at the time the amendment is adopted and the Grantor until such time as the Grantor does not own any of the Lots.

ARTICLE XIII CONFLICTS

In case any of these By-Laws are in conflict with the provisions of any statutes, the Articles or the Declaration of Covenants and Restrictions of Sunbridge Villas as the case may be, the statutes, Articles, Declaration of Covenants and Restrictions of Sunbridge Villas shall control.

ARTICLE XIV MISCELLANEOUS

SECTION 1. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

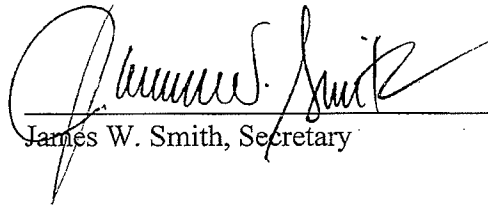
SECTION 2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

SECTION 3. Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter gender, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

SECTION 4. Waiver. No restriction, condition, obligation, or provisions contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which occur.

SECTION 5. Attorney Fee. In any legal or equitable proceeding for the enforcement or to restrain the violation of this instrument or any provisions thereof, by reference or otherwise, the prevailing party or parties shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein, or at law or equity, shall be cumulative and not exclusive.

ADOPTED by the Board of Directors of the Association effective as of the 19th day of November, 2007.



James W. Smith, Secretary

City of Fayetteville Staff Review Form

C. 4
Proposed Employee
Benefits Renewal
Page 1 of 14

City Council Agenda Items
and
Contracts, Leases or Agreements

8/21/2012

City Council Meeting Date
Agenda Items Only

Missy Leflar
Submitted By

Human Resources
Division

Chief of Staff
Department

Action Required:

Staff recommends that Council approve renewal of the Datapath and Ace USA contracts at no increased cost to the City. Staff further recommends that Council approve the City's proposed United Health Care health insurance changes, as well as the employee wellness incentive premiums as outlined in the accompanying memo.

\$ 3,967,200.00
Cost of this request

\$ -
Category / Project Budget

Citywide
Program Category / Project Name

XXXX.XXXX.51XX.XX
Account Number

\$ -
Funds Used to Date

Citywide
Program / Project Category Name

N/A
Project Number

\$ -
Remaining Balance

Citywide
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director

8-8-12
Date

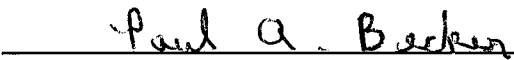
Previous Ordinance or Resolution # _____


City Attorney

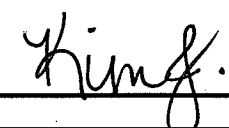
8-8-12
Date

Original Contract Date: _____

Original Contract Number: _____


Finance and Internal Services Director

8-8-2012
Date

08-03-12 P03:02 RCVD
Received in City
Clerk's Office 


Chief of Staff

8-8-12
Date

Received in
Mayor's Office 


Mayor

8/8/12
Date

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING A 2013 EMPLOYEE BENEFITS PACKAGE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the 2013 employee benefits package as recommended in the staff memorandum attached as Exhibit "A".

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

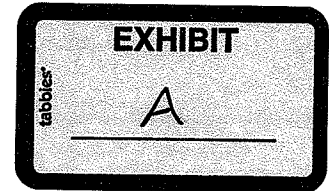
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council members
Thru: Don Marr, Chief of Staff
From: Missy Leflar, Human Resource Director *ML*
Date: August 8, 2012
Subject: Employee benefits renewals



PROPOSAL:

It is proposed that the City Council renew the City's employee benefits for 2013, as more fully described below. The proposal is made now in order for the employee benefits enrollment process to proceed on time, and so that City employees may retain what many consider the most positive aspect of their employment with the City: their benefits.

There are three City paid benefits contracts coming up for renewal for 2013. Two of them are for the same price as the City currently pays. Staff recommends renewal of these two contracts. The first is with Datapath Administrative Services for administration of the legally required Section 125 Summary Plan Description and COBRA Administration services, as well as administration of the employee Flexible Spending Accounts (medical reimbursement and dependent care reimbursement). The second is with Ace USA for group Accidental Death & Dismemberment insurance (\$25,000 coverage in the event an employee dies in an accident or loses a limb).

In addition, there are two employee paid benefits contract matters not requiring Council approval, since the employees pay for these benefits rather than the City. Just for Council's information, one is the Delta Dental insurance renewal that is occurring (at no rate increase). The other is a change in vision insurance from AlwaysCare Vision to Superior Vision, which will be a vision product that will cost employees less and will have better coverage.

The third City paid benefit contract coming for renewal for 2013 is the health insurance. For the last several years the City's health insurance companies have consistently paid out far more in claims than they have collected in premiums, resulting in annual losses to them of well over a million dollars each year. Against this background the City's Benefits Broker, Gallagher Benefits Services, Inc., solicited competitive bids from several major health insurance carriers. Of those, two came the closest to being the least expensive: Arkansas Blue Cross Blue Shield and United Health Care.

HISTORY

The City has experience with both insurance companies. It has a long history of having insurance with Blue Cross for the majority of the last 50+ years. United Health Care is the City's current health insurance carrier. The City has carried two types of plans with each company: PPO (Traditional) insurance and HDHP

(High Deductible insurance, which is less expensive) from which employees make a choice. The City switched from Blue Cross to United Health Care as of January 1, 2012 for financial reasons. The coverage and networks¹ are not identical but have been, generally speaking, comparable although the pharmacy formulary (rules on what is covered for prescriptions) are more stringent and more subject to review with United Health Care than with the prior provider Blue Cross and Blue Shield of Arkansas. This is part of a strategy to keep pharmacy costs down². Health Care Reform laws have changed the way wellness is handled, but the changes in wellness benefits covered, and amounts paid is caused by Health Care Reform requirements more than by the individual insurance company's rules on wellness coverage.

There have been some employee complaints about the change from Blue Cross to United Health Care, and they have predominantly centered around the pharmacy formulary differences (a difference in the insurance companies' respective pricing contracts with the drug companies) and the wellness coverage (a difference caused by Health Care Reform laws which will apply regardless of carrier selected). There have likewise been some employee compliments about the change from Blue Cross to United Health Care from people's whose drug prices went down instead of up, etc. United Health Care does seem to have better online tools available for employees, such as an online tool for pricing medications and finding less expensive alternatives.

The two companies were close in the PPO (Traditional) health insurance plan proposals, but were significantly different with regard to the HDHP (High Deductible) health insurance plan proposals. United Health Care was much less expensive in that regard. Still, the proposals from both involved increases in the double digits (well over 20% increases). The City thus sought and received numerous variations of Blue Cross' and United Health Care's competitive bids. Variables included different deductible configurations, different pharmacy formularies, etc. After all the variables were studied, United Health Care in the end was the least expensive, with an increase of 12.2% from current rates on the PPO health insurance and a decrease of -2.3% on the HDHP health insurance. Staff accordingly recommends that the City continue with United Health Care as its health insurer.

SCOPE OF COVERAGE CHANGES: KEEPING THE RATES DOWN FROM DOUBLE DIGIT INCREASES

Even with the City continuing with United Health Care, premiums as a whole will still be going up quite a bit. They would be in the double digits above the 20% range on the increases but for the City's decision to make some changes in the deductibles, co-insurance, and co-insurance maximums. Such changes will bring the premium increases down 8.3% (from the original proposed increase) on the PPO health insurance and down 24.8% (from the original proposed increase) on the HDHP health insurance. Put another way, the lowest proposal that the City could get, balanced against coverage changes that were acceptable, is an increase of 12.2% from current rates on the PPO health insurance and a decrease of -2.3% on the HDHP health insurance. Please refer to the attached rate comparison chart.

¹ Although the networks have been comparable, the City recently received a letter from Northwest Health System warning of its intention to drop Blue Cross from its network effective August 19th. The letter stated there were still negotiations but it portrayed the event as one that would occur unless negotiations changed things. This would mean that Northwest Medical Center in Springdale and Willow Creek Women's Clinic would no longer be in the Blue Cross network. A Northwest Health Center representative has stated to the City that there is no reason to believe it will drop out of the United Health Care network for 2013.

² Even with the more stringent pharmacy requirements, between January and April of 2012 the health insurance paid out a total of \$218,586 on pharmacy claims on the PPO policy.

In order to get the lowest proposal, the changes to the insurance coverage from current coverage are:

- The PPO deductible will change from \$500 for individual coverage to \$1,000 for individual coverage.
- The PPO deductible will change from \$1,000 for family coverage to \$2,000 for family coverage.
- The HDHP co-insurance coverage (coverage after the deductible is met) is changing from 100% to 80%.
- The HDHP family deductible will change back to the non-embedded form the City had under the Blue Cross policy. This means that all the family members' claims have to add up to the \$6,000 deductible before the co-insurance coverage begins.
- The out-of-pocket maximums (maximum amounts employees can be liable for paying for covered items in a calendar year's time) increased. Please refer to the attached rate comparison chart.

The above changes together created a savings of \$400,898. (Please see attached chart)

The above are the only changes. Other coverages will remain the same. Further, the City will maintain its contributions into Health Savings Accounts for employees on the High Deductible plan. Employees are able to use the money from these accounts to pay for medical expenses not paid for by the insurance.

WELLNESS EFFORT INCENTIVES

One set of variations the City carefully examined was a premium structure designed to provide incentives for employees to take responsibility for their own healthy practices. Statistically, City employees use health insurance at a much higher rate than the normal industry standard by which insurance companies price premiums. In other words, City employees as a group use their health insurance at an unusually higher rate than would be normally expected. Health insurance today is usually quoted to an employer assuming that employees will use it at the normal 82%-84% utilization rate³. The City's employee utilization rate, however, far exceeds that with a 114.39% utilization rate after just the first four months of 2012 (see attached chart). Anything over 100% means that medical payments have exceeded health insurance premiums that were collected. Obviously premiums will go up when more insurance is being used than is being paid for.

Part of the answer may lie in the results from the City sponsored free health screenings that were provided on site last Spring for insured employees. Health screenings are one way to catch serious health problems before they become symptomatic (and more expensive to treat). Of the 685 insured employees eligible to participate in the free health screenings sponsored by the City, only 207 (30%) elected to do so. Of those that did, 73.4% were determined to be at risk for being overweight and obese (above the national average), 62.3% were determined to be at risk for high blood pressure, 53.4% were at risk for HDL Cholesterol, and 14% were at risk for hypertension.

In the past there has been no financial incentive for City employees to take actions to try to stay healthy, thus reducing the need to use health insurance. In light of soaring health care costs, City employees' extremely high usage of the health insurance, and the high percentage of City employees who scored as "high risk" on the

³ Generally speaking there is a break even point for insurance companies. The permissible Medical Loss Ration (MLR) currently typically falls between the 82%-84% range in order for there to be profitability.

health screenings, the City has decided to follow the example set by other employers who are trying to slow the growth of health insurance premiums by giving financial incentives to stay healthy.

After careful examination of the possibilities, the City has opted to offer a three tier premium system for its employees to reward those who engage in proactive healthy practices. First, there will be a Regular insurance premium paid by employees. Second, there will be a Tobacco User's premium that is 5% higher than the Regular premium, which will be paid by employees who use tobacco or are insuring a dependent who use tobacco. Third, there will be a Wellness Program Participant discount that is 5% lower than the regular premium, for employees who participate in the City's Wellness Program. (Note: Employees who use tobacco and who aren't insuring a dependent who uses tobacco can still get a specially coded regular insurance premium rate by participating in the City's Wellness Program). A chart demonstrating the three tier premium program is attached.

It is anticipated that City sponsored wellness program will include a wide variety of activities such as free health screenings; on site educational meetings where good nutrition, exercise/sports, etc. are introduced or taught; use of the free City employee gym or other gyms; on site weight watchers meetings or similar type meetings; various organized employee activities such as walks on Park Trails; and other programs developed in conjunction with a third party Wellness Program vendor (to be selected via competitive bidding through the Benefits Broker).

APPORTIONMENT OF THE INCREASES

The City is recommending that employees absorb 50% of the increased dollar costs, as has been the tradition in many past years. One reason for this is that the employees of Fayetteville pay an unusually small percentage of health insurance cost (7% of the cost for individual coverage and 14% of the cost for family coverage) compared to others who work for other governmental employers (see attached comparison chart). Second, these cost increases are in large part due to increased usage of medical services by employees and their families, as opposed to the nationwide trend of medical costs going up in general. The employees who get the Wellness Program Participant discount will obtain it by having their 5% discount covered by the City when it pays the insurance company.

SUMMARY OF STAFF RECOMMENDATIONS:

Staff recommends that Council approve renewal of the Datapath and Ace USA contracts, so that these same services will continue at no increased cost to the City.

Staff recommends that Council approve the City's proposed United Health Care health insurance changes, as outlined above, for 2013. Staff also recommends that Council approve the employee wellness incentive premiums for 2013 as also outlined above.

BUDGET IMPACT:

These planned items are being budgeted for in the City's 2013 budget, subject to Council approval of the above. City staff and staff from the City's Benefits Broker, Gallagher Benefits Services, Inc., are available to answer any questions you may have.

**Table 1: Portion of Monthly Cost of Employee-Only Coverage
Medical Coverage Paid by the Employee by Plan Type**

	City	PPO/POS*	HMO/EPO	HDHP/CDHP
# of Plans	1	140	140	31
0		14%	9%	32%
1-9%	7%	23%	24%	35%
10-19%		29%	36%	16%
20-29%		20%	21%	16%
30-39%		4%	5%	0
40-49%		6%	3%	0
50-59%		2%	1%	0
60%+		1%	0	0

*the average contribution level is 18%

**Table 2: Portion of Monthly Cost of Family Medical Coverage
Paid by the Employee by Plan Type**

	City	PPO/POS*	HMO/EPO	HDHP/CDHP
# of Plans	1	141	140	31
0		9%	4%	13%
1-9%		11%	26%	6%
10-19%	14%	29%	22%	39%
20-29%		28%	30%	32%
30-39%		11%	13%	6%
40-49%		8%	4%	0
50-59%		3%	1%	0
60%+		2%	1%	3%

*the average contribution level is 24%

City of Fayetteville
PPO Budget Comparison Report - PPO Traditional
1/1/2012 through 12/31/2012

		Funding/Budget					Total Net Paid Claims and Access Fees			Total Net Costs		Funding Variance		
Month	Employees	\$	PEPM	Incurred Medical Claims	Incurred Rx Claims	Claims over Pooling Level	\$	PEPM	Admin and Pool Charge Expenses*	\$	PEPM	\$	PEPM	Loss Ratio
Jan-12	672	\$335,036	\$498.57	\$195,167	\$44,075	\$0	\$239,242	\$356.01	\$81,682	\$320,924	\$477.56	\$14,112	\$21.00	95.79%
Feb-12	679	\$337,174	\$496.57	\$175,540	\$55,469	\$0	\$231,009	\$340.22	\$82,203	\$313,212	\$461.28	\$23,962	\$35.29	92.89%
Mar-12	680	\$337,786	\$496.74	\$411,019	\$62,220	\$0	\$473,239	\$695.94	\$82,352	\$555,591	\$817.05	(\$217,805)	(\$320.30)	164.48%
Apr-12	675	\$337,034	\$499.31	\$212,141	\$56,821	\$0	\$268,962	\$398.46	\$82,169	\$351,131	\$520.19	(\$14,097)	(\$20.88)	104.18%
May-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Jun-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Jul-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Aug-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Sep-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Oct-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Nov-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Dec-12	0	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	\$0	\$0.00	\$0	\$0.00	0.00%
Total	2,706	\$1,347,030	\$497.79	\$993,867	\$218,586	\$0	\$1,212,452	\$448.06	\$328,406	\$1,540,858	\$569.42	(\$193,829)	(\$71.63)	114.39%

	ORIGINAL PROPOSAL				REVISED PROPOSAL			
Plan Name	Option 1: Current		Option 2: Current		Option 3 NEW		Option 10 NEW	
Product	Choice Plus * Insurance		Choice Plus * Insurance		Choice Plus * Insurance		Choice Plus * Insurance	
Option	A - Choice Plus		AA - Choice Plus HSA		New Plan		New Plan	
Plan Offering	Dual Option		Dual Option		Dual Option		Dual Option	
Multiple Option with:	Option(s) 2		Option(s) 1		Option(s) Replaces 1		Option(s) Replaces 2	
HRA or HSA	No		HSA		No		HSA	
Benefits*	Network Single/Family		Network Single/Family		Network Single/Family		Network Single/Family	
Office Copay (PCP/SPC)	N/A Per Visit		N/A Per Visit		N/A Per Visit		N/A Per Visit	
Other Copays (IP/ER/UC)	N/A/N/A/N/A		N/A/N/A/N/A		N/A/N/A/N/A		N/A/N/A/N/A	
Other	N/A		N/A		N/A		N/A	
Deductible	\$500/1,000		\$3,000/6,000		\$1,000/2,000		\$3,000/\$6,000	
Coinsurance	80%		100%		80%		80%	
Out-of-Pocket	\$2,500/4,000		\$4,000/8,000		\$3,000/6,000		\$4,000/\$8,000	
Pharmacy	\$10/30/50		Int Med/Rx Ded, \$10/35/60		\$10/30/50		Int Med/Rx Ded, \$10/35/60	
	Out of Network Single/Family		Out of Network Single/Family		Out of Network Single/Family		Out of Network Single/Family	
Deductible	\$1,000/2,000		\$5,000/10,000		\$2,000/4,000		\$5,000/\$10,000	
Coinsurance	60%		80%		70%		60%	
Out of Pocket	\$4,000/8,000		\$6,000/12,000		\$6,000/12,000		\$6,000/\$12,000	
Enrollment								
Employee	168		57		168		57	
Employee + Family	401		55		401		55	
Total	569		112		569		112	
	Rates (Billed)		Rates (Billed)		Rates (Billed)		Rates (Billed)	
Rates	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Employee	\$250.86	\$302.27	\$153.68	\$188.18	\$281.40	\$281.40	\$150.07	\$150.07
Employee + Family	\$664.77	\$801.00	\$407.24	\$498.66	\$745.70	\$745.70	\$397.67	\$397.67
Monthly Cost	\$308,717	\$371,982	\$31,158	\$38,153	\$346,301	\$346,301	\$30,426	\$30,426
Annual Cost	\$3,704,607	\$4,463,788	\$373,896	\$457,831	\$4,155,611	\$4,155,611	\$365,110	\$365,110
Change from Current	20.5%		22.5%		12.2%		-2.3%	
TOTAL PREMIUM COST	\$4,921,619				\$4,520,721			
SAVINGS OVER ORIGINAL	\$400,898							

2013 Health Insurance Summary:

Cost to Employee (50% Split Cost Increase)

8/4/2012

Monthly Premiums: (Employee)	Count	2012 Rates	New Wellness Premium	New Regular Premium	New Tobacco Premium
620 - PPO HEALTH INSURANCE - FAMILY	410	\$ 93.18	\$ 126.96	\$ 133.64	\$ 140.32
630 - PPO HEALTH INSURANCE - INDIVIDUAL	163	\$ 18.42	\$ 32.01	\$ 33.69	\$ 35.37
660 - HDHP HEALTH SAVINGS - INDIVIDUAL	45	\$ 10.08	\$ 7.87	\$ 8.28	\$ 8.69
670 - HDHP HEALTH SAVINGS - FAMILY	50	\$ 26.58	\$ 20.71	\$ 21.80	\$ 22.89

*Monthly Premiums: (Employer COF)	Count	2012 Rates	New Wellness Premium	New Regular Premium	New Tobacco Premium
620 - PPO HEALTH INSURANCE - FAMILY	410	\$ 571.59	\$ 618.74	\$ 612.06	\$ 605.38
630 - PPO HEALTH INSURANCE - INDIVIDUAL	163	\$ 232.44	\$ 249.39	\$ 247.71	\$ 246.03
660 - HDHP HEALTH SAVINGS - INDIVIDUAL	45	\$ 214.40	\$ 213.00	\$ 212.59	\$ 212.18
670 - HDHP HEALTH SAVINGS - FAMILY	50	\$ 537.32	\$ 533.62	\$ 532.53	\$ 531.44

2013 Annual Budget Impact	Count	2012 Rates	New Wellness Premium	New Regular Premium	New Tobacco Premium
620 - PPO HEALTH INSURANCE - FAMILY	410	\$ 2,812,200	\$ 3,044,200	\$ 3,011,300	\$ 2,978,500
630 - PPO HEALTH INSURANCE - INDIVIDUAL	163	454,700	487,800	484,500	481,200
660 - HDHP HEALTH SAVINGS - INDIVIDUAL	45	115,800	115,000	114,800	114,600
670 - HDHP HEALTH SAVINGS - FAMILY	50	322,400	320,200	319,500	318,900
TOTAL BUDGET		\$ 3,705,100	\$ 3,967,200	\$ 3,930,100	\$ 3,893,200
\$ CHANGE FROM 2012			\$ 262,100	\$ 225,000	\$ 188,100

*Includes COF Contribution on the HDHP Plans

"Initial Proposal"

Impact on City Budget If Current Employee/Employer % Were Kept the Same

Health Plan	Current Cost	New Cost	Increase To The City	%
PPO - FAMILY (620)	\$ 2,812,200	\$ 3,388,500	\$ 576,300	20%
PPO - INDIVIDUAL (630)	454,700	547,800	93,100	20%
HDHP - INDIVIDUAL (660)	115,800	133,200	17,400	15%
HDHP - FAMILY (670)	322,400	373,700	51,300	16%
	<u>\$ 3,705,100</u>	<u>\$ 4,443,200</u>	<u>\$ 738,100</u>	<u>20%</u>

Impact on City Budget If Increase Divided Equally Between Employee/Employer

Health Plan	Current Cost	New Cost	Increase To The City	%
PPO - FAMILY (620)	\$ 2,812,200	\$ 3,147,400	\$ 335,200	12%
PPO - INDIVIDUAL (630)	454,700	504,900	50,200	11%
HDHP - INDIVIDUAL (660)	115,800	125,100	9,300	8%
HDHP - FAMILY (670)	322,400	349,800	27,400	8%
	<u>\$ 3,705,100</u>	<u>\$ 4,127,200</u>	<u>\$ 422,100</u>	<u>11%</u>

"Recommended"

Impact on City Budget If Current Employee/Employer % Were Kept the Same

Health Plan	Current Cost	New Cost	Increase To The City	%
PPO - FAMILY (620)	\$ 2,812,200	\$ 3,154,600	\$ 342,400	12%
PPO - INDIVIDUAL (630)	454,700	510,000	55,300	12%
HDHP - INDIVIDUAL (660)	115,800	160,300	44,500	38%
HDHP - FAMILY (670)	322,400	309,200	(13,200)	-4%
	<u>\$ 3,705,100</u>	<u>\$ 4,134,100</u>	<u>\$ 429,000</u>	<u>12%</u>

Impact on City Budget If Increase Divided Equally Between Employee/Employer

Health Plan	Current Cost	New Cost	Increase To The City	%
PPO - FAMILY (620)	\$ 2,812,200	\$ 3,044,200	\$ 232,000	8%
PPO - INDIVIDUAL (630)	454,700	487,800	33,100	7%
HDHP - INDIVIDUAL (660)	115,800	115,000	(800)	-1%
HDHP - FAMILY (670)	322,400	320,200	(2,200)	-1%
	<u>\$ 3,705,100</u>	<u>\$ 3,967,200</u>	<u>\$ 262,100</u>	<u>7%</u>

City Council Agenda Items
and
Contracts, Leases or Agreements

8/21/2012

City Council Meeting Date
Agenda Items Only

Jesse Fulcher

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 12-4146: Rezone (4054 W. STARRY NIGHT VIEW/OAKBROOKE III PZD, LOTS 52, 53, & 54, 361): Submitted by PARADIGM DEVELOPMENT ENTERPRISES, INC. for properties located at 4054 & 4076 WEST STARRY NIGHT VIEW AND 1907 NORTH BEST FRIEND LANE. The properties are zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (OAKBROOK III) and contain approximately 1.80 acres. The request is to rezone the subject properties to RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
Clerk's Office

08-03-12 P01:30 RCVD

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: August 3, 2012

Subject: RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD, LOTS 52, 53, & 54)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of an ordinance to rezone the subject property from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single-family, 8 Units Per Acre.

BACKGROUND

The Oakbrooke development consists of approximately 32 acres, zoned R-PZD Oakbrooke I (3.76 acres) and R-PZD Oakbrooke III (28.62 acres). The subdivision is located between Bridgeport Subdivision and Ruppel Road.

Oakbrooke III, approved in 2010, contains five (5) planning areas, each with separate phasing schedules. Single-family home construction is ongoing in Planning Areas 1 and 3. No permits have been submitted for development in the remaining three Planning Areas. The owner has four years from the project approval date (January 19, 2014) to obtain construction permits for Planning Areas 4 and 5.

The subject property proposed for rezoning is approximately 1.80 acres all located within Planning Area II. The property is currently developed with a single-family home and two adjacent vacant lots (Lots 52-54). This property was proposed to be a cottage style development with 14 single-family dwellings positioned around a common greenspace at a density of 7.6 units per acre. The phasing schedule for Planning Area 2 required that permits be obtained by January 19, 2012. No permits were obtained and consequently this area of development is null and void, and there are no development rights for the property.

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned. In an effort to establish a valid zoning district on the subject property the owners have requested rezoning of the subject properties.

Proposal: The owners of the 1.80 acres propose to rezone Planning Area II from R-PZD 09-3439 to RSF-8, Residential Single-family 8 units per acre. The lot width requirement for RSF-8 is 50 feet along the public street. The overall property width will restrict development to four single-family lots, a resulting density of 2.20 units per acre.

DISCUSSION

On July 23, 2012 the Planning Commission voted 9-0-0 to forward this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4146, FOR APPROXIMATELY 1.80 ACRES, LOCATED AT 4054 AND 4076 WEST STARRY NIGHT VIEW AND 1907 NORTH BEST FRIEND LANE FROM R-PZD 09-3439 OAKBROOKE III TO RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE

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 changes the zone classification of the following described property from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single-family, 8 Units Per Acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

C. 5
RZN 12-4146 (4054 W. Starry
Night View/Oakbrooke III PZD)
Page 5 of 22

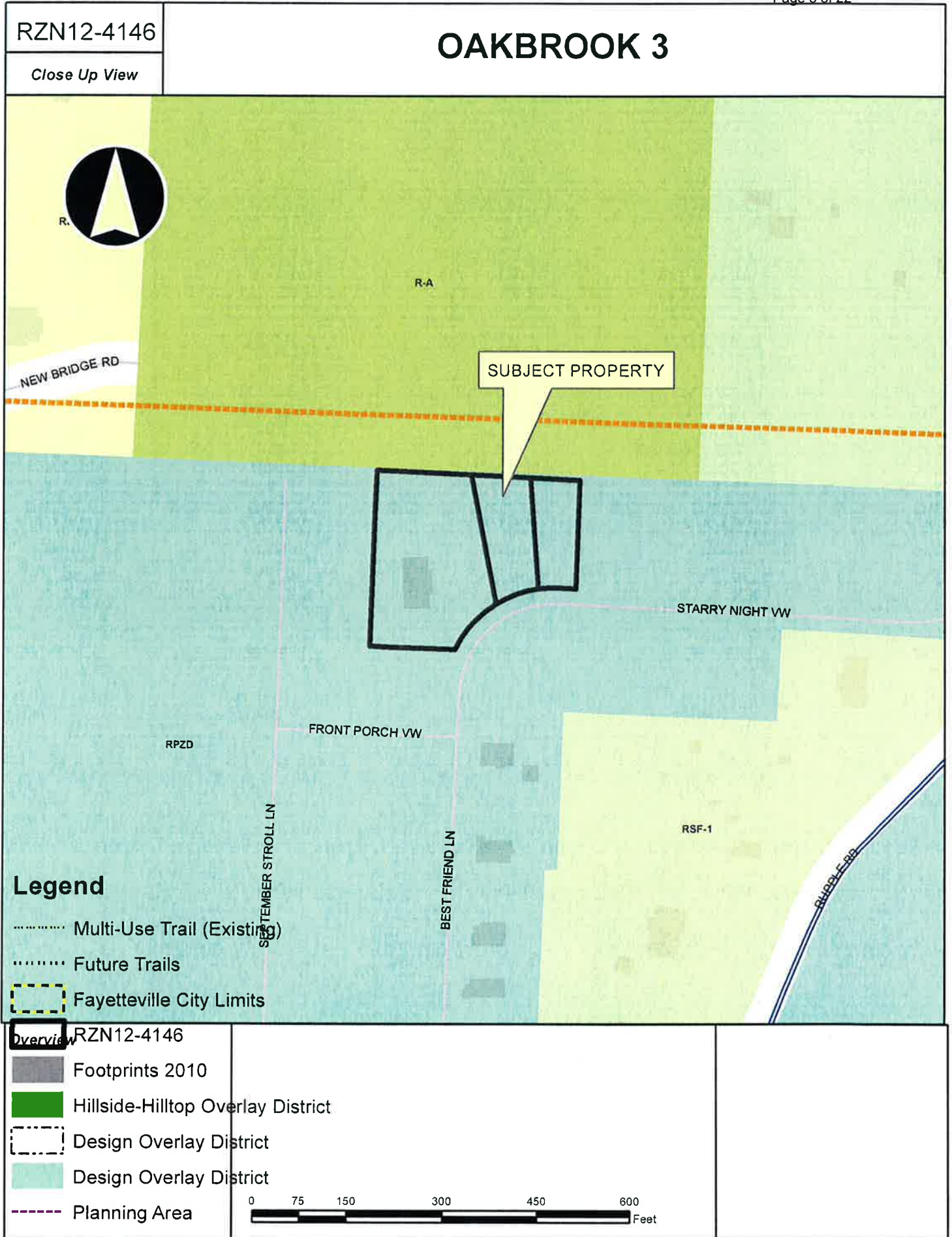


EXHIBIT "B"
RZN 12-4146

4054 Starry Night View
Lot 52, Oakbrooke Subdivision Phase II
County Parcel Number 765-28209-000

4076 Starry Night View
Lot 53, Oakbrooke Subdivision Phase II
County Parcel Number 765-28210-000

1907 Best Friend Lane
Lot 54, Oakbrooke Subdivision Phase II
County Parcel Number 765-28211-000

D) Proposed Development Phasing -

Oakbrooke 3 is planned in five phases to be constructed over a seven year period. All required permits necessary to complete the construction will be obtained within five years from City Council approval of the PZD. Anticipated timing for construction of public improvements for each phase is as follows...

- PA 1 - All permits necessary to complete construction will be obtained within one year from City Council approval. Final Plat approval shall be obtained within two years of Preliminary Plat approval.
- PA 2 - All permits necessary to complete construction will be obtained within two years from City Council approval. Final Plat approval shall be obtained within three years of Preliminary Plat approval.
- PA 3 - All permits necessary to complete construction will be obtained within three years from City Council approval. Final Plat approval shall be obtained within five years of Preliminary Plat approval.*
- PA 4 - All permits necessary to complete construction will be obtained within four years from City Council approval. Final Plat approval shall be obtained within five years of Preliminary Plat approval.
- PA 5 - All permits necessary to complete construction will be obtained within four years from City Council approval. Certificate of Occupancy shall be obtained within two years of the building permit approval**

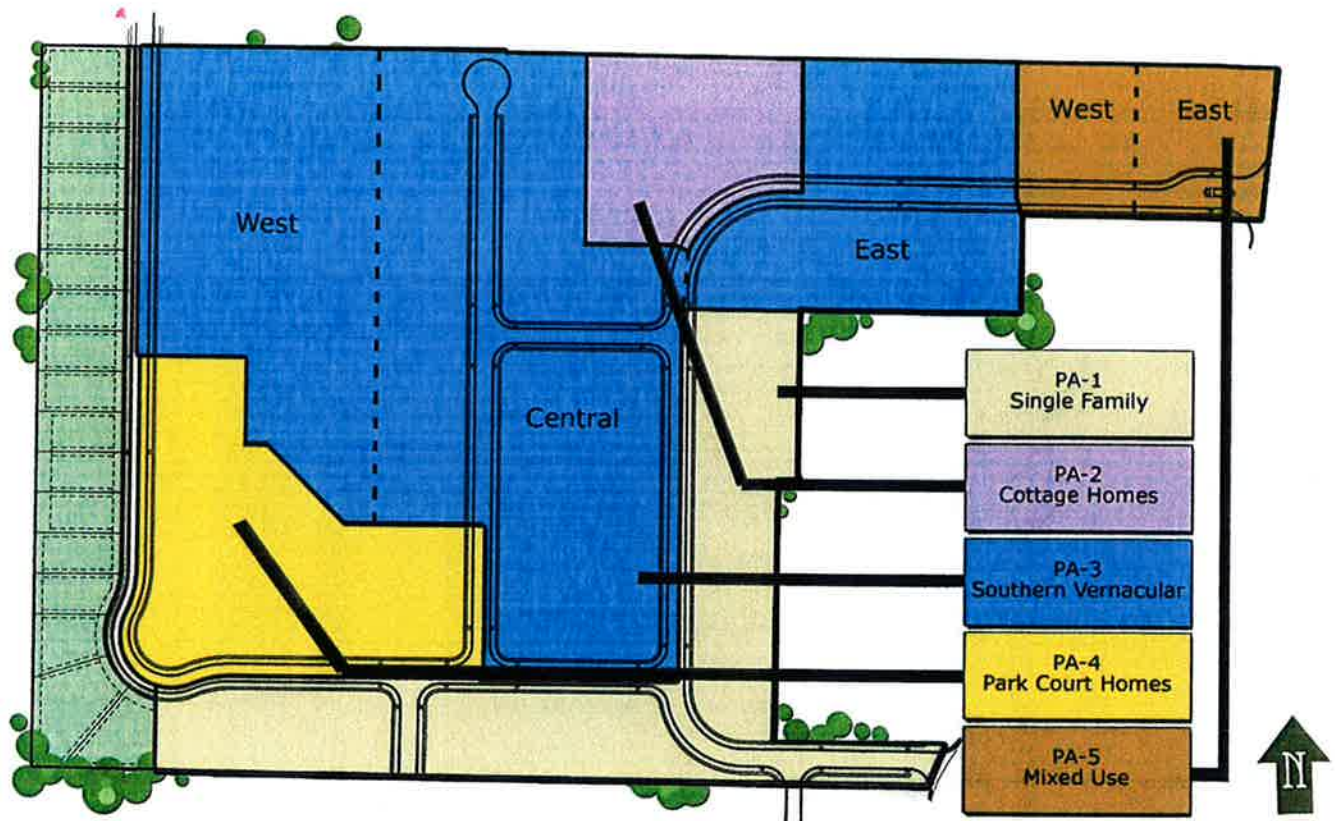
* PA3, which the largest of the PAs is divided into three areas; East, Central and West. Due to the size of PA3, in effort to minimize costs and condense construction areas, PA3 could be submitted in three individual Preliminary Plats.

** PA5 will likely be constructed as Large Scale Developments. As we do not expect construction of both areas to occur simultaneously, PA5 is made up of two areas which are designated Mixed Use East and Mixed Use West.

E) Proposed Planning Areas -

Oakbrooke 3 offers several types of residential living, home-based business, neighborhood shopping and eating places (though limited), and open/botanical areas, as depicted on sheet 2, the "Conceptual Site Plan". The community will offer Single Family Residential (attached and detached), Cottage Homes, and Southern Vernacular Homes, along with Neighborhood Mixed Use.

Proposed Planning Areas -



OAKBROOKE 3 PLANNED ZONING DISTRICT

Planning Area 2 - Cottage Homes

The Cottage Home planning area is designed to permit and encourage the developing of new single family homes in a historic village or "cluster" environment; much like the downtown area. Cottage Homes arranged in a more random placement pattern, some could potentially be attached. This arrangement typically provides for less consumption of open or green spaces, and reduces hard surface paving. Homes would be constructed and sold on individual, but more compact lots of similar size and use, most facing a highly landscaped common lawn/botanical area.



Front setbacks are delineated within a "build to zone" of 0 ft to 25 ft. However, for those lots fronting a public street (Lots 1 and 14), it is the intent for the front of the structure to be set at 14 ft. from the front property line. Homes located on interior lots facing the common green located at the core of PA2 shall be set back 10 ft from the property line

Homes should incorporate a usable front porch or stoop, and should be oriented to face the central common lawn. As with all homes located within Oakbrooke, facades should be designed to address the view from the public street as well.

Building coverage on individual lots is typically higher than is typical as would-be rear yard space is transferred to common green space at the front of the homes.

PA2 - Cottage Homes**(a) Permitted uses.**

- Unit 1 City-wide uses by right
 - Unit 8 Single-family dwelling
 - Unit 41 Accessory Dwelling
- In accordance with 16.4.19 of the UDC*

(b) Conditional uses.

- Unit 2 City-wide uses by cond. use permit
- Unit 4 Cultural and recreational facilities
- Unit 24 Home occupations

(c) Density.

- Acreage - 1.86 Acres
- Number of dwelling units - 14 Units
- Density per acre - 7.6 Max.

Bulk and area regulations**(d) Lot width minimum per dwelling. (ft)**

- Single family - 34 ft
- Townhomes - 24 ft
- All Other Uses - None

(e) Lot area minimum per dwelling. (sq. ft.)

- Single-family - 3200 sf
- Townhomes - 2200 sf
- Other Uses - None

(f) Land area per dwelling unit. (sq. ft.)

- Single-family - 3200 sf
- Townhomes - 2200 sf
- Other Uses - None

(g) Setback requirements. (ft)

- | Front | Side | Rear | Fronting |
|----------------|---------|-------|-------------|
| 0 ft to 25 ft* | 10 ft** | 10 ft | Street |
| 10 ft | 10 ft** | 10 ft | Common Lawn |

*The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.

**Detached structures may be located at the side property line, or "Zero Lot Line" side setback. 10' minimum distance between detached homes. Does not apply to garages which are detached from the primary structure.

(h) Height regulations -

- 32 ft

(i) Building area -

- 60%

Site Planning**(j) Landscaping -** Per Chapter 177 of the UDC**(k) Parking -** Per Chapter 172 of the UDC**(l) Architectural Design Standards -**
Refer to section C (8) of this booklet.**(m) Signage -**

As may be allowed for home occupations or per Chapter 174 of the UDC

(n) Design Requirements -

- a. All units shall be detached single-family dwellings.
- b. Maximum height shall be 32 ft.
- c. As shown on the conceptual site plan, all units shall have a primary entry consisting of a porch, patio, or other clearly delineated entry feature oriented to the common open space, or or walkway connecting to the common open space. Entry features shall have a minimum dimensions of 6 ft by 6 ft.
- d. The common open space shall be provided generally as shown, with dimensions of approximately 130 ft by 130 ft.
- e. The development shall include a variety of building styles, features, colors and site design elements. The same front façade shall not be permitted more than three times and may not be used adjacent to one another.
- f. At least 300sq ft of private, contiguous open space adjacent to each dwelling shall be provided with a minimum dimension of 10 ft.
- g. No fence shall exceed three feet in height except where the fence is located at least 10 ft from the front of the façade of the house.



PC Meeting of July 23, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~July 20, 2012~~ Updated July 24, 2012

RZN 12-4146: Rezone (4054 W. STARRY NIGHT VIEW/OAKBROOKE III PZD, LOTS 52, 53, & 54, 361): Submitted by PARADIGM DEVELOPMENT ENTERPRISES, INC. for properties located at 4054 & 4076 WEST STARRY NIGHT VIEW AND 1907 NORTH BEST FRIEND LANE. The properties are zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (OAKBROOK III) and contain approximately 1.80 acres. The request is to rezone the subject properties to RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE.

Planner: Jesse Fulcher

BACKGROUND:

Background and property description: The Oakbrooke development consists of approximately 32 acres, zoned R-PZD Oakbrooke I (3.76 acres) and R-PZD Oakbrooke III (28.62 acres). The subdivision is located between Bridgeport Subdivision and Rurple Road.

Oakbrooke III, approved in 2010, contains five (5) planning areas, each with separate phasing schedules. Single-family home construction is ongoing in Planning Areas 1 and 3. No permits have been submitted for development in the remaining three Planning Areas. The owner has four years from the project approval date (January 19, 2014) to obtain construction permits for Planning Areas 4 and 5.

The subject property proposed for rezoning is approximately 1.80 acres all located within Planning Area II. The property is currently developed with a single-family home and two adjacent vacant lots (Lots 52-54). This property was proposed to be a cottage style development with 14 single-family dwellings positioned around a common greenspace at a density of 7.6 units per acre. The phasing schedule for Planning Area 2 required that permits be obtained by January 19, 2012. No permits were obtained and consequently this area of development is null and void, and there are no development rights for the property. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North	Undeveloped agricultural land	R-PZD 05-1599
South	Single-family residential	R-PZD Oakbrooke III
East	Undeveloped subdivision lot	R-PZD Oakbrooke III
West	Undeveloped subdivision lot	R-PZD Oakbrooke III

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned. In an effort to establish a valid zoning district on the subject property the owners have requested rezoning of the subject properties.

Proposal: The owners of the 1.80 acres propose to rezone Planning Area II from R-PZD 09-3439 to RSF-8, Residential Single-family 8 units per acre. The lot width requirement for RSF-8 is 50 feet along the public street. The overall property width will restrict development to four single-family lots, a resulting density of 2.20 units per acre.

Public Comment: Staff has not received any comments.

RECOMMENDATION:

Staff recommends forwarding **RZN 12-4146 (Oakbrooke III Lots 52, 53 & 54)** to the City Council with a recommendation for approval based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 23, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Chesser</u>	Second: <u>Cabe</u>	Vote: <u>9-0-0</u>	
CITY COUNCIL ACTION: Required <u>YES</u>			
☐ Approved		☐ Denied	
Date: <u>August 21, 2012</u>			

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scales and context, including single-family, multifamily, and row-houses. It encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood.*

INFRASTRUCTURE:

Streets: The site has access to Starry Night View/Best Friend Lane. Both streets were constructed with the development of this subdivision.

Water: Public water is available to the property. There are 8" public water mains extended throughout the development.

Sewer: Sanitary sewer is available to the site. There are 8" sanitary sewer mains extended throughout the development.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.

Police: The Police Department does not find that this rezoning will affect calls for service or response times.

Fire: Staff did not receive objections from the Fire Department to this rezoning.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **Staff finds that the RSF-8 zoning district is consistent with the Future Land Use designation of Residential Area on the property and the existing and surrounding land uses and infrastructure. The zoning will allow the owners to develop the property similarly to the original layout and approval under Oakbrooke PZD Phase I and II.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is needed at this time as the existing R-PZD zoning has expired and the property is unable to be developed in any manner, including minor applications such as a lot split or single family residence, until the expired PZD zoning is revoked and a new zoning district is assigned. As discussed in Finding No. 1, the proposed zoning is justified as it is compatible with the surrounding zoning and land uses and consistent with the City's Future Land Use Plan.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed rezone would not increase traffic congestion in comparison to the R-PZD. The RSF-8 zoning will result in less density and vehicle trips than the approved cottage development for Planning Area II.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments and are included in this report. The proposed zoning change to RSF-8 should have no discernable impact on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable. Staff recommends in favor of the request.

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.
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(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.



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THE CITY OF FAYETTEVILLE, ARKANSAS



POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701

P (479) 587-3555 F (479) 587-3522

6/26/12

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Jeremy,

This document is in response to the requested comments on proposed RZN-12-4146 (4054 W. Starry Night View / Oakbrook III PZD, lots 52, 53, & 54, 361) submitted by Paradigm Development Enterprises, Inc. for properties located at 4054 and 4076 W. Starry Night View and 1907 N. Best Friend Lane.

It is the opinion of the Fayetteville Police Department that this RZN will not alter the population density, and will not create an appreciable or undesirable increase in the load on police services. In addition this will not create an appreciable increase in traffic danger and congestion.

Sincerely,

A handwritten signature in black ink, appearing to read "Capt. K. Yates".

Captain Kenny Yates
Fayetteville Police Department

A written description of this request addressing the following items:

- a. Current ownership information and any proposed or pending property sales.

The Property to be rezoned is currently owned by Hoskins Family Limited Partnership and by Simmons First Bank of NW Arkansas. No sales are pending.

- b. Reason (need) for requesting the zoning change.

Changes due to market conditions and the property currently has no development rights due to an expired PZD.

- c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

Proposed Zoning will be very compatible to the existing zoning of the surrounding neighborhood in terms of architecture, uses, setbacks, etc. Under any zoning, the property will be subject to the rules and regulations of the Oakbrooke Subdivision and its Architectural Control Committee.

Formerly, the property was zoned for 14 cottage-style homes on 1.733 acres, or 8 units per acre. Prior to the property being zoned for cottages, the property was zoned and constructed as three lots fronting public streets. The proposed Zoning is RSF8, however we only intend to develop the property as 4 lots total, thereby decreasing density and impact on infrastructure below its former development rights.

- d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

The property is currently served by a recently installed 8" water main along the street frontage (south property line) and 8" sewer main along the north property boundary. Three of the four proposed lots have private services extended to them. We will have to install a single water and single sewer tap for the 4th lot. No other services are required.

- e. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

As the property is under the restrictions of the Oakbrooke Architectural Controls and the Restrictions of the Oakbrooke Covenants, the property will be built out the same as any other lot within Oakbrooke. Oakbrooke is the quintessential model of the city's current land use and zoning policies.

- f. Whether the proposed zoning is justified and/or needed at the time of the request.

The Proposed Zoning is justified and needed as the property currently has no development rights due to the expiration of the former PZD Zoning.

- g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

No. We are actually lowering the total of homes which could be built on the property. Traffic danger and associated congestion will not be exacerbated.

- h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

No. We are actually lowering the total of homes which could be built on the property. Infrastructure and schools will receive no negative impact.

- i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

Currently, there are no uses permitted as the property has no development rights.



**SIMMONS FIRST BANK
OF NORTHWEST ARKANSAS**

MEMBER FDIC

May 21, 2012

Mr. Jesse Fulcher
City of Fayetteville
Fayetteville, Arkansas

Re: lots 52 & 53 of Oakbrook subdivision owned by Simmons First Bank

Dear Jesse:

Simmons First Bank is joining Paradigm Development in requesting the change of zoning of Oakbrook lots 52, 53 & 54 to RSF8.

Since Paradigm Development is more familiar with the requirements of the City of Fayetteville, Simmons First authorized Paradigm Development to take necessary steps on Simmons' behalf to obtain this zoning for both Paradigm Development and Simmons First Bank.

Thank you for your consideration.

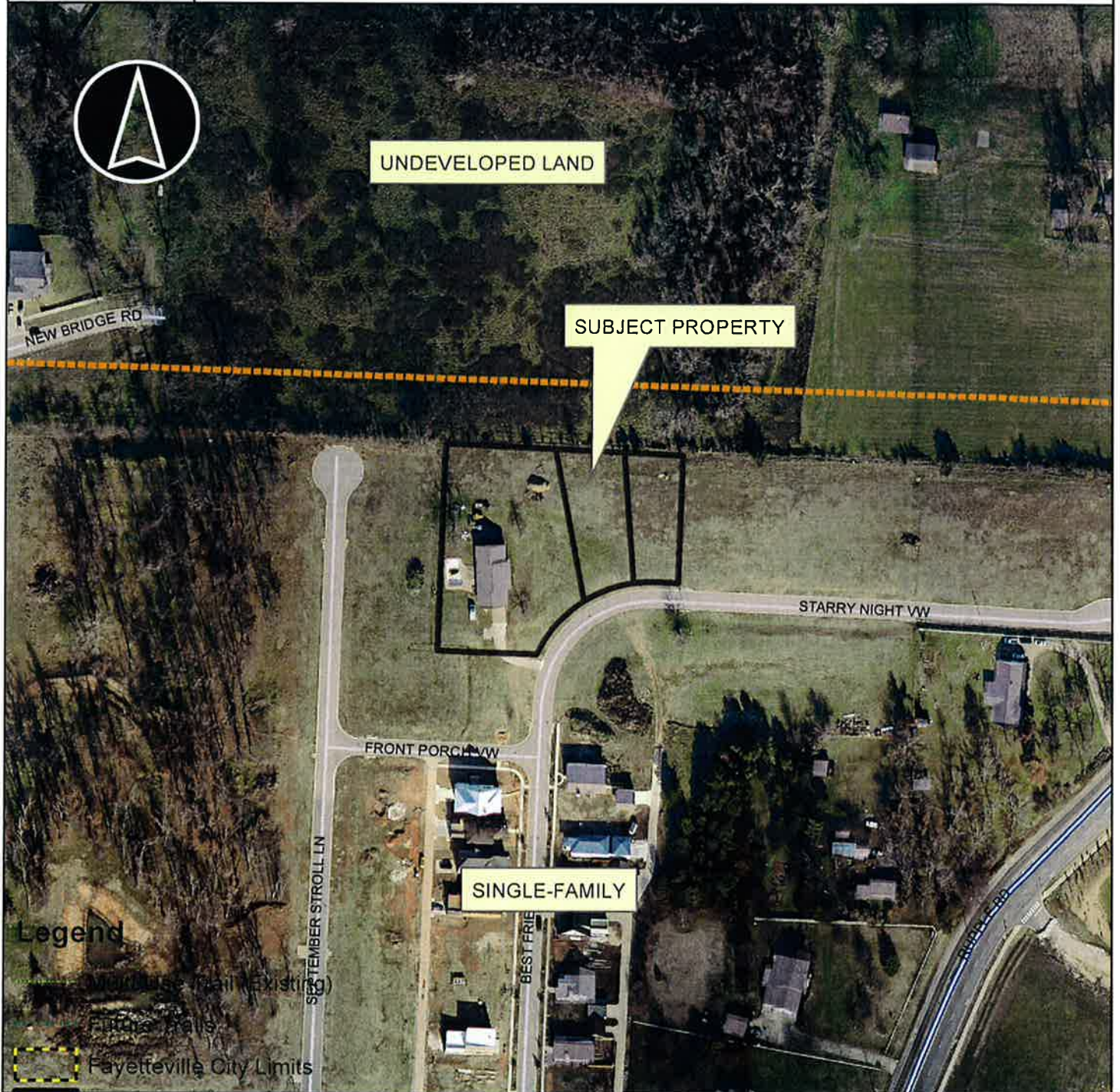


Dennis H. Ferguson
President

RZN12-4146

OAKBROOK 3

Close Up View



Legend

- Overview
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

RZN12-4146

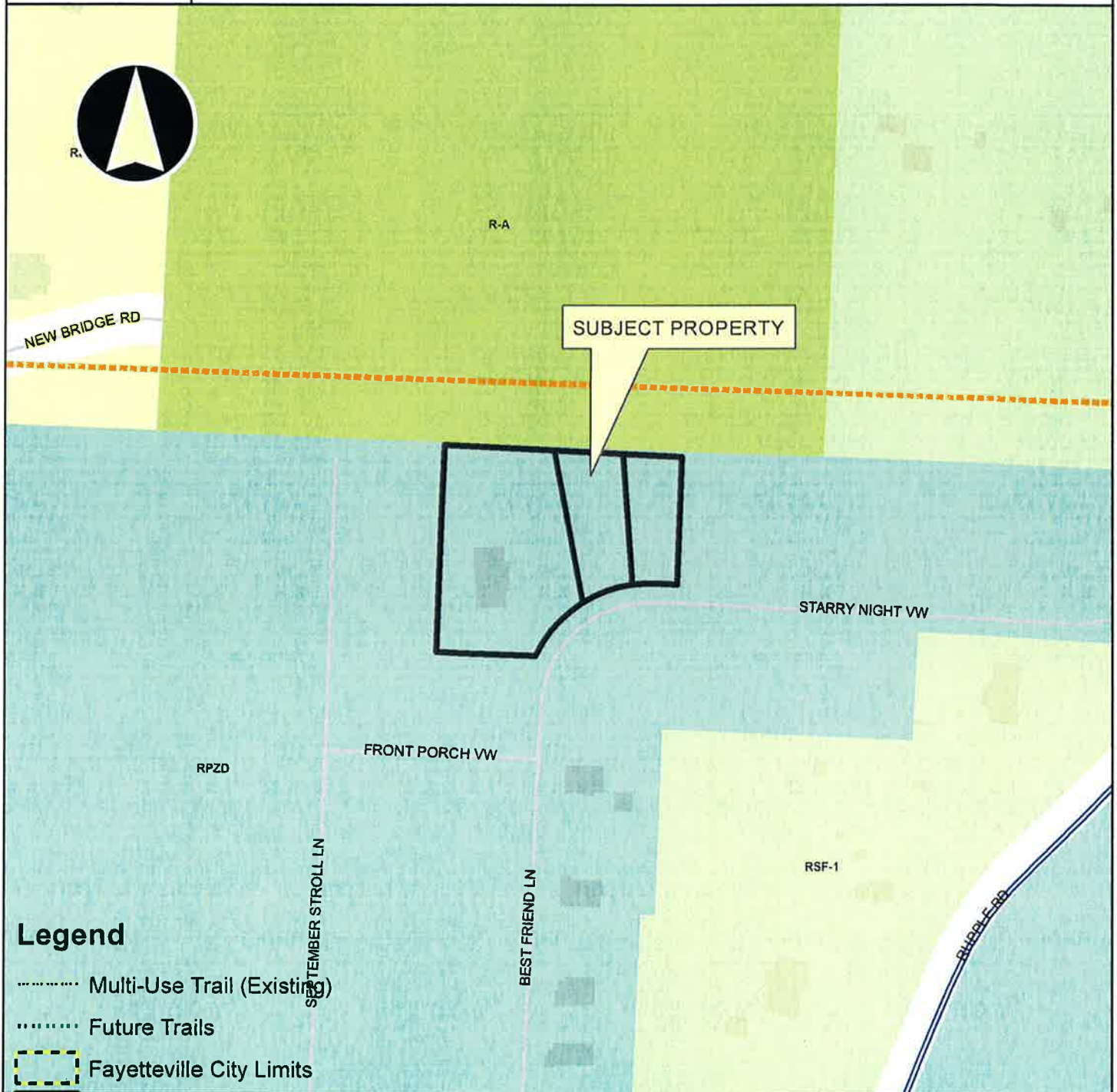
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600 Feet

RZN12-4146

Close Up View

OAKBROOK 3



Legend

-  Multi-Use Trail (Existing)
 Future Trails
 Fayetteville City Limits

Overview RZN12-4146

Footprints 2010

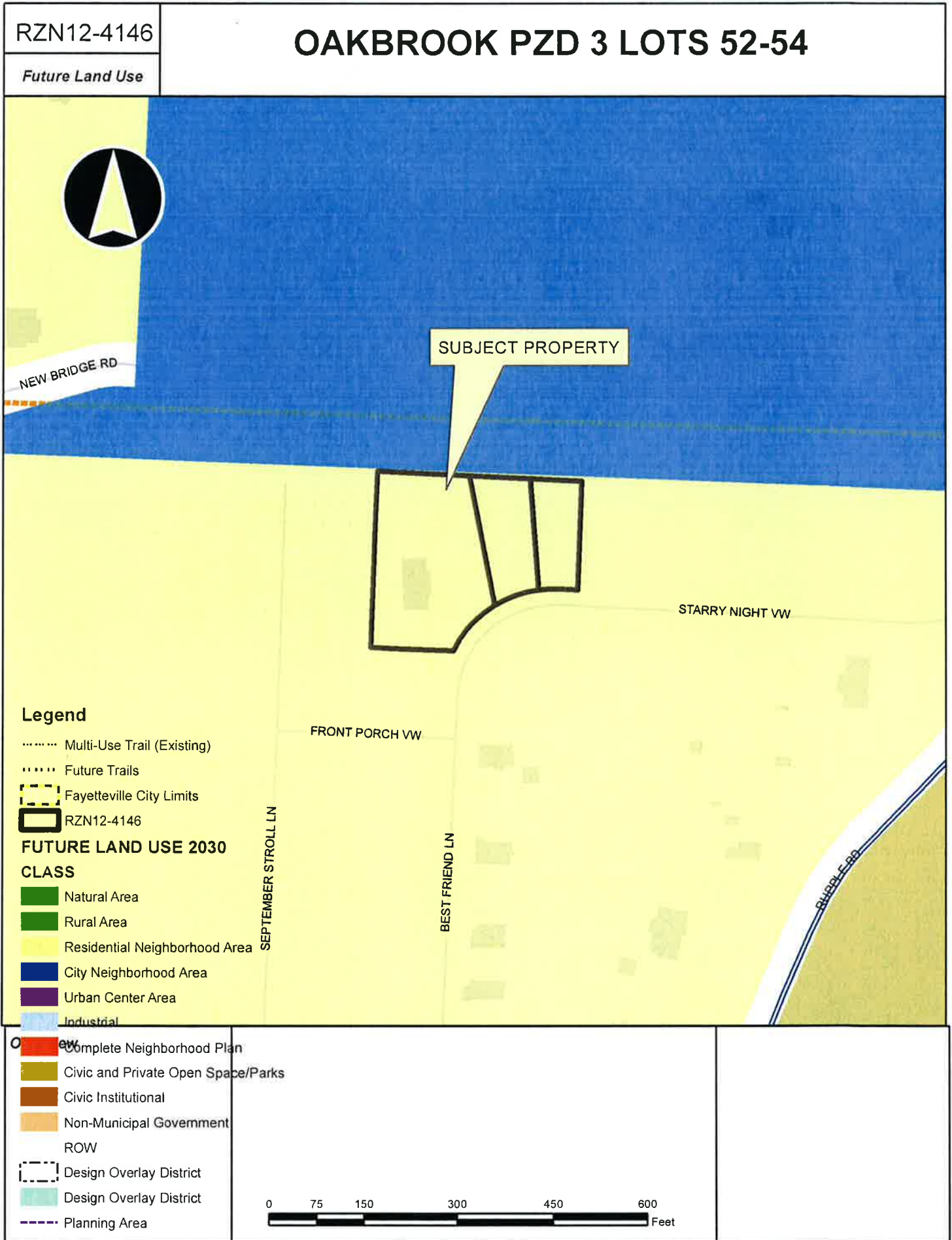
Hillside-Hilltop Overlay District

 Design Overlay District

Design Overlay District

----- Planning Area

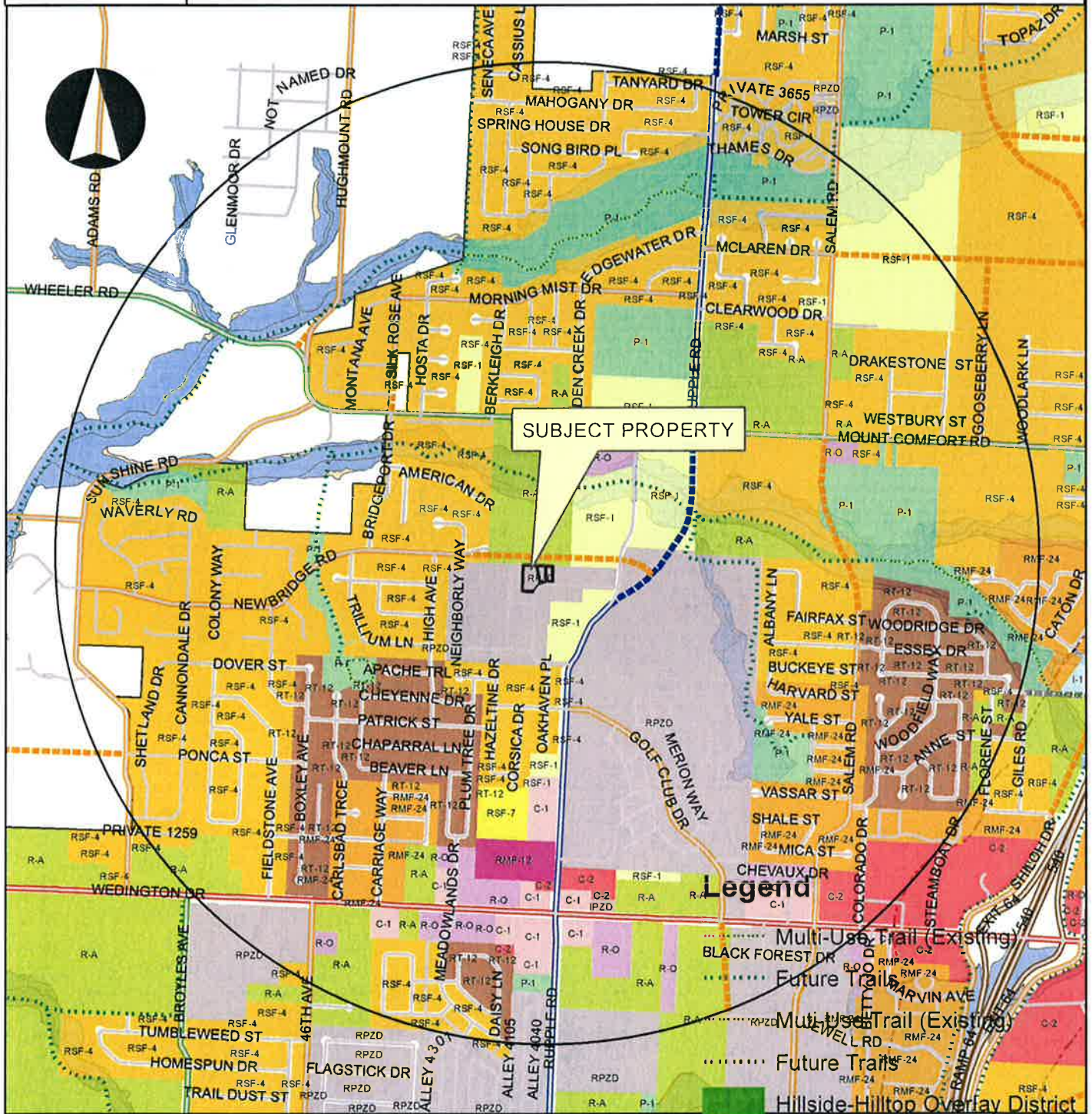




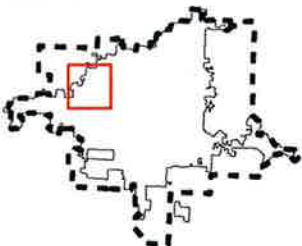
RZN12-4146

One Mile View

OAKBROOK PZD 3 LOTS 52-54



Overview



Legend

Subject Property
RZN12-4146

Boundary

0 0.25 0.5

RZN12-4146

Design Overlay District

Planning Area

Fayetteville

1

Miles

City Council Agenda Items
and
Contracts, Leases or Agreements

8/21/2012

City Council Meeting Date
Agenda Items Only

Jesse Fulcher

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 12-4164: Rezone (1420 N. GARLAND AVE./BONDS, 405): Submitted by BOB BONDS for property located at 1420 NORTH GARLAND AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.28 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Chief of Staff

Date

Mayor

Date

Received in City
Clerk's Office

08-03-12 P01:30 RCVD

Received in
Mayor's Office

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Current Planner

Date: August 3, 2012

Subject: RZN 12-4164 (1420 N. Garland Ave/Bonds)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of an ordinance to rezone the subject property from RMF-24, Residential Multi-family, 24 Units per Acre to NS, Neighborhood Services.

BACKGROUND

The subject property is located at the southeast corner of N. Garland Avenue and W. Lawson Street and is developed with a single-family home. The property is zoned RMF-24 and contains approximately 0.28 acres. Garland Avenue, a principal arterial street, is currently being widened to a four-lane boulevard. Lawson Street is a residential street that dead ends to the east just short of Oakland Avenue.

Proposal: The applicant proposes to rezone the property from RMF-24, Residential Multi-family to NS, Neighborhood Services.

DISCUSSION

On July 23, 2012 the Planning Commission voted 9-0-0 to forward this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4164, FOR APPROXIMATELY 0.28 ACRES, LOCATED AT 1420 NORTH GARLAND AVENUE FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE TO NS, NEIGHBORHOOD SERVICES

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 changes the zone classification of the following described property from RMF-24, Residential Multi-family, 24 Units per Acre to NS, Neighborhood Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

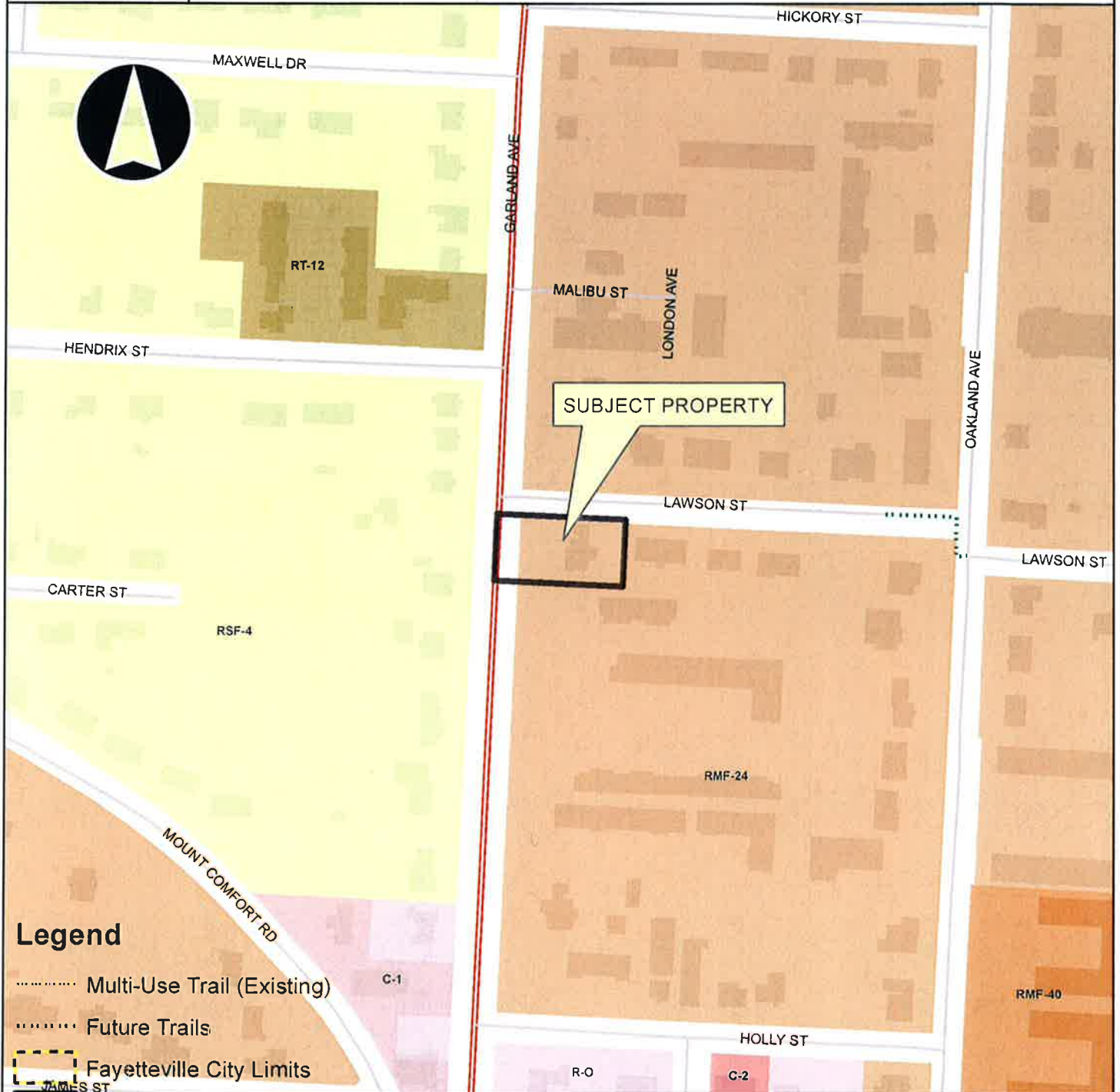
EXHIBIT "A"

C. 6
RZN 12-4164
(1420 N. Garland Ave./Bonds)
Page 4 of 22

RZN12-4164

BONDS

Close Up View



Legend

..... Multi-Use Trail (Existing)

..... Future Trails

..... Fayetteville City Limits

Overview RZN12-4164

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area



EXHIBIT "B"
RZN 12-4164

Part of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Nine (9), Township Sixteen (16) North, Range Thirty (30) West, beginning at a point on the South side of Lawson Street which is 10.90 feet south of the Northwest corner of said 40 acre tract, and running thence East along the South side of said Lawson Street 175 feet; thence South 90 feet; thence West 175 feet; thence North 90 feet to the point of beginning, subject to easements and restrictions, if any.



PC Meeting of July 23, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: July 18, 2012 Updated July 24, 2012

RZN 12-4164: Rezone (1420 N. GARLAND AVE./BONDS, 405): Submitted by BOB BONDS for property located at 1420 NORTH GARLAND AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.28 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

Planner: Jesse Fulcher

BACKGROUND:

Property Description: The subject property is located at the southeast corner of N. Garland Avenue and W. Lawson Street and is developed with a single-family home. The property is zoned RMF-24 and contains approximately 0.28 acres. Garland Avenue, a principal arterial street, is currently being widened to a four-lane boulevard. Lawson Street is a residential street that dead ends to the east just short of Oakland Avenue. Surrounding land use and zoning is listed in *Table 1*.

Table 1
SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Single-family	RMF-24, Residential Multi-family
South	Multi-family	RMF-24, Residential Multi-family
East	Two-family	RMF-24, Residential Multi-family
West	Single-family	RSF-4, Residential Single-family

Proposal: The applicant proposes to rezone the property from RMF-24, Residential multi-family to NS, Neighborhood Services.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding rezoning request RZN 12-4164 (1420 Garland/Bonds) to the City Council with a recommendation for approval based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 23, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Chesser</u>	Second: <u>Honchell</u>	Vote: <u>9-0-0</u>	
CITY COUNCIL ACTION:		Required <u>YES</u>	☐ Denied
Date: <u>August 21, 2012</u>		☐ Approved	☐ Denied

INFRASTRUCTURE:

- Streets:** The site has access to Garland Avenue and Lawson Street. Garland Avenue is under construction and will be a fully improved four lane boulevard state highway in this location. Laswon Street is a two lane city street. Street improvements will be evaluated at the time of development.
- Water:** Public water is available to the property. There is a 12" water main along Garland Avenue in this location. Public water main improvements may be necessary to provide fire flow for domestic service for any proposed development.
- Sewer:** Sanitary sewer is available to the site. There is a 6" main along Lawson Street. The public sewer may need to be evaluated for capacity depending upon the size of any proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.
- Police:** The Fayetteville Police Department does to find that this request will cause a substantial call volume increases or traffic danger and congestion problems.
- Fire:** Staff has not received any objection from the Fire Department to this rezoning.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**. City Neighborhoods Areas are more densely populated than residential neighborhood areas and provide a varying mix of nonresidential and residential land uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multifamily. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that rezoning the property to Neighborhood Services will be consistent with land use planning objectives, principles and policies and with land use and zoning plans. The Neighborhood Services zoning district will allow the owner to continue to utilize the property for residential purposes and provide the flexibility for adaptive reuse of the property for nonresidential uses that are compatible in scale and aesthetic with the neighborhood. Allowing both residential and low intensity non-residential uses will also extend the lifespan of the existing home, which was constructed in 1950 and recently remodeled.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The owner states that there has been interest in using the home for office and studio space. With the expansion of Garland Avenue to a four-lane boulevard, interest in small scale nonresidential uses will likely increase, and the desire to use the property as a single-family home will likely decrease. Rezoning the property to Neighborhood Services will allow the property owner to market the property for residential and low-intensity nonresidential uses that are compatible and complimentary to the existing neighborhood and a variety of surrounding land uses.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Based on staff findings and the Fayetteville Police Department report, the proposed rezoning will not create or appreciably increase traffic danger and congestion in the area. The Neighborhood Services zoning district limits nonresidential uses to only a maximum of 3,000 square feet. The existing house is approximately 1,300 square feet, and therefore it is unlikely that an appreciably increase in traffic danger or congestion will occur.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning will not create undesirable impacts to public services, or a residential density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cottage Housing Development

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less
----------------	------------

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 15 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

(L) Unit 12. Limited business.

(1) *Description.* Unit 12 consists of small-scale establishments offering commercial goods and services that are accessible for the convenience of individuals living in residential districts, while compatible in size, scale and appearance with the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 164. All uses classified under Unit 12 must be within a building containing 3,000 square feet or less.

(2) *Included uses.*

Personal Services: (Maximum gross floor area of 1500 square feet)	•Day care •Dry Cleaning •Salon/Barber shop •Tailoring
Specialized Retail: (Maximum gross floor area of 2000 square feet)	•Antique/home decor sales •Apparel •Art/architectural supplies •Bakery, Pastry shops •Bicycle Shops •Book store •Coffee shop •Delicatessen •Drugstore •Food specialty stores •Florist •Grocery •Hardware •Health food store •Hobby /Craft Stores •Ice cream •Meat Market •Restaurant/café •Small appliance repair •Stationary Store •Toy store •Video rental
Professional Offices: (Maximum gross floor area of 3000 square feet)	•Accountant •Architect •Attorney •Broker •Business/Mgmt Consultant •Doctor •Dentist •Engineer •Insurance Sales •Interior Designer •Optometrist •Realtor •Welfare agency
Studios for: (Maximum gross floor area of 3000 square feet)	•Art •Dance •Music •Photography •Pottery

MEMORANDUM

To: Jeremy Pate
From: Captain Kenny Yates
Date: 7/13/12
Subject: RZN 12-4164

This document is in response to the request for comments on proposed RZN 12-4164 (1420 N. Garland Ave. / Bonds, 405) submitted by Bob Bonds for property located at 1420 N. Garland Avenue.

It is the opinion of the Fayetteville Police Department that this RZN (12-4164), will not substantially alter the population density. This RZN will not create an appreciable or undesirable increase in the load on police services and will not create an appreciable increase in traffic danger and congestion.

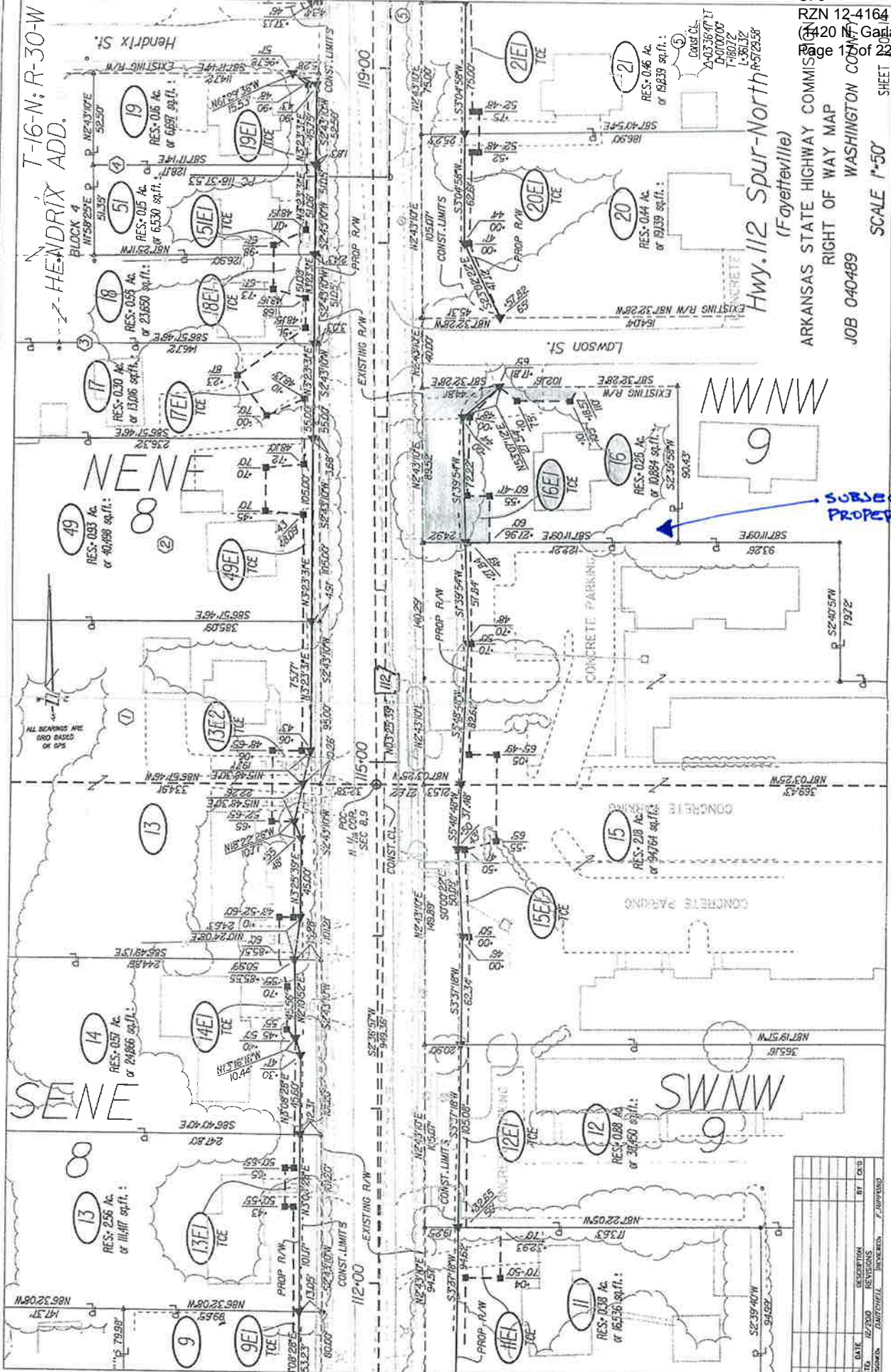
REZONING CHECKLIST

1420 Garland Ave.

(5) Written Description

- (a.) Current Ownership: Bob L. and Wilma B. Bonds. There are no current proposed property sales.
- (b.) Reason for Zoning Change: To allow for Office, Studio, Government Facilities, and related services to be located on subject property.
- (c.) The proposed rezoning would complement the City's master plan of integrating professional services within neighborhoods making it convenient for residents to seek services such as legal offices, tax services, beauty shops, etc. The traffic impact would be minimal. Appearance will not be affected; the property contains a recently completely re-built house of vintage design. Signage would be minimal and be subject to City code.
- (d.) Water, sewer and all public utilities are currently connected to dwelling, directly off main lines in front of property.
- (e.) We have had preliminary discussions with Dara Sanders, and we are encouraged that this change fits within the City master plan.
- (f.) The proposed zoning is not necessarily needed at the time of this request as our son presently resides there; however, we have had numerous inquiries in the past asking if the property would be for sale for such uses as a law office and beauty shop. Either of these uses would be justified.
- (g.) The proposed zoning would not increase traffic danger or congestion. In fact, the Arkansas Highway Department proposed two curb cuts off Garland to the property. We requested to eliminate both of these and create a new entrance off the adjacent Lawson Street, which is a short, dead end street. Both the Fayetteville City Engineer and the AHD resident engineer have endorsed this request.
- (h.) The proposed rezoning will have no effect on the population density or public services.
- (i.) To change the current zoning from R-MF to R-O will have no effect on the current use; however, to not change the zoning to R-O would have negative effect on a future office use of the property.

T-16-N; R-30-W
BLOCK 4
HENDRIX ADD.



C. 6
RZN 12-4164
(120) Garland Ave./Bonds
Page 1 of 2
WASHINGTON COUNTY
JOB 040489
SCALE 1"=50'
SHEET 23

Hwy. 112 Spur-North
(Fayetteville)

SENE

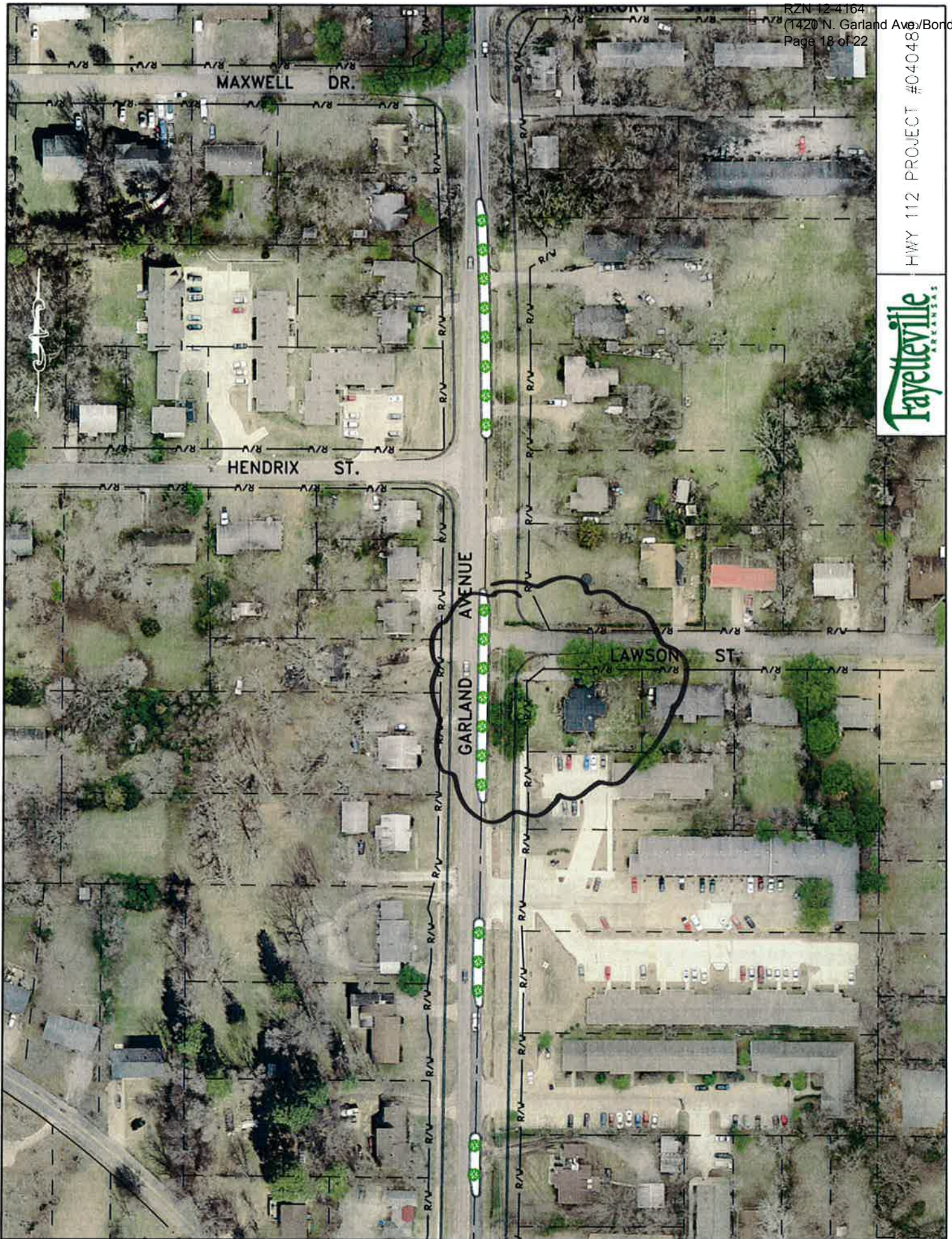
SWNW

REV.	DATE	DESCRIPTION	BY	CHKD
1	12/20/00	REVISIONS		
2	12/20/00	REVISIONS		
3	12/20/00	REVISIONS		
4	12/20/00	REVISIONS		
5	12/20/00	REVISIONS		
6	12/20/00	REVISIONS		
7	12/20/00	REVISIONS		
8	12/20/00	REVISIONS		
9	12/20/00	REVISIONS		
10	12/20/00	REVISIONS		
11	12/20/00	REVISIONS		
12	12/20/00	REVISIONS		
13	12/20/00	REVISIONS		
14	12/20/00	REVISIONS		
15	12/20/00	REVISIONS		
16	12/20/00	REVISIONS		
17	12/20/00	REVISIONS		
18	12/20/00	REVISIONS		
19	12/20/00	REVISIONS		
20	12/20/00	REVISIONS		
21	12/20/00	REVISIONS		

HWY 112 PROJECT #04048



42



RZN12-4164

BONDS

Close Up View



Overview RZN12-4164

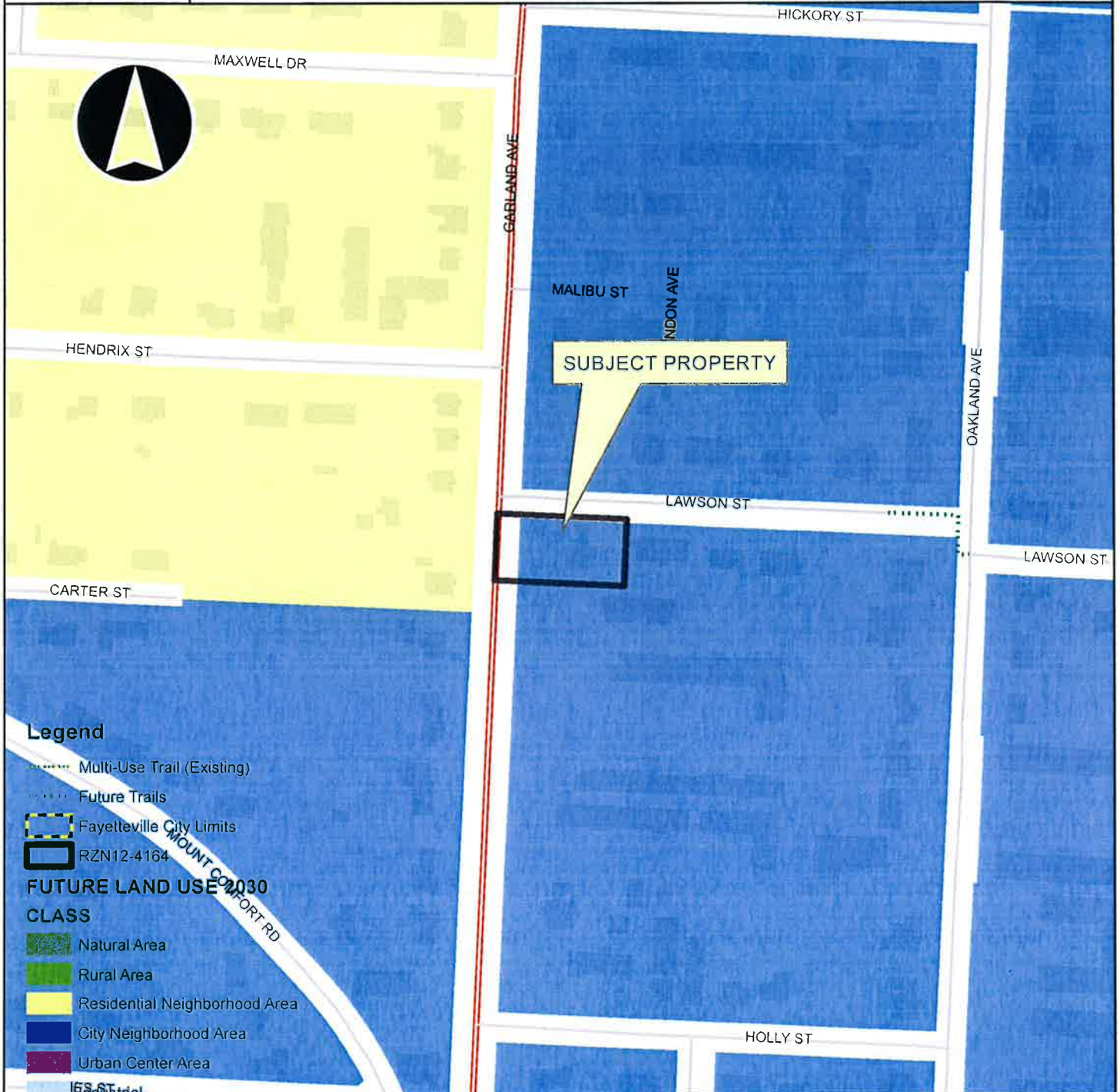
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600
Feet

RZN12-4164

BONDS

Future Land Use

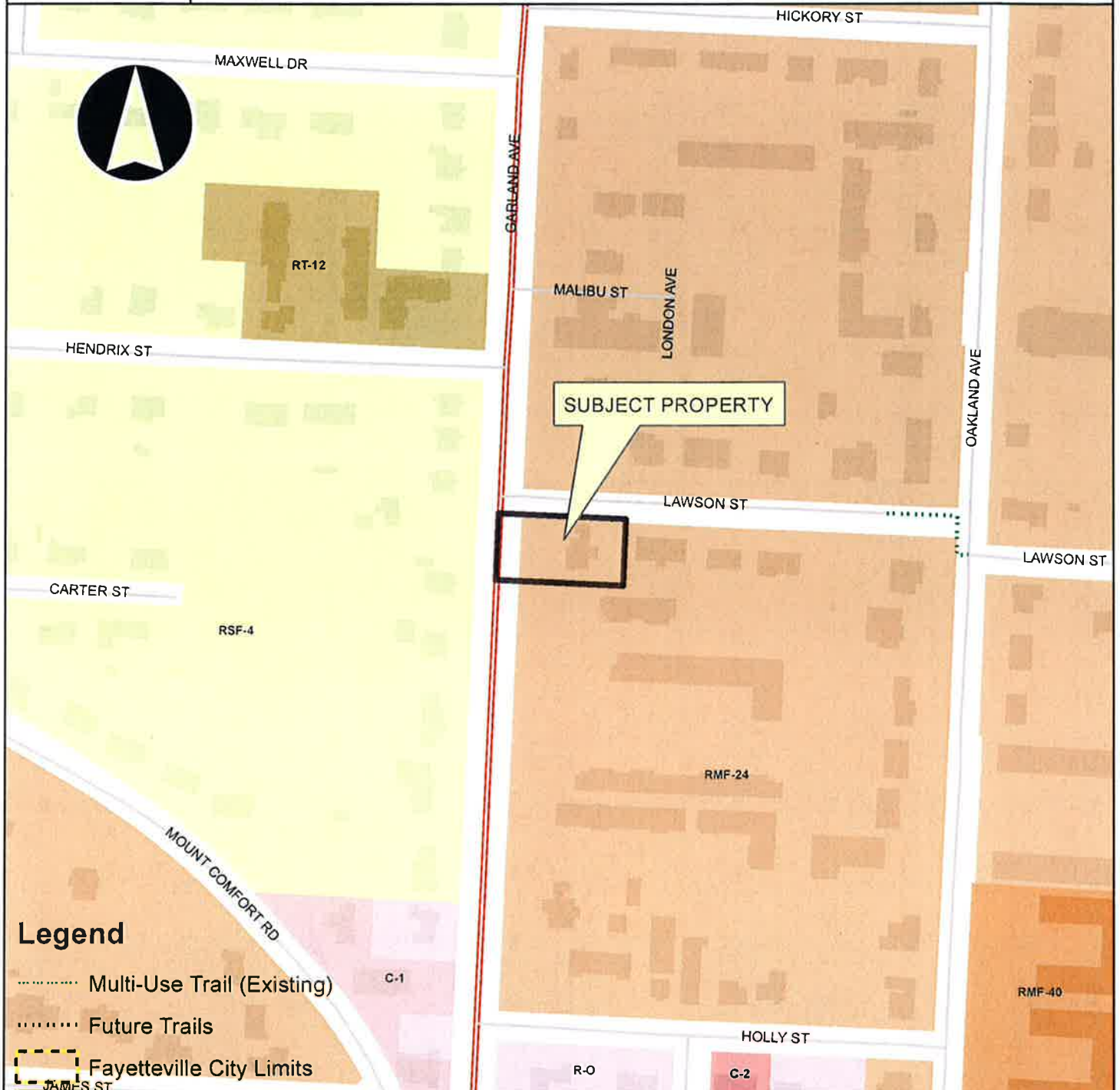


- Complete Neighborhood Plan
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- Design Overlay District
- Design Overlay District
- Planning Area

RZN12-4164

BONDS

Close Up View



Legend

..... Multi-Use Trail (Existing)

..... Future Trails

..... Fayetteville City Limits

..... RZN12-4164

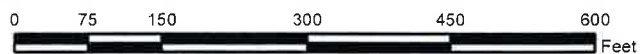
..... Footprints 2010

..... Hillside-Hilltop Overlay District

..... Design Overlay District

..... Design Overlay District

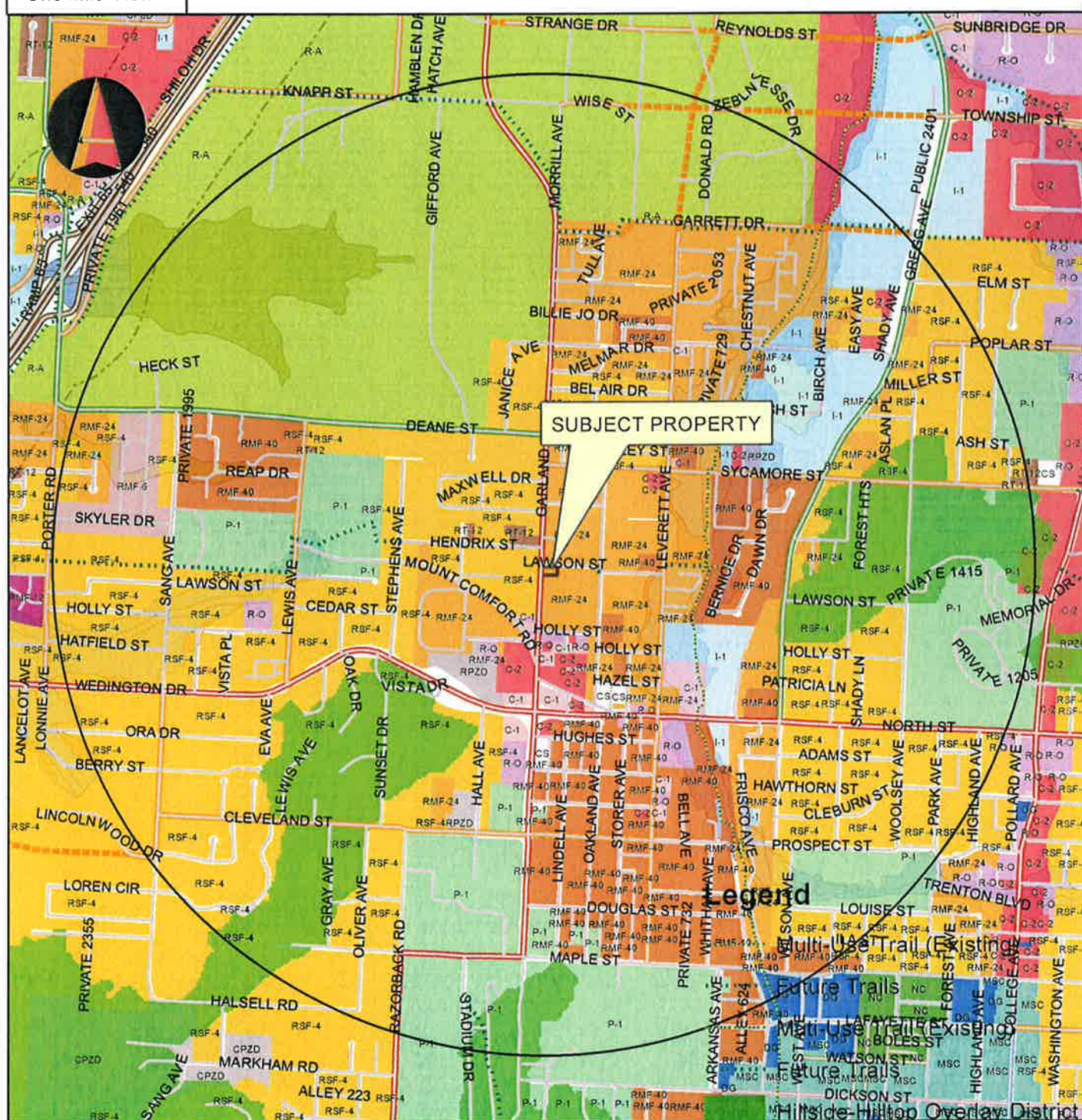
..... Planning Area



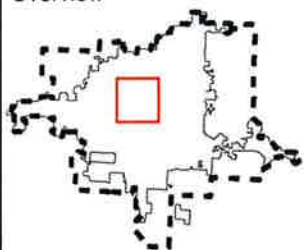
RZN12-4164

One Mile View

BONDS



Overview



Legend

Subject Property

RZN12-4164

Boundary

0 0.25 0.5 1

RZN12-4164

Design Overlay District

Planning Area

Fayetteville

Miles

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

8/21/2012

City Council Meeting Date
 Agenda Items Only

Quin Thompson

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 12-4166: Rezone S. of Brookbury Crossing & E. of Candlewood SD, 294; Submitted by Engineering Services Inc. for property located South of BROOKBURY CROSSING and East of CANDLEWOOD developments. The Property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE. The Planning commission recommended the property be rezoned to RSF-.5, Single-family Residential, ONE HALF UNIT PER ACRE.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
 Clerk's Office

Chief of Staff

Date

Received in
 Mayor's Office

Mayor

Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Quin Thompson, Current Planner

Date: July 25, 2012

Subject: RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins)

RECOMMENDATION

The Planning Commission recommends approval of an ordinance to rezone the subject property from R-A, Residential Agricultural to RSF-.5, Single-Family Residential, one half unit per acre. The applicant originally requested that the property be re-zoned to RSF-4, Single-Family Residential, 4 units per acre. This item was discussed at the Planning Commission meeting on July 23, 2012.

BACKGROUND

The subject property is located south of Skillern Road and east of Highway 265. The property is an undeveloped pasture and woodland with Flynn Creek traversing north to south on the east boundary of the site. The overall parcel contains approximately 20.99 acres. The applicant proposes to rezone the 20.99 acres, in its entirety, from R-A, Residential Agricultural to RSF-4, Single-Family Residential, 4 units per acre.

DISCUSSION

This item was heard at the Planning Commission meeting July 23, 2012. Staff recommended in favor of the proposed zoning. This site is designated as Residential Neighborhood on City Plan 2030 Future Land Use Plan. The property is surrounded on three sides by existing neighborhoods currently zoned RSF-4, Single-Family Residential, 4 units per acre. In staff's opinion the requested zoning is compatible with surrounding land use & density.

After significant public comment, primarily in opposition to the density & accompanying traffic through the Brookbury neighborhood, the Planning Commission forwarded the request to City Council with a recommendation to re-zone the property to RSF-.5, Single-Family Residential, with a maximum density of 1 unit per two acres. This lower density is equivalent to the maximum density requirement of the current R-A zoning on the property, but removes certain of the existing agricultural rights that come with an R-A zone. The primary concern of the Planning Commission was the lack of a second point of access to this property, which would place all additional traffic load onto the Brookbury neighborhood and Skillern Road.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4166, FOR APPROXIMATELY 20.99 ACRES, LOCATED TO THE SOUTH OF SKILLERN ROAD FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-0.5, ONE HALF SINGLE-FAMILY UNITS PER ACRE.

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 changes the zone classification of the following described property from R-A, Residential Agricultural to RSF-0.5, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

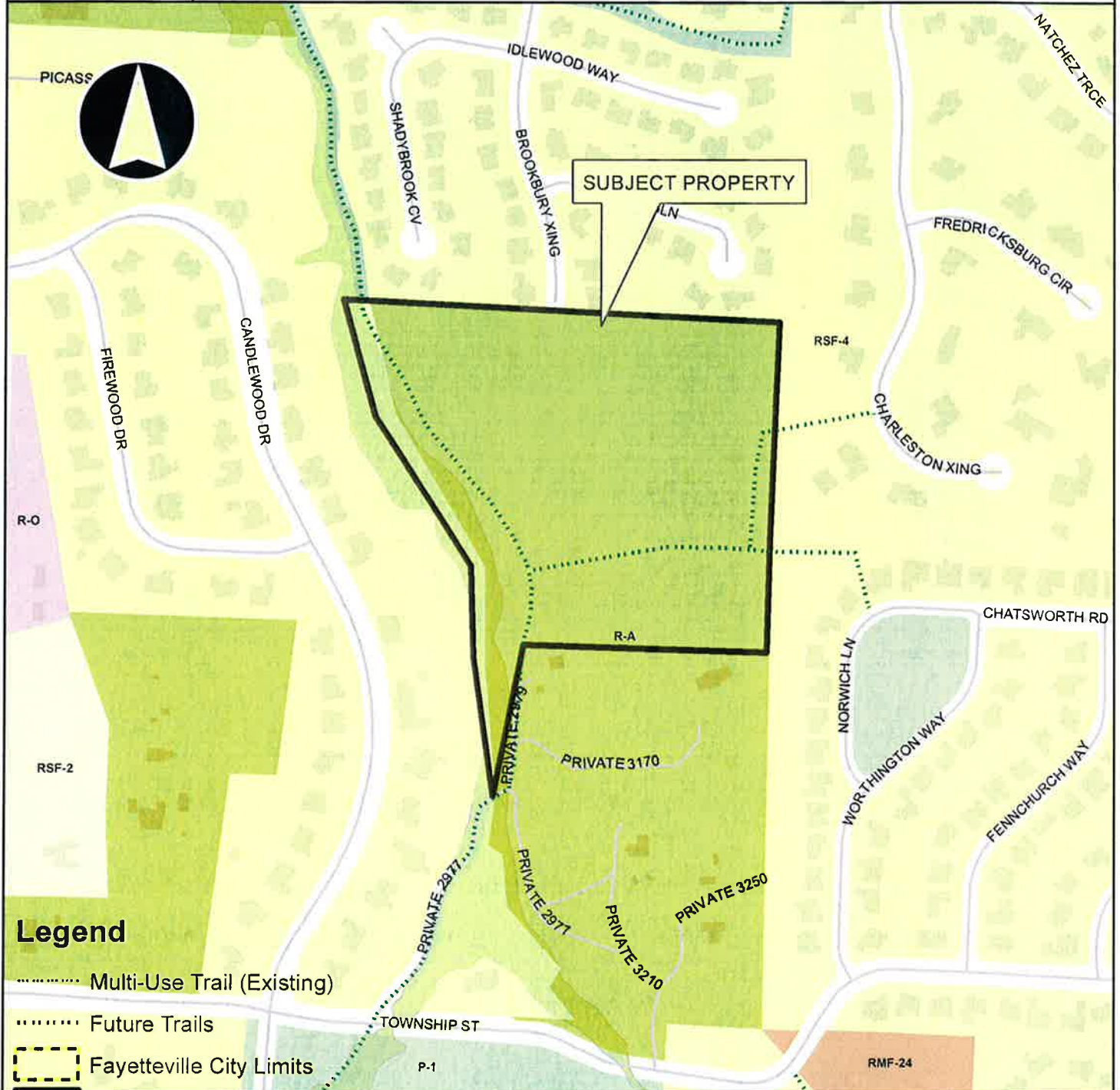
EXHIBIT "A"

C. 7
RZN 12-4166
(South of Brookbury Crossing
& East of Candlewood
Developments/Riggins)
Page 4 of 38

RZN12-4166

RIGGINS

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

- RZN12-4166
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

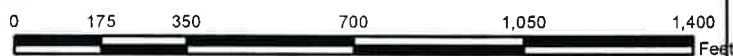


EXHIBIT "B"
RZN 12-4166

Legal Description to Accompany Rezoning Application for Parcel No. 765-13292-001

LEGAL DESCRIPTION - FROM DEED BOOK 94 PAGE 21919:

Part of the East Half (E 1/2), Southwest Quarter (SW 1/4) of Section Thirty-One (31), Township Seventeen North (T-17-N), Range Twenty-nine West (R-29-W), of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows:

Commencing at the Southeast Corner of said East Half (E 1/2), Southwest Quarter (SW 1/4), thence North 01°14'02" East - 1,016.00 feet to the POINT OF BEGINNING, thence South 88°45'10" West - 658.17 feet, to the center of a road thence down the center of said road South 08°25'23" West - 420.00 feet to the center of a creek, thence along the center of said creek as follows: North 11°02'24" West - 381.44 feet, North 04°18'44 West - 246.70 feet, North 35°40'24" West - 480.96 feet, North 17°31'31" West - 330.46 feet, thence East - 1,179.15 feet, thence South 0°31'45" East - 596.50 feet, thence South 01°14'02" East - 300.00 feet to the POINT OF BEGINNING Containing 20.99 acres more or less subject to easements and rights-of-way of record.

HUGH JARRATT*
ATTORNEY AT LAW
1200 EAST JOYCE BLVD., 6TH FLOOR
FAYETTEVILLE, ARKANSAS 72703
TELEPHONE 479.521.6686 / FACSIMILE 479.527.8870

C. 7
RZN 12-4166
(South of Brookbury Crossing
& East of Candlewood
Developments/Riggins)
Page 6 of 88

RECEIVED
JUL 30 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

* Licensed in Arkansas, Oklahoma
& Missouri

July 30, 2012

City of Fayetteville, Arkansas
ATTN: City Clerk
113 W. Mountain Street
Fayetteville, AR 72701

RE: RZN 12-4166
South of Brookbury Crossing

Dear City Clerk:

Please treat this letter as a formal request on behalf of the applicant, Riggins Contruction, to appeal the Fayetteville Planning Commission decision regarding RZN 12-4166, a rezoning south of Brookbury Crossing.

Please place RZN 12-4166 on the agenda for consideration by the Fayetteville City Council on the first available meeting.

If there are any additional materials or information which you require, please let me know.

Thank you.

Sincerely,

Hugh Jarratt,
Attorney at Law

cc: Client



PC Meeting of July 23, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Quin Thompson, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~July 12, 2012~~ *Updated July 25, 2012*

RZN 12-4166: Rezone S. of Brookbury Crossing & E. of Candlewood SD, 294: Submitted by Engineering Services Inc. for property located South of BROOKBURY CROSSING and East of CANDLEWOOD developments. The Property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

Planner: Quin Thompson

BACKGROUND:

Background and property description: The property is zoned Residential-Agricultural and contains 20.99 acres located south of Skillern Road and the Brookbury development. The site is undeveloped pasture and wooded lot with access from Brookbury Crossing. The surrounding zoning and land use is depicted in *Table 1*. The western portion of the property adjacent to the Candlewood development is bordered by Flynn Creek.

Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North	Single-family residential (Brookbury)	RSF-4
South	Single-family residential	R-A
East	Single-family residential (Savannah)	RSF-4
West	Single-family residential (Candlewood)	RSF-4

Proposal: The owners of the 20.99 acres propose to rezone from R-A (Residential-Agricultural) to RSF-4, Residential Single-family/4 units per acre.

Public Comment: Staff has received significant comment from residents of surrounding neighborhoods concerning the rezoning request as well as the presumed development of this property. A copy of all written comments and e-mails are attached to this report. Many of the comments concern the limited access to the property through existing neighborhoods & traffic/streets in the area.

RECOMMENDATION:

Staff recommends forwarding **RZN 12-4166** to the City Council with a recommendation for **approval** based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 23, 2012</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Pennington</u>	Second: <u>Hoskins</u>	Vote: <u>8-1-0 (Chesser voted 'no')</u>	
CITY COUNCIL ACTION: Required <u>YES</u>			
	☐ Approved	☐ Denied	
Date: <u>August 7, 2012</u>			

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scales and context, including single-family, multifamily, and row-houses. It encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood.*

INFRASTRUCTURE:

Streets: The site has access to Brookbury Crossing. Brookbury Crossing is a fully improved two lane city street which accesses Skillern road and Highway 265. Based on current development patterns, Brookbury Crossing can easily accommodate additional traffic without further improvements. Skillern Rd is relatively unimproved between Brookbury Crossing and Highway 265. Highway 265 is currently being widened to a 5-lane section in this vicinity. Street improvements will be evaluated at the time of development, and may include off-site improvements or the provision of additional points of access.

Water: Public water is available to the property. There is an 8" water main along Brookbury Crossing on the north side of this location. Public water main improvements will be necessary to provide fire flow for domestic service for any proposed development.

- Sewer:** Sanitary sewer is available to the site. There is an 8" main along Brookbury Crossing on the north side of this property. Public sewer main improvements will be necessary to provide service for any proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain and the Streamside Protection Zones.
- Police:** The Police Department does not find that this rezoning will affect calls for service or response times. A copy of the Police Department memo is attached.
- Fire:** This property will be protected by Engine No. 5, located approximately 2 miles away at the intersection of Crossover and Old Wire roads. Response time is expected to be 3 minutes to the property. The anticipated development of the property with more than 30 single family homes will require separate and approved fire access roads. The Fire Marshal has expressed concern over the limited access to this property related to future development plans. A copy of the memo from the Fire Marshal is attached, explaining Fire Code requirements pertinent to future development phase for this site.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Although a higher density zoning such as RSF-8 could be appropriate within the Future Land Use designation of Residential Area on the property, staff find that RSF-4 is consistent with the existing and surrounding land uses and infrastructure, particularly given the difficulty in access for this property. The property is surrounded to the East, West, & North by neighborhoods with RSF-4 zoning. The zoning will allow the owners to develop the property to a density and with a pattern similar to surrounding developments, if adequate access can be provided.

A primary guiding principle in the City Plan 2030 for new neighborhood development is to provide 'complete, compact, and connected' neighborhoods. The most difficult of these to achieve for this property is for it to be adequately connected, which is a result of previous decisions to not provide 'stub-out' streets from other properties as they developed. In fact, this condition may make it more difficult for the development to achieve desired density and still meet City requirements for access.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed at this time in order for the property to be developed at the higher density requested by the applicant. It is not a reasonable expectation that this property remain with R-A zoning, allowing for typical agricultural uses, when surrounded on three sides by developed neighborhoods that are zoned RSF-4. In fact, staff finds the current agricultural zoning could become highly incompatible to surrounding neighborhoods if developed with many of the uses currently allowed in the R-A district. As discussed in Finding No. 1, the proposed zoning is justified as it is compatible with the surrounding zoning and land uses and consistent with the City's Future Land Use Plan.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed rezone would not significantly increase traffic or congestion in the area. Highway 265 is currently being expanded to higher capacity. Skillern Road, which serves this property as primary access, is unimproved and currently experiences some congestion during peak periods. Improvements to this road would need to be evaluated with future development plans, so as not appreciably create or compound any dangerous traffic condition or congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments and are included in this report. The proposed zoning change to RSF-4 should have no discernable impact on public services as the site is directly adjacent to public infrastructure, however future development will require improvements to public infrastructure with potential requirements for off-site improvements.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable. Staff recommends in favor of the re-zoning request, with the understanding that development of this property is not being considered at this time. Concerns expressed both by the Fire Marshal and comments received from the public will be more appropriately considered during the [presumed] development phase to follow re-zoning, if the request is granted. It should be noted, specifically, that the single access point to the property may limit density to well below the four units per acre granted by the RSF-4 zoning district, due to safety & connectivity requirements.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

E) *Setback requirements.*

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required

setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09; Ord. 5479, 2-7-12)



www.accessfayetteville.org



THE CITY OF FAYETTEVILLE, ARKANSAS

C. 7
RZN 12-4166
(South of Brookbury Crossing
& East of Candlewood
Developments/Riggins)
FIRE DEPARTMENT
203 West Center Street
Fayetteville, AR 72701
P (479) 575-8365 F (479) 575-0471

Zoning Review

To: Quin Thompson
From: Harley Hunt, Fire Marshal
Date: July 17, 2012
Re: RZN 12-4166

This development will be protected by Engine 5 located at 2979 N. Crossover.
It is 2 miles from the station with an anticipated response time of 3 minutes to the beginning of the development.
The anticipated development of this property with more than 30 single family homes will require separate and approved fire apparatus roads as stated in AFC D107.1.
The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Battalion Chief Harley Hunt
479-718-7639
Fayetteville Fire Department



www.accessfayetteville.org



THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

C. 7
RZN 12-4166
(South of Brookbury Crossing
& East of Candlewood
Developments/Riggins)
Page 16 of 38

MEMORANDUM

To: Jeremy Pate
From: Captain Kenny Yates
Date: 7/13/12
Subject: RZN 12-4166

This document is in response to the request for comments on proposed RZN 12-4166 (S. of Brookbury Crossing / Riggins, 294) submitted by Engineering Services, Inc. for property located at south of Brookbury Crossing.

It is the opinion of the Fayetteville Police Department that this RZN (12-4166), will not substantially alter the population density. This RZN will not create an appreciable or undesirable increase in the load on police services and will not create an appreciable increase in traffic danger and congestion.

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Charlie Collins" <clcollins6@cox.net>, "Jerilyn Nicholson" <jernic3@att...
Date: 7/6/2012 7:14 AM
Subject: surrounding Density - Proposed Riggins Development

Quin -

In response to the question I asked by email on 7/1 concerning whether the city had done an actual density study on the neighborhoods surrounding the property that Riggins Construction would like to have rezoned and then develop (your answer was "no"), I have spent some time at the Circuit clerk's office researching plats filed with the city. Here is what I've discovered:

Brookbury - 1.96 homes / acre

Covington - 2.2 homes / acre

Savanna - 1.2 homes / acre (Phase II Plat shows zoned R-1)

Candlewood - 1 home / acre (Plat shows zoned R-1)

Point: Compatability with surrounding neighborhoods would seem logical to zone at RSF-2 rather than RSF-4 to ensure the developer is consistent with surrounding development.

I would greatly appreciate it if you would pass this information on the the Planning Commissioners as I think it makes a strong point.

Sincerely,

Kathleen Leatherby
Brookbury Woods POA Treasurer
2731 N. Brookbury Crossing
Fayetteville, AR 72703
(479) 444-6551 (h)

From: "Jerilyn Nicholson" <jernic3@att.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Kathleen Leatherby" <dkleatherby@cox.net>, "Charlie Collins" <clcollins...
Date: 7/7/2012 12:01 PM
Subject: requested rezoning at end of Brookbury Crossing

Mr. Thompson, my husband and I are residents of Brookbury subdivision & would like to offer the following comments in opposition to the proposed rezoning adjoining our neighborhood with access provided through our neighborhood.

Zoning: There is a discrepancy in the initial information we received on the existing zoning of the surrounding neighborhoods. The information was that all adjoining neighborhoods were zoned RSF-4. The final plat for Candlewood shows the zoning is RSF-1. Regardless of the existing zoning, what is "on the ground" is far more significant. The following is the actual density of the surrounding neighborhoods:

Brookbury: 1.96 homes/acre
Covington: 2.2 homes/acre
Savanna: 1.2 homes/acre
Candlewood: 1 home/acre

As is apparent, the requested rezoning would more than double the surrounding densities. The developer could develop the property today as it is currently zoned and be compatible with the adjoining neighborhoods. No one is disputing the right to develop.

Traffic/Density: The proposed rezoning would permit up to 80 homes on this property. Using the nationally accepted statistics on average daily trips (ADT), 80 homes would generate an additional 800 trips per day onto Brookbury Crossing, to say nothing of the construction traffic that would result. If you look at a Brookbury plat or an aerial photograph, you will see that all of the streets in Brookbury take access into and out of the subdivision via Brookbury Crossing. Brookbury has 97 homes. Thus, what the proposed rezoning would allow comes very close to doubling the traffic count on Brookbury Crossing. You will further note by looking at our plat that Brookbury Crossing is a relatively straight street from the entry to the subdivision to its present termination point, a cul-de-sac, where access is proposed into the undeveloped 20 acre tract. The entry to Brookbury is a landscaped boulevard and the streets are only 13.9' wide. House setbacks in this area are fairly minimal with the exception of one. The boulevard intersects with Skillern, also a narrow street with sight distance problems.

Brookbury is a neighborhood filled with children, joggers, walkers and bicyclists. To add the amount of traffic which the proposed rezoning would allow is not only dangerous and disruptive but "boggles the mind" in terms of quality of planning.

Our Property Owners Association (POA) is diligent about reminding the membership via email to maintain a safe speed on Brookbury Crossing since it is such a straight street and makes high speeds very possible. We will have no influence on any traffic coming from this proposed development since it will not be a part of our POA and our internal communication system.

Infill Development and Higher Density: I understand from the City that its goal is to encourage infill development at higher densities. Encouraging infill development is certainly understandable although higher density infill development is normally focused on the inner city level and we are clearly in the suburbs. In the case of this proposed rezoning, this approach seems somewhat short sighted and ignores the impacts of such an approach. If such higher density development severely impacts an existing neighborhood, it runs the risk of destabilizing attractive and very viable areas such as Brookbury. I think that might be called, "shooting yourself in the foot". The City has also espoused "green goals" such as preservation of trees and encouragement of wildlife habitat. The proposed rezoning would allow up to 80 homes on this tract. Such density seems very incompatible with such green goals. The 20 acres will be all but denuded.

Thank you for your thoughtful attention. These are critical issues to those of us who live here and we trust that you can appreciate our strong objections to the proposed rezoning.

Richard and Jerilyn Nicholson
3101 E. Summershade Drive
Fayetteville, AR 72703

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: <qthompson@ci.fayetteville.ar.us>
CC: "Charlie Collins" <clcollins6@cox.net>, "Scott and Meggan Bell" <scottme...
Date: 7/5/2012 11:20 PM
Subject: Rezoning - Riggins development
Attachments: DSCN4731.JPG; DSCN4730.JPG; DSCN4729.JPG

Quin -

I am submitting the attached photos as documentation of what has happened in the past when large commercial vehicles enter onto Brookbury Crossing. Not only is the landscaping disturbed, but the sprinkler heads close to the street are easily broken when run over. The turn onto Brookbury Crossing from a large vehicle that is east bound on Skillern can be difficult because of the sharp turning radius. Skillern is a narrow 2-way road with no shoulder and steep drop offs in some areas. If there is oncoming traffic, it's impossible for a large vehicle to swing out into the other lane to gain the wider radius it needs. Once school starts, traffic is often backed up on Skillern headed west (towards Crossover/265) all the way to Brookbury Crossing. Many of the construction vehicles will be arriving each morning about this same time. I will address the traffic issue further in a separate email.

If the proposed rezoning request by Riggins Construction is passed (from RA to RSF-4) and construction begins using Brookbury Crossing as the access point; we expect a great deal more of this type of damage to the Brookbury POA landscaping for years to come. The Brookbury POA is not in a position financially to continually pay for repairs done by the ongoing construction of both the needed infrastructure and homes. It would be difficult to prove any damage done was associated with the ongoing Riggins construction unless we have an eye-witness each time that has the time to follow the vehicle to determine what it entered the neighborhood for. This then puts the financial burden on the POA. I am currently the Treasurer of the Brookbury POA and am the former Landscaping Chair so I'm familiar with all that is involved in both the landscaping and the financial end of maintaining our neighborhood.

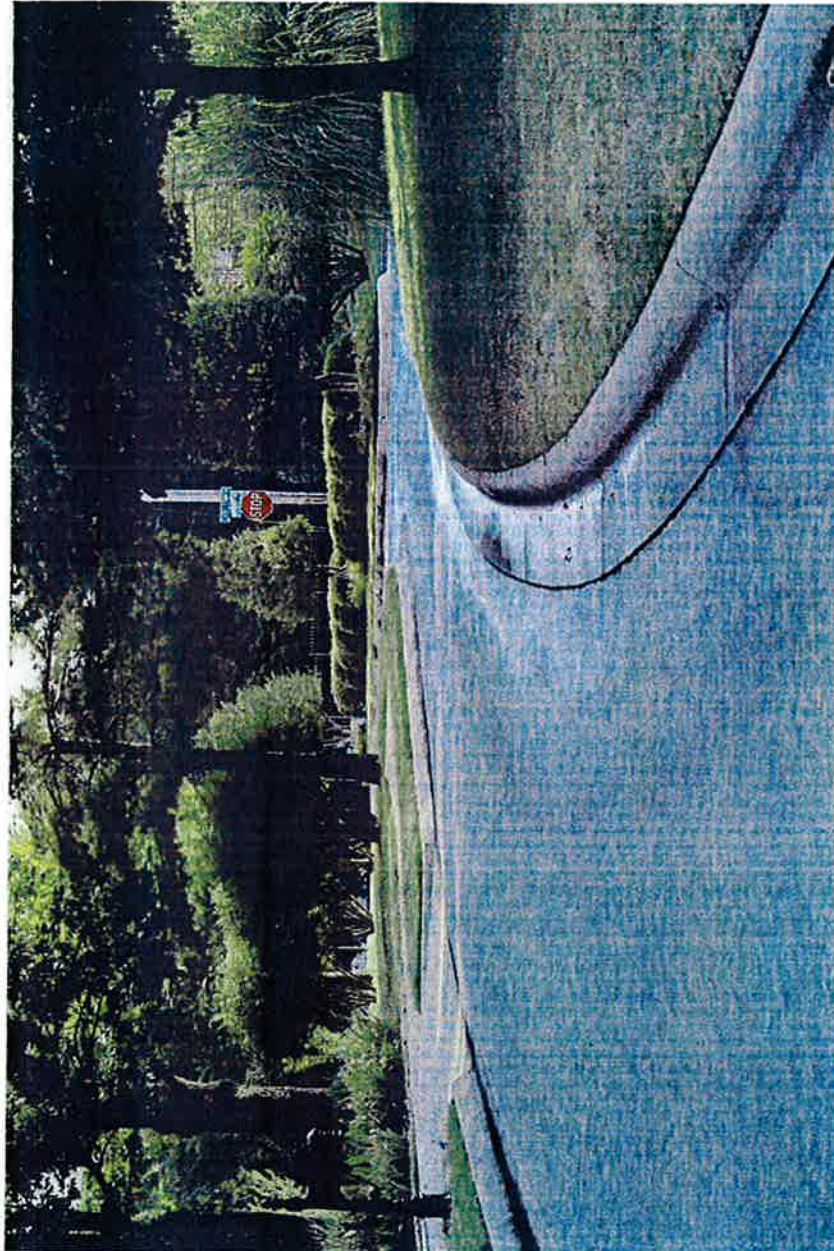
We hope the Planning Commission will take these concerns into consideration when considering the possible rezoning and development plans of Riggins.

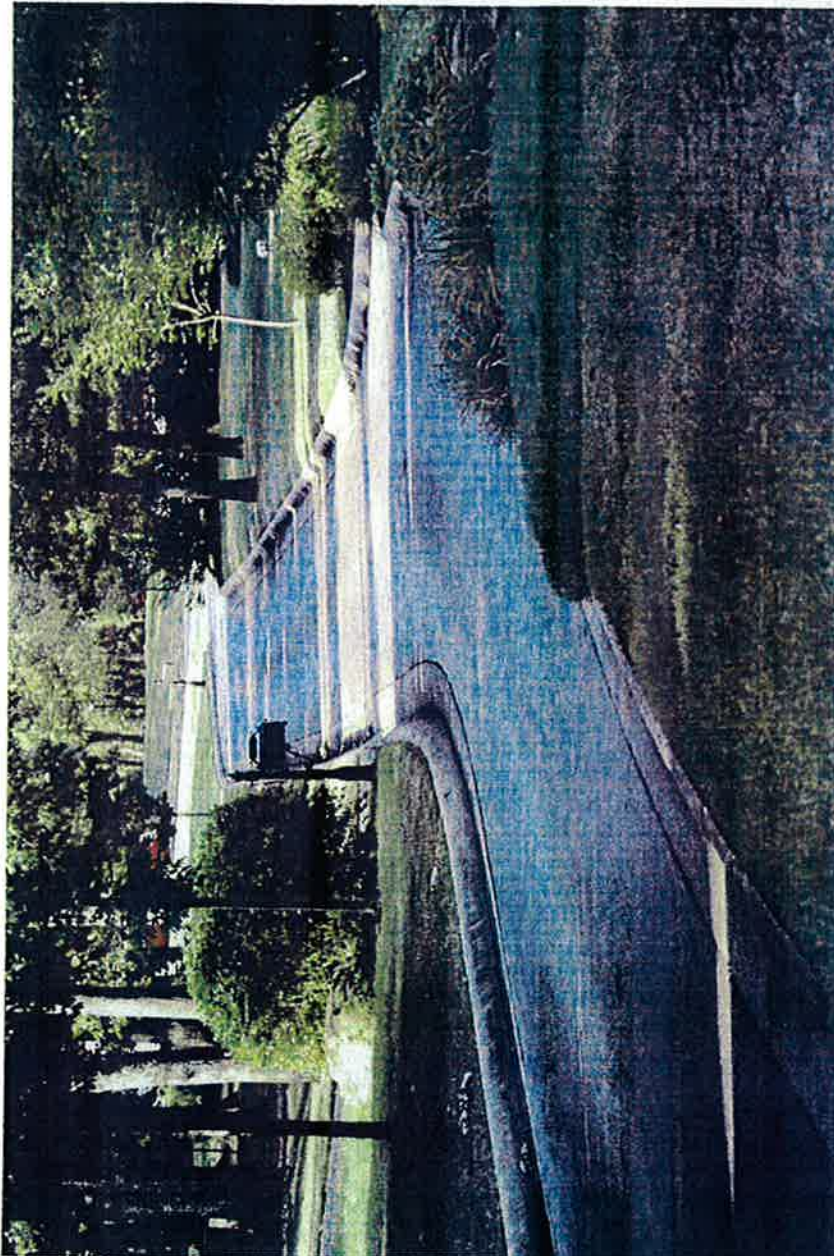
Kathleen Leatherby

Treasurer, Brookbury Woods POA

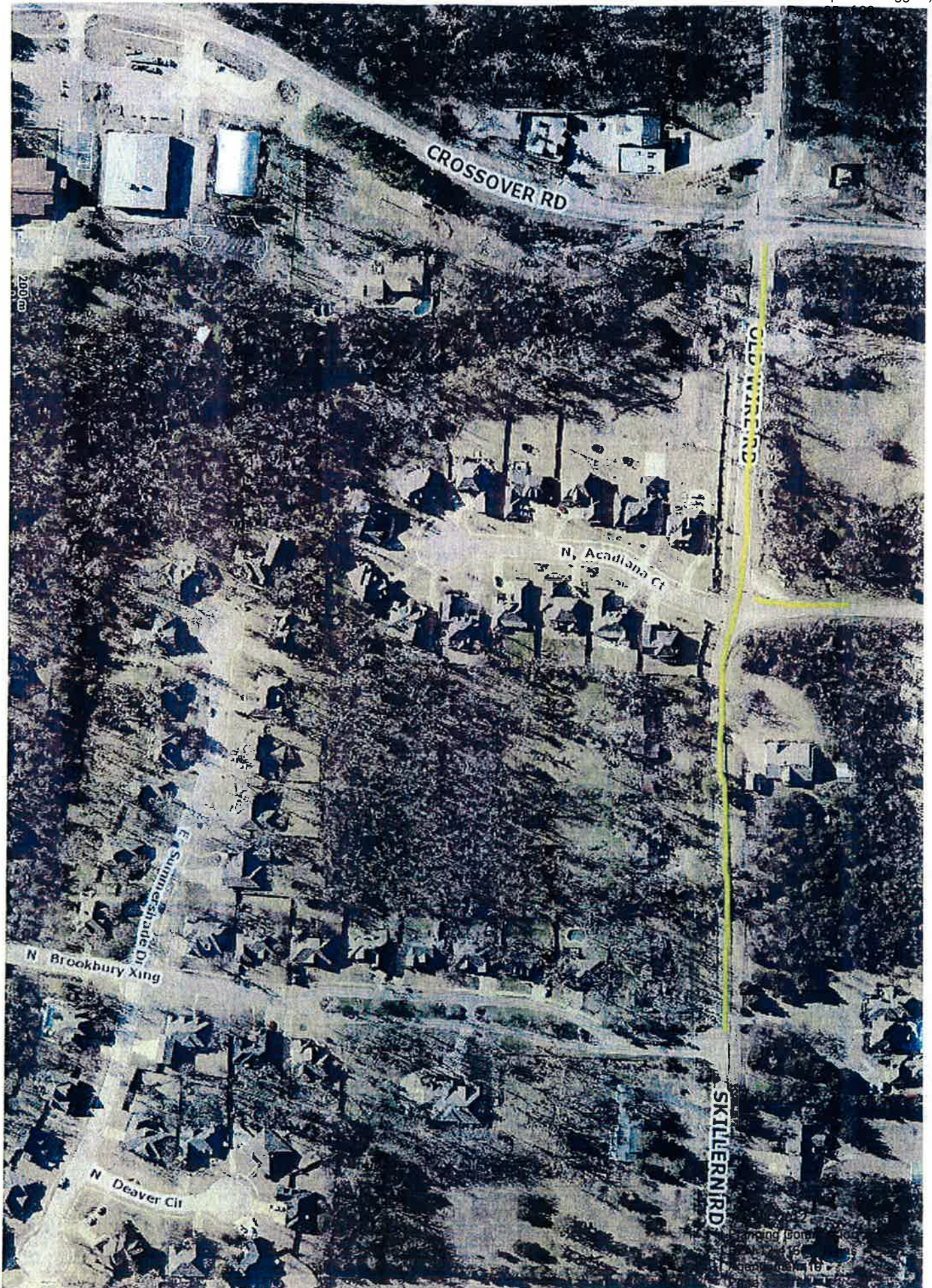
2731 N. Brookbury Crossing

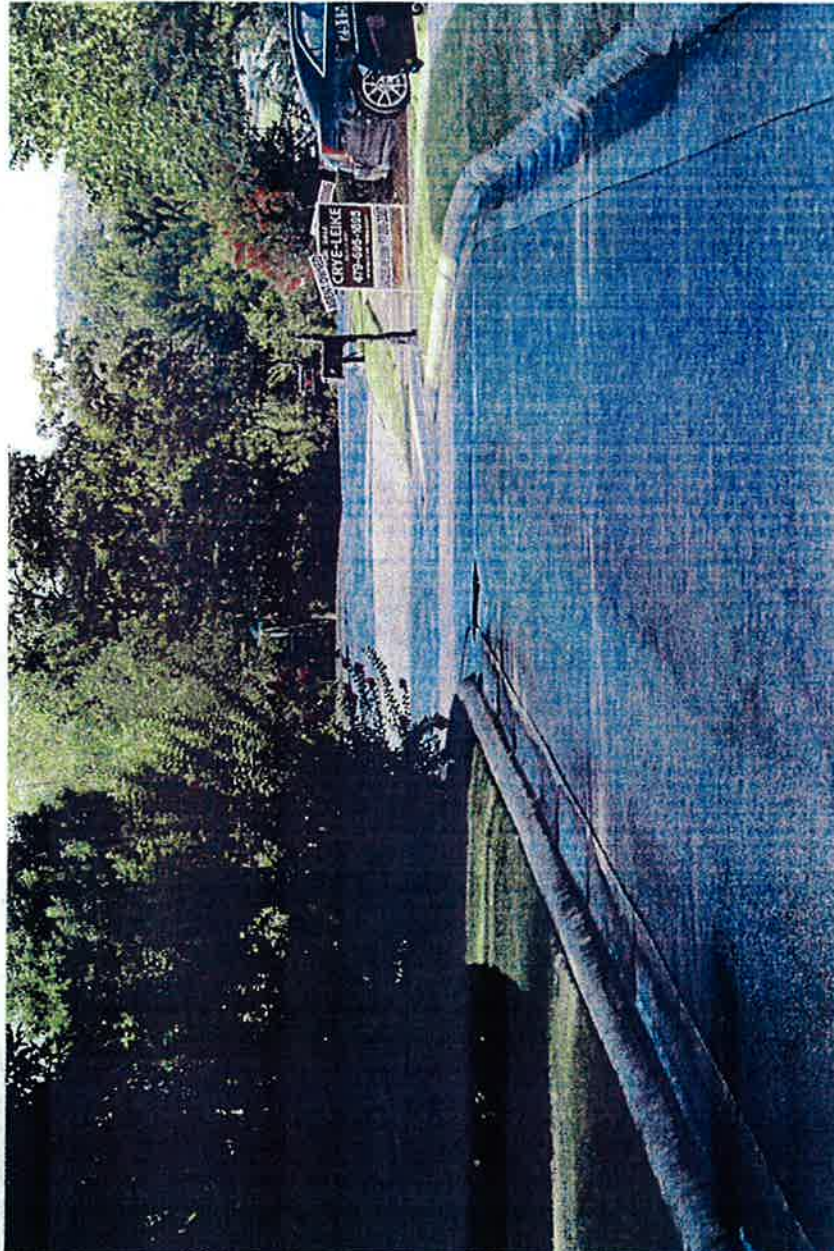












From: hogcrazy <hogcrazy_2000@yahoo.com>
To: <qthompson@ci.fayetteville.ar.us>
Date: 7/7/2012 7:36 AM
Subject: 20 acres Near Brookbury Subdivision

Dear Mr. Thompson:

As a landowner in Brookbury and one whose lot is right next to the 20 acres, I wanted to let you know of my thoughts.

As far as the zoning request for RSF-4, I realize the surrounding neighborhoods were zoned the same, this I was told, but they weren't built to those specifications. That is my concern. I would like this land to be developed in similar fashion to the surrounding neighborhoods. Both for continuity of the area and traffic concerns thru Brookbury.

I would like to let you know that I would be against RSF-4 zoning being approved and that a lower density zoning be approved instead. Why approve a zoning request that would allow up to 4 homes per acre when none of the surrounding neighborhoods were built to that density?

I also think the entrances to this area need to be addressed as Brookbury at this point will handle all the extra traffic.

Thank you very much.

Sincerely,

Linda Rogers

3285 E. Piper Glen

Fayetteville, AR 72703

From: "Kathleen Leatherby" <dkleatherby@cox.net>
To: "Quin Thompson" <qthompson@ci.fayetteville.ar.us>
Date: 7/8/2012 10:38 PM
Subject: Traffic back-up photo - Brookbury
Attachments: brookbury aerial.jpg; Brookbury-028.JPG; Brookbury-048.JPG; Brookbury-049.JPG; Brookbury-056.JPG; Brookbury-026.JPG

RE: Riggins rezoning request - South end of Brookbury Crossing

Quin -

As a member of the board of Directors for the Brookbury POA, I've had many neighbors share their concerns about the proposed rezoning and development at the south end of our neighborhood. One of the primary concerns that's been voiced is the volume of traffic that will be added - both from construction and the added homes. We have one entry / exit for the neighborhood that serves 96 homes. This one entry / exit presents a problem in the mornings once school starts. I have attached an aerial shot with the back-up of traffic at its worst highlighted in yellow. As you can see, it sometimes backs up all the way from Highway 265/Crossover to Brookbury Crossing. This makes it very difficult to get out of the neighborhood in the morning. If the RSF-4 zoning request is granted and Riggins is allowed to develop 70 additional homes (80 would be allowed but I'll be conservative given the need for easements, streets, etc.), based on the statistics you provided, this would add approximately 700 more trips per day on this single entry /exit. I have attached further photos to show the narrow split and curves at the entryway of Brookbury which add to the difficulty of seeing what's ahead (pedestrians, children, cars parked on the street, pets, etc.).

I've also had a neighbor share a story of having to wait over 10 minutes to exit Brookbury because of a large vehicle boxed in as it attempted to turn into Brookbury from Skillern without the proper turning radius. If this were an emergency situation, there is no alternative for a firetruck, ambulance or police.

We hope the Planning Commission will take all this into consideration when considering the number of homes that will be allowed to be built on the property in question and whether an alternative entry /exit is possible.

Sincerely,

Kathleen Leatherby

From: steve petruconis <srpconis@yahoo.com>
To: "cmonreal@ci.fayetteville.ar.us" <cmonreal@ci.fayetteville.ar.us>
CC: "qthompson@ci.fayetteville.ar.us" <qthompson@ci.fayetteville.ar.us>
Date: 7/1/2012 1:32 PM
Subject: Brookbury Crossing & Riggins Construction Land Development

Dear Ms. Monreal & Mr. Thompson:

Our names are Rosemary & Steve Petruconis and we reside at 2939 Brookbury Crossing, which is the third house on the west side of the boulevard as you enter the Brookbury development. We have learned that the City of Fayetteville will be considering changing the zoning status of the 21 acres of land immediately to the south of the Brookbury addition to allow Riggins Construction to develop homes under the RSF - 4 zoning designation. It is also our understanding that no entry/exit route is included in the proposed project other than the current Brookbury Crossing roadway.

Our primary concern is that Riggins would develop this property in a manner compatible with the adjoining neighborhoods and that it will consider adding an additional entry/exit route to help minimize the amount of traffic through our neighborhood. If an additional access route is not made a requirement in this project, all additional development traffic and residential owner traffic will pass directly in front of our home and others having an address on Brookbury Crossing. This will present a significant increase in the risk of potential motor vehicle accidents and personal injuries, in addition to wear and tear on the Brookbury Crossing roadway.

Brookbury Crossing is currently a very busy street because of only one entrance/exit route for the neighborhood. Adding potentially 80 more homes having one or more vehicles will unduly stress the current access route. We encourage you to require the additional or separate entry/exit route in this development if it is approved.

We thank you for your consideration of our request.

Sincerely,

Rosemary & Steve Petruconis
2939 N. Brookbury Crossing
Fayetteville, AR 72703

From: "Jerilyn Nicholson" <jernic3@att.net>
To: <qthompson@ci.fayetteville.ar.us>, <jpate@ci.fayetteville.ar.us>
Date: 7/19/2012 11:23 AM
Subject: rezoning request adjoining Brookbury Subdivision

I sent an email to Mr. Thompson a couple of weeks ago on this rezoning request, outlining some of my major concerns regarding this proposed rezoning. I wanted to get it to you early so that it would be included in the material given to the Planning Commissioners prior to the meeting. While I have contact information on the Planning Commissioners, there is only one person's email address listed and I hate to bother these folks by telephone with my added comments. Thus, I am sending this to you with the request that it be included in the information provided to the Commissioners, if there is still time to do so.

The feedback I am receiving from the city is that all of the issues that are of paramount concern to us will be addressed at the plat review stage if the requested RSF-4 zoning is approved. I would submit to you that the zoning dictates the parameters of the plat and should this rezoning be approved, the "die is cast". To not seriously consider the onerous effects this rezoning could have on Brookbury seems to be akin to putting one's head in the sand. I would add that the effects extend beyond Brookbury & include Skillern, Old Wire & Crossover. I would urge you and the Commissioners to face the issues head on now. I have always believed that it is better to be safe than sorry and I do indeed believe that such a rezoning, if approved, will provide ample opportunity to be sorry.

Thank you very much.

Jerilyn Nicholson
3101 E. Summershade

Public Comment for RZN 12-4166

Phone Message:

07-06-2012
Aaron Marooner
(479) 443-1997

Mr. Marooner(sp?), resident at Covington Park development stated that in his opinion the proposed rezone should be denied since the surrounding neighborhoods are not built to RSF-4 density.

Phone record:

07-07-2012
Manny Terminella
(479) 263-4749

Mr. Terminella had questions pertaining to city access requirements for new developments, specifically if the any future development on the subject property would be required to have more than one entry/exit. He owns property to the South and it would be necessary to cross his property if the developer wishes to have a South entry.

Staff responded that it is not a city requirement that a development have two entries/exits, but that once an entry/exit serves 80 homes, there are increased requirements according to fire code.

07-10-2012
Scott Stokenbury

Mr. Stokenbury is a resident of Brookbury development. He called with general questions regarding the re-zoning request.

07-18-2012
Christine Smith

Mrs. Smith called to voice opinion against the requested re-zone, citing concerns about increased traffic and the likelihood that existing problems with high traffic speeds on Brookbury Crossing will be made worse. She is concerned about already difficult conditions caused by congestion at Brookbury Crossing, Skillern Road, and Highway 265 during peak traffic times

RZN12-4166

RIGGINS

Current Land Use



Overview RZN12-4166

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 175 350 700 1,050 1,400 Feet

July 23, 2012
Planning Commission
RZN 12-4166 Riggins
Agenda Item 10
Page 26 of 28

MINUTES OF THE PLANNING COMMISSION HEARING OF RZN 12-4166; JULY 23, 2012

RZN 12-4166: Rezone (S. OF BROOKBURY CROSSING/RIGGINS, 294): Submitted by ENGINEERING SERVICES, INC. for property located SOUTH OF BROOKBURY CROSSING. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 20.99 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

Andrew Garner, Senior Planner, gave the staff report.

Mickey Harrington, attorney for the property owner, agreed with staff's comments.

Commissioner Winston requested the City Attorney mention the items that were allowed to be considered and discussed by the Planning Commission for a rezoning.

Kit Williams, City Attorney, discussed the items that were allowed to be considered in a rezoning and referred to a memo that he had prepared and distributed.

Public Comment:

Eva Madison, Candlewood Subdivision, spoke for the neighborhood. She discussed the proposal was inconsistent with the surrounding neighborhoods. She discussed the old R-1 zoning that is different than the current RSF-4 zoning. The proposed RSF-4 zoning is different than the surrounding properties.

Charlie Collins, 3225 Pipers Glen, POA President of Brookbury, discussed that it is virtually unanimous regarding the opposition to this rezoning by the surrounding neighborhoods.

Christin Bellcamp, President of Brookbury, agreed with the comments by Eva Madison. We have obtained 96 signatures to downzone our neighborhood to RSF-2. She discussed Brookbury Crossing was the sole means of access. She discussed that zoning and development are tied together. She discussed traffic flow problems, fire safety problems, and issues with density and compatibility. Skillern Road has traffic and site distance issues. Brookbury would not meet the fire code today as it has 95 homes on a dead end street. Adding approximately 40 more additional homes on this site, even with sprinkler systems, would be a problem. The private interest should not override the public interest for safety.

James McGinty, President of Savannah, discussed support for the residents of Brookbury and Candlewood. He discussed traffic on Skillern Road. Savannah will also proposal to downzone to RSF-2.

Jimmy Roy, 3074 Brookbury, read an exert from the City Attorney's memo, "public opposition that is ogical and reasonable" can be considered. He also discussed that traffic is a problem. There are too many homes.

Christine Smith, Brookbury and Idlewood Way, Brookbury is already in a dangerous situation. Children ar all crossing in a blind area. It is a 25 mph speed limit but people exceed the limit. It will be worse if Brookbury is extended. She discussed a dangerous intersection in the Brookbury neighborhood.

Jason Fourie, 3475 Township, asked if the actual density was considered.

Laurie Covell, teacher at McNair, discussed traffic issues that occurred when a truck for a pool construction blocked the round backing up traffic in Brookbury.

No more public comment was presented.

Commissioner Hoskins asked about the property owner information.

Micky Harrington responded that the owner is requesting the rezoning.

Commissioner Hoskins discussed that the lack of a street connection is a problem. A full-fledged connection is needed. This could potentially have 80 residences or 800 average daily trips. He is pro smart-development and until a complete connection is made he can't support this.

Commissioner Winston discussed the R-A is not appropriate as it is surrounded by neighborhoods.

Kit Williams, City Attorney, discussed that the old R-1 zoning was almost identical to the current RSF-4 zoning. It allowed up to four units per acre.

Commissioner Hoskins discussed surrounding properties have RSF-2 type density. He discussed the lack of cross connection.

Commissioner Winston discussed the need to disconnect the two things.

Commissioner Chesser referred to the City Attorney's memo and whether this request meets or does not meet those criteria. He requested all of the neighborhood representatives to come back up and answer a question. Would you be opposed to this if there were a second street connection?

Eva Madison responded that their arguments were made based on density.

Jimmy Roy discussed that safety, density, and traffic are their biggest issues.

Charlie Collins discussed that if it were only an additional 10 homes it would not be dramatically worse.

Commissioner Chesser asked the applicant about the proposed density and zoning.

Micky Harrington discussed that there are other issues besides density that require the RSF-4 zoning such as lot dimensions and lot size.

Commissioner Chesser asked about a connection Township.

Brian Moore, Engineering Services Incorporated, discussed that yes a connection to the south is our intent with a stub-out.

Commissioner Honchell thanked everyone one for participating and being here. He discussed that he won't be able to support RSF-4.

Jeremy Pate, Development Services Director, discussed the differences between RSF-4 and RSF-

2. He also discussed that if Brookbury were rezoned to RSF-2 it would create nonconformities because very few of the lots are large enough to meet the RSF-2 requirements.

Commissioner Hoskins discussed a need for RSF-4 zoning because of bulk and area regulations. He also discussed that a Bill of Assurance would be an option for the applicant to limit the overall density. He would support a rezone to RSF-0.5.

Micky Harrington discussed that they would offer a Bill of Assurance to limit the density to two units per acre.

Kit Williams, City Attorney, discussed that the Planning Commission cannot require a Bill of Assurance and that one has not been offered. It would have to be offered in writing and notarized.

Commissioner Pennington discussed that the rezoning would not be incompatible, but public safety is a concern and he would be in support of RSF-0.5.

Motion:

Commissioner Pennington made a motion to forward **RZN 12-4166 to City Council with a recommendation for RSF-0.5.** **Commissioner Hoskins** seconded the motion.

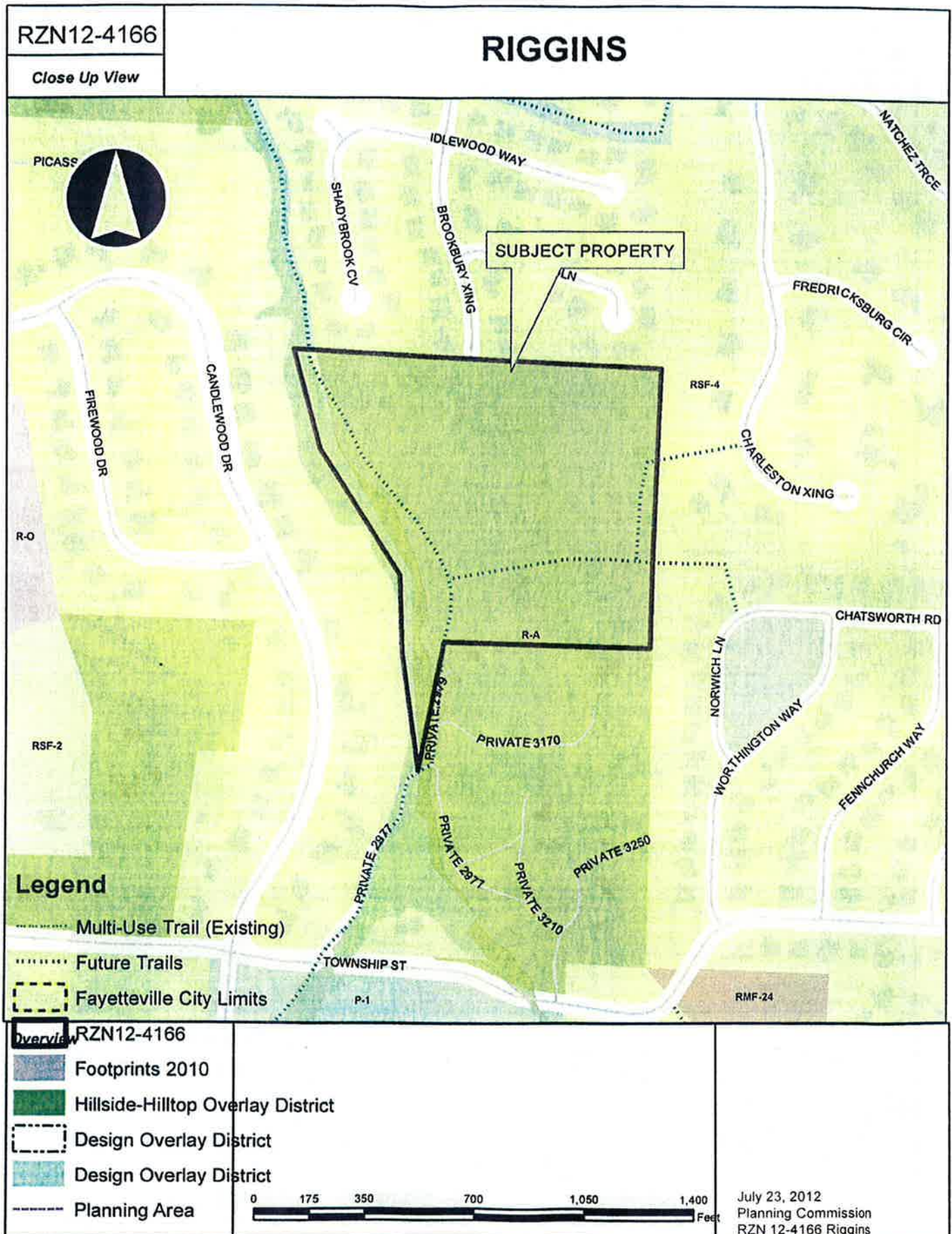
Commissioner Hoskins asked if RSF-0.5 would be considered a spot-zone.

Kit Williams, City Attorney, discussed that did not think an RSF-0.5 could be considered a spot-zone.

Commissioner Winston asked about fire code issues.

Harley Hunt, Fire Marshall, discussed the rationale behind the enforcement of fire access roads to this property and the existing condition that is already in place.

Upon roll call the motion passed with a vote of 8-1-0, with Commissioner Chesser voting no.



City of Fayetteville Staff Review Form

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

8/21/2012

City Council Meeting Date
Agenda Items Only

Quin Thompson
Submitted By

Planning

Development Services
Department

Action Required:

ADM 12-4171: Administrative Item (AMEND UDC CH.166; DEVELOPMENT, 523): Submitted by THE CITY OF FAYETTEVILLE PLANNING STAFF to amend the Unified Development Code (UDC) Chapter 166: Development to apply Non-Residential Design Standards to all form-based zoning districts outside of the Downtown Master Plan boundary.

Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Department Director

08-03-2012
Date

Previous Ordinance or Resolution #

City Attorney

8-3-12
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

8-3-2012
Date

Received in City
Clerk's Office

Chief of Staff

8-3-12
Date

Received in
Mayor's Office

Mayor

8/5/12
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Quin Thompson, Current Planner

Date: July 27, 2012

Subject: ADM 12-4171, UDC chap. 166 Non-Residential Design Standards

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance applying Non-Residential Design Standards to all form-based zoning districts outside of the Downtown Master Plan boundary.

BACKGROUND

Non-Residential Design Standards are currently applied to urban zoning districts that allow administrative approval. These include Community Services and Urban Thoroughfare only.

City Ordinances currently do not apply non-residential design standards to properties with urban zoning districts if they are located outside the Downtown Master Plan boundary, including properties zoned NC (Neighborhood Conservation), DC (Downtown Core), MSC (Main Street Center), & DG (Downtown General).

Development in the remaining form-based districts (NC, DG, MSC, DC) must comply with the DDOD, but only when the property is within the Downtown Master Plan boundary. In those instances when property outside the Downtown Master Plan boundary is zoned NC, DG, MSC, or DC, only the commercial design standards may be applied.

DISCUSSION

On July 23, 2012 the Planning Commission voted 9-0-0 in favor of a recommendation of approval for ADM 12-4171, UDC Chap. 166 Non-Residential Design Standards amendment.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE XV: UNIFIED
DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE
§166.24 TO AMEND THE APPLICABILITY OF NON-
RESIDENTIAL DESIGN STANDARDS

WHEREAS, the downtown zoning districts created as part of the Downtown Master Plan have expanded outside the original Downtown Master Plan boundary; and

WHEREAS, the downtown zoning districts currently have no design standards [when located outside the Downtown Master Plan boundary],

**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 the Unified Development Code §164.24(B) and replaces it with the following language:

“(B)Applicability. These design standards shall apply to all non-residential development located in urban or form-based zoning districts that require a build-to zone, with the exception of those districts located within the Downtown Master Plan boundary. In addition to the City’s Commercial Design and Development Standards, the standards apply when either new development occurs or expansion of 25% or more of the existing nonresidential building square footage occurs. All sides of a building that are visible from the public right-of-way shall be subject to design review.”

PASSED and APPROVED this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk

166.24 Nonresidential Design Standards

- (A) *Purpose.* It is the intent of these standards to provide the methods and means by which designers and developers may achieve the City's adopted goals to produce quality development and to manage growth within the City of Fayetteville. These regulations complement the City's urban zoning districts with site and architectural design regulations to produce a visually interesting and high quality development that responds to the needs of pedestrians, cyclists and vehicular traffic.
- (B) *Applicability.* These design standards shall ~~be required to be met for properties that lie~~

~~within urban zoning districts offering administrative approval~~ apply to all non-residential development located in urban or form-based zoning districts that require a build-to zone, with the exception of those districts located within the Downtown Master Plan boundary. In addition to the City's Commercial Design and Development Standards, the standards apply when either new development occurs or expansion of 25% or more of the existing nonresidential building square footage occurs. All sides of a building that are visible from the public right-of-way shall be subject to design review.



PC Meeting of July 23, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Quin Thompson, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: July 17, 2012 *Updated July 25, 2012*

ADM 12-4171: Administrative Item (AMEND UDC SECTION 166.24/NON-RESIDENTIAL DESIGN STANDARDS): Submitted by CITY PLANNING STAFF. The request is to amend UDC Section 166.24 to apply Non-Residential Design Standards to non-residential developments in all form-based zoning districts located outside of the Downtown Master Plan boundary.

BACKGROUND

Non-Residential Design Standards are currently applied to form-based zoning districts that allow administrative approval. These include CS and UT only.

City Ordinance currently does not apply non-residential design standards to properties with urban district zoning if they are located outside the Downtown Master Plan boundary, including properties zoned NC (neighborhood conservation), DC (downtown conservation), MSC (main street center), & DG (downtown general).

Development in the remaining form-based districts (NC, DG, MSC, DC) must comply with the DDOD, but only when the property is within the Downtown Master Plan boundary. In those instances when property outside the Downtown Master Plan boundary is zoned NC, DG, MSC, or DC, only the commercial design standards may be applied.

PROPOSAL

The change would apply Non-Residential Design Standards to development in all form-based zoning districts outside of the Downtown Master Plan boundary. The proposed code changes are shown in ~~strikeout~~ and highlight/underline in the attached document.

RECOMMENDATION

Staff recommends that the Planning Commission forward **ADM 12-4171** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**
Motion: Chesser
Second: Noble
Vote: 9-0-0
Meeting Date: July 23, 2012

AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 21, 2012

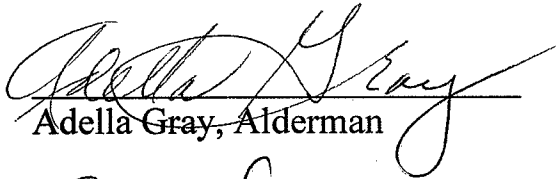
FROM:

ALDERMAN ADELLA GRAY

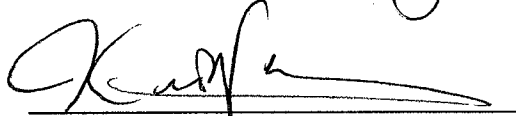
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The Extension Of The City's Sewerage System Beyond The City Limits To The Proposed Hughmount Village Development

APPROVED FOR AGENDA:


Adella Gray, Alderman

8-2-12
Date


City Attorney
(as to form)

8-2-2012
Date

08-02-12 PG4:52 RCVD

Kim G.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE EXTENSION OF THE CITY'S
SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO THE PROPOSED
HUGHMOUNT VILLAGE DEVELOPMENT**

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council," and;

WHEREAS, the City Council does approve of extending city sewer service to Hughmount Village.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

PASSED and APPROVED this 21st day of August, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
 TITLE V PUBLIC WORKS

\$70.00 per living unit for other water service point.

- (6) In the event a property owner requests that water service not be provided after a water connection is made and the extension fee and tap fee prescribed by subsection (E)(5) above are paid, said property owner shall pay a dry-tap charge of \$6.00 per month for each month after October 1, 1976 until such time as water service is activated.
- (7) A house number must be permanently displayed in a manner clearly visible from a street before service calls will be made by the city. In the event a service call is made and the house number is not displayed in the above manner, the property owner shall be assessed a fee of \$5.00.

(Code 1965, §21-16; Ord. No. 1761, 9-9-70; Ord. No. 1964, 12-4-73; Ord. No. 2233, 6-1-76; Ord. No. 2896, 2-15-83; Code 1991, §51.112)

51.113 Sewer Service And Extension Policy

The policies of the city concerning and regarding the sewer system, shall be as follows:

- (A) (1) It shall be the policy of the city to maintain and operate a municipal sewer system capable of collecting waste water from the city's sewer customers and treating such water for disposal into natural water courses.
- (2) To sustain and expand the municipal sewer system the city shall assume the expense of treating the waste water together with the operation and maintenance of the collection lines and appurtenances.
- (3) Construction of major collection lines shall be made in accordance with sewer system improvement and expansion programs and plans adopted by the City Council to better serve existing customers and to make the sewer system available to new customers and land development. Priorities for such improvement and extension shall be established by the City Council on the basis of need and the city's financial ability.
- (B) *Extensions to and within subdivisions.* The cost of extending sewer lines from existing mains to subdivisions and other land developments and the cost of constructing sewerage facilities within subdivisions as prescribed in subdivision regulations and according to specifications and

location prescribed by the water and wastewater director shall be the financial responsibility of the developer; however, the city shall pay the excess material cost of facilities of a size larger than required to serve subdivisions when such excess size is specified and required by the water and wastewater director for the general benefit of the sewerage system. All sewer facilities financed by the developer shall become the property of the city after inspection and acceptance by the water and wastewater director.

- (C) *Sewer extensions outside the city.* Except for facilities needed to serve property within the city's limits, such as major transmission lines and pump stations to deliver sewage to disposal sites, and except through contractual arrangements with other municipal corporations, the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council.

(Code 1965, §21-17; Ord. No. 1762, 9-9-70; Ord. No. 2896, 2-15-83; Code 1991, §51.113)

51.114 Water, Sewer Tap Connection Fees

- (A) All service connections made on city owned water and sewer mains shall be made by the Water and Sewer Division. Such connections shall be made upon payment to the city of the following fees:

Fee Description	INSIDE CITY	OUTSIDE CITY
5/8" Water	\$ 425.00	\$ 475.00
5/8" Double Water	475.00	525.00
1" Water	525.00	575.00
2" Water	1200.00	1250.00
4" Sewer	425.00	-----
6" Sewer	625.00	-----
City Street Cut	575.00	575.00
City Street Bore	225.00	225.00
State Hwy Permit	125.00	125.00
State Hwy Bore	425.00	425.00
State Hwy Cut	1225.00	1225.00

From: "Adella Gray" <adellag@cox.net>
To: "Kit Williams" <kwilliams@ci.fayetteville.ar.us>
Date: 7/29/2012 6:45 PM
Subject: FW: Hughmount Village

Kit,
I'd like to bring this to the Council. Could you please draw up the ordinance for me?
Thanks,
Adella

From: Phil Phillips [mailto:phil@aadvan.com]
Sent: Monday, July 23, 2012 9:35 AM
To: adellag@cox.net
Subject: Hughmount Village

Mrs. Adela Gray

Alderman Ward 1, Position 1

City of Fayetteville, AR

Dear Mrs. Gray,

I wanted to thank you for giving of your time to go look first hand at the possibilities at Hughmount Village.

I understand that decisions like this are hard on everyone and I trust that whatever you and the other members of the

Council decide will be the right decision for Fayetteville and the future of the West side of town.

I would like to ask that you please recommend our request to be placed on the City Council Agenda for August 21, 2012,

So that we can present our request for connection to the city sewer for Hughmount Village Sub-division to the full Council.

Respectfully,

Phil Phillips Jr

479-717-2912 office

479-957-5420 cell

phil@aadvan.com

Agenda Session 8/14/12

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
August 21, 2012**

A meeting of the Fayetteville City Council will be held on August 21, 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 August 7, 2012 City Council meeting minutes.
2. **2012-2013 Edward Byrne Memorial Justice Assistance Grants:** A resolution authorizing acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of \$197,333.59.
3. **2012 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of \$72,707.00 for the Police Department, and approving a budget adjustment.

4. **Bid #12-57 Williams Tractor:** A resolution awarding Bid #12-57 and authorizing the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of \$27,203.00 for use by Wastewater Treatment.
5. **Bid #12-59 Williams Tractor:** A resolution awarding Bid #12-59 and authorizing the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of \$45,276.00 for use by the Fire Department, and approving a budget adjustment.
6. **Bid #12-63 Hilbilt Sales Corporation-Arkansas:** A resolution awarding Bid #12-63 and authorizing the purchase of one (1) end dump trailer from Hilbilt Sales Corporation-Arkansas in the total amount of \$43,361.00 for use by Wastewater Treatment, and approving a budget adjustment.
7. **Bid #12-64 Warrior of Arkansas:** A resolution awarding Bid #12-64 and authorizing the purchase of one (1) articulated wheel loader from Warrior of Arkansas, Inc. in the total amount of \$119,950.00 for use by Wastewater Treatment, and approving a budget adjustment.
8. **Solid Waste Agreement Extensions:** A resolution approving one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the city.
9. **Animal Services Donation Revenue:** A resolution approving a budget adjustment in the amount of \$14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

B. Unfinished 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 ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting.*

Left on the Second Reading

C. New Business:

- ✓ **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of \$28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street.

- 2/ ✓ **Seven Valley's Construction Co.:** A resolution awarding Bid #12-58 and authorizing a contract with Seven Valleys Construction Co., Inc. in the amount of \$1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, approving a project contingency of \$75,000.00 and approving a budget adjustment.
- 3/ ✓ **Sunbridge Villas Subdivision Private Street Acceptance:** A resolution accepting dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from the Sunbridge Villas Property Owners Association, Inc.
- 4/ ✓ **Proposed Employee Benefits Renewal:** A resolution approving a 2013 employee benefits package.
- 5/ ✓ **RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD):** An ordinance rezoning that property described in rezoning petition RZN 12-4146, for approximately 1.80 acres, located at 4054 and 4076 West Starry Night View and 1907 North Best Friend Lane from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single Family, 8 Units Per Acre.
- 6/ ✓ **RZN 12-4164 (1420 N. Garland Ave./Bonds):** An ordinance rezoning that property described in rezoning petition RZN 12-4164, for approximately 0.28 acres, located at 1420 North Garland Avenue from RMF-24, Residential Multi-Family, 24 units Per Acre to NS, Neighborhood Services.
- 7/ ✓ **RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins):** An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre.
- 8/ ✓ **ADM 12-4171 (Amend UDC Ch. 166: Development):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville §166.24 to amend the applicability of non-residential design standards.
- 9/ ✓ **Hughmount Village Development Sewer Extension:** A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

Move to 1st meeting in Sept

D. City Council Agenda Session Presentations:

- 1/ ✓ **2011 Comprehensive Annual Financial Report given by Tony Uth, Jr., Audit Committee Chairman.**

City Council Tour:

Announcements:

Adjournment:

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Move last

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