

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
September 15, 2009**

A meeting of the Fayetteville City Council will be held on September 15, 2009 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:

Presentations, Reports and Discussion Items:

1. Nominating Committee Report

A. Consent:

- 1. Arts Live Theatre:** A resolution approving the lease agreement with Arts Live Theatre d/b/a/ Arts Live for use of the property at 818 North Sang Avenue.
- 2. 2009 Edward Byrne Memorial Local Solicitation Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2009 Edward Byrne Memorial Local Solicitation Grant in the amount of \$111,387.00, \$50,506.00 of which will be used by the Fayetteville Police Department with \$39,201.00 to be disbursed to the City of Springdale and \$21,680.00 to Washington County; and approving a budget adjustment.

3. **2009-2010 Justice Assistance Grant:** A resolution accepting the 2009-2010 Justice Assistance Grant for federal and state funding in the amounts of \$164,306.00 and \$32,861.00 respectively as the primary funding for the 4th Judicial District Drug Task Force; and approving a budget adjustment to recognize the grant revenue.
4. **TranSystems Corporation:** A resolution approving an agreement with TranSystems Corporation in an amount not to exceed \$58,598 for the inspection, analysis, and a feasibility report providing technical guidance for the rehabilitation of the two historic overpass bridges on Lafayette and Maple Streets.
5. **Bid # 09-52 United Engines, LLC:** A resolution awarding Bid # 09-52 and approving the purchase of seven (7) emergency standby generators from United Engines, LLC in the total amount of \$104,562.00 plus applicable taxes for use at wastewater lift stations; and approving a budget adjustment in the amount of \$5,000.00.
6. **Garver, LLC:** A resolution approving a contract with Garver, LLC in an amount not to exceed \$88,340.00 for engineering services associated with the rehabilitation of the Lake Wilson Spillway; and approving a budget adjustment.
7. **Economic Development Services:** A resolution to approve a two year contract for Economic Development with the Fayetteville Chamber of Commerce in the amount of \$250,000.00 and to approve the attached budget adjustment.

B. Unfinished Business:

1. **RZN 09-3271 (Sale Barn/Campus Crest LLC):** An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting. This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting. This ordinance was left on the Third Reading at the July 21, 2009 City Council meeting and tabled to the August 18, 2009 City Council meeting. This ordinance was left on the Third Reading at the August 18, 2009 City Council meeting and tabled to the September 15, 2009 City Council Meeting.*

This Ordinance was left on the Third Reading.

2. **Rock Quarries Facilities:** An ordinance to prevent injury or annoyance within the corporate limits of Fayetteville by regulating rock quarrying facilities so that these facilities will not be nuisances. *This ordinance was left on the First Reading at the September 1, 2009 City Council meeting.*

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C. New Business:

1. **ECO Vista Waste Management Landfill:** An ordinance waiving the requirements of formal competitive bidding and accepting an interim rate quote from Waste Management for the disposal of solid waste; approving a budget adjustment; and declaring an emergency.
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5. **VAC 09-3397 (University of Arkansas):** An ordinance approving VAC 09-3397 submitted by University of Arkansas for property located at 10 North Garland to vacate approximately 5,663 square feet of existing utility easement on the subject property.
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7. **ADM 09-3423 (S. West Avenue Master Street Plan Amendment):** A resolution amending the Master Street Plan, reclassifying S. West Avenue, between W. South Street and W. Prairie Street, from a 45 foot right-of-way to a 40 foot right-of-way, as described and depicted in the attached map.

Agenda Additions:

Announcements:

1. **City Council Tour: None**

Adjournment:

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Agenda Session 9/8/09

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Agenda Additions:

Announcements:

1. City Council Tour: September 14, 2009

Adjournment:

Add: ^(C) Economic Development Services
^(NB1) ECO Vista Waste Management Landfill
^(NB2) Solid Waste Transfer Station Employee

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **September 16, 2009**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of September 15, 2009**

1. **Arts Live Theatre:** A resolution approving the Lease Agreement with Arts Live Theatre d/b/a Arts Live for use of the property at 818 N. Sang Avenue;
2. **2009 Edward Byrne Memorial Local Solicitation Grant:** A resolution authorizing the Fayetteville Police Department to accept a 2009 Edward Byrne Memorial Local Solicitation Grant in the amount of \$111,387.00, \$50,506.00 of which will be used by the Fayetteville Police Department with \$39,201.00 to be disbursed to the City of Springdale and \$21,680.00 to Washington County and approving a budget adjustment;
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4. **TranSystems Corporation:** A resolution approving an agreement with TranSystems Corporation in an amount not to exceed \$58,598.00 for the inspection, analysis and a feasibility report providing technical guidance for the rehabilitation of the two historic overpass bridges on Lafayette and Maple Streets;
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6. **Garver, LLC:** A resolution approving a contract with Garver, LLC in an amount not to exceed \$88,340.00 for engineering services associated with the rehabilitation of the Lake Wilson Spillway and approving a budget adjustment;
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8. **ECO Vista Waste Management Landfill:** An ordinance waiving the requirements of formal competitive bidding and accepting an interim rate quote from Waste Management for the disposal of solid waste; approving a budget adjustment and declaring an emergency;
9. **Solid Waste Transfer Station Employee:** A resolution authorizing the addition of one full-time employee in the Solid Waste & Recycling Division to move operations in-house for the Solid Waste Transfer Station and Scale House; and approving a budget adjustment in the amount of \$50,000.00;
10. **Energy, Efficiency & Conservation Block Grant:** A resolution to accept a \$724,900.00 Energy, Efficiency and Conservation Block Grant and to approve a budget adjustment recognizing the revenue.

Subject:	Roll				
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Mayor Jordan	✓			

9-0

Subject:	Nominating Committee Report				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Lewis			
Approved	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Mayor Jordan				

8-0

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

8-0

Subject:	Energy Efficiency & Conservation Block Grant				
Motion To:		Add Resolution to the agenda	Approve	#724,900	
Motion By:		Thiel	Thiel		
Seconded:		Lewis	Lucas		
passed	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Petty	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Lewis	✓	✓		
	Mayor Jordan				

8-0

8-0

Subject:		RZN 09-3271 (Sale Barn/Campus Crest LLC)			
Motion To:			Pass		
Motion By:					
Seconded:					
B. 1 Unfinished Business <u>Failed</u>	Gray	✓			
	Thiel	N			
	Cook	N			
	Petty	✓			
	Rhoads	Absent during the vote			
	Ferrell	✓			
	Lucas	N			
	Lewis	N			
	Mayor Jordan				

3-4

Subject:		Rock Quarries Facilities				Dave Bolin
Motion To:			2nd Read	Amend as suggested by City Attorney		
Motion By:			Lucas	Lucas		
Seconded:			Lewis	Petty		
B. 2 Unfinished Business Left on the Second Reading	Gray	✓	✓			
	Thiel	✓	✓			
	Cook	✓	✓			
	Petty	✓	✓			
	Rhoads	✓	✓			
	Ferrell	✓	✓			
	Lucas	✓	✓			
	Lewis	✓	✓			
	Mayor Jordan					

8-0

8-0

Subject:	Red Dirt Mining Facilities				
Motion To:		2nd Reading	Amend as proposed by the City Attorney		
Motion By:		Lucas	Petty		
Seconded:		Lewis	Lucas		
B. 3 Unfinished Business Left on the Second Reading	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Petty	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Lewis	✓	✓		
	Mayor Jordan				

8-0

8-0

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

Subject:	ECO Vista Waste Management Landfill				
Motion To:		2nd Read	3rd Read	Pass	Emergency Clause
Motion By:		Cook	Cook		Cook
Seconded:		Thiel	Ferrell		Ferrell
C. 1 New Business <u>passed</u> Emergency Clause	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Petty	✓	✓	✓	✓
	Rhoads	Recuse	Recuse	Recuse	Recuse
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Lewis	✓	✓	✓	✓
	Mayor Jordan				
		7-0	7-0	7-0	7-0

Subject:	Solid Waste Transfer Station Employee				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Gray			
C. 2 New Business <u>passed</u>	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	Recuse			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Mayor Jordan				
		7-0			

Subject:		RZN 09-3398 (Schaffer)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Ferrell	Cook	
Seconded:			Petty	Petty	
C. 3 New Business <u>Passed</u>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:		RZN 09-3394 (Box)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Ferrell	Ferrell	
Seconded:			Cook	Lewis	
C. 4 New Business <u>Passed</u>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:	VAC 09-3397 (University of Arkansas)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Ferrell	Lewis		
C. 5 New Business <u>Passed</u>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:	VAC 09-3399 (Harris)				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Lewis		
Seconded:		Gray	Cook		
C. 6 New Business <u>Passed</u>	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:	ADM 09-3423 (S. West Avenue Master Street Plan Amendment)				
Motion To:		Approve.			
Motion By:		Cook			
Seconded:		Thiel			
C. 7 New Business Passed.	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
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8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
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- 3. VAC 09-3397 (University of Arkansas):** An ordinance approving VAC 09-3397 submitted by University of Arkansas for property located at 10 North Garland to vacate approximately 5,663 square feet of existing utility easement on the subject property.
- 4. VAC 09-3399 (Harris):** An ordinance approving VAC 09-3399 submitted by Bates and Associates for property located at 303 South West Avenue to vacate a portion of the West Avenue right-of-way and an unconstructed 30' street right-of-way on the subject property.
- 5. ADM 09-3423 (S. West Avenue Master Street Plan Amendment):** A resolution amending the Master Street Plan, reclassifying S. West Avenue, between W. South Street and W. Prairie Street, from a 45 foot right-of-way to a 40 foot right-of-way, as described and depicted in the attached map.

Agenda Additions:

Announcements:

- 1. City Council Tour: September 14, 2009**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

As a courtesy please turn off all cell phones and pagers.

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

City Council Agenda Items
and
Contracts, Leases or Agreements~~0/4/2009~~ 9/15/2009 *klc*City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Services

Division

Development Services

Department

Action Required:

Approval of lease for 818 N Sang

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

**SUBJECT TO CUP APPROVAL.*

08.09.09

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

8/25/09

Date

Finance and Internal Services Director

8-25-2009

Date

Received in City
Clerk's Office

Chief of Staff

8-26-09

Date

Received in
Mayor's Office

Mayor

8/27/09

Date

Comments: Staff recommends approval of lease.

CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Jeremy Pate, Development Services Department Director 

From: Yolanda Fields, CS Director 

Date: July 30, 2009

Subject: Public Facility Program – Approval of Lease for 818 N. Sang

RECOMMENDATION

Staff recommends approval of lease with Arts Live Theatre for the property located at 818 N. Sang.

BACKGROUND

The property located at 818 N. Sang was acquired with Community Development Block Grant (CDBG) funds. This property is a part of the CDBG Public Facility Program. Properties acquired with CDBG are made available through an application process to non-profits that provide services to low/mod residents in the City of Fayetteville. The Arts Live Theatre submitted an application for the property located at 818 N. Sang. This organization met all the requirements for the program.

Arts Live Theatre has been in operation for the past 25 years, they have served approximately 1,800 children and youth per year through theatre camps, classes, and main stage productions. Their audience members number over 4,000 annually. Arts Live Theatre beneficiaries are individuals from families with incomes that are extremely low to moderate. These children and youth come from all over Fayetteville and the greater Northwest Arkansas area. Through the comprehensive theatre education the participants have maximized their talents and bolsters their self-confidence, building self-esteem while teaching them responsibility, creativity and accountability.

DISCUSSION

The lease document with Arts Live Theatre for the property located at 818 N. Sang is being submitted for approval.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE LEASE AGREEMENT WITH
ARTS LIVE THEATRE d/b/a ARTS LIVE FOR USE OF THE
PROPERTY AT 818 NORTH SANG AVENUE.

**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 Lease Agreement with Arts Live Theatre d/b/a Arts Live for use of the property at 818 North
Sang Avenue. A copy of the Lease Agreement is attached hereto as Exhibit "A," and made a
part hereof.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



LEASE AGREEMENT

818 N Sang Avenue

THIS LEASE AGREEMENT executed this **15th day of September 2009**, by and between the City of Fayetteville, Arkansas and Arts Live Theatre, a non-profit Arkansas corporation, hereinafter referred to as "Arts Live".

In consideration of the promises, covenants and commitments contained herein, the City of Fayetteville and Arts Live hereby agree as follows:

1. **PREMISES.** The City of Fayetteville hereby leases to Arts Live and Arts Live hereby leases from The City of Fayetteville, the building, parking lot and premises of 818 N Sang Avenue, Fayetteville, AR 72701.
2. **TERM.** The original term of this Lease shall commence on September 15, 2009 and shall terminate on September 15, 2010 at 5:00 p.m. This Lease shall be automatically extended each subsequent year on September 15th unless written notice of termination is given by City of Fayetteville or Arts Live to the other party at least thirty (30) days prior to expiration of the original term of this lease. This notice shall be effective if mailed or delivered to:

City of Fayetteville
Mayor's Office
113 W Mountain
Fayetteville, AR 72701

Arts Live
Executive Director
818 N Sang Avenue
Fayetteville, AR 72701

3. **CONSIDERATION.** In consideration for the use of leased premises Arts Live agrees to provide its services to the citizens of Fayetteville and Northwest Arkansas with emphasis on low and moderate income children and youth in Fayetteville. Arts Live agrees to provide comprehensive theatre education to children and youth that maximizes their talents and bolsters their self-confidence, building self-esteem while teaching responsibility, creativity and accountability. Arts Live shall maintain at all times a current and complete record of all activities conducted on the leased premises in a form specified by the City of Fayetteville. Arts Live shall submit a quarterly activity report to the City of Fayetteville Community Services Division on or before the 15th of the month following the end of the quarter. The City of Fayetteville and the United States Department of Housing and Urban Development shall have complete access to all of Arts Live's records during all reasonable hours and shall have the right to inspect and copy said records.

4. **UTILITIES.** Arts Live shall be responsible for prompt and complete payment of all utilities including electric bills, natural gas bills, water and sewer bills, sanitation service bills and telephone bills.
5. **IMPROVEMENTS TO PREMISES.** If previously approved in writing by the Community Services Division of the City of Fayetteville, Arts Live may make improvements that are necessary to carry out the services they provide. Arts Live agrees that it will keep and maintain the leased premises and all improvements thereon in good condition and repair at all times. Arts Live agrees to be responsible for yard maintenance and for the maintenance and replacement of all heating, electrical and air conditioning equipment and plumbing on the premises. Arts Live, at its own cost and expense, shall maintain and keep premises in as good repair as when the premises were received or in their highest state of repair during the lease term, ordinary wear and tear and casualties beyond Arts Live's control alone excepted and Arts Live shall return the leased premise at the expiration or termination of the Lease in good order and condition excepting only ordinary wear and tear and casualties beyond Arts Live control. Design for any such improvements shall be approved by the City of Fayetteville Community Services Division. Upon termination of this lease all improvements shall become the property of the City of Fayetteville.
6. **MAINTENANCE AND REPAIR FUND.** Arts Live will establish and maintain a Maintenance and Repair Fund. Arts Live shall immediately begin depositing the amount of **\$500.00** per month in a separate savings account in a savings institute acceptable to the City of Fayetteville for the period of time required to establish and maintain a fund total of **\$30,000.00**. These funds may be used only for the maintenance and repair of the premises. At the end of this Lease Agreement, all funds in this account not needed for repair or maintenance to return the premises to good condition and repair shall become the sole property of Arts Live.
7. **FACILITY DEPOSIT.** Arts Live will provide a **\$5,000.00 Facility Deposit** to the City of Fayetteville prior to move in unless a letter of understanding is attached to this lease agreement. Entire amount will be held by the city for the duration of the lease. Upon notification of intent to vacate the Lease the City will inspect location to determine condition. If repairs are needed to return the premises to good condition the Facility Deposit amount will be used to make the repairs. Any remaining balance will be refunded to Arts Live.
8. **INSURANCE.** Arts Live agrees to carry fire and extended coverage insurance on the improvements on the leased premises, which policy shall name City of Fayetteville as an insured and Arts Live agrees to maintain said policy in force throughout the term of the Lease and extension thereof. Said policy shall be in an amount of \$300,000.00. Arts Live shall file a copy of said policy and all renewals with the City Clerk of City of Fayetteville. Arts Live agrees to notify the City of Fayetteville in writing of any amendments to or cancellation of said policy or renewals.

9. **MONTHLY FINANCIAL STATEMENTS.** Arts Live shall maintain complete and accurate monthly financial statements for all activities conducted on the leased premises. Arts Live shall file a copy of each month's financial statement with the City of Fayetteville's Community Services Division on or before the 15th day of the following month.
10. **BENEFIT TO LOW INCOME FAMILIES.** The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums or blight. Arts Live commits that the leased premises will be used to benefit low and moderate income families.
11. **COMPLIANCE WITH FEDERAL RULES AND REGULATIONS.** Arts Live agrees to comply with all rules and regulations as established by the Department of Housing and Urban Development for programs financed by the Housing and Community Development Act of 1974; and
- a. Lessee will comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-102, Revised, acceptance and use of Federal funds under 24 CFR 570; and
 - b. Lessee will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A-102, Revised.
 - c. Lessee will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of Arts Live's programs or activities.
 - d. Arts Live will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under 24 CFR 570.
 - e. Arts Live will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

12. **PERSONAL GAIN.** Arts Live will establish safeguards to prohibit employees from using position for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
13. **HATCH ACT.** Arts Live will comply with applicable provisions of the Hatch Act.
14. **RIGHT TO INSPECT RECORDS.** Arts Live will give HUD and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the program.
15. **ENVIRONMENTAL PROTECTION.** Arts Live will ensure that the facilities under its lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
16. **FLOOD DISASTER PROTECTION ACT.** Arts Live shall comply with the Flood Disaster Protection Act of 1973, P.L. 93-234, 87stat. 975, approved December 31, 1973. Section 103(a) required, on and after march 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area, that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" shall be included in any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
17. **CURE OR TERMINATION.** If the City of Fayetteville determines that Arts Live has violated a duty, term or condition of this Lease Agreement, it shall so notify Arts Live in writing at the address listed above in paragraph 2. Arts Live shall have thirty (30) days after notification to cure the breach. If Arts Live fails to cure the breach to satisfaction of the City of Fayetteville within the allotted period of time, the City of Fayetteville, acting through its Mayor, may declare this Lease Agreement terminated and so notify Arts Live which shall immediately vacate the premises.



IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date first above written.

**ARTS LIVE THEATRE
DBA - Arts Live**

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

Mark Smith
Executive Artistic Director

CITY OF FAYETTEVILLE, ARKANSAS

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

Lioneld Jordan
Mayor

ATTEST:

Sondra E. Smith
City Clerk/Treasurer

City of Fayetteville Staff Review Form

A. 3
 2009 Edward Byrne Memorial
 Local Solicitation Grant
 Page 1 of 18

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
 Agenda Items Only

G. Tabor
 Submitted By

Patrol
 Division

Police
 Department

Action Required:

Acceptance of the 2009 Justice Assistance Grant (JAG) Local Solicitation award and approval of a budget adjustment in the amount of \$111,387.00.

\$ 111,387.00
 Cost of this request

\$ 111,387.00
 Category / Project Budget

JAG Local Solicitation - 2009
 Program Category / Project Name

1010-2920-various
 Account Number

\$ -
 Funds Used to Date

Grant
 Program / Project Category Name

09022-2009
 Project Number

\$ 111,387.00
 Remaining Balance

General
 Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Department Director

Date

8-25-09 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:



Departmental Correspondence

To: Lioneld Jordan, Mayor and City Council Members

From: Greg Tabor, Acting Chief of Police 

Date: August 25, 2009

Re: Approval of 2009 Justice Assistance Grant Local Solicitation Award

Background

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance has awarded the 2009 Justice Assistance Grant for local agencies. This grant award is based in part on population and violent crime rates and is given to Fayetteville, Springdale and Washington County to share. This grant does not require any local cash matching funds. This is the fifth year for this grant to be a shared grant with these other agencies.

Discussion

The Fayetteville Police Department is the lead agency for this grant award in the amount of \$111,387. Fayetteville was awarded \$50,506 to be spent on eight (8) training courses, administrative investigations software, expansion of in-house training capacity, bicycle and motorcycle uniforms, and various office machine replacements. Please see budget detail worksheet for complete listing of training, equipment, and supplies to be purchased.

Within this grant award, Springdale will receive \$39,201 to purchase six (6) mobile video recorder systems, two (2) mobile digital terminals, and (2) shotgun racks. Washington County will receive \$21,680 to purchase (3) mobile video recorder systems and five (5) digital cameras.

Recommendation

Staff recommends acceptance of the 2009 Edward Byrne Memorial Local Solicitation Grant Award and approval of a budget adjustment in the amount of \$111,387.00 for the purchase of law enforcement training, equipment, and supplies. If you should have any comments or question regarding this grant application, please contact me at extension 500.

Budget Impact

None

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A 2009 EDWARD BYRNE MEMORIAL LOCAL SOLICITATION GRANT IN THE AMOUNT OF \$111,387.00, \$50,506.00 OF WHICH WILL BE USED BY THE FAYETTEVILLE POLICE DEPARTMENT WITH \$39,201.00 TO BE DISBURSED TO THE CITY OF SPRINGDALE AND \$21,680.00 TO WASHINGTON COUNTY; 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 the Fayetteville Police Department to accept a 2009 Edward Byrne Memorial Local Solicitation Grant in the amount of \$111,387.00, \$50,506.00 of which will be used by the Fayetteville Police Department, with \$39,201.00 to be disbursed to the City of Springdale, and \$21,680.00 to Washington County.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment to recognize the grant revenue.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Edward Byrne Memorial
JAG - Local Solicitation
FY 2009

A. 3
2009 Edward Byrne Memorial
Local Solicitation Grant
Page 4 of 18

Budget Detail Worksheet

C. Travel

Purpose	Location	Item	Computation	Cost
Officer Training	Little Rock, AR	Arkansas Tactical Officers Association	4 officers to 5-day training at \$66 per night lodging (double occupancy), \$140 registration each, \$28 each per diem per day	\$ 1,868.00
Officer Training	Dallas, TX	Calibre Press Street Survival Seminar	4 officers to 4-day training at \$90.75 per night lodging (double occupancy), \$400 registration each, \$54 each per diem per day	3,406.00
Officer Training	San Antonio, TX	Crime Scene Reconstruction	2 officers to 5-day training at \$110.40 per night lodging (double occupancy), \$900 registration each, \$54 each per diem per day	3,000.00
Officer Training	San Diego, CA	Crowd Management and Event Planning	1 officer to 5-day training at \$149.00 per night lodging, \$650 registration, \$64 each per diem per day, and \$985 commercial travel	2,700.00
Officer Training	Dallas, TX	Diversity Instructor Training	1 officer to 5-day training at \$96.80 per night lodging, \$1,000 registration, \$36 per diem per day	1,700.00
Officer Training	Julliet, IL	Motorcycle Officer School	2 officers to 10-day training at \$100.00 per night lodging (double occupancy), \$1,500 registration each, \$55.35 each per diem per day	5,107.00
Officer Training	Bossier City, LA	National Narcotic Detector Dog Association	2 officers to 5-day training at \$79.50 per night lodging (double occupancy), \$335 registration each, \$58.50 each per diem per day, \$50 each for K-9 care	2,267.00
Officer Training	Fayetteville, AR	Tactical Officer Survival School	4 officers to 3-day training at \$300 registration each	1,200.00
Total Travel				21,248.00

Edward Byrne Memorial
JAG - Local Solicitation
FY 2009

A. 3
2009 Edward Byrne Memorial
Local Solicitation Grant
Page 5 of 18

Budget Detail Worksheet

D. Equipment

City of Fayetteville

Administrative Investigations Management Software 1 @ \$11,280

\$ 11,280.00

Total Fayetteville Equipment \$ 11,280.00

City of Springdale

Mobile Video Recorder System 6 @ \$6,003.29

\$ 36,019.74

Mobile Digital Terminal Mounts & Equipment 2 @ \$1,403.00

2,806.00

Total Springdale Equipment \$ 38,825.74

Washington County Sheriffs Office

Mobile Video Recorder System 3 @ \$6,108.00

\$ 18,324.00

Total Washington County Equipment \$ 18,324.00

Total Equipment \$ 68,429.74

E. Supplies

City of Fayetteville

Law Enforcement Training Software 1 @ \$700

700.00

Bicycle Officer Uniforms 14 @ \$714.29

10,000.00

Motorcycle Officer Uniforms 1 @ \$3,014.00

3,014.00

Simunition Equipment 10 @ \$250

2,500.00

Audio/Video Equipment 1 @ \$860

860.00

Desktop Calculators 2 @ \$87.50

175.00

Cordless Keyboard/Mouse 6 @ \$30.83

185.00

Dictation Foot Pedal 2 @ \$65

130.00

Dictation Head Set 2 @ \$110

220.00

Dictation Phone Switcher 2 @ \$97

194.00

Total Fayetteville Supplies 17,978.00

City of Springdale

Shotgun Racks 2 @ \$187.63

\$ 375.26

Total Springdale Equipment \$ 375.26

Washington County Sheriffs Office

Canon EOS 10.1 Mega Pixel Digital Camera 5 @ \$671.20

3,356.00

Total Washington County Equipment \$ 3,356.00

Total Supplies \$ 21,709.26

Budget Total

\$ 111,387.00



Department of Justice
Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs

Washington, D.C. 20531

August 24, 2009

The Honorable Lionel D. Jordan
City of Fayetteville
100 A. West Rock Street
Fayetteville, AR 72701-6069

Dear Mayor Jordan:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 09 Edward Byrne Memorial Justice Assistance Grant Program: Local Solicitation in the amount of \$111,387 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, Gerardo Velazquez, Program Manager at (202) 353-8645; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. H. Burch II".

James H. Burch II
Acting Director

Enclosures



Department of Justice
Office of Justice Programs
Office for Civil Rights

Washington, D.C. 20531

August 24, 2009

The Honorable Lionel D. Jordan
City of Fayetteville
100 A. West Rock Street
Fayetteville, AR 72701-6069

Dear Mayor Jordan:

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

Ensuring Access to Federally Assisted Programs

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

Providing Services to Limited English Proficiency (LEP) Individuals

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

Ensuring Equal Treatment for Faith-Based Organizations

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

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

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

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

Enforcing Civil Rights Laws

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

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements: (1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (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.

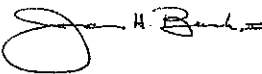
If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at <http://www.ojp.usdoj.gov/ocr/>.

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 5	
1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Fayetteville 100 A. West Rock Street Fayetteville, AR 72701-6069		4. AWARD NUMBER: 2009-DJ-BX-0299			
		5. PROJECT PERIOD: FROM 10/01/2008 TO 09/30/2012 BUDGET PERIOD: FROM 10/01/2008 TO 09/30/2012			
		6. AWARD DATE 08/24/2009		7. ACTION Initial	
1A. GRANTEE IRS/VENDOR NO. 716018462		8. SUPPLEMENT NUMBER 00			
		9. PREVIOUS AWARD AMOUNT \$ 0			
3. PROJECT TITLE 2009 JAG Local Solicitation		10. AMOUNT OF THIS AWARD \$ 111,387			
		11. TOTAL AWARD \$ 111,387			
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 42 U.S.C. 3751(a) (BJA - JAG Formula)					
15. METHOD OF PAYMENT PAPRS					
AGENCY APPROVAL			GRANTEE ACCEPTANCE		
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL James H. Burch II Acting Director			18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Lionel D. Jordan Mayor		
17. SIGNATURE OF APPROVING OFFICIAL 			19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL		19A. DATE
AGENCY USE ONLY					
20. ACCOUNTING CLASSIFICATION CODES FISCAL FUND BUD. DIV. YEAR CODE ACT. OFC. REG. SUB. POMS AMOUNT X B DJ 80 00 00 111387			21. IDJUGT3588		

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 5

PROJECT NUMBER 2009-DJ-BX-0299

AWARD DATE 08/24/2009

SPECIAL CONDITIONS

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

mail:

Office of the Inspector General
U.S. Department of Justice
Investigations Division
950 Pennsylvania Avenue, N.W.
Room 4706
Washington, DC 20530

e-mail: oig.hotline@usdoj.gov

hotline: (contact information in English and Spanish): (800) 869-4499

or hotline fax: (202) 616-9881

Additional information is available from the DOJ OIG website at www.usdoj.gov/oig.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 3 OF 5

PROJECT NUMBER 2009-DJ-BX-0299

AWARD DATE 08/24/2009

SPECIAL CONDITIONS

6. 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.

7. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.
8. To support public safety and justice information sharing, OJP requires the grantee to use the National Information Exchange Model (NIEM) specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas generated as a result of this grant to the component registry as specified in the guidelines. For more information on compliance with this special condition, visit <http://www.niem.gov/implementationguide.php>.
9. 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 Financial Status Report (SF-269).



Department of Justice
 Office of Justice Programs
 Bureau of Justice Assistance

**AWARD CONTINUATION
 SHEET
 Grant**

PAGE 4 OF 5

PROJECT NUMBER 2009-DJ-BX-0299

AWARD DATE 08/24/2009

SPECIAL CONDITIONS

10. The grantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by law and detailed by the BJA in program guidance for the Justice Assistance Grant (JAG) Program. Compliance with these requirements will be monitored by BJA.
11. 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.
12. 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>.
13. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.
14. 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.
15. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
16. 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.
17. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 5 OF 5

PROJECT NUMBER 2009-DJ-BX-0299

AWARD DATE 08/24/2009

SPECIAL CONDITIONS

18. The grantee agrees that within 120 days of award, for any law enforcement task force funded with these funds, the task force commander, agency executive, task force officers, and other task force members of equivalent rank, will complete required online (internet-based) task force training to be provided free of charge through BJA's Center for Task Force Integrity and Leadership. This training will address 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 will be provided by BJA regarding the 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: M. A. Berry, 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, PROJECT SUMMARY	
		Grant	
		PROJECT NUMBER 2009-DJ-BX-0299	PAGE 1 OF 1
This project is supported under 42 U.S.C. 3751(a) (BJA - JAG Formula)			
1. STAFF CONTACT (Name & telephone number) Gerardo Velazquez (202) 353-8645		2. PROJECT DIRECTOR (Name, address & telephone number) Judy Cohea Project Manager 100-A W. Rock Street Fayetteville, AR 72701-6191 (479) 587-3581	
3a. TITLE OF THE PROGRAM BJA FY 09 Edward Byrne Memorial Justice Assistance Grant Program: Local Solicitation		3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT 2009 JAG Local Solicitation			
5. NAME & ADDRESS OF GRANTEE City of Fayetteville 100 A. West Rock Street Fayetteville, AR 72701-6069		6. NAME & ADDRESS OF SUBGRANTEE	
7. PROGRAM PERIOD FROM: 10/01/2008 TO: 09/30/2012		8. BUDGET PERIOD FROM: 10/01/2008 TO: 09/30/2012	
9. AMOUNT OF AWARD \$ 111,387		10. DATE OF AWARD 08/24/2009	
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 governments, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation). The disparate jurisdictions comprising of Washington County and the cities of Fayetteville and Springdale will use their FY 2009 JAG award to support officer training and equipment purchases across the county. The city of Fayetteville, serving as the fiscal agent, will use funds for various officer trainings such as Street			

Survival, Crime Scene Reconstruction, Crowd Management and Event Planning, Diversity Training, Motorcycle Officer School, and Tactical Training. Washington County will use their portion of grant funds to purchase and install three mobile video recorder systems for patrol vehicles and five digital cameras for documenting evidence. The city of Springdale will use their grant funds to purchase and install six mobile video recorder systems, two digital terminals, and two shotgun racks for patrol vehicles.

NCA/NCF

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

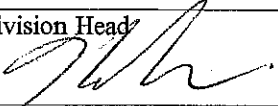
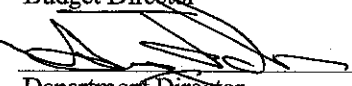
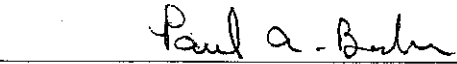
A. 3
2009 Edward Byrne Memorial
Local Solicitation Grant
Adjustment Number
Page 17 of 18

Budget Year 2009	Department: Police Division: Police Program: Police/Animal Projects	Date Requested 9/15/2009	
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Project or Item Added/Increased: 2009 Justice Assistance Grant (JAG) Local Solicitation Award	Project or Item Deleted/Reduced: 2009 Justice Assistance Grant (JAG) Local Solicitation Award
Justification of this Increase: Non-matching grant funds for the purchase of law enforcement equipment.	Justification of this Decrease: Recognize grant revenue from the 2009 JAG Local Solicitation award.

Increase Budget			
Account Name	Account Number	Amount	Project Number
		see attached	

Decrease Budget			
Account Name	Account Number	Amount	Project Number
		see attached	

Division Head  Date 8-16-09		Budget & Research Use Only Type: A B C <u>D</u> E	
Budget Director  Date 8-25-09		Requested By _____	
Department Director  Date 8-29-2009		General Ledger Date _____	
Finance Director  Date 8-31-09		Posted to General Ledger _____	
Chief of Staff _____ Date _____		Initial _____ Date _____	
MAYOR _____ Date _____			

\\fpd\dfs\user\Admin\jcohea\JAG 2009 - Local Solicitation\Award\BA - Award

City of Fayetteville Staff Review Form

A. 4
2009-2010 Justice Assistance Grant
Page 1 of 36

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Greg Tabor
Submitted By

Drug Enforcement
Division

Police
Department

Action Required:

Acceptance of the 2009-2010 Justice Assistance Grant for federal and state funding in the amount of \$164,306 and \$32,861, respectively, for the primary funding source of the 4th Judicial Drug Task Force and the attached budget adjustment.

\$ 190,748.00
Cost of this request

\$ 473,280.00

Drug Enforcement

Program Category / Project Name

2930-2960-*. *
Account Number

\$ 304,333.96

Drug Enforcement

Program / Project Category Name

Project Number

\$ 168,946.04

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
Clerk's Office



Chief of Staff

Date

Received in
Mayor's Office



Mayor

Date

Comments:



Fayetteville Police Department
1009 West Rock
Fayetteville, AR 72701
Telephone: (479) 587-3555
Fax: (479) 587-3563

Departmental Correspondence

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Police Chief

Date: August 21, 2009

Re: Grant Acceptance for 4th Judicial Drug Task Force

Background

Since 1991, the 4th Judicial Drug Task Force (JDTF) has been receiving grant funding from the Justice Assistance Grant (JAG) Program. Through this grant, federal and state funds are made available for the implementation and continuation of drug enforcement operations across our State. Other than local matching funds, this grant is the 4th JDTF's primary funding source. The 4th JDTF is made up of officers from Fayetteville, Springdale, Washington County, and rural agencies.

Discussion

The 4th JDTF's total projected budget for the 2009-2010 JAG grant period is \$505,885. The State Office of Intergovernmental Services has approved grant funding in the following amounts: federal - \$164,306, state - \$32,861, and local match - \$24,467. 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 Justice Assistance Grant, the 4th JDTF must commit to a match of at least \$24,467.00. However, Fayetteville provides additional funds in the amount of \$166,324.00 to maintain the same level of effectiveness for the Drug Enforcement program. The other member agencies also contribute additional funds totaling \$117,927.

The 2009-2010 fiscal year grant award is equal to the grant awarded for 2008-2009. As in previous years, no salary/benefit increases from federal and/or state funds are allowed in this grant award resulting in greater local matching funds being required. As shown below, Fayetteville's local match requirements will be 61.6% of our projected budget, but still an excellent value for our money.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE 2009-2010 JUSTICE ASSISTANCE GRANT FOR FEDERAL AND STATE FUNDING IN THE AMOUNTS OF \$164,306.00 AND \$32,861.00 RESPECTIVELY AS THE PRIMARY FUNDING FOR THE 4TH JUDICIAL DISTRICT DRUG TASK FORCE; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE GRANT REVENUE.

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 the 2009-2010 Justice Assistance Grant for federal and state funding in the amounts of \$164,306.00 and \$32,861.00 respectively, as the primary funding for the 4th Judicial District Drug Task Force.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment to recognize the grant revenue.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas

Budget Adjustment Form

A. 4

2000-2010 Justice Assistance Grant

Budget Year 2009	Department: Police Division: Police Program: Drug Enforcement	Date Requested 8/21/2009	Adjustment Number 26
----------------------------	---	------------------------------------	--------------------------------

Project or Item Added/Increased:

Recognize forfeiture revenue and reclassify budget items.

Project or Item Deleted/Reduced:

None

Justification of this Increase:

Forfeitures are received as a result of narcotics investigations performed by officers assigned to the 4th Judicial District Drug Task Force. Program income will provide funds for confidential allowing reclassification of Springdale, Washington County and Rural funding. The Transfer from General Fund is sufficient to cover the increase in Confidential Funds - Fayetteville.

Justification of this Decrease:

SEE ATTACHED		Increase Budget	
Account Name	Account Number	Amount	Project Number

Decrease Budget		Amount	
Account Name	Account Number	Amount	Project Number

Approval Signatures

Budget Director

Date

Department Director

Date

Finance Director

Date

Chief of Staff

Date

Mayor

Date

Budget & Research Use Only

Type:

A

B

C

D

E

Requested By

General Ledger Date

Posted to General Ledger

Posted to Project Accounting

Initial

Date

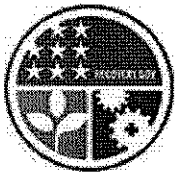
Initial

Date

Budget Adjustment Detail Backup

A. 4
2009-2010 Justice Assistance Grant
Page 5 of 36

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STATE OF ARKANSAS

Department of Finance and Administration

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400

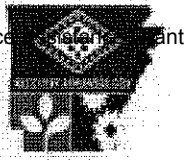
Post Office Box 8031

Little Rock, Arkansas 72203-8031

Phone: (501) 682-1074

Fax: (501) 682-5206

<http://www.state.ar.us/dfa>



August 21, 2009

Lioneld Jordan
Mayor
City of Fayetteville
100 A West Rock Street
Fayetteville, AR 72701

RE: 2009 American Recovery and Reinvestment Act (ARRA), Edward Byrne Memorial Justice Assistance Grant (JAG) Program

Dear Mr. Lioneld Jordan:

This letter is to inform you on behalf of the Arkansas Department of Finance and Administration, Office of Intergovernmental Services, Edward Byrne Memorial Justice Assistance Grant (JAG) Program that your application for funding under the American Recovery and Reinvestment Act (ARRA) has been approved.

The subaward amount is \$164,306.00 in federal funding, \$32,861.25 in state funding and \$24,467.00 in local funding. Local matching contributions that exceed the required match (over match) will not be incorporated into the subaward.

Your subgrant has been assigned an identifying number of ARRA JAG JR 09-014 and is authorized to run from July 1, 2009 to June 30, 2010. Before any funds may be committed to the project, your agency must agree to comply with all administrative and financial responsibilities, including the timely submission of all financial and programmatic reports, and the resolution of all interim audit findings. Should your agency not adhere to these requirements, you will be in violation of the terms of this subgrant and the award will be subject to termination for cause or other administrative action as appropriate.

The Standard Core Subgrant, ARRA Special Conditions and other necessary documents are enclosed for signatures. Be sure to review all documents carefully to ensure that your organization is prepared to adhere to all requirements. Please return the signed award documents along with the final Detailed Budget (signed by the Authorized Official, and Fiscal Officer in **BLUE** ink). Also attached is a Property Inventory Form. It is imperative that equipment purchased with subgrant funds be tagged and recorded in your agency's inventory. Please keep in mind that ARRA JAG funded equipment purchases must be kept separate from equipment purchased with State Special Asset Forfeiture Funds and tagged accordingly.

Once all required documentation has been received, a copy of your *ARRA Reimbursement Invoice Form*, which must be used to request reimbursement for budgeted costs incurred by your organization, will be sent to you.

Should you agree to accept the Award and Special Conditions, all executed documents must be returned to the **Department of Finance and Administration, Office of Intergovernmental Services (IGS) 1515 West 7th Street, Suite 330, P.O. Box 8031, Little Rock, Arkansas 72203-8031**. Obligations and expenditures may be incurred on or after the first day of the official award period if the award has been accepted, executed, and received by IGS.

Should you have any questions pertaining to this Award, please feel free to contact Harold Clayton, Grants Coordinator at (501) 682-1074 or harold.clayton@dfa.arkansas.gov.

Sincerely,

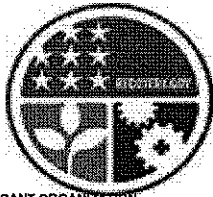
Harold Clayton, Grants Coordinator
Intergovernmental Services

Cc: Ann Purvis, Administrator
Doris Smith, Assistant Administrator
Program File

Enclosures

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED		Applicant Identifier	
Pre-application ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE		State Application Identifier	
5. APPLICANT INFORMATION		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	
Legal Name: City of Fayetteville, Arkansas			Organizational Unit: Department: Fayetteville Police Department		
Organizational DUNS: 07-565-7742			Division: Fourth Judicial District Drug Task Force		
Address: Street: 100-a W. Rock St.			Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name: Judy		
City: Fayetteville			Middle Name		
County: Washington			Last Name Cohea		
State: AR		Zip Code 72701		Suffix:	
Country: United States			Email: jcohea@ci.fayetteville.ar.us		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462			Phone Number (give area code) 479-587-3581		Fax Number (give area code) 479-587-3570
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)			7. TYPE OF APPLICANT: (See back of form for Application Types) C - Municipality Other (specify)		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 16-738			9. NAME OF FEDERAL AGENCY: United States Department of Justice		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Washington and Madison Counties			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Fourth Judicial District Drug Task Force		
13. PROPOSED PROJECT Start Date: 07/01/2009 Ending Date: 06/30/2010			14. CONGRESSIONAL DISTRICTS OF: a. Applicant 3rd b. Project 3rd		
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?		
a. Federal	\$	164,306.00	a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON		
b. Applicant	\$		DATE:		
c. State	\$	32,861.00	b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372		
d. Local	\$	308,675.00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
e. Other	\$		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?		
f. Program Income	\$		☐ Yes If "Yes" attach an explanation. ☒ No		
g. TOTAL	\$	505,842.00	18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		
a. Authorized Representative					
Prefix Mr.		First Name Lioneld		Middle Name	
Last Name Jordan				Suffix	
b. Title Mayor				c. Telephone Number (give area code) 479-575-8330	
d. Signature of Authorized Representative				e. Date Signed	



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
ATTACHMENT D: 2009 APPLICATION BUDGET



APPLICANT ORGANIZATION

City of Fayetteville

PROJECT TITLE

4th Judicial District Drug Task Force

Budget Item	FEDERAL FUNDS	STATE MATCH	LOCAL MATCH	PROJECT TOTAL	Narrative Explanation of Budget Item
A. SALARY: List all positions for which funding is sought, include positions to be used as match. Include the number of hours worked per week, the salary rate, as well as a brief description of the job duties to be performed by each position. Grant funds and/or grant matching funds may not be used for CONFIDENTIAL FUNDS, unless the Authorized Official certifies that the DTF will comply with the Department of Justice regulations concerning Confidential Funds.					
Position 1 Sergeant	\$23,797.00	\$4,754.00	\$0.00	\$28,551.00	Investigate and arrest violators of drug laws
Position 2 Investigator	\$16,713.00	\$3,339.00	\$20,404.00	\$40,456.00	Investigate and arrest violators of drug laws
Position Investigator Overtime	\$1,671.00	\$334.00	\$4,063.00	\$6,068.00	Investigate and arrest violators of drug laws
Position 3 Investigator	\$19,909.00	\$3,978.00	\$0.00	\$23,887.00	Investigate and arrest violators of drug laws
Position Investigator Overtime	\$1,991.00	\$398.00	\$0.00	\$2,389.00	Investigate and arrest violators of drug laws
TOTAL SALARY	\$64,081.00	\$12,803.00	\$24,467.00	\$98,962.00	
B. MANDATED BENEFITS: Mandated Benefits include FICA, Worker's Compensation and State Unemployment. FICA is calculated at 7.65% of total salary. Worker's Compensation and State Unemployment rates are determined by the respective agencies.					
FICA @ 7.65% X total salary	\$929.00	\$188.00	\$0.00	\$1,115.00	
Worker's Compensation for all Positions @ 3.36 %	\$2,030.00	\$406.00	\$0.00	\$2,436.00	
State Unemployment @ 3.6 % of 10,000 X number of positions in excess of \$10,000.	\$0.00	\$0.00	\$0.00	\$0.00	
TOTAL MANDATED BENEFITS	\$2,959.00	\$592.00	\$0.00	\$3,551.00	
C. EMPLOYER BENEFITS: Include all other benefits offered to employee through group policies held by the applicant (i.e.: health insurance, retirement, etc.). Payments made directly to employees are not an allowable cost.					
Health Insurance/3 positions @ 218.53/month	\$3,683.00	\$733.00	\$0.00	\$4,416.00	
Health Insurance	\$0.00	\$0.00	\$0.00	\$0.00	
Health Insurance	\$0.00	\$0.00	\$0.00	\$0.00	
Health Insurance	\$0.00	\$0.00	\$0.00	\$0.00	
Health Insurance	\$0.00	\$0.00	\$0.00	\$0.00	
Retirement @ 12.72%	\$8,151.00	\$1,628.00	\$0.00	\$9,779.00	
TOTAL EMPLOYER BENEFITS	\$11,834.00	\$2,361.00	\$0.00	\$14,195.00	
D. MAINTENANCE AND OPERATIONS: Include items essential to the effective implementation of activities identified within this proposal (i.e. staff travel, telephone, office rental, office supplies, car lease, etc.).					
Cell Phones Springdale (2) @ \$100.00/month	\$1,123.00	\$225.00	\$0.00	\$1,348.00	
Cell Phone Fayetteville (3) @ 60.67/month	\$1,022.00	\$204.00	\$0.00	\$1,226.00	
Cell Phones Prairie Grove (1) 60.67/month	\$341.00	\$68.00	\$0.00	\$409.00	
Office Phone w/long distance	\$241.00	\$47.00	\$0.00	\$288.00	
Alarm Service 74.33/month	\$417.00	\$83.00	\$0.00	\$500.00	
Copier 27.25/month, 300.00 maintenance	\$293.00	\$59.00	\$0.00	\$352.00	
Pagers 235.00/month	\$1,320.00	\$264.00	\$0.00	\$1,584.00	
Vehicle Maintenance	\$3,200.00	\$639.00	\$0.00	\$3,839.00	
Fuel	\$9,790.00	\$1,910.00	\$0.00	\$11,700.00	
Office Supplies	\$234.00	\$47.00	\$0.00	\$281.00	
Personal Liability Insurance	\$384.00	\$77.00	\$0.00	\$461.00	
Vehicle Insurance	\$506.00	\$101.00	\$0.00	\$607.00	
Evidence Collection Supplies	\$234.00	\$47.00	\$0.00	\$281.00	
Postage	\$47.00	\$9.00	\$0.00	\$56.00	
TOTAL MAINTENANCE AND OPERATIONS	\$19,152.00	\$3,817.00	\$0.00	\$22,969.00	



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
ATTACHMENT D: 2009 APPLICATION BUDGET

A. 4
2009-2010 Justice Assistance Grant
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E. EQUIPMENT: List non-expendable items to be purchased. Non-expendable equipment is tangible property having a useful life of more than two years and an acquisition cost of \$500.00 or more per item.

Item Name				\$0.00	
Item Name				\$0.00	
Item Name				\$0.00	
Item Name				\$0.00	
TOTAL EQUIPMENT COST	\$0.00	\$0.00	\$0.00	\$0.00	

F. PROFESSIONAL/CONTRACT SERVICES: Include any professional service needed to ensure success of the project. For each consultant enter the name, service to be provided and hourly fee. Estimate time worked on the project. If Contract Services is used for PERSONNEL - use the Personnel/Salary Category, but list that they are Contract Services.

Springdale Police Department	\$24,432.00	\$4,882.00	\$0.00	\$29,314.00	
Washington Co. Sheriff's Department	\$22,841.00	\$4,584.00	\$0.00	\$27,525.00	
Prairie Grove Police Department	\$17,760.00	\$3,549.00	\$0.00	\$21,309.00	
TOTAL PROFESSIONAL/CONTRACT SERVICES	\$65,133.00	\$13,015.00	\$0.00	\$78,148.00	

G. TRAVEL/TRAINING: Itemize travel expenses of project personnel by purpose. Training for personnel (IN STATE ONLY). OUT OF STATE TRAVEL/TRAINING MUST BE APPROVED BY IGS/COMMITTEE.

Synthetic Enforcement Training	\$1,147.00	\$273.25	\$0.00	\$1,420.25	
Item Name				\$0.00	
Item Name				\$0.00	
Item Name				\$0.00	
TOTAL TRAVEL/TRAINING	\$1,147.00	\$273.25	\$0.00	\$1,420.25	

H. TOTAL PROJECT BUDGET	\$164,306.00	\$32,861.25	\$24,467.00	\$219,245.25	
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ARRA 2009 Budget (Federal / State / Local):

ARRA FEDERAL AMOUNT for 2009	\$164,306.00
STATE MATCH AMOUNT for 2009	\$32,861.25

ARRA LOCAL MATCH AMOUNT for 2009	\$24,467.00
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Authorized Official

Judy Cohen
Fiscal Officer

Date

8/21/09
Date



ARKANSAS RECOVERY AND REINVESTMENT ACT
COMPLIANCE AND MONITORING REPORT

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1. DATE SUBMITTED: 07/09/2009		2. ARRA CFDA PROGRAM NAME & NUMBER: Edward Byrne Memorial Justice Assistance Grant (JAG) Program		3. ARRA STATE AGENCY CONTROL NUMBER (i.e. AASIS Project Definition)		4. ARRA CLEARINGHOUSE NO. (clearinghouse use only): ARRA 090413-132	
5. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: 2009-2010 4 TH JUDICIAL DISTRICT DRUG TASK FORCE GRANT				6. STATEWIDE PROGRAM YES ☐ NO ☒			
7. RECIPIENT DUNS: 075657742		8. RECIPIENT CONGRESSIONAL DISTRICT: ONE ☐ TWO ☐ THREE ☒ FOUR ☐					
		9. AFFECTED COUNTY(IES): WASHINGTON AND MADISON					
10. RECIPIENT NAME: FAYETTEVILLE, CITY OF				11. ORGANIZATIONAL UNIT A. DEPARTMENT: POLICE B. DIVISION: 4TH JUDICIAL DISTRICT DRUG TASK FORCE			
12. ADDRESS STREET: 100-A W ROCK ST				13. NAME AND TELEPHONE NUMBER OF PERSON TO BE CONTACTED ON MATTERS INVOLVING THE PROJECT: (GIVE AREA CODE) PREFIX: FIRST NAME: JUDY			
CITY: FAYETTEVILLE				MIDDLE NAME:			
COUNTY: WASHINGTON				LAST NAME: COHEA			
STATE: AR		ZIP CODE: 72701		SUFFIX:			
COUNTRY: UNITED STATES OF AMERICA				E-MAIL: JCOHEA@CL.FAYETTEVILLE.AR.US			
14. EMPLOYER IDENTIFICATION NUMBER (EIN): 71 - 6018462				PHONE NUMBER (GIVE AREA CODE) 479-587-3581		FAX NUMBER (GIVE AREA CODE) 479-587-3570	
15. TYPE OF APPLICATION: ☒ NEW ☐ CONTINUATION ☐ REVISION				16. TYPE OF APPLICANT: MUNICIPALITY			
17. FUNDING:				18. NAME OF FEDERAL AGENCY:			
SOURCE		AMOUNT		19. TYPE OF GRANT:			
A. FEDERAL		\$ 164,306.00		☐ BLOCK ☐ FORMULA			
B. STATE		\$ 32,861.00		☒ COMPETITIVE ☐ DISCRETIONARY			
C. LOCAL		\$ 24,467.00					
D. OTHER (SPECIFY)		\$.00					
E. PROGRAM INCOME		\$.00		20. PROJECT EXPENDITURE AMOUNT: \$ 221,634.00			
F. TOTAL FUNDING		\$ 221,634.00					
21. CONSTRUCTION PROJECT ADDRESS							
STREET:				CITY:			
COUNTY:				STATE:		ZIP CODE:	

22. PROJECT SUMMARY: (ATTACH ADDITIONAL PAGES AS NEEDED)

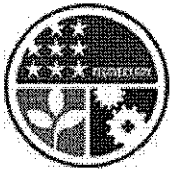
THE CITY OF FAYETTEVILLE, ARKANSAS ACTS AS THE PRIMARY FIDUCIARY FOR THE 4TH JUDICIAL DISTRICT DRUG TASK FORCE (4TH DTF) AND IS THEREFORE THE APPLICANT OF THIS GRANT PROPOSAL. THE 4TH DTF IS A MULTI-JURISDICTIONAL AGENCY FOCUSING ON DRUG ENFORCEMENT EFFORTS IN WASHINGTON AND MADISON COUNTIES. WASHINGTON COUNTY IS A PRIMARY DESTINATION OF MEXICAN DRUG TRAFFICKING ORGANIZATIONS (DTO) AND A DISTRIBUTION CENTER OF MARIJUANA, METHAMPHETAMINE, COCAINE, AND ILLEGAL ALIENS FOR



**ARKANSAS RECOVERY AND REINVESTMENT ACT
COMPLIANCE AND MONITORING REPORT**

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THE ENTIRE MIDWESTERN UNITED STATES. MADISON COUNTY LAW ENFORCEMENT ENCOUNTERS METHAMPHETAMINE LABS THROUGHOUT THE COUNTY. THE 4TH DTF OFFICERS ARE CERTIFIED TO ENTER, SECURE AND TAKE EVIDENCE FROM METHAMPHETAMINE LABS AND WILL ASSIST LAW ENFORCEMENT IN BOTH MADISON AND WASHINGTON COUNTIES AS NEEDED.



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION

JUSTICE ASSISTANCE GRANT (JAG) PROGRAM



SPECIAL CONDITIONS – JAG

SUBGRANT ORGANIZATION: City of Fayetteville

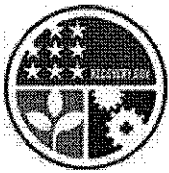
PROJECT TITL: 4th Judicial District Drug Task Force

SUBGRANT NUMBER: ARRA JAG JR 09-014

1. RECOVERY ACT – Conflict with Other Standard Terms and Conditions
The recipient understands and agrees that all other terms and conditions contained in this award, or in applicable OJP grant policy statements or guidance, apply unless they conflict or are superseded by the terms and conditions included here that specifically implement the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA" or "Recovery Act") requirements. Recipients are responsible for contacting their grant managers for any needed clarification.
2. RECOVERY ACT – JAG Trust Fund
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 either the Edward Byrne Memorial Justice Assistance Grant Program (JAG) or Recovery JAG Program. 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 Financial Status report (SG-269).
3. RECOVERY ACT – Access to Records; Interviews
The recipient understands and agrees that DOJ (including OJP and the Office of the Inspector General (OIG)), and its representatives, and the Government Accountability Office (GAO), shall have access to and the right to examine all records (including, but not limited to, books, papers, and documents) related to this Recovery Act award, including such records of any subrecipient, contractor, or subcontractor.

The recipient also understands and agrees that DOJ and the GAO are authorized to interview any officer or employee of the recipient (or of any subrecipient, contractor, or subcontractor) regarding transactions related to this Recovery Act award.
4. RECOVERY ACT – One-time funding
The recipient understands and agrees that awards under the Recovery Act will be one-time awards and accordingly that it's proposed project activities and deliverables are to be accomplished without additional DOJ funding.
5. RECOVERY ACT–Separate Tracking and Reporting of Recovery Act Funds and Outcomes The recipient agrees to track, account for, and report on all funds from this Recovery Act award (including specific outcomes and benefits attributable to Recovery Act funds) separately from all other funds, including DOJ award funds from non-Recovery act awards awarded for the same or similar purposes or programs. (Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate.)

Accordingly, the accounting systems of the recipient and all subrecipients must ensure that funds from this Recovery Act award are not commingled with funds from any other source.



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION

JUSTICE ASSISTANCE GRANT (JAG) PROGRAM



SPECIAL CONDITIONS – JAG

The recipient further agrees that all personnel (including subrecipient personnel) whose activities are to be charged to the award will maintain timesheets to document hours worked for activities related to this award and non-award-related activities.

6. RECOVERY ACT – Subawards – Monitoring

The recipient agrees to monitor subawards under this Recovery Act 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 subrecipients spending and monitoring of specific outcomes and benefits attributable to use of Recovery Act funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subwards under this award.

7. RECOVERY ACT – Subawards – DUNS and CCR for Reporting

The recipient agrees to work with its first-tier subrecipients (if any) to ensure that, no later than the due date of the recipient's first quarterly report after a subaward is made, the subrecipient has a valid DUNS profile and has an active registration with the Central Contractor Registration (CCR) database.

8. RECOVERY ACT – Recovery Act Transactions Listed in Schedule of Expenditure of Federal Awards and Recipient Responsibilities for Informing Subrecipients.

 (a) The recipient agrees to maintain records that identify adequately the source and application of Recovery Act funds, to maximize the transparency and accountability of the funds authorized under the Recovery Act as required by the Act and in accordance with 2 CFR 215.21, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations" and OMB A-102 Common Rules provisions (relating to Grants and Cooperative Agreements with State and Local Governments).

 (b) The recipient agrees to separately identify to each subrecipient the Federal award number, CFDA number, and amount of Recovery Act funds, and to document this identification both at the time of subaward and at the time of disbursement of funds. When a recipient awards Recovery Act funds for the existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

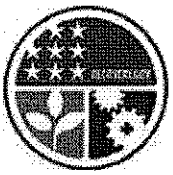
 (c) The recipient agrees to require its subrecipients to specifically identify Recovery Act funding on their SEFA information, similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of Recovery Act funds as well as facilitate oversight by the Federal awarding agencies, the DOJ OIG and the GAO.

9. RECOVERY ACT – Reporting and Registration Requirements under Section 1512 of the Recovery Act.

 (a) This award requires that recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public,

 (b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient received the assistance award funded in whole or in part by the Recovery Act.

 (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

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with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (WWW.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

_____ (d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

10. _____ RECOVERY ACT – Provisions of Section 1512 (c)

The recipient understands that section 1512 (c) of the Recovery Act provides as follows:

Recipient Reports – Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

- (1) The total amount of recovery funds received from that agency,
- (2) The amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) A detailed list of all projects or activities for which recovery funds were expended or obligated, including—
 - a. The name of the project or activity;
 - b. A description of the project or activity;
 - c. An evaluation of the completion status of the project or activity;
 - d. An estimate of the number of jobs created and the number of jobs retained by the project or activity; and
 - e. For infrastructure investments made by the state and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include that data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006(Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

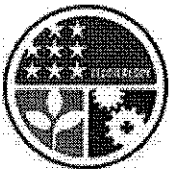
11. _____ RECOVERY ACT – Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

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 Recovery Act 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 Recovery Act 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



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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/org

12. RECOVERY ACT – Protecting State and Local Government and Contractor Whistleblowers (Recovery Act, section 1553)

The recipient recognizes that the Recovery Act provides certain protections against reprisals for employees of non-Federal employers who disclose information reasonably believed to be evidence of gross management, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contracts or grants using Recovery Act funds. For additional information, refer to section 1553 of the Recovery Act. The text of Recovery Act is available at www.ojp.usdoj.gov/recovery.

13. RECOVERY ACT – Limit on Funds (Recovery Act, section 1604)

The recipient agrees that none of the funds under this award may be used by any State or local government, or any private entity, for construction costs or any other support of any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

14. RECOVERY ACT – Infrastructure Investment (Recovery Act, section 1511 and 1602)

The recipient agrees that it may not use any funds made available under this Recovery Act award for infrastructure investment absent submission of a satisfactory certification under section 1511 of the Recovery Act. Should the recipient decide to use funds for infrastructure investment subsequent to award, the recipient must submit appropriate certifications under section 1511 of the Recovery Act and receive prior approval from OJP. In seeking such approval, the recipient shall give preference to activities that can be started and completed expeditiously, and shall use award funds in a manner that maximizes job creation and economic benefits. The text of the Recovery Act (including sections 1511 and 1602) is available at www.ojp.usdoj.gov/recovery.

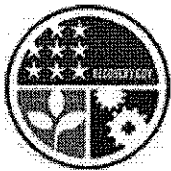
15. RECOVERY ACT – Buy American Notification (Recovery Act, section 1605)

The recipient understands that this award is subject to the provisions of section 1605 of the Recovery Act ("Buy American"). No award funds may be used for iron, steel, or manufactured goods for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless the recipient provides advance written notification to the OJP program office, and a Grant Adjustment Notice is issued that modifies this special condition to add government-wide standard conditions (anticipated to be published in subpart B of 2 C.F.R. part 176) that further implement the specific requirements or exceptions of section 1605.

Section 1605 of the Recovery Act prohibits use of any Recovery Act funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured foods used in the project are produced in the United States, subject to certain exceptions, including United States obligations under international agreements.

For purpose of this special condition, the following definitions apply:

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia, commonwealths, territories, and minor outlying islands of the United States; state and local governments; and multi-State, regional, or interstate entities which have



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

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JUSTICE ASSISTANCE GRANT (JAG) PROGRAM



SPECIAL CONDITIONS – JAG

governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Manufactured food” means a good brought to the construction site for incorporation into the building or work that has been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

For purpose of OJP grants, projects involving construction, alterations, maintenance, or repair of jails, detention facilities, prisons, public crime victims' shelters, police facilities, or other similar projects will likely trigger this provision.

NOTE: The recipient is encouraged to contact the OJP program manager – in advance – with any questions concerning this condition, including its applicability to particular circumstances.

16. _____ RECOVERY ACT – Wage Rate Requirements under Section 1606 of the Recovery Act

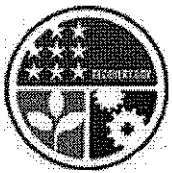
- (a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. The standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are to be incorporated in any covered contracts made under this award that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

- (b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

17. _____ RECOVERY ACT – NEPA and Related Laws

The recipient understands that all OJP awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The recipient agrees to assist OJP in carrying out its responsibilities under NEPA and related laws, if the recipient plans to use Recovery Act funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction. (See 28 C.F.R. Part 61, App. D) The recipient also agrees to comply with all Federal, State



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JUSTICE ASSISTANCE GRANT (JAG) PROGRAM



SPECIAL CONDITIONS – JAG

and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

18. _____ RECOVERY ACT – Misuse of award funds
The recipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.
19. _____ RECOVERY ACT – Additional Requirements and Guidance
The recipient agrees to comply with any modifications or additional requirements that may be imposed by law and future OJP (including government-wide) guidance and clarifications of Recovery Act requirements.
20. _____ RECOVERY ACT – JAG – Delinquent section 1512 (c) reports
The recipient acknowledges that it has certified that it will comply with all reporting requirements under section 1512(c) of the Recovery Act. (An online reporting mechanism is anticipated to be available for award recipient use by October 10, 2009.) Further to this certification, a failure to comply with the section 1512(c) reporting requirements may, in addition to other penalties, subject the recipient to the following:
(1) After failure to report section 1512(c) data for two consecutive reporting periods, the recipient may be—(a) precluded from drawing down funds under any OJP award, and/pr (b) deem ineligible for future discretionary OJP awards, until such time as the recipient becomes current in its section 1512 (c) reporting obligations; and
(2) After failure to report section 1512 (c) data for three consecutive reporting periods, the recipient, upon written demand of the Director of BJA, shall return to OJP any unexpended award funds (including any unexpended interest earned on award funds) within 15 calendar days of the date of the demand notice. Thereafter, the recipient's award shall be converted to a cost-reimbursable grant until such time as the recipient becomes current in its section 1512 (c) reporting obligations, and remains current for not less than two additional consecutive reporting periods.

AUTHORIZED OFFICIAL'S SIGNATURE

DATE

Lioneld Jordan, Mayor

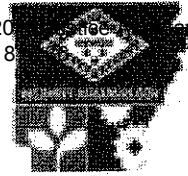
AUTHORIZED OFFICIAL'S NAME AND TITLE



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

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STANDARD CORE SUBGRANT

JAG – CFDA # 16.803

SUBGRANT ORGANIZATION: City of Fayetteville

SUBGRANT NUMBER: JR 09-014

SUBGRANT PERIOD: 07-01-09 to 06-30-2010

SUBGRANT AMOUNT: 164,306.00

FEDERAL I.D. #: 71-6018462

This Subgrant Agreement is entered into as of 7-1-2009, between the Arkansas Department of Finance and Administration, Office of Intergovernmental Services, hereinafter referred to as the State Administering Agency (SAA), and City of Fayetteville Drug Task Force, hereinafter referred to as the Subgrant Organization.

WHEREAS, DF&A/IGS receives federal funds formula grant funds from the United States Department of Justice, Bureau of Justice Assistance, to provide direct services to State and Local Government programs to prevent and control crime and to improve the criminal justice system.

WHEREAS, the Subgrant Organization desires to address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, the Department of Finance and Administration, Office of Intergovernmental Services and the Subgrant Organization agree as follows:

ARTICLE I: Duties of the Subgrant Organization

1.1 Services:

- a) The Subgrant Organization shall provide the services identified in this subgrant.



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- b) The Subgrant Organization shall comply with all applicable, valid and enforceable federal, state and local statutory and regulatory requirements governing the provision of services to crime victims.

1.2 Quality Assurance and Quality Improvement:

- a) The Subgrant Organization shall comply with any coordination required or documentation reasonably requested by DF&A/IGS in order for DF&A/IGS to conduct periodic external review activities to assure that quality services are achieved and maintained by the Subgrant Organization in the performance of services under this subgrant.
- b) The Subgrant Organization shall be responsible for meeting the applicable outcomes and performance specifications set forth in this subgrant.

1.3 Civil Rights Requirements:

- a) The Subgrant Organization shall not discriminate against any employee in the performance of this subgrant, or against any applicant for employment, because of race, creed, color, disability, national origin, sex, religion or marital status. The Subgrant Organization further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to victims or employees in connection with any of its programs and activities are not discriminating against those victims or employees because of race, creed, color, disability, national origin, sex, religion or marital status.
- b) The Subgrant Organization shall also provide a harassment free workplace and give any allegation of harassment priority attention and action by management.

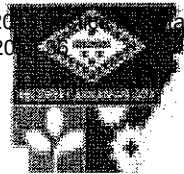
1.4 Confidentiality:

- a) The Subgrant Organization shall not use or disclose any information concerning a recipient of services under this subgrant for any purpose prohibited by federal, state or local law or regulations, except with the written, informed, and reasonably time-limited consent of a person legally authorized to give that consent or when authorized by law.
- i. Disclosure includes "personally identifying information" such as: a first and last



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name; a home or other physical address; contact information (including a postal, e-mail or internet protocol address, or telephone or facsimile number; a social security number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that in combination with any of the aforementioned information would serve to identify any individual.

- ii. If release of information is compelled by statutory or court mandate, subgrant organization must make reasonable attempts to notify victim and take steps to protect privacy and safety.

1.5 Governing Law:

- a) This subgrant is executed and entered into in the State of Arkansas, and shall be construed, performed and enforced in all respects in accordance with Arkansas law.
- b) Unauthorized illegal aliens shall not be employed. DF&A/IGS shall consider the employment of unauthorized illegal aliens a violation of the immigration Reform and Control Act (IRCA) of 1986. Such violation shall be cause for unilateral cancellation of this contract by DF&A/IGS.
- c) The Subgrant Organization shall comply with all applicable federal, state, and local laws governing Equal Employment Opportunity, including, but not limited to: Title VII of the Civil Rights Act of 1964; the Equal Pay Act of 1963, and Title I and Title V of the Americans with Disabilities Act of 1990.
- d) The Subgrant Organization shall comply with the Fair Labor Standards Act (FLSA), which sets basic minimum wage and overtime pay standards.
 - i. Effective July 24, 2009, the U.S. Department of Labor will increase the federal minimum wage to seven dollars and twenty-five cents (\$7.25).
 - ii. Violation of minimum wage requirements may be cause for unilateral cancellation by DF&A/IGS.

1.6 Records: Access, Analysis and Retention

- a) The Subgrant Organization shall retain all financial and programmatic records, supporting documents, statistical records, and all other records (including storage

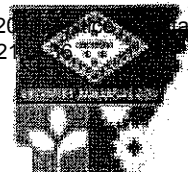


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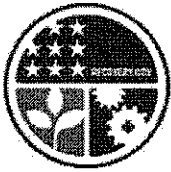


media) pertinent to this Subgrant for **AT LEAST 3 YEARS, FOLLOWING WRITTEN NOTIFICATION BY DF&A/IGS** that the subgrant has been programmatically and fiscally closed.

- b) Upon demand, at no additional cost to DF&A/IGS, the Subgrant Organization will facilitate the duplication and transfer of any records or documents during the required retention period in Section 1.6 (a).
- c) The Subgrant Organization will assure that these records shall be subject at all reasonable times to inspection, review, or copying by federal, state or other personnel duly authorized by DF&A/IGS or the United States Department of Health and Human Services, Administration for Children & Families, Family Violence Division.
- d) At all reasonable times for as long as records are maintained, persons duly authorized by DF&A/IGS or the U.S. Department of Justice, Bureau of Justice Assistance, shall be allowed full access to and the right to examine any of the Related records and documents, regardless of the form in which they are kept.

1.7 Monitoring:

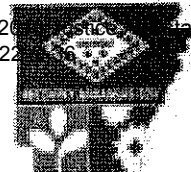
- a) DF&A/IGS shall monitor the Subgrant Organization's performance and compliance with the terms and conditions of this subgrant. The Subgrant Organization agrees to comply and cooperate with any monitoring procedures deemed appropriate by DF&A/IGS.
 - i. The Subgrant Organization shall permit the Department of Finance and Administration, Office of Intergovernmental Services, the U.S. Department of Justice, Bureau of Justice Assistance, or a designated independent third party evaluator to inspect any records, papers, documents, facilities, goods and services of the Subgrant Organization that relevant to this subgrant, and to interview any service recipients and/or Subgrant Organization officers, agents, volunteers or employees to assure DF&A/IGS of the satisfactory performance of the terms and conditions of this subgrant.
 - ii. Monitoring may include any and/or all aspects of this subgrant including, but not limited to: the scope of services; major program goals; manner of service



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provision; staffing; location; service time, and validation of reports previously submitted to the Department of Finance and Administration, Office of Intergovernmental Services.

- iii. The Subgrant Organization shall comply with DF&A/IGS activities designed to ensure compliance with federal and state laws, associated administrative rules, regulations and operating procedures.

b) Monitoring may be conducted in any or all of the following manners:

- i. Self-Assessment – At least annually, Subgrant Organization must complete a self-assessment ensuring compliance with the terms and conditions of the subgrant, including policies and procedures, service delivery performance, timekeeping and equipment maintenance, as well as documentation of costs.
- ii. Desk Monitoring – Desk monitoring includes a review of invoice submittals and supporting documentation; a review of quarterly performance reports; e-mail transmittals; telephone calls, and any other documents or communications that may flow between DF&A/IGS staff and the Subgrant Organization.
- iii. On-Site Monitoring – On-site monitoring provides a first hand look at the Subgrant Organization's operations. It is an opportunity to meet the Management and staff; establish a positive working relationship; and to Review the Subgrant Organization's files and documentation. Several types and purposes exist for on-site monitoring, including:
 - (a) *Formal* – a scheduled visit, utilizing a standardizing monitoring tool to Access the program's compliance with federal and state rules, fiscal Management procedures and organizational structure.
 - (b) *Informal* – a visit to meet staff, observe macro-operations, and learn about program activities.
 - (c) *Evaluation* – used primarily for first time Subgrant Organization in

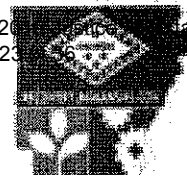


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order to meet staff, evaluate and give guidance regarding the structure of the organization, program administration, service delivery, community support, and compliance with federal and state rules, as well as, fiscal management procedures.

(d) *Intervention* – as needed, to provide technical assistance and direction to Subgrant Organizations experiencing performance or fiscal problems. Except in cases warranting immediate intervention, other grant management methods such as desk monitoring, written correspondence and telephone consultation will be tried before an intervention visit is scheduled.

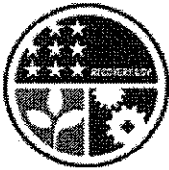
iv. Complaints – Complaints regarding a Subgrant Organization are investigated within the parameters of the subgrant and/or applicable statute or rule.

a) On-site monitoring visits may be conducted announced or unannounced at the direction of the Department of Finance and Administration, Office of Intergovernmental Services.

b) Following the conclusion of all monitoring activities, DF&A/IGS will deliver to the Subgrant Organization a written report of its findings and recommendations. If DF&A/IGS deems necessary, the Subgrant Organization will develop a corrective Action plan (CAP) within ten (10) calendar days of the date of the written report Which shall address all identified deficiencies, submit it for approval by DF&A/IGS, and implement the approved activities within the agreed upon time frames.

1.8 Assignments and Subgrant:

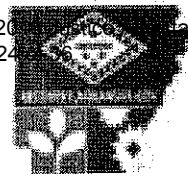
a) The Subgrant Organization will neither assign the responsibility for this subgrant to another party nor subgrant for any of the work contemplated under this subgrant without prior written approval from the DF&A/IGS Administrator, assignment, or transfer otherwise occurring without prior approval of DF&A/IGS shall be null and void and the Subgrant Organization shall be solely liable for any unauthorized activity that occurred during that period.



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- b) The Subgrant Organization shall be responsible for all work performed pursuant to this subgrant whether actually provided by the Subgrant Organization or its subcontractor, if DF&A/IGS permits the Subgrant Organization to subgrant all or part of the work contemplated under this subgrant, including entering into subgrant with vendors for services and commodities, it is understood by the Subgrant Organization that all such subgrant arrangements shall be evidenced by a written document subject to prior review and approval by DF&A/IGS. DF&A/IGS shall not be liable to the Subgrant Organization's subcontractor in any way for any reason. The Subgrant Organization, at its expense will defend the Department of Finance and Administration, Office of Intergovernmental Services against such Claims.
- c) The Subgrant Organization agrees that DF&A/IGS shall at all times be entitled to assign or transfer its rights, duties, or obligations under this subgrant upon prior written notice to the Subgrant Organization and approval by the U.S. Department of Justice, Bureau of Justice Assistance.

1.9 Client Risk Prevention:

The Subgrant Organization shall immediately report knowledge or reasonable suspicion Of abuse, neglect, or exploitation of a child, to the Arkansas Abuse Hotline on the Statewide toll-free telephone number (800) 482-5964.

1.10 Health Insurance Portability and Accountability Act Compliance:

The Subgrant Organization shall comply with Public Law 104-191 relating to the security and privacy of protected health information. Specific responsibilities of the Subgrant Organization shall include notifying service recipients, employees and volunteers about their privacy rights, designating a Privacy Officer, adopting and implementing privacy policy and procedures which minimally establish safeguards to protect the privacy of health care information and set boundaries on the use of release of health records, and training employees so they understand such policies and procedures.

Article II: Compensation and Billing



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2.1 Compensation for Services:

- a) DF&A/IGS shall pay the Subgrant Organization for contracted services in accordance with the approved itemized budget found in **Attachment D**.
- b) DF&A/IGS dispenses funds on a reimbursement basis. Subgrant Organization must pay the expense of an item; submit a request for reimbursement, accompanied by proof of payment. DF&A will not advance funds to a subgrant organization.
- c) A Subgrant Organization may request reimbursement by utilizing the Reimbursement Invoice and Program Matching Report form provided upon receipt of the subgrant acceptance. The form is individualized and based on the Subgrant Organization's approved budget.
- d) Reimbursement Invoice and Matching Report must be submitted to DF&A/IGS by the 15th of each month for expenses incurred during the previous month.
- e) DF&A/IGS internal procedures allow for the timely processing of reimbursement requests. Invoices received by the 15th of each month will be reimbursed the same month. Invoices received after the 15th of each month will be reimbursed the following month.

2.2 Submission of Invoices:

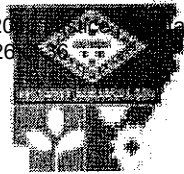
- a) The Subgrant Organization shall submit invoices to DF&A/IGS in the manner and format described above.
- b) DF&A/IGS shall not be obligated to make any payment to the Subgrant Organization if the Subgrant Organization does not follow DF&A/IGS invoicing and billing procedures, unless and until the necessary corrections are made by the Subgrant Organization. Within fifteen (15) working days of receipt of an invoice from the Subgrant Organization, DF&A/IGS shall provide payment or



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notice to the Subgrant Organization of any corrections or back-up documentation needed.

- c) Final invoice for payment shall be submitted to DF&A/IGS, no more than thirty (30) days after the subgrant ends or is terminated. If the Subgrant Organization fails to do so, all payments are forfeited and DF&A/IGS may not honor any requests for reimbursement after the aforesaid period.

2.3 Withholding of Funds:

- a) It is the responsibility of the Subgrant Organization to ensure that it is in compliance with this subgrant, all attachments, any special conditions, as well as all reporting requirements. DF&A/IGS may withhold reimbursement, if the Subgrant Organization demonstrates any of the following:
 - i. Failure to adhere to federal or state requirements or special conditions.
 - ii. Failure to submit reliable requests for funds with the appropriate supporting documentation.
 - iii. Failure to submit accurate and timely reports, including, but not limited to quarterly performance reports, year end expenditure reports, annual inventory reports, etc.
 - iv. Failure to perform the services as agreed upon herein.
 - v. Failure to achieve timely financial reconciliation and closeout at the end of the project period.
 - vi. Failure to notify DF&A/IGS of any changes in the scope of the project, i.e. personnel changes, changes in service location, etc.
- b) A Subgrant Organization may be required to finance its operation with its own funds until such time it is in compliance with subgrant conditions.

2.4 Return of Funds:

- a) The Subgrant Organization shall return to DF&A/IGS any overpayment due,

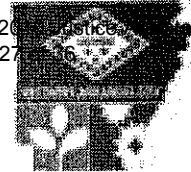


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pursuant to the terms of this subgrant. In the event that the Subgrant Organization or its independent auditor discovers that an overpayment has been made, the Subgrant Organization shall repay DF&A/IGS the total amount overpaid immediately without prior notification from DF&A/IGS. In the event that DF&A/IGS first discovers an overpayment has been made, DF&A/IGS will notify the Subgrant Organization in writing. Should repayment not be made forthwith, DF&A/IGS reserves the right to withhold and/or offset the overpayment against any monies due the Subgrant Organization for services.

2.5 Underutilization of Funds:

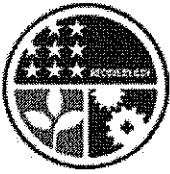
- a) Underutilization of subgrant funds during any six (6) month period may result in a decrease in funds for the next six (6) month period as follows:
 - i. 90% or more utilization = no penalty
 - ii. 80% - 89% = 10% reduction
 - iii. 70% - 79% = 15% reduction
 - iv. Less than 70% = 20% reduction and/or cancellation of subgrant¹
- b) The Subgrant Organization may request a waiver of the penalty for underutilization, only under extenuating circumstances.
 - i. Waiver requests must be in writing, explaining in detail the nature of the circumstance, as well as a detailed explanation of the measures to be used by the Subgrant Organization to ensure, if applicable, that there will be no reoccurrence.

Article III: Term and Termination

3.1 Contract Term:

- a) The term of this subgrant shall be effective as of July 01, 2009 and shall remain in full force and effect until June 30, 2010, unless sooner terminated pursuant to

¹ Cancellation of a subgrant by DF&A/IGS will result in an organization being ineligible from receiving federal funds through DF&A/IGS for a period, not to exceed two (2) years.



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the terms of this subgrant.

3.2 Termination:

- a) This subgrant may be terminated or suspended by DF&A/IGS without prior notice if DF&A/IGS determines that the Subgrant Organization has failed to comply with subgrant requirements or poses a risk of danger to any service recipient. In the event that the subgrant is terminated, regardless of the circumstances of termination, the Subgrant Organization must, within ninety (90) days of termination submit the following:
 - i. Final ARRA Reimbursement Request
 - ii. Final ARRA Programmatic Report
 - iii. Final ARRA Financial Report
- b) The Subgrant provisions Section 1.4 (Confidentiality), Section 1.6 (Records: Access, and Retention), and Article IV (Mutual Indemnification) shall survive the termination of this Subgrant.

Article IV: Mutual Indemnification

4.1 Subgrant Organization Indemnification:

- a) The Subgrant Organization shall indemnify, defend and hold DF&A/IGS, and all of its officers, agents and employees harmless from all claims, suits, judgments, or damages, including attorney's fees and costs, arising out of any acts, actions, neglect or omissions by the Subgrant Organization, its employees or agents relating to the performance or operations of this subgrant.

Article V: Relationships of the Parties

5.1 Independent Contractor:

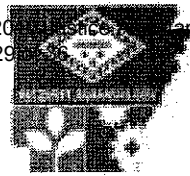
The Subgrant Organization is an independent contractor of DF&A/IGS. Nothing herein



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Shall create or be construed as creating a partnership, joint venture, agency or any other relationship between DF&A/IGS and the Subgrant Organization. Neither the Subgrant Organization nor any of its officers, agents, volunteers or employees will be deemed or construed to be an employee of DF&A/IGS for any reason, including, but not limited to, the Federal Unemployment Tax Act, any workers' compensation laws or income tax withholding laws. The Subgrant Organization shall have sole responsibility for the payment of federal, state and local taxes applicable to its services and the services provided by its officers, agents, volunteers or employees under this subgrant.

Article VI: Audit Requirements

6.1 Audit Reporting Requirements:

- a) Subgrants are subject to conditions of fiscal, program, and general administration to which the subgrantee expressly agrees in accepting the subgrant. Accordingly, the audit objective is to review the subgrant organization's administration of funds and required non-federal contributions for the purpose of determining whether the recipient has:
 - i. Established an accounting system integrated with adequate internal fiscal and management controls to provide full accountability for revenues, expenditures, assets, and liabilities. This system should provide reasonable assurance that the organization is managing federal financial assistance programs in compliance with applicable laws and regulations.
 - ii. Prepared financial statements which are presented fairly, in accordance with generally accepted accounting principles.
 - iii. Submitted financial reports (which may include Financial Status Reports, Cash Reports, and Claims for Advances and Reimbursements), which contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements.

ARTICLE VII: Miscellaneous

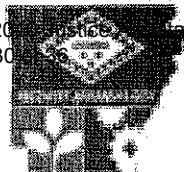
7.1 Amendment or Modification:



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- a) This subgrant may not be modified, either fiscally or programmatically, except with prior written approved by DFA/IGS. Modifications include but are not limited to revision of Budget line items, change in prospect staff and/or other changes in project scope.
- b) DFA/IGS may amend or modify any provisions of this subgrant upon 30 days written notice to the Subgrant Organization. Failure of the Subgrant Organization to object in writing to Such amendment or modification during the 30-day notice Period shall constitute acceptance of such amendment or modification by the Subgrant Organization.

7.2 Authorized Representatives:

- a) The undersigned individuals represent that they are properly and legally authorized to enter into this subgrant on behalf of of the entity named above their respective signatures.

7.3 Special Subgrant Conditions:

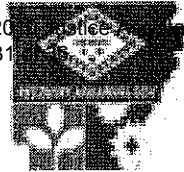
If a Subgrant Organization (a) has a history of poor performance, (b) is not financially stable, (c) has not conformed to the terms and conditions of a previous award, or (d) is not otherwise responsible, DFA/IGS may impose additional requirements as needed, provided that such Subgrant Organization is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.



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By signing this subgrant, both parties agree that they have read and agree to the contents therein.

IN WITNESS WHEREOF, DFA/IGS and "the Subgrant Organization" hereto have caused this fourteen (14) page core subgrant and all referenced attachments and exhibits to be executed by their undersigned officials as duty authorized.

City of Fayetteville
SUBGRANT ORGANIZATION

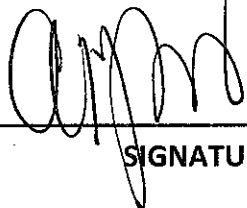
SIGNATURE

Lioneld Jordan
NAME

Mayor
TITLE

DATE

Dept. of Finance & Administration
DFA/IGS


SIGNATURE

Ann Purvis
NAME

Administrator
TITLE

August 26, 2009
DATE

CERTIFICATION OF AUDIT COST

As the Contracting Official for a subgrant through the Edward Byrne Memorial Justice Assistance Grant (JAG) Grant Program to the organization listed below, I certify that the OMB Circular A-133 audit status is an accurate projection of federal fund expenditures for the fiscal year impacted by this grant, based on information presently available to me. Based on these projections, the audit status of the referenced organization will be as indicated below.

_____ AUDIT STATUS ONE: PROJECT AUDIT COST

The applicant agency will expend less than \$500,000 from all federal sources during its fiscal year. The Department of Finance and Administration will contract for audit services applicable to the Drug Law Enforcement Program subgrant. The applicant will not budget audit funds.

XX AUDIT STATUS TWO: OVERALL SINGLE AUDIT COST

A single audit must be procured by the applicant agency when the applicant agency expends \$500,000 or more in federal funds from all sources during its fiscal year.

Lioneld Jordan

Mayor, City of Fayetteville

Printed Name of Contracting Official

Title and Organization

Signature

Date

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

SPECIAL CONDITIONS

1. The subrecipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide. This information is available at <http://www.ojp.usdoj.gov/FinGuide/>.
2. The subrecipient 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 subrecipient is in compliance.
3. The subrecipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Subrecipient 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 subgrantee agrees to assist the Bureau of Justice Assistance (BJA) in complying with the National Environmental Policy Act (NEPA) 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, prior to obligating grant funds, the grantee agrees to first determine if any of the following activities will be related to the use of the grant funds.

The subgrantee 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 either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
- 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; and,
- 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.

Application of This Special Condition to Subgrantee's Existing Programs or Activities: For any of the subgrantees' existing programs or activities that will be funded by these grant funds, the subgrantee, 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.

6. This special condition facilitates compliance with the provisions of the National Environmental Policy Act (NEPA) relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories [hereinafter, "meth lab operations"]. No monies from this award may be obligated to support meth lab operations unless the grantee implements this special condition.

The Office of Justice Programs (OJP), in consultation with the Bureau of Justice Assistance, the Drug Enforcement Administration, and the Office for Community Oriented Policing Services, prepared a Program-level Environmental Assessment (Assessment) governing meth lab operations. The Assessment describes the adverse environmental, health, and safety impacts likely to be encountered by law enforcement agencies as they implement specific actions under their methamphetamine laboratory operations. Consistent with the Assessment, the following terms and conditions shall apply to the subgrantee for any OJP funded meth lab operations:

A. The subgrantee shall ensure compliance with federal, state, and local environmental, health, and safety laws and regulations applicable to meth lab operations, to include the disposal of the chemicals, equipment, and wastes resulting from those operations.

Initial

B. The grantee shall have a Mitigation Plan in place that identifies and documents the processes and points of accountability within its state. This plan will be used to ensure that the adverse environmental, health, and safety impacts delineated in the Assessment are mitigated in a manner consistent with the requirements of this condition.

C. The subgrantee shall comply with the following nine mitigation measures identified in the Assessment and whose implementation is addressed in the grantee's Mitigation Plan. These mitigation measures must be included as special conditions in all subgrants: (See Part II of this special condition)

7.
 1. Provide medical screening of personnel assigned or to be assigned by the grantee to the seizure or closure of clandestine methamphetamine laboratories;
 2. Provide Occupational Safety and Health Administration (OSHA) required initial and refresher training for law enforcement officials and all other personnel assigned to either the seizure or closure of clandestine methamphetamine laboratories;
 3. As determined by their specified duties, equip the personnel with OSHA required protective wear and other required safety equipment;
 4. Assign properly trained personnel to prepare a comprehensive contamination report on each seized/closed laboratory;
 5. Utilize qualified disposal personnel to remove all chemicals and associated glassware, equipment, and contaminated materials and wastes from the site(s) of each seized laboratory;
 6. Dispose of the chemicals, equipment, and contaminated materials and wastes at properly licensed disposal facilities or, when allowable, at properly licensed recycling facilities;
 7. Monitor the transport, disposal, and recycling components of subparagraphs numbered 5. and 6. immediately above in order to ensure proper compliance;
 8. Have in place and implement a written agreement with the responsible state environmental agency. This agreement must provide that the responsible state environmental agency agrees to (i) timely evaluate the environmental condition at and around the site of a closed clandestine laboratory and (ii) coordinate with the responsible party, property owner, or others to ensure that any residual contamination is remediated, if determined necessary by the state environmental agency and in accordance with existing state and federal requirements; and
 9. Have in place and implement a written agreement with the responsible state or local service agencies to properly respond to any minor, as defined by state law, at the site. This agreement must ensure immediate response by qualified personnel who can (i) respond to the potential health needs of any minor at the site; (ii) take that minor into protective custody unless the minor is criminally involved in the meth lab activities or is subject to arrest for other criminal violations; (iii) ensure immediate medical testing for methamphetamine toxicity; and (iv) arrange for any follow-up medical tests, examinations, or health care made necessary as a result of methamphetamine toxicity.
8. The subrecipient agrees to submit to DFA for review and approval any curricula, training materials, or any other written materials that will be published, including web-based materials and web site content, through funds from this subgrant at least thirty (30) working days prior to the targeted dissemination date.
9. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.
10. To support public safety and justice information sharing, OJP requires the grantee to use the Global Justice Data Model specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.
11. The subrecipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund may not be used to pay debts 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 DFA no later than 60 days after the end of the grant period, along with the final submission of the Financial Status Report .

Initial

12. The subgrantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by the BJA in the program guidance for the Justice Assistance Grant (JAG). Compliance with these requirements will be monitored by BJA.
13. The subrecipient 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 28 C.F.R. 23.20(g). Should any violation of 28 C.F.R. Part 23 occur, the subrecipient may be fined as per 42 U.S.C. 3789g(c)-(d). Subrecipient may not satisfy such a fine with federal funds.
14. The subrecipient agrees that all income generated as a direct result of this award shall be deemed program income. All program income must be accounted for and used for the purposes under the conditions applicable for the use of funds under this award, including 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 OMB Circular A-110. Further, the use of program income must be shown on the quarterly Financial Status Report.
15. The subrecipient 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.ojp.usdoj.gov/ec/states.htm>.
16. Subgrantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
17. Subgrantee 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. Subgrantee 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.
18. Subrecipient agrees that funds provided under this award may not be used to operate a "pay-to-stay" program in any local jail. Subrecipient further agrees not to subaward funds to local jails which operate "pay-to-stay" programs.
19. "Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, subrecipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov."

ACCEPTANCE OF SPECIAL CONDITIONS

Signature

Date

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Chris Brown^{CB} Engineering Development Services
Submitted By Division Department

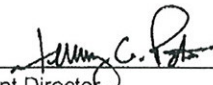
Action Required:

A resolution approving an agreement with TranSystems Corporation in an amount not to exceed \$58,598 for the inspection, analysis, and a feasibility report providing technical guidance for the rehabilitation of two historic bridges, Lafayette Street Overpass and Maple Street Overpass.

\$ 58,598.00 Cost of this request	\$ 19,343,175.00 Category / Project Budget	Transportation Bond Street Improvements Program Category / Project Name
4520.9520.5314.00 Account Number	\$ 9,988,393.50 Funds Used to Date	Professional Services Program / Project Category Name
06035.1100 Project Number	\$ 9,354,781.50 Remaining Balance	2006A Sales Tax Construction Fund Name

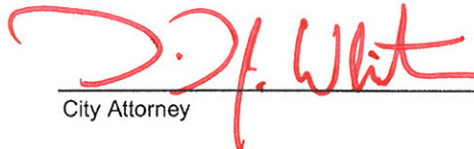
Budgeted Item ☒

Budget Adjustment Attached ☐

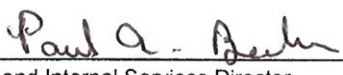
 8-27-09
Department Director Date

Previous Ordinance or Resolution #

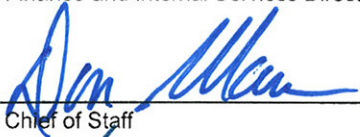
Original Contract Date:

 8/31/09
City Attorney Date

Original Contract Number:

 8-31-2009
Finance and Internal Services Director Date

Received in City Clerk's Office


 8-31-09
Chief of Staff Date

Received in Mayor's Office


 9/1/09
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

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

From: Chris Brown, City Engineer *CB*

Date: August 27, 2009

Subject: A resolution approving an agreement with TranSystems Corporation in an amount not to exceed \$58,598 for the inspection, analysis, and a feasibility report providing technical guidance for the rehabilitation of two historic bridges, Lafayette Street Overpass and Maple Street Overpass.

RECOMMENDATION:

Staff recommends approval of an agreement with TranSystems Corporation in an amount not to exceed \$58,598 for the inspection, analysis, and a feasibility report providing technical guidance for the rehabilitation of two historic bridges, Lafayette Street Overpass and Maple Street Overpass.

BACKGROUND:

This work is included in the Transportation Improvement Bond Program as a part of the Wilson Park/Washington-Willow Area Transportation Improvements Project. Currently, the project is scheduled for 2012 in the 3rd Bond Issue Phase of the Transportation Bond Program. However, due to the deteriorating condition of the bridges, and their visibility, there is an interest in moving this project forward.

DISCUSSION:

On July 22, 2009, the Selection Committee reviewed the qualifications of five engineering firms. TranSystems was determined to have the best specialized experience in regards to analyzing the current condition of the historic bridges, and determining the proper rehabilitation techniques to be used to maintain the historical significance of the structures while also maintaining the load carrying capacity.

Under this contract, TranSystems will provide an in-depth structural & rehabilitation inspection of two historic bridges (Lafayette Street Overpass & Maple Street Overpass). TranSystems will submit a final report which will identify deficiencies along with recommendations and probable repair costs to restore the bridges. The report will also highlight any urgent structural or safety deficiencies, if any, so that they could be corrected immediately.

The study phase is expected to take approximately 4 months. After the study has been completed and projects to be pursued and associated costs are identified, the study will be presented to the Street Committee and City Council for discussion regarding the project schedule relative to available funding.

After the project schedule has been determined, a contract amendment for additional services will be needed to prepare detailed design plans and construction documents. At the appropriate time, a contract amendment will be brought back to City Council for approval before these services begin.

BUDGET IMPACT:

This contract will be paid from the funds available from the Wilson Park/Washington-Willow Area Transportation Improvement Project. The total project budget in the Bond Program is \$4,277,000.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH TRANSYSTEMS CORPORATION IN AN AMOUNT NOT TO EXCEED \$58,598.00 FOR THE INSPECTION, ANALYSIS, AND A FEASIBILITY REPORT PROVIDING TECHNICAL GUIDANCE FOR THE REHABILITATION OF THE TWO HISTORIC OVERPASS BRIDGES ON LAFAYETTE AND MAPLE STREETS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves an Agreement with TranSystems Corporation in an amount not to exceed \$58,598.00 for the inspection, analysis, and a feasibility report providing technical guidance for the rehabilitation of the two historic overpass bridges on Lafayette and Maple Streets. A copy of the Agreement, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and **APPROVED** this 15th day of September, 2009.

APPROVED:

ATTEST:

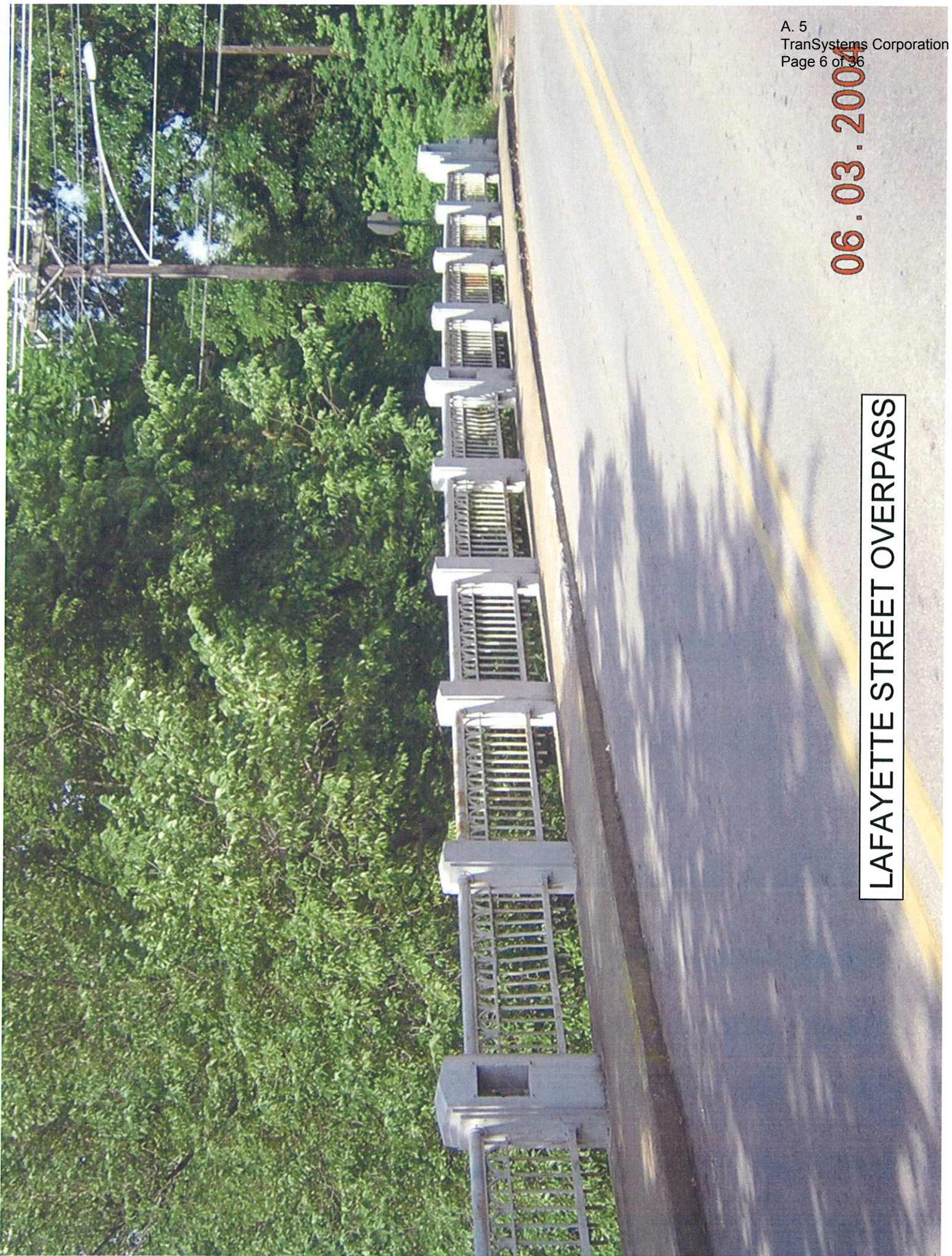
By: _____
LIONELD JORDAN, Mayor

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



06.03.2004

LAFAYETTE STREET OVERPASS



06.03.2004

LAFAYETTE ST. OVERPASS

06.03.2004

LAFAYETTE ST. OVERPASS



06.03.2009

MAPLE STREET OVERPASS



06.03.2004

MAPLE ST. OVERPASS

06.03.2006

MAPLE STREET OVERPASS



AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
TRANSYSTEMS CORPORATION

THIS AGREEMENT is made as of _____, 2009, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and TranSystems Corporation with offices located in Independence, Kansas (hereinafter called TRANSYSTEMS).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, and construction of roadways within the City of Fayetteville, and in particular, bridge inspection, structural analysis and engineering services related to the rehabilitation of two historic bridges, **Lafayette Street Overpass and Maple Street Overpass**, or as further described in Appendix A. Therefore, CITY OF FAYETTEVILLE and TRANSYSTEMS in consideration of their mutual covenants agree as follows:

TRANSYSTEMS shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of TRANSYSTEMS's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by TRANSYSTEMS under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of TRANSYSTEMS.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of TRANSYSTEMS.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF TRANSYSTEMS

2.1 General

2.1.1 Perform professional engineering services in connection with the Project as hereinafter stated.

2.1.1.1 The Scope of Services to be furnished by TRANSYSTEMS during the Bridge Inspection, Structural Analysis & Report Phase is included in Section 2.2 hereafter and in more complete detail in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 Develop and include in Appendix A of this Agreement, a project design schedule in which TRANSYSTEMS shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by TRANSYSTEMS in the completion of this design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, performance of services by CITY OF FAYETTEVILLE's consultants, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond TRANSYSTEMS's reasonable control. The progress design schedule shall consist of a tabular list of milestones and calendar days for each phase of services.

2.1.1.3 The Scope of Services to be furnished by TRANSYSTEMS during the Design Phase will be negotiated in full and added by an amendment to this Agreement.

2.1.1.4 The Scope of Services to be furnished by TRANSYSTEMS during the Bidding Phase will be negotiated in full and added by an amendment to this Agreement.

2.1.1.5 The Scope of Services to be furnished by TRANSYSTEMS during the Construction Phase, if any, will be negotiated in full and added by an amendment to this Agreement.

2.1.2 Execution of this agreement will authorize the Engineer to proceed with the services as described herein.

2.2 Bridge Inspection, Structural Analysis & Report Phase Services

2.2.1 Structural & Restoration Inspection

2.2.1.1 Perform in-depth structural & rehabilitation inspection of both bridges in accordance with NBIS, AHTD & AASHTO standards.

- 2.2.1.2 Inspect all exposed surfaces of the two historical bridges by whatever means is necessary to access all areas, e.g. ladders, free-climbing techniques, snooper truck, etc.
- 2.2.1.3 Inspect concrete superstructure elements for cracks, spalls, scaling, honeycombing, map cracking, rust stains, moisture penetration, exposed rebar, etc. Areas of concrete showing evidence of deterioration shall be hammer sounded to determine extent of spalling or delamination. Areas of deterioration shall be recorded by type on sketch drawings of the member.
- 2.2.1.4 Substructure units shall be examined for evidence of settlement or tilting. Plumbness shall be checked with plumb bobs or spirit levels. The abutments and piers shall be inspected for cracks, spalls, deteriorated pointing, moisture penetration, exposed rebar, etc. Areas of deterioration shall be recorded by type on sketch drawings of the member. Bridge seat areas shall be inspected to note defects in bearing pedestals, backwalls and bearings. Exposed footing elements shall also be noted. Any evidence of substructure movement shall be noted with a recommendation of subsurface investigation, if necessary.
- 2.2.1.5 Decks and overlays shall be checked visually for cracking, leaching, scaling, pot-holes, spalling or any other evidence of deterioration. The underside of the deck shall be examined for leaching, rust stains or other evidence of deterioration. Areas of slab defects shall be recorded on sketches of the deck undersides.
- 2.2.1.6 In addition to the main bridge elements, the consultant shall inspect and evaluate bridge deck joints, bridge drainage, railings, sidewalks, slope erosion and approach guardrail, as appropriate.
- 2.2.1.7 Digital pictures shall be taken of all structural defects and general views of bridge components with identification and descriptions added to each digital photo.

2.2.2 Structural Analysis & Rating

- 2.2.2.1 Perform structural analysis on existing structures in accordance with AASHTO and AHTD requirements. Analyze bridges for standard H and HS vehicles, as well as any unique AHTD standard vehicles. Where losses and deterioration have been measured in the field, the bridge shall be analyzed “as-built” and the losses subtracted from the members and the load ratings recalculated.

- 2.2.2.2 All areas of structural defects, especially those that affect load capacity of a member shall be sketched in the field to locate the defect and adequately show its' extent. If necessary for clarity, sketches of defects shall be redrawn in the office prior to submission.
- 2.2.2.3 Sufficient field dimensions shall be obtained of the bridges to permit an accurate structural analysis to be performed. This will include such information as the overall length and width of the structure, layout and configuration of the primary load carrying elements and a determination of the dead load of the structure.
- 2.2.2.4 Perform structural analysis on bridges based on the proposed repair work and utilize new load ratings in determining recommendations based on the cost-benefit.

2.2.3 Findings & Feasibility Report

- 2.2.3.1 Submit three original final reports for the City of Fayetteville that includes an executive summary with recommendations and costs.
- 2.2.3.2 The report shall be signed, sealed and dated by a Professional Engineer licensed in the State of Arkansas.
- 2.2.3.3 The detailed body of the report shall include at a minimum the following items:
 - 2.2.3.3.1 Alternative methods of repair and preservation with associated quantities & costs and, if applicable, grouped by tasks requiring immediate action, short range projects and long range projects.
 - 2.2.3.3.2 Recommendation of any weight limit signs that need to be installed or any other safety issues that need to be addressed by the City.
 - 2.2.3.3.3 Recommendation of any additional bridge inspection that may need to be scheduled based on your findings.
 - 2.2.3.3.4 All sketches, inspection reports, photos and other documents.
 - 2.2.3.3.5 Load rating summary and analysis.
- 2.2.3.4 Submit electronic Acrobat Reader files of all final documentation required above.

2.3 Design Services

- 2.3.1 The scope of Design Phase Services, if any, will be described in detail in a future amendment to this Agreement.

2.4 Bidding Phase

2.4.1 The scope of Bidding Phase Services, if any, will be described in detail in a future amendment to this Agreement.

2.5 Construction Phase

2.5.1 The scope of Construction Phase Services, if any, will be described in detail in a future amendment to this Agreement.

SECTION 3 - ADDITIONAL SERVICES OF TRANSYSTEMS

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by TRANSYSTEMS, TRANSYSTEMS shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond TRANSYSTEMS's control, TRANSYSTEMS shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to TRANSYSTEMS. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, TRANSYSTEMS shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of TRANSYSTEMS:

4.1 Provide aerial mapping for TRANSYSTEMS's use.

4.2 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

4.3 Assist TRANSYSTEMS by placing at TRANSYSTEMS's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

- 4.4 Guarantee access to and make all provisions for TRANSYSTEMS to enter upon public and private property as required for TRANSYSTEMS to perform his services under this Agreement.
- 4.5 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by TRANSYSTEMS and render in writing decisions pertaining thereto.
- 4.6 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.7 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.8 Give prompt written notice to TRANSYSTEMS whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees. Unless otherwise described in the attached Scope of Work.
- 4.10 Pay for placement of legal notices and advertisements in newspapers or other publications required by the Project.
- 4.11 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to TRANSYSTEMS in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. TRANSYSTEMS will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO TRANSYSTEMS

6.1 Compensation

CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount **not to exceed \$ 58,598.00** in accordance with the provisions described in the following paragraphs.

6.1.1 Bridge Inspection, Structural Analysis/Load Rating & Findings/Feasibility Report

For the Bridge Inspection, Structural Analysis/Load Rating & Findings/Feasibility Report described herein, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS for time spent on the project at the rates shown in attached Appendix A-2 for each classification of TRANSYSTEMS's personnel. In addition, reimbursable expenses, including but not limited to printing, courier service, reproduction, and travel will be billed. The total amount paid to TRANSYSTEMS under this agreement for these phases will **not exceed \$ 58,598.00**. For informational purposes, a breakdown of TRANSYSTEMS's estimated costs is included in Appendix A-2. The rates shown in Appendix A-2 will be increased annually with the first increase effective on or about September 1, 2010.

6.1.2 Property Surveys and Property Acquisition Documents

For Property Surveys and Property Acquisition Documents, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.

6.1.3 Geotechnical Services and ARKUPS

For Geotechnical Services, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.. For Utility Marking Services, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement..

6.1.4 Preliminary Design

For the Preliminary Design, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.

6.1.5 Final Design

For the Final Design, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.

6.1.6 Bidding Services

For the Bidding Services, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.

6.1.7 Construction Phase Services

For the Construction Phase, if any, CITY OF FAYETTEVILLE shall pay TRANSYSTEMS an amount to be negotiated at a later date and added by an amendment to this Agreement.

6.1.8 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to TRANSYSTEMS shall be negotiated at the time Additional services are authorized.

6.2 Statements

Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate consistent with TRANSYSTEMS's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by TRANSYSTEMS and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for Findings & Feasibility Report shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Findings & Feasibility Report for the Project.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of TRANSYSTEMS's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise TRANSYSTEMS in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, TRANSYSTEMS

shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims for payment against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by TRANSYSTEMS to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against TRANSYSTEMS or his sureties under this Agreement or applicable performance and payment bonds, if any. Final payment for each phase of services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of each phase for the Project.

6.5 Fee Changes

Subject to the City Council approval, adjustment of the NTE amounts may be made should TRANSYSTEMS establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

Any unused portion of the fees, not billable due to delays beyond the Engineer's control, will be increased 6% annually with the first increase effective on or about September 1, 2010.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, TRANSYSTEMS will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit

Automobile Liability:	
Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

TRANSYSTEMS will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

- 7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and TRANSYSTEMS as additional insureds, or, to endorse CITY OF FAYETTEVILLE and TRANSYSTEMS as additional insured on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and TRANSYSTEMS.
- 7.1.3 CITY OF FAYETTEVILLE and TRANSYSTEMS waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of TRANSYSTEMS's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and TRANSYSTEMS for damage or liability covered by any construction Contractor's policy of insurance.
- 7.2 Professional Responsibility
- 7.2.1 TRANSYSTEMS will exercise reasonable skill, care, and diligence in the performance of TRANSYSTEMS's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to TRANSYSTEMS any defects or suspected defects in TRANSYSTEMS's services of which CITY OF FAYETTEVILLE becomes aware, so that TRANSYSTEMS can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and TRANSYSTEMS further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of TRANSYSTEMS

7.2.2 In addition, TRANSYSTEMS will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by TRANSYSTEMS's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by TRANSYSTEMS relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on TRANSYSTEMS's experience, qualifications, and judgment as a design professional. Since TRANSYSTEMS has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, TRANSYSTEMS does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by TRANSYSTEMS

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of TRANSYSTEMS's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of TRANSYSTEMS

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that TRANSYSTEMS is given:

- 7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 7.5.2.2 An opportunity for consultation with the terminating party prior to termination.
- 7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - 7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
 - 7.5.3.2 Any payment due to TRANSYSTEMS at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of TRANSYSTEMS's default.
- 7.5.4 If termination for default is effected by TRANSYSTEMS, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to TRANSYSTEMS for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by TRANSYSTEMS relating to commitments which had become firm prior to the termination.
- 7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, TRANSYSTEMS shall:
 - 7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
 - 7.5.5.2 After receipt of payment for all completed work, deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by TRANSYSTEMS in performing this Agreement, whether completed or in process.
- 7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 7.5.7 If, after termination for failure of TRANSYSTEMS to fulfill contractual obligations, it is determined that TRANSYSTEMS had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF

FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of TRANSYSTEMS are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond TRANSYSTEMS's reasonable control, TRANSYSTEMS shall be entitled to additional compensation and time for reasonable costs incurred by TRANSYSTEMS in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

TRANSYSTEMS's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and TRANSYSTEMS which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or TRANSYSTEMS in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give TRANSYSTEMS written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature

and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and TRANSYSTEMS shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of TRANSYSTEMS and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to TRANSYSTEMS for services rendered by TRANSYSTEMS.

7.10 Publications

Recognizing the importance of professional development on the part of TRANSYSTEMS's employees and the importance of TRANSYSTEMS's public relations, TRANSYSTEMS may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to TRANSYSTEMS's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to TRANSYSTEMS. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of TRANSYSTEMS's activities pertaining to any such publication shall be for TRANSYSTEMS's account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and TRANSYSTEMS from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models (Not Applicable)

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. TRANSYSTEMS may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by TRANSYSTEMS as part of the Services shall become the property of CITY OF FAYETTEVILLE when TRANSYSTEMS has been compensated for all Services rendered, provided, however, that TRANSYSTEMS shall have the unrestricted right to their use. TRANSYSTEMS shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of TRANSYSTEMS

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. TRANSYSTEMS makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

Chris Brown, City Engineer
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

TRANSYSTEMS's address:

Shawn Turner, PE
TranSystems Corporation
115 S. Sixth Street, Suite B
Independence, KS, 67301

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and TRANSYSTEMS each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor TRANSYSTEMS shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between TRANSYSTEMS and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to TRANSYSTEMS a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by TRANSYSTEMS, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of TRANSYSTEMS

8.1.1 CITY OF FAYETTEVILLE's, review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve TRANSYSTEMS of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 TRANSYSTEMS shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by TRANSYSTEMS's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.3 TRANSYSTEMS's obligations under this clause are in addition to TRANSYSTEMS's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against TRANSYSTEMS for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and TRANSYSTEMS arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 TRANSYSTEMS shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. TRANSYSTEMS shall also maintain the financial information and data used by TRANSYSTEMS in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. TRANSYSTEMS will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of TRANSYSTEMS;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

TRANSYSTEMS warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by TRANSYSTEMS for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that TRANSYSTEMS or any of TRANSYSTEMS's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to TRANSYSTEMS terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against TRANSYSTEMS as it could pursue in the event of a breach of the Agreement by TRANSYSTEMS. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF

FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs TRANSYSTEMS incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, TRANSYSTEMS will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

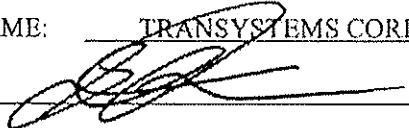
8.7 Debarment And Suspension

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 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 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 of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: TRANSYSTEMS CORPORATION
SIGNATURE:  DATE: 8/28/09
PRINTED NAME: Shawn Turner, PE TITLE: Assistant Vice President

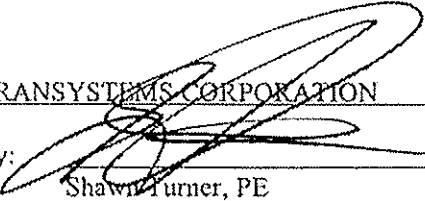
IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and TRANSYSTEMS, INC., by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor Lionel Jordan

ATTEST:

By: _____
City Clerk

TRANSYSTEMS CORPORATION
By: 
Shawn Turner, PE

Title: Assistant Vice President

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

Appendix A - Scope and Schedule

Scope

Bridge Inspection, Structural Analysis & Report Phase

Structural & Restoration Inspection

1. Perform in-depth structural & rehabilitation inspection of both bridges in accordance with NBIS, AHTD & AASHTO standards.
2. Inspect all exposed surfaces of the tow historical bridges by whatever means is necessary to access all areas, e.g. ladders, free-climbing techniques or snooper trucks.
3. Inspect concrete superstructure elements for cracks, spalls, scaling, honeycombing, map cracking, rust stains, moisture penetration and exposed rebar. Areas of concrete showing evidence of deterioration shall be hammer sounded to determine the extent of spalling or delamination. Areas of deterioration shall be recorded by type on sketch drawings of the member.
4. Substructure units shall be examined for evidence of settlement or tilting. Plumbness shall be checked with plumb bobs or spirit levels. The abutments and piers shall be inspected for cracks, spalls, deteriorated pointing, moisture penetration and exposed rebar. Areas of deteriorations shall be recorded by type on sketch drawings of the member. Bridge seat areas shall be inspected to note defects in bearing pedestals, backwalls and bearings. Exposed footing elements shall also be noted. Any evidence of substructure movement shall be noted with a recommendation of subsurface investigation, if necessary.
5. Decks and overlays shall be checked visually for cracking, leaching, scaling, pot-holes, spalling or any other evidence of deterioration. The underside of the deck shall be examined for leaching, rust stains or other evidence of deterioration. Areas of slab defects shall be recorded on sketches of the deck undersides.
6. In addition to the main bridge elements, the consultant shall inspect and evaluate bridge deck joints, bridge drainage, railings, sidewalks, slope erosion and approach guardrail, as appropriate.
7. Digital pictures shall be taken of all structural defects and general views of bridge components with identification and descriptions added to each digital photo.
8. Coordinate inspection activities with the railroad.
9. Coordinate traffic control for inspection with the City.

Structural Analysis and Rating Phase

1. Perform structural analysis on existing structures in accordance with AASHTO and AHTD requirements. Analyze bridges for standard H and HS vehicles, as well as any unique AHTD standard vehicles. Where losses and deterioration have been measured in the field, the bridge shall be analyzed 'as-built' and the losses subtracted from the members and the load ratings recalculated.

2. All areas of structure defects, especially those that affect load capacity of a member shall be sketched in the field to locate the defect and adequately show its extent. If necessary for clarity, sketches of defects shall be redrawn in the office prior to submission.
3. Sufficient field dimensions shall be obtained of the bridges to permit an accurate structural analysis to be performed. This will include such information as the overall length and width of the structure, layout and configuration of the primary load carrying elements and a determination of the dead load of the structure.
4. Perform structural analysis on bridges based on the proposed repair work and utilize new load ratings in determining recommendations based on the cost-benefit.

Findings and Feasibility Report

1. Submit three original final reports for the City of Fayetteville that includes an executive summary with recommendation and costs.
2. The report shall be signed, sealed and dated by a Professional Engineer licensed in the State of Arkansas.
3. The detailed body of the report shall contain at a minimum the following items:
 - a. Alternative methods of repair and preservation with associated quantities and costs and, if applicable, grouped by tasks requiring immediate action, short range projects, and long range projects.
 - b. Recommendation of any weight limit signs that need to be installed or any other apparent safety issues that need to be addressed by the City.
 - c. Recommendations of any additional bridge inspection that may need to be scheduled based on the findings of the report.
 - d. All sketches, inspection reports, photos and other referenced documents.
 - e. Load rating and summary analysis

Design Services

The scope and fee of Design Phase Services, if any, will be described in detail in a future amendment to this Agreement.

Bidding Phase Services

The scope of Bidding Phase Services, if any, will be described in detail in a future amendment to this Agreement.

Construction Phase Services

The scope of Construction Phase Services, if any, will be described in detail in future amendment to this Agreement.

Schedule

The Bridge Inspection, Structural Analysis and Report Phase shall be completed within 120 days.

Appendix A-2, Estimated Manhours & Project Costs

ITEM NO.	DESCRIPTION	DWGS	TIME - MAN HOURS				
			P	PM	E4	E3	T3
I.	Meetings and Project Management		0	20	0		0
II.	Documentation and Plan Review				0	0	0
III.	Fayetteville Bridges Inspection						
A.	Inspection Prep				0	4	4
B.	Travel (teams - 1 trips)						
	St. Louis Personnel (1 ea)				0	12	0
	Kansas (1 ea)					0	12
						0	
C.	Field Work						
	West Maple				0	20	20
	Lafayette					20	20
	Underwater						
	Deck					0	0
	Substructure					0	0
D.	Post inspection (notes, photos, report prep)				4	60	16
E.	Rating and analysis				10	90	
D.	Repair recommendation and cost estimate				20	60	
E.	Final Report QC/QA				4		
IV.	Direct Costs Costs						
A.	Travel and Meals (6 days)						
	1. Meals	\$250					
	4. Hotels (\$85 per night)	\$1,020					
	5. Car rental (1 vehicles)	\$300					
	6. Equipment Perishables	\$50					
	subtotal	\$1,620					
B.	Equipment Costs						
	1. Snooper (1 week)	\$0					
	7. manlift (1 ea for 1 weeks)	\$3,000					
	8. Attenuator truck	\$0					
	subtotal	\$3,000					
C.	other direct costs						
	1. Traffic Control	\$0					
	2. Underwater inspection and Safety Boat	\$0					
	3. Railroad Flagger (4 days @ \$350)	\$1,400					
	subtotal	\$1,400					
		\$6,020					
PROJECT TOTALS:			0	20	38	266	72
	Reimbursables	\$6,020	\$0	\$3,540	\$6,726	\$35,112	\$7,200
	Total Labor	\$52,578					
	Subtotal	\$58,598					
	Total Project Cost	\$58,598					

City of Fayetteville Staff Review Form

A. 6
 Bid # 09-52 United Engines, LLC
 Page 1 of 6

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

9/15/2009

City Council Meeting Date
 Agenda Items Only

David Jurgens
 Submitted By

Wastewater Treatment
 Division

Utilities
 Department

Action Required:

Approval of purchase of backup power generation equipment for wastewater lift stations from United Engines, LLC for \$104,562, plus sales tax, and approve a budget adjustment for \$5,000.

\$ 104,562.00

Cost of this request

\$ 110,000.00

Category / Project Budget

Upgrade/Replace Lift Stations-WWTP

Program Category / Project Name

5400.5800.5801.00

Account Number

\$ 56.25

Funds Used to Date

Wastewater Treatment

Program / Project Category Name

02068.1

Project Number

\$ 109,943.75

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☒

D. Jurgens
 Department Director

28 Aug 09
 Date

Previous Ordinance or Resolution #

D. P. Whit
 City Attorney

8/31/09
 Date

Original Contract Date:

Original Contract Number:

Paul A. Bach
 Finance and Internal Services Director

9-1-2009
 Date

Received in City
 Clerk's Office



Sam Man
 Chief of Staff

9-1-09
 Date

Received in
 Mayor's Office



Donald Jordan
 Mayor

9/1/09
 Date

Comments:

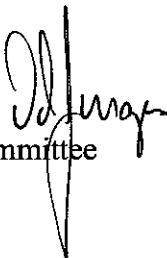
City Council Meeting of September 15, 2009

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan
Fayetteville City Council

Thru: Don Marr, Chief of Staff

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



Date: August 28, 2009

Subject: Approval of the purchase of seven backup power generators for wastewater lift stations from United Engines, LLC for \$104,562.13, and approve a budget adjustment of \$5,000

RECOMMENDATION

Staff recommends approval of the purchase of seven backup power generators for wastewater lift stations from United Engines, LLC in the amount of \$104,562.13, and approve a budget adjustment for \$5,000.

BACKGROUND

The City's latest National Pollution Prevention Discharge (NPDES) permits require backup power to wastewater facilities. Generators have been provided to all plants and all components of the WSIP including both west side lift stations and east side lift stations that have been upgraded as part of the project.

DISCUSSION

These generators were planned as part of the wastewater operations capital budget. The specifications were developed by City and OMI staff. The bidding process has been handled in-house. OMI will be responsible for the installation of the generators. The generators operate on natural gas. The City received seven bids on Tuesday, August 25, 2009 for this project, as follows:

Home Depot #1403	\$ 68,527.22	Does Not Meet Specifications
United Engines, LLC (AR)	\$ 104,562.13	Lowest Bid That Meets Specifications
United Engines, LLC (OK)	\$ 104,940.00	
Cummins Mid-South, LLC	\$ 114,079.00	
J. Richard Wolf Company	\$ 116,729.00	
RP Power, LLC	\$ 147,976.00	
Evans Enterprises, Inc .	\$ 159,696.09	

The bid from Home Depot, while low, does not meet the technical specifications and thus cannot be accepted. The specific items that do not meet the specifications are the controls and engine operating speed. The other bids meet the specification, validating that this was a unreasonable requirement. Controls and automatic transfer electrical components are the most common failure item in backup power supply, so these components are critical.

BUDGET IMPACT

\$109,943.75 is available in the wastewater operations project budget. A budget adjustment of \$5,000 is attached to cover sales tax.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #09-52 AND APPROVING THE PURCHASE OF SEVEN (7) EMERGENCY STANDBY GENERATORS FROM UNITED ENGINES, LLC IN THE TOTAL AMOUNT OF \$104,562.00 PLUS APPLICABLE TAXES FOR USE AT WASTEWATER LIFT STATIONS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$5,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid 09-52 and approving the purchase of seven (7) emergency standby generators from United Engines, LLC in the total amount of \$104,562.00 plus applicable taxes for use at wastewater lift stations.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$5,000.00.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 6
Bid # 00-53 United Engines, LLC
Adjustment Number

Budget Year 2009	Department: Operations Division: Wastewater Treatment Program: Wastewater Treatment Plant Capital	Date Requested 8/31/2009	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Added/Increased: Upgrade/Replace Lift Stations-WWTP	Project or Item Deleted/Reduced: Gregg Street Lift Station Remediation. <i>Remediation work and underground tank removal is complete with these funds remaining.</i>
--	--

Justification of this Increase: Increase is due to purchase of seven backup power generators for wastewater lift stations. The City's latest National Pollution Prevention Discharge (NPDES) permits require backup power to wastewater facilities. Generators have been provided to all plants and all components of the WSIP including both west side lift stations and east side lift stations that have been upgraded as part of the project.	Justification of this Decrease: There are monies left in project after current expenditures and encumbrances due to cost savings in the project. <i>This was a sewer lift station project - the funds are being applied to the same functional area.</i>
--	--

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Fixed Assets	5400	5800	5801	00	5,000	02068	1

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Professional Services	5400	5700	5314	00	5,000	05044	1

Division Head _____ Date <u>9/3/09</u> Budget Director _____ Date <u>31 Aug 09</u> Department Director <u>Paul A. Behn</u> Date <u>9-1-2009</u> Finance Director <u>Don Man</u> Date <u>9-1-09</u> Chief of Staff _____ Date _____ Mayor <u>Donald J. ...</u> Date <u>9/1/09</u>		V.090403 Budget & Research Use Only Type: A B C D E Requested By _____ General Ledger Date _____ Posted to General Ledger _____ Posted to Project Accounting _____	
		Initial	Date
		Initial	Date

BID: 09-52
8/25/2009
4:00 PM
CITY OF FAYETTEVILLE



Bid 09-52, Emergency Standby Generators

	Location	Home Depot #1403	United Engines, LLC (AR)	United Engines, LLC (OK)	Cummins Mid- South, LLC	J. Richard Wolf Company	RP Power, LLC	Evans Enterprises, Inc.
1	LS-2, 4938 Mission Blvd.	\$ 11,328.49	\$ 18,771.18	\$ 18,360.00	\$ 18,192.00	\$ 18,692.00	\$ 22,105.00	\$ 24,644.69
2	LS-28, 1603 Plantation Ave.	\$ 10,610.68	\$ 14,341.24	\$ 14,430.00	\$ 15,746.00	\$ 16,096.00	\$ 21,055.00	\$ 22,565.33
3	LS-27, 1031 River Meadows Dr.	\$ 7,835.20	\$ 14,041.17	\$ 14,430.00	\$ 16,059.00	\$ 16,459.00	\$ 21,055.00	\$ 22,487.19
4	LS-33, 4644 N. Crossover Road	\$ 10,610.68	\$ 14,341.24	\$ 14,430.00	\$ 15,746.00	\$ 16,096.00	\$ 21,055.00	\$ 22,565.33
5	LS-32, 478 N. Durango Place	\$ 6,920.81	\$ 14,384.82	\$ 14,430.00	\$ 16,844.00	\$ 17,194.00	\$ 20,596.00	\$ 22,302.89
6	LS-38, 3710 E. Zion Road	\$ 10,610.68	\$ 14,341.24	\$ 14,430.00	\$ 15,746.00	\$ 16,096.00	\$ 21,055.00	\$ 22,565.33
7	LS-40, 1811 S. Cherry Hills Dr.	\$ 10,610.68	\$ 14,341.24	\$ 14,430.00	\$ 15,746.00	\$ 16,096.00	\$ 21,055.00	\$ 22,565.33
	Total Bid	\$ 68,527.22	\$ 104,562.13	\$ 104,940.00	\$ 114,079.00	\$ 116,729.00	\$ 147,976.00	\$ 159,696.09

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

CERTIFIED:

A handwritten signature in black ink, appearing to read "P. Vice".

P. VICE, PURCH MGR

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

WITNESS

8/25/09
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 # 09-52 United Engines, LLC

Page 6 of 6

P.O Number:

Expected Delivery Date:

ASAP

Vendor #:

NEW

Vendor Name:

United Engines LLC

Mail

Yes: x

No:

Address:

2108 Industrial Park Rd

Fob Point: 1400 N Fox Hunter Rd

Fayetteville, AR 72701

Taxable

Yes: x

No:

Quotes Attached

Yes:

No: x

City:

Van Buren

State:

AR

Zip Code:

72701

Ship to code:

Division Head Approval:

Requester:

David Jurgens

Requester's Employee #:

490

Extension:

330

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Emergency Standby Generators Bid 09-52	1	ea	104,562.13	\$104,562.13	5400.5800.5801.00	02068.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal:

\$104,562.13

Tax:

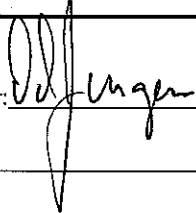
\$9,672.00

Total:

\$114,234.13

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
City Council Agenda Items
or
Contracts

September 15, 2009
City Council Meeting Date

Chris Brown^{CB} Engineering Development Services
Submitted By Division Department

Action Required:

A resolution to award a contract to Garver, LLC in an amount not to exceed \$88,340.00 for engineering services associated with the rehabilitation of the Lake Wilson spillway and to approve a budget adjustment of \$88,340.00.

\$ 88,340.00 Cost of this request	\$ 28,670.00 Category / Project Budget	Lake Wilson Spillway Repair Program Category / Project Name
4270.9270.5314.00 Account Number	\$ 21,360.21 Funds Used to Date	Flood Damage Repair Program / Project Category Name
04030 Project Number	\$ 7,309.79 Remaining Balance	Replacement Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒

Department Director [Signature] 09-27-2009 Date Previous Ordinance or Resolution # _____

City Attorney [Signature] 8/31/09 Date Original Contract Date: _____

Finance and Internal Service Director [Signature] 9-2-2009 Date Original Contract Number: _____

Chief of Staff [Signature] 9-2-09 Date
Received in City Clerk's Office **ENTERED** 8-28-09 KG

Mayor [Signature] 9/2/09 Date
Received in Mayor's Office **ENTERED** 8/31-09 BCP

Comments:

City Council Meeting of September 15, 2009

CITY COUNCIL AGENDA

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*
Chris Brown, City Engineer *CB*

From: Sarah Wrede, Staff Engineer *SW*

Date: August 27, 2009

Subject: A resolution to award a contract to Garver, LLC in an amount not to exceed \$88,340.00 for engineering services associated with the rehabilitation of the Lake Wilson spillway.

RECOMMENDATION

Staff recommends approval of a contract with Garver, LLC for engineering services associated with the rehabilitation of the Lake Wilson spillway.

BACKGROUND

In 2004, severe storms and flooding resulted in the partial collapse of a portion of the Lake Wilson spillway and downstream channel. The City applied for and received disaster relief funds from FEMA in order to "bring the dam structure back to its original structural integrity and comply with the historical preservation requirements and to bring it back to its original aesthetic appearance."

The City hired Jacobs in 2005 to perform the preliminary engineering for the project. The work to be performed on the spillway is required to be permitted through the Arkansas Natural Resources Commission and conform to the "Rules Governing Design and Operation of Dams" as administered by the ANRC. An amendment to the Jacobs contract was made to perform a dam classification and dam breach analysis in order to determine if ANRC's criteria can be met and if the spillway can be rebuilt in the original configuration. ANRC determined based on the completed study the dam's hazard class rating to be low.

DISCUSSION:

At the conclusion of Jacob's contract the City held a selection committee meeting which selected Garver to continue the engineering design. Garver's scope of work includes surveys, geotechnical services, coordination with other agencies, environmental services, a drainage study, conceptual design, preliminary design, final design, and bidding services.

The contract amount is not to exceed \$88,340. Payment will be made to Garver based on their hourly rates for the hours spent on the project. The project schedule for Garver's work is 100 days not including time for the City to review the conceptual and preliminary designs.

The City has received a time extension for this project from FEMA Region VI until November 30, 2010. Staying on schedule for engineering design and the following construction is critical to ensure the government disaster relief funds.

City Council Meeting of September 15, 2009

BUDGET IMPACT

The engineering services to repair the spillway are an eligible expense for reimbursement from the Arkansas Department of Emergency Management. The current FEMA project work sheet indicates the project cost to be \$294,736.00; however, the City's current estimate is \$443,369.74. This includes \$109,029.74 in project costs to date, \$88,340 for the engineering design, and \$246,000 as a preliminary construction estimate. Staff has been in conversation with ADEM concerning the overall project costs totaling more than the original \$294,736.00 allotted on the project worksheet. ADEM has responded by email that a new project cost can be requested once the construction estimate has been determined. ADEM will submit the costs to FEMA for approval but they feel confident that the request will be approved.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH GARVER, LLC IN AN AMOUNT NOT TO EXCEED \$88,340.00 FOR ENGINEERING SERVICES ASSOCIATED WITH THE REHABILITATION OF THE LAKE WILSON SPILLWAY; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with Garver, LLC in an amount not to exceed \$88,340.00 for engineering services associated with the rehabilitation of the Lake Wilson spillway. A copy of the Contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment recognizing cost reimbursement from FEMA.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 7
Garver, LLC
Page 5 of 46

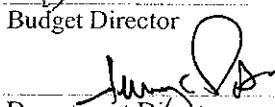
Budget Year 2009	Department: Citywide Division: Citywide Program: Replacement Fund Expense	Date Requested 9/15/2009	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: \$88,340 recognized in the project to be reimbursed by FEMA in the future.	Project or Item Deleted/Reduced: None. To recognize \$88,340 in cost reimbursement revenue from FEMA.
--	--

Justification of this Increase: The funding is for engineering services associated with the rehabilitation of the Lake Wilson spillway.	Justification of this Decrease:
--	---------------------------------

Account Name		Increase Budget Account Number				Amount	Project Number	
Professional Services		4270	9270	5314	00	88,340	04030	1

Account Name		Decrease Budget Account Number				Amount	Project Number	
Federal Grants - Capital		4270	0927	4309	00	88,340	04030	1

	8/27/09
Division Head	Date
	8/10/09
Budget Director	Date
	08.17.2009
Department Director	Date
Finance Director	Date
Chief of Staff	Date
Mayor	Date

V.090403

Budget & Research Use Only					
Type:	A	B	C	<u>D</u>	E
Requested By					
General Ledger Date					
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		

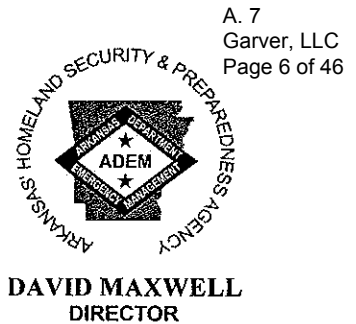


MIKE BEEBE
GOVERNOR

STATE OF ARKANSAS
DEPARTMENT OF EMERGENCY MANAGEMENT

RECEIVED
AUG 24 2009
ENGINEERING DIV.

BUILDING #9501
CAMP JOSEPH T. ROBINSON
NORTH LITTLE ROCK, ARKANSAS 72199-9600
(501) 683-6700
FAX (501) 683-7890
www.adem.arkansas.gov



August 21, 2009

Mr. Chris Brown, P.E.
City Engineer
125 W. Mountain Street
Fayetteville, AR 72701

RE: PW 388
FEMA 1516-DR-AR
Lake Wilson Dam

Dear Mr. Brown:

This letter is in reference to your request for an extension on the Lake Wilson Dam repairs (PW 388). Your request was submitted to FEMA Region VI and the extension has been granted until November 30, 2010.

For your files, I have enclosed a copy of FEMA's approval of this extension. Please ensure your timely submission of quarterly progress reports. We must provide FEMA Region VI with updates on this project to continue the eligibility of funding.

If you have questions, please to contact Scott Bass, Recovery Branch Manager at 501-683-6700 or Scott.Bass@adem.arkansas.gov.

Sincerely,

Richard G. Griffin
Disaster Management Division Director

RGG:sb

Sarah Wrede - Lake Wilson Project

From: "Bass, Scott" <Scott.Bass@adem.arkansas.gov>
To: 'Sarah Wrede' <swrede@ci.fayetteville.ar.us>
Date: 8/26/2009 10:52 AM
Subject: Lake Wilson Project

Per our conversation about the overrun/additional costs.

When you have received the construction estimate on the project and it's in accordance with the project scope of work that FEMA has determined, please submit this information to me. We will request a version of the project be written to include the new estimate and any engineering costs. This will be the basis of the project. If the city is anticipating on going over the new project costs, then I need to know in order to request an overrun. This will require approval also. I am confident that this will be approved, but need FEMA to sign off on the final approval.

Let me know if you need anything else. Thanks

Scott Bass

Disaster Recovery Branch Manager

AR Department of Emergency Management

Bldg. 9501, Camp JT Robinson

N. Little Rock, AR 72199

O: 501.683.6700

C: 501.319.4325

F: 501.683.7892

FEMA 1819/1834/1845-DR-AR

JFO #: 501-918-7681

Fax #: 501-683-7892

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential or privileged material. Any review, distribution, or other unauthorized use of the information by persons or entities other than the intended recipient is prohibited. If you received this communication in error, please contact the sender and delete the material from any computer.







AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER, LLC

THIS AGREEMENT is made as of _____, 2009, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Garver, LLC with offices located in Fayetteville (hereinafter called GARVER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, and construction of projects within the City of Fayetteville, and in particular, engineering and surveying services related to proposed improvements to the **Lake Wilson Spillway**, or as further described in Appendix A. Therefore, CITY OF FAYETTEVILLE and GARVER in consideration of their mutual covenants agree as follows:

GARVER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of GARVER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by GARVER under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of GARVER. Assignments may include services described hereafter as Basic Services or as Additional Services of GARVER.
- 1.2 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF GARVER

2.1 General

- 2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil engineering services, surveying services, and support incidental thereto.
 - 2.1.1.1 The Scope of Services to be furnished by GARVER during the Concept Design Phases is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.
 - 2.1.1.2 The Scope of Services to be furnished by GARVER during the remainder of the Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made a part of this Agreement.
 - 2.1.1.3 The Scope of Services to be furnished by GARVER during the Bidding Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made a part of this Agreement.
 - 2.1.1.4 The Scope of Services to be furnished by GARVER during the Construction Phase will be negotiated in full and added by an amendment to this Agreement.
- 2.1.2 Execution of this agreement will authorize the Engineer to proceed with the services as described herein.

2.2 Design Services

- 2.2.1 GARVER will perform engineering and related services in order to prepare drawings and related services as described in Appendix A.
 - 2.2.1.1 Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2007 or later software. Contract drawings shall be prepared using Garver standard borders, sheet sizes, title blocks and CADD standards. GARVER may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk® AutoCAD version 2004 or later.

- 2.2.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project design schedule in which GARVER shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by GARVER in the completion of this design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, performance of services by CITY OF FAYETTEVILLE's consultants, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond GARVER's reasonable control. The progress design schedule shall consist of a tabular list of milestones and calendar days for each phase of services.
- 2.2.1.3 When requested by the CITY OF FAYETTEVILLE's City Engineer, prepare for and attend up to two Committee meetings and one City Council meeting to provide support for the project for each submittal phase.
- 2.2.1.4 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided, and the value of the subcontract agreement.
- 2.2.1.5 Incorporate into all subcontract agreements for planning and design engineering services the applicable milestone dates from the performance schedule contained in Appendix A.
- 2.2.2 Design shall be reviewed by CITY OF FAYETTEVILLE, or such parties as CITY OF FAYETTEVILLE shall designate, at the applicable completion levels outlined in Appendix A.
- 2.3 Bidding Phase
 - 2.3.1 The scope of Bidding Phase Services to be furnished by GARVER is described in detail in Appendix A attached hereto and made a part of this Agreement.

2.4 Construction Phase

- 2.4.1 The scope of Construction Phase Services will be described in detail in a future amendment to this Agreement.

SECTION 3 - ADDITIONAL SERVICES OF GARVER

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by GARVER, GARVER shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.2 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.3 Furnish renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.4 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.5 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.6 Extra Services

3.1.6.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond GARVER's control, GARVER shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to GARVER. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, GARVER shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of GARVER:

- 4.1 Provide aerial mapping for GARVER's use.
- 4.2 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 4.3 Assist GARVER by placing at GARVER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.4 Guarantee access to and make all provisions for GARVER to enter upon public and private property as required for GARVER to perform his services under this Agreement.

- 4.5 Examine all studies, reports, sketches, cost opinions, drawings, proposals, and other documents presented by GARVER and render in writing decisions pertaining thereto.
- 4.6 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.7 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.8 Give prompt written notice to GARVER whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees. Unless otherwise described in the attached Scope of Work.
- 4.10 Pay for placement of legal notices and advertisements in newspapers or other publications.
- 4.11 Furnish, or direct GARVER to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to GARVER in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. GARVER will proceed with providing the authorized services immediately upon receipt

of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO GARVER

6.1 Compensation

CITY OF FAYETTEVILLE shall pay GARVER an amount **not to exceed \$88,340** in accordance with the provisions described in the following paragraphs. CITY OF FAYETTEVILLE shall pay GARVER for time spent on the project at the rates shown in attached Appendix A-2 for each classification of GARVER's personnel. In addition, reimbursable expenses, including but not limited to printing, courier service, reproduction, and travel will be paid to GARVER. For informational purposes, a breakdown of GARVER's estimated costs is included in Appendix A-2. The rates shown in Appendix A-2 will be increased annually with the first increase effective on or about May 1, 2010. Under-runs in any phase may be used to offset overruns in another phase as long as the overall contract amount is not exceeded.

6.1.1 Design Surveys and Conceptual Design

For the Design Surveys and Conceptual Design (including the Drainage Study) described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$17,590**.

6.1.2 Geotechnical Services and Utility Location Services

For Geotechnical Services, CITY OF FAYETTEVILLE shall pay GARVER a lump sum amount which will be negotiated with Grubbs, Hoskyn, Barton & Wyatt or other consultant, as a subconsultant to the Engineer, and approved by CITY OF FAYETTEVILLE. Due to the remoteness of the site, Utility Marking Services, are not included in this contract. The fee for Geotechnical Services has been estimated to be approximately **\$4,000**, but may exceed this estimate.

6.1.3 Preliminary Design

For the Preliminary Design described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$24,940**.

6.1.4 Final Design

For the Final Design described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$32,220**.

6.1.5 Bidding Services

For the Bidding Services described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$9,590**.

6.1.6 Construction Phase Services

For the Construction Phase, CITY OF FAYETTEVILLE shall pay GARVER an amount to be negotiated at a later date.

6.1.7 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to GARVER shall be negotiated at the time Additional services are authorized.

6.2 Statements

Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate consistent with GARVER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by GARVER and approved by CITY OF FAYETTEVILLE.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of GARVER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise GARVER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, GARVER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by GARVER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against GARVER or his sureties under this Agreement or applicable performance and payment bonds, if any. Final payment for each phase of services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of each phase for the Project.

6.5 Fee Changes

Subject to the City Council approval, adjustment of the NTE amounts may be made should GARVER establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract, unless noted herein, shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

- 7.1.1 During the course of performance of these services, GARVER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

GARVER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and GARVER as additional insureds, or, to endorse CITY OF FAYETTEVILLE and GARVER ENGINEERS as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and GARVER. All contract insurance carriers shall be required to list GARVER and CITY OF FAYETTEVILLE as certificate holders, furnishing copies of the contractor's insurance certificate to each party.

7.1.3 CITY OF FAYETTEVILLE and GARVER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of GARVER's services. A provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and GARVER for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 GARVER will exercise reasonable skill, care, and diligence in the performance of GARVER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to GARVER any defects or suspected defects in GARVER's services of which CITY OF FAYETTEVILLE becomes aware, so that GARVER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and GARVER further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of GARVER.

7.2.2 In addition GARVER will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by GARVER's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by GARVER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on GARVER's experience, qualifications, and judgment as a design professional. Since GARVER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, GARVER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by GARVER.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of GARVER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually

acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of GARVER.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that GARVER is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.5.3.2 Any payment due to GARVER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of GARVER's default.

7.5.4 If termination for default is effected by GARVER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to GARVER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs

reasonably incurred by GARVER relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, GARVER shall:

7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by GARVER in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of GARVER to fulfill contractual obligations, it is determined that GARVER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of GARVER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond GARVER's reasonable control, GARVER shall be entitled to additional compensation and time for reasonable costs incurred by GARVER in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

GARVER's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

- 7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and GARVER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or GARVER in the performance of this Agreement, and disputes concerning payment.
- 7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.
- 7.8.3 Notice of Dispute
- 7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;
- 7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give GARVER written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
- 7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and GARVER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of GARVER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to GARVER for services rendered by GARVER.

7.10 Publications

Recognizing the importance of professional development on the part of GARVER's employees and the importance of GARVER's public relations, GARVER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to GARVER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to GARVER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of GARVER's activities pertaining to any such publication shall be for GARVER's account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and GARVER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

GARVER may use or modify GARVER's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or GARVER may develop computer models during GARVER's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by GARVER does not constitute a license to CITY OF FAYETTEVILLE to use or modify GARVER's computer models. Said proprietary computer models shall remain the sole property of the GARVER. CITY OF FAYETTEVILLE and GARVER will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use GARVER's computer models.

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property

of CITY OF FAYETTEVILLE. GARVER may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by GARVER as part of the Services shall become the property of CITY OF FAYETTEVILLE when GARVER has been compensated for all services rendered, provided, however, that GARVER shall have the unrestricted right to their use. GARVER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of GARVER.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. GARVER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville; Attn: Chris Brown, PE
113 West Mountain
Fayetteville, AR 72701

GARVER's address:

Garver Engineers; Attn: Brock Hoskins, PE
1088 East Millsap Road
Fayetteville, AR 72703

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and GARVER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except

as above, neither CITY OF FAYETTEVILLE nor GARVER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between GARVER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to GARVER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by GARVER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of GARVER:

- 8.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve GARVER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- 8.1.2 GARVER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by GARVER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- 8.1.3 GARVER's obligations under this clause are in addition to GARVER's other express or implied assurances under this Agreement or State law and in no way diminish any

other rights that CITY OF FAYETTEVILLE may have against GARVER for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and GARVER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 GARVER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. GARVER shall also maintain the financial information and data used by GARVER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. GARVER will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of GARVER;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

GARVER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by GARVER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that GARVER or any of GARVER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to GARVER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the

facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against GARVER as it could pursue in the event of a breach of the Agreement by GARVER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs GARVER incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, GARVER will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

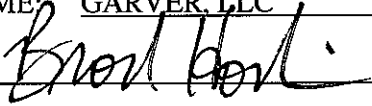
I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (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 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 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 of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: GARVER, LLC
SIGNATURE:  DATE: _____
PRINTED NAME: Brock Hoskins TITLE: Sr. Vice President/Chief Engineer

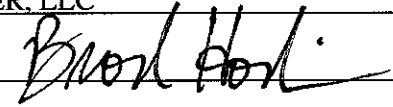
IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and GARVER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

GARVER, LLC
By: 
Title: Sr. Vice President/Chief Engineer

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes surveying, design, and bidding services for improvements to the Lake Wilson Spillway. Improvements will consist primarily of repairing or replacing the remaining portion of the existing native stone spillway to convey 0.29 of the PMF as calculated by others and provided to Garver by the City of Fayetteville. Improvements to the spillway shall be designed to reflect the original appearance of the spillway.

THIS PROJECT DOES NOT INCLUDE ANY EVALUATIONS OR INSPECTIONS OF THE LAKE WILSON DAM STRUCTURE. GARVER WILL MAKE NO DETERMINATIONS REGARDING THE CONDITION, SOUNDNESS, OR DEFICIENCIES OF THE DAM STRUCTURE.

2.2 Surveys

2.2.1 Design Surveys

Garver will provide field survey data for designing the project which will be tied to the City of Fayetteville's control network.

Garver will conduct field surveys, utilizing radial topography methods, at intervals and for distances along the project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate structures, drainage features, trees over eight inches in diameter, visible utilities, and any other pertinent topographic features that may be present at and/or along the project site. Garver will establish control points for use during construction. Due to the remote location, underground utilities will not be field located. However, contractor shall notify the Arkansas One-Call system to have utilities located prior to commencing any onsite construction.

2.2.2 Property Surveys

Property Surveys are not included in this project.

2.3 Geotechnical Services

Garver will subcontract with Grubbs, Hoskyn, Barton & Wyatt or other geotechnical consultant to provide investigations and recommendations as Garver and the City of Fayetteville deem necessary.

2.4 Coordination

Garver will furnish conceptual plans to the Arkansas Department of Emergency Management (ADEM) for their acceptance of the project scope. The final plans will be furnished to the following agencies: ANRC, ADEQ, US Fish and Wildlife Service and US Army Corp of Engineers.

Garver will also attend coordination meetings with the City of Fayetteville and other agencies as required. Garver will prepare exhibits for these meetings when appropriate.

2.5 Environmental Services

Garver will work to obtain a Section 404 Nationwide permit from the US Army Corps of Engineers

and will submit plans to the US Fish and Wildlife Service (USFWS). Garver will also prepare, submit, and coordinate approval of a Stormwater Pollution Prevention Plan (SWPPP) with ADEQ.

2.6 Drainage Study

Garver will utilize the existing HEC-HMS hydrologic model that was provided by the City of Fayetteville to determine the appropriate design capacity of the spillway structure. According to the correspondence from ANRC, the capacity shall be based on 0.29 of the Probable Maximum Flood (PMF).

Garver will coordinate with COE to acquire a Section 404 Nationwide permit for the spillway and downstream improvements.

2.7 Conceptual Design

Upon completion of the topographic survey, Garver will meet with the City Engineering Division Staff in order to determine the improvements that will be presented at the conceptual stage.

For the (one) selected option, the conceptual design phase submittal will include three (3) sets of plans including a site plan and plan and profile sheet(s) showing horizontal and vertical geometry of the proposed improvements and an opinion of probable construction cost. This conceptual submittal will be for the purpose of coordinating the proposed improvements with the City and the Arkansas Department of Emergency Management. The Conceptual design stage represents approximately a 30 percent of final construction contract plans.

Garver will attend one Committee or City Council Meeting and prepare exhibits for this public meeting. Exhibits will include a current set of full-sized plans and foam display boards at a 1"= 20' scale, utilizing aerial photographs.

Garver will not begin preliminary design until the conceptual design is approved by the Owner in writing.

2.8 Preliminary Design

The preliminary design phase submittal will include three (3) sets of plans including a site plan, plan and profile sheets, and a structural plan showing horizontal and vertical geometry and preliminary structural details of the proposed improvements, and an opinion of probable construction cost. The preliminary design phase will represent approximately 60 percent of final construction contract plans. This submittal will not include technical specifications or "front end" contract documents. Garver will not begin final design until the preliminary design is approved by the Owner in writing.

Garver will prepare for and attend one public meeting during this design stage.

2.9 Final Design

During the final design phase of the project, Garver will conduct final designs to prepare construction plans and specifications, for one construction contract, including final construction details and quantities, special provisions, and opinion of probable construction cost. Garver will also make final field inspection with Owner, make any needed plan changes as a result of the final field inspection, and prepare the construction documents as required to advertise for bids.

Garver will also prepare, submit, and coordinate approval of a Stormwater Pollution Prevention Plan (SWPPP) with ADEQ. Garver will furnish plans to the US Army Corp of Engineers and apply for a Section 404 Nationwide Permit on the behalf of the City. Garver will furnish plans to the City for their submittal to the ANRC.

Garver will prepare for and attend a total of two public meetings, whether Committee, City Council or other public meetings/hearings.

2.10 Property Acquisition Documents

Property acquisition documents are not included in this project.

2.11 Bidding Services

During the bidding phase of the project, the Engineer will:

1. Dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling).
2. Support the contract documents by preparing addenda as appropriate.
3. Participate in a pre-bid meeting if necessary.
4. Attend the bid opening.
5. Prepare bid tabulation.
6. Evaluate bids and recommend award.
7. Prepare construction contracts.

2.12 Construction Phase Services

The scope of Construction Phase Services will be added with a future amendment to this agreement.

2.13 Project Deliverables

The following will be submitted to the Owner, or others as indicated, by the Engineer:

1. Three copies of the Conceptual Design with opinion of probable construction cost.
2. Three copies of the Preliminary Design with opinion of probable construction cost.
3. Three copies of the Final Design with opinion of probable construction cost.
4. Three copies of the revised Final Design with opinion of probable construction cost.
5. Three copies of the Final Plans and Specifications to the Contractor.
6. Two copies of approved shop drawings/submittals from the Contractor.
7. Electronic files as requested.

2.14 Extra Work

The following items are not included under this agreement but will be considered as extra work:

1. Any evaluation of, or design for, the dam, including stability, seepage, materials, elevation, etc.
2. Property Surveys and Property Acquisition Documents.
3. Construction Phase Services.
4. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
5. Submittals or deliverables in addition to those listed herein.

6. Design of any utilities relocation.
7. Street lighting or other electrical design.
8. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
9. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
10. Construction Materials Testing.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and the Engineer.

2.15 Schedule

The Engineer shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Work Days</u>
Surveys - Topographic	10 days from start date
Conceptual Design	30 days from start date
Preliminary Design	20 days from approval of Conceptual Design
Final Design	40 days from Approval of Preliminary Design

APPENDIX B
Lake Wilson Spillway Repair (09047080)
Garver Hourly Rate Schedule

Classification	Rates
Engineers	
E-1	\$ 84.00
E-2	\$ 100.00
E-3	\$ 118.00
E-4	\$ 139.00
E-5	\$ 169.00
E-6	\$ 205.00
Planners	
P-1	\$ 104.00
P-2	\$ 118.00
Designers	
D-1	\$ 82.00
D-2	\$ 105.00
Technicians	
T-1	\$ 66.00
T-2	\$ 90.00
Surveyors	
S-1	\$ 42.00
S-2	\$ 52.00
S-3	\$ 70.00
S-4	\$ 90.00
S-5	\$ 114.00
2-Man Crew (Survey)	\$ 148.00
3-Man Crew (Survey)	\$ 190.00
2-Man Crew (GPS Survey)	\$ 168.00
3-Man Crew (GPS Survey)	\$ 210.00
Construction Observation	
C-1	\$ 79.00
C-2	\$ 98.00
Administration	
A-1	\$ 46.00
A-2	\$ 60.00
A-3	\$ 99.00
I-1	\$ 94.00
Other	
Automation/Controls Specialist	\$ 160.00

APPENDIX B

CITY OF FAYETTEVILLE LAKE WILSON SPILLWAY REPAIR

FEE SUMMARY

Title I Services	Estimated Fees
<i>Geotechnical Services</i>	\$4,000.00
<i>Record Research</i>	\$0.00
<i>Utility Marking</i>	\$0.00
<i>Environmental Handling/Documentation</i>	\$0.00
<i>Traffic Modeling</i>	\$0.00
Traffic Studies	\$0.00
Signalization Design	\$0.00
Surveys	\$2,530.00
Drainage Study	\$3,130.00
Conceptual Design	\$11,930.00
Preliminary Design	\$24,940.00
Final Design	\$32,220.00
Property Acquisition Documents	\$0.00
Bidding Services	\$9,590.00
Subtotal for Title I Services	\$88,340.00

Title II Services	
<i>Construction Materials Testing</i>	\$0.00
Construction Phase Services	\$0.00
Subtotal for Title II Services	\$0.00

[illegible]

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	P-2	P-1	D-2	D-1	T-2	T-1	C-2	C-1	MANHOUR SUBTOTALS
	\$205.00	\$169.00	\$139.00	\$118.00	\$100.00	\$84.00	\$118.00	\$104.00	\$105.00	\$82.00	\$90.00	\$66.00	\$98.00	\$79.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering															
Calibrate existing HEC-HMS Model				2	16										
Weir Geometric Design				4	8										
Subtotal - Civil Engineering	0	0	0	6	24	0	0	0	0	0	0	0	0	0	
Hours	0	0	0	6	24	0	0	0	0	0	0	0	0	0	30
Salary Costs	\$0.00	\$0.00	\$0.00	\$708.00	\$2,400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,108.00
SUBTOTAL - SALARIES: \$3,108.00															
DIRECT NON-LABOR EXPENSES															
Document Printing/Reproduction/Assembly	\$22.00														
Postage/Freight/Courier	\$0.00														
Office Supplies/Equipment	\$0.00														
Communications	\$0.00														
Survey Supplies	\$0.00														
Aerial Photography	\$0.00														
GPS Equipment	\$0.00														
Computer Modeling/Software Use	\$0.00														
Traffic Counting Equipment	\$0.00														
Travel Costs	\$0.00														
SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$22.00															
SUBTOTAL: \$3,130.00															
SUBCONSULTANTS FEE: \$0.00															
TOTAL FEE: \$3,130.00															

[illegible]

APPENDIX B

CITY OF FAYETTEVILLE
LAKE WILSON SPILLWAY REPAIR

CONCEPTUAL DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	P-2	P-1	D-2	D-1	T-2	T-1	C-2	C-1	A-3	A-2	A-1	I-1	Automation/Controls Specialist	MANHOUR SUBTOTALS
	\$205.00	\$169.00	\$139.00	\$116.00	\$100.00	\$84.00	\$116.00	\$104.00	\$105.00	\$82.00	\$90.00	\$56.00	\$95.00	\$76.00	\$56.00	\$60.00	\$46.00	\$94.00	\$160.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering																				
Site Layout Plan				2								4								
Concept Development Meeting		2		2																
Develop Plan & Profile Sheets		2		12		24						12								
Meetings/Coordination with City Staff		1																		
Opinion of Probable Construction Cost		1		4		6														
Prepare for and participate in Public Meetings		2		4		6														
Revise Plans per City/Public Comments		2		2		6						8								
Coordination with ADEM		2		2		2						4								
QC Review		2		4																
Subtotal - Civil Engineering	0	12	0	32	0	44	0	0	0	0	0	28	0	0	0	0	0	0	0	0
2. Structural Engineering																				
Retaining Walls, Spillway Structures																				
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																				
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																				
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Hours	0	12	0	32	0	44	0	0	0	0	0	28	0	0	0	0	0	0	0	116
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Salary Costs	\$0.00	\$2,028.00	\$0.00	\$3,776.00	\$0.00	\$3,596.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,848.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,348.00
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SUBTOTAL - SALARIES: \$11,348.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$500.00
Postage/Freight/Courier	\$40.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$42.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$582.00

SUBTOTAL: \$11,930.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$11,930.00

APPENDIX B

CITY OF FAYETTEVILLE
LAKE WILSON SPILLWAY REPAIR

PRELIMINARY DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	P-2	P-1	T-2	T-1	C-2	C-1	MANHOUR SUBTOTALS
	\$205.00	\$169.00	\$139.00	\$118.00	\$100.00	\$84.00	\$118.00	\$104.00	\$90.00	\$66.00	\$98.00	\$79.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering													
Preliminary Plans													
Typical Drainage/Weir Sections				2	4								
Plan & Profile Sheets				2	12	8				12			
Grading/Site Plan				2	14	8				16			
Drainage System Cross Sections				1	8					8			
Coordination with Geotechnical Subconsultant		2		3									
Meetings/Coordination with City		4		4	2								
Opinion of Probable Construction Cost				2	8					10			
QC Review		2		4									
Subtotal - Civil Engineering	0	8	0	20	48	16	0	0	0	46	0	0	
2. Structural Engineering													
Retaining Wall Design		4		24		16			12				
Spillway Structure		4		24		16			12				
Subtotal - Structural Engineering	0	8	0	48	0	32	0	0	24	0	0	0	
3. Mechanical Engineering													
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	
4. Electrical Engineering													
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	

Hours	0	16	0	68	48	48	0	0	24	46	0	0	250
Salary Costs	\$0.00	\$2,704.00	\$0.00	\$8,024.00	\$4,800.00	\$4,032.00	\$0.00	\$0.00	\$2,160.00	\$3,036.00	\$0.00	\$0.00	\$24,756.00

SUBTOTAL - SALARIES: \$24,756.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$150.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$34.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$184.00

SUBTOTAL: \$24,940.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$24,940.00

APPENDIX B

CITY OF FAYETTEVILLE
LAKE WILSON SPILLWAY REPAIR

FINAL DESIGN

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	P-2	P-1	D-2	D-1	T-2	T-1	A-3	A-2	A-1	Automation/Controls Specialist	MANHOUR SUBTOTALS
	\$205.00	\$169.00	\$139.00	\$118.00	\$100.00	\$84.00	\$118.00	\$104.00	\$105.00	\$82.00	\$80.00	\$66.00	\$99.00	\$60.00	\$48.00	\$160.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering																	
Final Plans																	
Address Preliminary Plan Review Comments		1		2	4							2					
Plan & Profile Sheets				4	8							10					
Grading/Slo Plan				2	8							10					
Drainage System Cross Sections				2	2							10					
Typical Details				2	4							8					
Erosion Control Plans				2	4							8					
Meetings/Coordination with City Staff		2		2													
Meetings/Coordination with City Committee and/or City Council		2		2	2												
Coordination with ANRC				2	2												
Permit Application and Coordination with COE				2						5		4					
SWPPP/Coordination with DEQ				2						15		4					
Contract Documents				4	12												
Specifications/Technical Provisions				4	12												
Quantities				2	6							6					
Opinion of Probable Construction Cost		1		2	6												
QC Review		2		4	2												
Subtotal - Civil Engineering	0	8	0	40	72	0	0	0	0	24	0	62	0	0	0	0	
2. Structural Engineering																	
Retaining Wall Layout/Elevations		2		24								18					
Structural Details		2		24								18					
Structural Specifications		2		24													
Subtotal - Structural Engineering	0	6	0	72	0	0	0	0	0	0	32	0	0	0	0	0	
3. Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
4. Electrical Engineering																	
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Hours	0	14	0	112	72	0	0	0	0	24	32	62	0	0	0	0	318
Salary Costs	\$0.00	\$2,366.00	\$0.00	\$13,216.00	\$7,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,968.00	\$2,880.00	\$4,092.00	\$0.00	\$0.00	\$0.00	\$0.00	\$31,722.00

SUBTOTAL - SALARIES: \$31,722.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$400.00
Postage/Freight/Courier	\$60.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$38.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$498.00

SUBTOTAL: \$32,220.00

SUBCONSULTANT'S FEE: \$0.00

TOTAL FEE: \$32,220.00

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-2	T-1	C-2	C-1	A-3	A-2	A-1	MANHOURL SUBTOTALS
	\$205.00	\$169.00	\$139.00	\$118.00	\$100.00	\$84.00	\$90.00	\$68.00	\$98.00	\$79.00	\$96.00	\$60.00	\$46.00	
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	
1. Civil Engineering														
Dispense plans and specs to prospective bidders				1	4									8
Addendums/inquiries		2		4	10									6
Pre-Bid Meeting														
Bid Opening		1		1	1									
Prepare bid tabulation				4	2									
Evaluate bids and recommend award		1		1										
Prepare construction contracts				1	6									4
Notice to Proceed				1										
Subtotal - Civil Engineering	0	4	0	13	23	0	0	0	0	0	0	0	18	
2. Structural Engineering														
Addendums	2			4	8									
Subtotal - Structural Engineering	2	0	0	4	8	0	0	0	0	0	0	0	0	
3. Mechanical Engineering														
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	
4. Electrical Engineering														
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	
Hours	2	4	0	17	31	0	0	0	0	0	0	0	18	72
Salary Costs	\$410.00	\$676.00	\$0.00	\$2,006.00	\$3,100.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$928.00	\$7,020.00
SUBTOTAL - SALARIES: \$7,020.00														
DIRECT NON-LABOR EXPENSES														
Document Printing/Reproduction/Assembly	\$2,200.00													
Postage/Freight/Courier	\$326.00													
Office Supplies/Equipment	\$0.00													
Communications	\$0.00													
Survey Supplies	\$0.00													
Aerial Photography	\$0.00													
GPS Equipment	\$0.00													
Computer Modeling/Software Use	\$0.00													
Traffic Counting Equipment	\$0.00													
Travel Costs	\$44.00													
SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$2,570.00														
SUBTOTAL: \$9,590.00														
SUBCONSULTANTS FEE: \$0.00														
TOTAL FEE: \$9,590.00														

City of Fayetteville Staff Review Form

B. 1
RZN 09-3271
(Sale Barn/Campus
Crest LLC)
Page 1 of 106

City Council Agenda Items
and
Contracts, Leases or Agreements

6/16/2009

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 09-3271: (Sale Barn/Campus Crest LLC, 562): Submitted by Jorgensen & Associates for property located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 8.87 acres. The request is to rezone the subject property to DG, Downtown General.

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

05-29-09
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

5-24-09
Date

Original Contract Number:

Finance and Internal Services Director

6-1-2009
Date

Received in City
Clerk's Office

ENTERED

Chief of Staff

6-1-09
Date

Received in
Mayor's Office

ENTERED

Mayor

6/1/09
Date

Comments:

Tabled to Sept. 15, 2009 CC mtg. 8/18/09
Tabled to Aug 18, 2009 CC mtg. 7/21/09
Left on Second Reading 4/17/09 CC mtg.
Left on First Reading 6/16/09 CC mtg.
Revised January 15, 2009

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services

From: Dara Sanders, Current Planner

Date: May 28, 2009

Subject: Rezoning for Washington County Sale Barn (RZN 09-3271)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property, located at north of 11th Street and east of Government Avenue, from I-1, Heavy Commercial/Light Industrial to DG, Downtown General.

BACKGROUND

The subject property, located south of Martin Luther King Jr. Boulevard and west of South School, was developed in 1950 as the Washington County Sale Barn (see attached aerial imagery). The 8.87-acre tract has frontage onto 11th Street, Dunn Avenue, National Street, and Government Avenue.

Initially, the applicant proposed to rezone the property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24 units/acre. Staff did not recommend in favor of the requested RMF-24 zoning district, finding that, while the multi-family use would be compatible with the surrounding uses and consistent with the City Neighborhood zoning district, the RMF-24 zoning district in this area would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025. City Plan 2025 encourages pedestrian-friendly buildings with entrances that address the street, utilizing principles of traditional residential urban design to create compatible, livable and accessible neighborhoods. This includes adequate transition to existing neighborhoods. The RMF-24 zoning district, when applied to large tracts of land, still permits the conventional, car-oriented development form that is clearly discouraged by the City's adopted goals and policies, and which would be inappropriate and incompatible with the form of development existing within this surrounding neighborhood.

The applicant submitted an official request for the Downtown General zoning district prior to the planning Commission meeting, and staff recommended that the Planning Commission forward the request to the City Council with a recommendation of approval.

The Downtown General zoning district, which allows by right the same residential uses as the RMF-24 zoning district, will more likely result in a development form that is consistent with the City's adopted land use planning objectives and principles of City Plan 2025. The build-to-zone and minimum building street frontage requirements of the Downtown General zoning district will ensure a traditional urban design and provide a

pedestrian friendly streetscape, while also providing the potential for low-intensity nonresidential uses that in this form would be compatible with the established single-family neighborhood to the south and the higher intensity non-residential uses to the north and east. Staff finds that down zoning the subject property from I-1, Heavy Commercial/Light Industrial to the Downtown General zoning district will result in an appropriate transition in scale and use from the commercial uses along Martin Luther King Jr. Boulevard and South School Street to the residential uses to the west and south, while providing the potential for low-intensity nonresidential uses that could serve the surrounding neighborhood.

DISCUSSION

This item was heard at the regular Planning Commission meeting on May 26, 2009. The Planning Commission voted 6-1-0 to forward this rezoning request to the City Council, with Commissioner Cabe voting "no".

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 09-3271, FOR APPROXIMATELY 8.87 ACRES, LOCATED AT THE OLD WASHINGTON COUNTY SALE BARN, NORTH AND EAST OF 11TH AVENUE AND GOVERNMENT AVENUE FROM I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL, TO DG, DOWNTOWN GENERAL

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial to DG, Downtown General, as shown and described on attached exhibits "A" and "B".

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

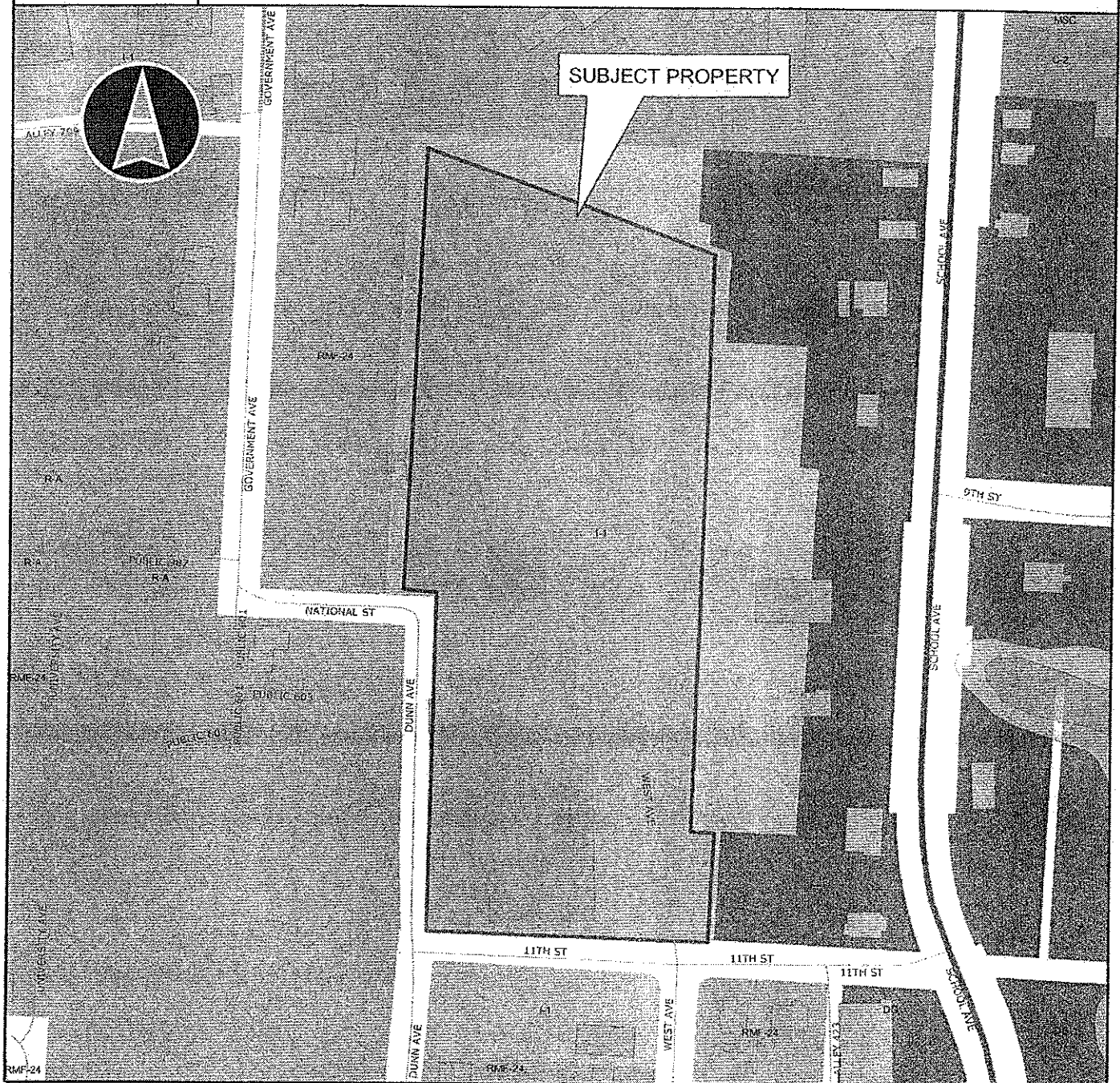
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

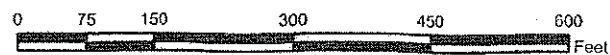
RZN09-3271

SALE BARN/ CAMPUS CREST LLC

Close Up View



Overview



Legend

- RZN09-3271
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

EXHIBIT "B"
RZN 09-3271

LEGAL DESCRIPTION: (I-1 TO DG)

A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 21, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW1/4, NE1/4 THENCE S00°46'21"W 230.00 FEET, THENCE S71°53'27"E 18.86 FEET TO THE P.O.B., THENCE S71°53'27"E 414.70 FEET TO A POINT WHICH IS 16.00 FEET EAST OF THE NW CORNER OF BLOCK 16 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, THENCE S00°07'02"E 795.21 FEET TO THE SOUTH LINE OF LOT 16, BLOCK 17 OF SAID FERGUSON'S ADDITION, THENCE S89°10'06"E 32.00 FEET, THENCE S00°49'54"W 149.32 FEET, THENCE S89°57'52"W 380.45 FEET, THENCE N00°49'05"W 465.04 FEET, THENCE N87°19'20"W 46.76 FEET, THENCE N00°46'21"E 607.00 FEET TO THE P.O.B.; CONTAINING 8.87 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

161.22 Downtown General.

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the *Downtown General* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

Unit 40 Sidewalk Cafes

(C) *Density.* *None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types) 18 ft.

(2) *Lot area minimum.* *None.*

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	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.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

LAW OFFICE OF BOB ESTES

ONE EAST CENTER STREET, SUITE 200, FAYETTEVILLE, AR 72701-5302
TELEPHONE (479) 521-4900
FAX (479) 587-0700
email bobestes@arkansas.net

May 22, 2009

Mr. Jeremy Pate
Development Services Department Director
125 West Mountain
Fayetteville, AR 72701

VIA E-MAIL
AND HAND DELIVERED

Re: RZN 09-3271 (Sale Barn/Campus Crest LLC 562)

Dear Director Pate:

As you know this attorney represents the applicant, Campus Crest LLC in the entitled rezoning request.

Please accept this letter as an amendment to the March 30, 2009 Rezoning Application to rezone that portion of the subject property that is now zoned I-1 to RMF-24 to a request to rezone that portion of the property to Downtown General.

Please accept this letter as my further request that this amendment be made a part of the March 30, 2009 Application, and be included in the Tuesday evening May 26, 2009 Staff Report to the Commission.

With warmest regards.

Yours truly,



Bob Estes

BE:skd

cc: Mr. Alex B. Eyssen
David L. Jorgensen, P.E.

VIA E-MAIL
VIA E-MAIL



PC Meeting of May 26, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 18, 2009 Update May 28, 2009

RZN 09-3271: (SALE BARN / CAMPUS CREST LLC, 562): Submitted by JORGENSEN & ASSOC for property located at THE OLD WASHINGTON COUNTY SALE BARN, N & E OF 11TH AVENUE AND GOVERNMENT AVENUE. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 8.87 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family 24 units per acre.

Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property, located south of Martin Luther King Jr. Boulevard and west of South School, was developed in 1950 as the Washington County Sale Barn (see attached aerial imagery). The 8.87-acre tract has frontage onto 11th Street, Dunn Avenue, National Street, and Government Avenue.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Farmer's Cooperative	Main Street/Center
South	Residential	I-1, Light Industrial RMF-24, Residential Multi-family 24 units/acre
East	Offices, Restaurants	Downtown General
West	National Cemetery Residential	RMF-24, Residential Multi-family 24 units/acre R-A, Residential Agricultural

Proposal: The applicant proposes to rezone the property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24 units/acre. Currently, a portion of the Sale Barn property is zoned RMF-24, Residential Multi-family, 24 units/acre.

Public Comment: Staff has received public comment in opposition of the proposed zoning district based on the type of development that is produced by the requested RMF-24 zoning district. Staff has not received opposition to the proposed multi-family use. The applicant did present this request at a neighborhood meeting.

Discussion: Staff finds that the residential uses permitted in the RMF-24 zoning district would be compatible with the surrounding properties that are zoned RMF-24 and Downtown General, and include various commercial businesses and the National Cemetery. Additionally, these uses would be consistent with the City Neighborhood Area land use designation, which encourages a denser and primarily residential urban fabric. However, it is staff's opinion that the RMF-24 zoning district in this area would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025. City Plan 2025 encourages pedestrian-friendly buildings with entrances that address the street, utilizing principles of traditional residential urban design to create compatible, livable and accessible neighborhoods. This includes adequate transition to existing neighborhoods. The RMF-24 zoning district, when applied to large tracts of land, still permits the conventional, car-oriented development form that is clearly discouraged by the City's adopted goals and policies, and which would be inappropriate and incompatible with the form of development existing within this surrounding neighborhood.

The Downtown General zoning district, however, which allows by right the same residential uses as the RMF-24 zoning district, will more likely result in a development form that is consistent with the City's adopted land use planning objectives and principles of City Plan 2025. The build-to-zone and minimum building street frontage requirements of the Downtown General zoning district will ensure a traditional urban design and provide a pedestrian friendly streetscape, while also providing the potential for low-intensity nonresidential uses that in this form would be compatible with the established single-family neighborhood to the south and the higher intensity non-residential uses to the north and east.

RECOMMENDATION:

Staff recommends denial of the requested RMF-24 zoning district (RZN 09-3271 Sale Barn) based on findings stated herein, but does find that the City's adopted policies and objectives of City Plan 2025 support a Downtown General zoning district on this property.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>May 26, 2009</u>	☐ Tabled	☒ Forwarded	☐ Denied		
Motion: _____	Second: _____	Vote: <u>6-1-0</u>			
CITY COUNCIL ACTION:				Required	<u>YES</u>
				☐ Approved	☐ Denied
Date: _____					

INFRASTRUCTURE:

Streets: The site has access to National St, Dunn Ave. and 11th St. These are older partially

improved city streets. Street improvements will be evaluated with development submittal.

- Water:** Public water is available to the property. There is a 6" main along National St., Dunn Ave. and 11th St. The capacity of this main will need to be evaluated at the time of development to insure adequate flow for domestic and fire flows.
- Sewer:** Sanitary sewer is available to the site. There is a 6" public main along 11th St. The capacity of this line will need to be evaluated at the time of development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.
- Police:** It is the opinion of the Fayetteville Police Department that this RZN could substantially alter the population density, and will create an appreciable or undesirable increase in the load on police services. This RZN may create an appreciable increase in traffic danger and congestion. Concerns cited include an increase in traffic on these local streets and potential for accident/injury with the elevated traffic numbers.
- Fire:** This development will be protected by Engine 1 & Ladder 1 located at 303 W. Center. It is 1 mile from the station with an anticipated response time of 4 minutes to the beginning of the development. The Fire Department anticipates 39(25 EMS – 14 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out and the service impact to occur. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area, which encourages a denser and primarily residential urban fabric within a complete, compact and connected neighborhood.*

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 residential uses permitted in the RMF-24 zoning district would be compatible with the surrounding properties that are zoned RMF-24 and Downtown General, which include various commercial businesses, single and small multi-family residential units and the National Cemetery. Additionally, these uses would be consistent with the City Neighborhood Area land use designation, which encourages a denser and primarily residential

urban fabric. However, it is staff's opinion that the RMF-24 zoning district on a relatively large tract of land would permit a development form that would be contrary to the City's adopted land use planning objectives and principles of City Plan 2025, specifically related to the surrounding established land uses.

City Plan 2025 outlines actions that will assist the City in achieving its goal to make site-sensitive, appropriate infill a priority. Action III, to develop and implement a form-based code, was taken when the City adopted the Downtown zoning districts in 2007, which were specifically designed to preserve and maintain the character of Fayetteville's older neighborhoods in and near the downtown area. Staff finds that the conventional development product of the RMF-24 zoning district will not reflect the existing community character of the surrounding neighborhood dating back to the 1930s, particularly in an area that is transitional in use, from higher intensity commercial along a busy arterial to a single-family neighborhood. The fact that the existing neighborhood are also zoned RMF complicates matters; however, it is clear that the conventional form of a multi-family development pattern is not desirable nor appropriate in this area, even if the use is.

Goal 2, to discourage suburban sprawl, and Goal 3, to make traditional town form the standard, refer specifically to the practice of separating uses. Staff finds that a rezoning action should consider the short-term as well as the long-term redevelopment potential of a property. Staff does not support utilizing a conventional zoning district that promotes the separation of uses on a property that is adjacent to the Downtown Master Plan area, the Main Street/Center zoning district, and the Downtown General zoning district.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that a rezoning request for the subject property is justified and needed at this time, as the I-1 zoning designation is not consistent with the City Neighborhood Area land use designation for the subject property and permits uses that are not compatible with the adjacent properties. Furthermore, land use and development has shifted significantly since the 1950 development of the subject property for the sale of livestock. However, staff finds that an appropriate rezoning request for the subject property should result in a development form that is supported by City Plan 2025.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: It is expected that the request could result in the potential for an increase in traffic compared with that allowed under the existing zoning. However, if the

rezoning request is approved, staff and the Planning Commission will review development of the site at the time of Large Scale Development request, during which the proposed request will be expected to meet the minimum Access Management requirements of Chapter 166.08 Development and to provide street improvements to alleviate any potential detrimental impact.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property. The change in zoning to RMF-24 would not adversely impact public services.

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: While staff finds that the uses permitted under the I-1, Light Industrial zoning district are not desirable in this location due to the surrounding residential uses, staff also finds that the development form resulting from the conventional bulk and area requirements permitted in the RMF-24 zoning district is not compatible with the existing neighborhood, platted in 1934 and developed over time with a mixture of small single- and multi-family residential types.

Adjacent to the subject property are the Downtown Master Plan Area and the Main Street/Center zoning district to the north and the Downtown General zoning district to the east. Staff finds that extending the adjacent Downtown General zoning district would be more appropriate for the redevelopment of the subject property and would be more consistent with City Plan 2025.

RZN 09-3271: Rezoning (SALE BARN / CAMPUS CREST LLC, 562): Submitted by JORGENSEN & ASSOCIATES for property located at THE OLD WASHINGTON COUNTY SALE BARN, N & E OF 11TH AVENUE AND GOVERNMENT AVENUE. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 8.87 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family 24 Units per Acre. Planner: Dara Sanders

Public water is available to the property. There is a 6" main along National St., Dunn Ave. and 11th St. The capacity of this main will need to be evaluated at the time of development to insure adequate flow for domestic and fire flows.

Sanitary sewer is available to the site. There is a 6" public main along 11th St. The capacity of this line will need to be evaluated at the time of development.

The site has access to National St, Dunn Ave. and 11th St. These are older partially improved city streets. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

B. 1
RZN 09-3271
(Sale Barn/Campus
Crest LLC)
Page 15 of 106

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: David Williams
Date: May 19, 2009
Re: RZN 09-3271: Rezoning (SALE BARN / CAMPUS CREST LLC, 562)

This development will be protected by Engine 1 & Ladder 1 located at 303 W. Center. It is 1 miles from the station with an anticipated response time of 4minutes to the beginning of the development.

The Fire Department anticipates 39(25 EMS – 14 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out and the service impact to occur.

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.

Fire Marshal
Fayetteville Fire Department

Date 5/19/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

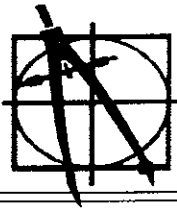
Dear Director Pate,

This document is in response to the request for comments on proposed R-PZD 09-3271 (Sale Barn / Campus Crest LLC, 562) Submitted by Jorgensen & Associates for property located at the old Washington County Sale Barn, N & E of 11th Street and Government Avenue.

It is the opinion of the Fayetteville Police Department that this RZN could substantially alter the population density, and will create an appreciable or undesirable increase in the load on police services. This RZN may create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

B. 1
RZN 09-3271
(Sale Barn/Campus
Crest LLC)
Page 17 of 106

3/30/09

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

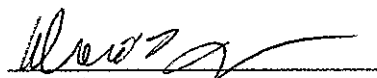
Attn: Planning Department
Re: Rezoning of Washington County Sale Barn

Attached please find the application and documents for the rezoning of a part of what is presently called the Washington County Sale Barn. This property is located east of Government Street and North 11th Street. A portion of this property is RMF-24 and the remainder is I-1 which is the portion that we are requesting to be rezoned to RMF-24. There is an existing 6" waterline on 11th Street, Dunn Avenue and Government Avenue. There is an existing 8" sewer on Government and also to the north there is an existing 8" sewer. Access to this property is by 11th Street, Dunn Avenue and Government Avenue. Property to the east is zoned Downtown General, to the south is I-1 and RMF-24, to the west is the National Cemetery (RMF-24) and to the north is MSC.

Please call concerning any questions you may have.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

From: Andrew Garner
To: Sanders, Dara
CC: Monreal, Cindy
Date: 4/20/2009 1:18 PM
Subject: Fwd: [Form mail from AccessFayetteville] - Apartments/Student housing proposals

Dara,
Please print this comments and place in the RZN file for the sale barn.

Cindy,
Please respond to this comment and let the person know that we will review their comments and also share them with the Planning Commission when the requested rezoning on the property is heard at a public hearing.

Thanks,
Andrew

Andrew M. Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Tel.479.575.8262
Fax.479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org

>>> Planning 4/16/2009 1:52 PM >>>

Hi Andrew,
I got this one and I know we do not handle this side of it, but was not sure how to answer it.
Could you advise?
Cin

>>> <haletownhill@yahoo.com> 4/15/2009 12:34 PM >>>

From: Scott Hill
Email: haletownhill@yahoo.com
To: planning@ci.fayetteville.ar.us
Subject: Apartments/Student housing proposals

Message:

Hello:

I am aware of the proposed "student housing" apartment complex for the site of the sale barn in south Fayetteville.

I am not opposed to student housing, or apartments, but I am opposed to the way they are built in Fayetteville.

Please take a look at the Cotton District which is adjacent to Mississippi State University in Starkville, Mississippi. Here is a link:
<http://www.thecottondistrict.net/photos.php>

Please take a look at this. It is so great. And its an example of how student oriented, studio and 1 and 2 br apartments can be made into a valued part of the community, rather than a walled-off, generic, depressing fortress.

The Cotton District has become so popular, that it is home to city festivals, art walks, etc.

http://www.tndtownpaper.com/Volume4/new_towns_cotton_district.htm

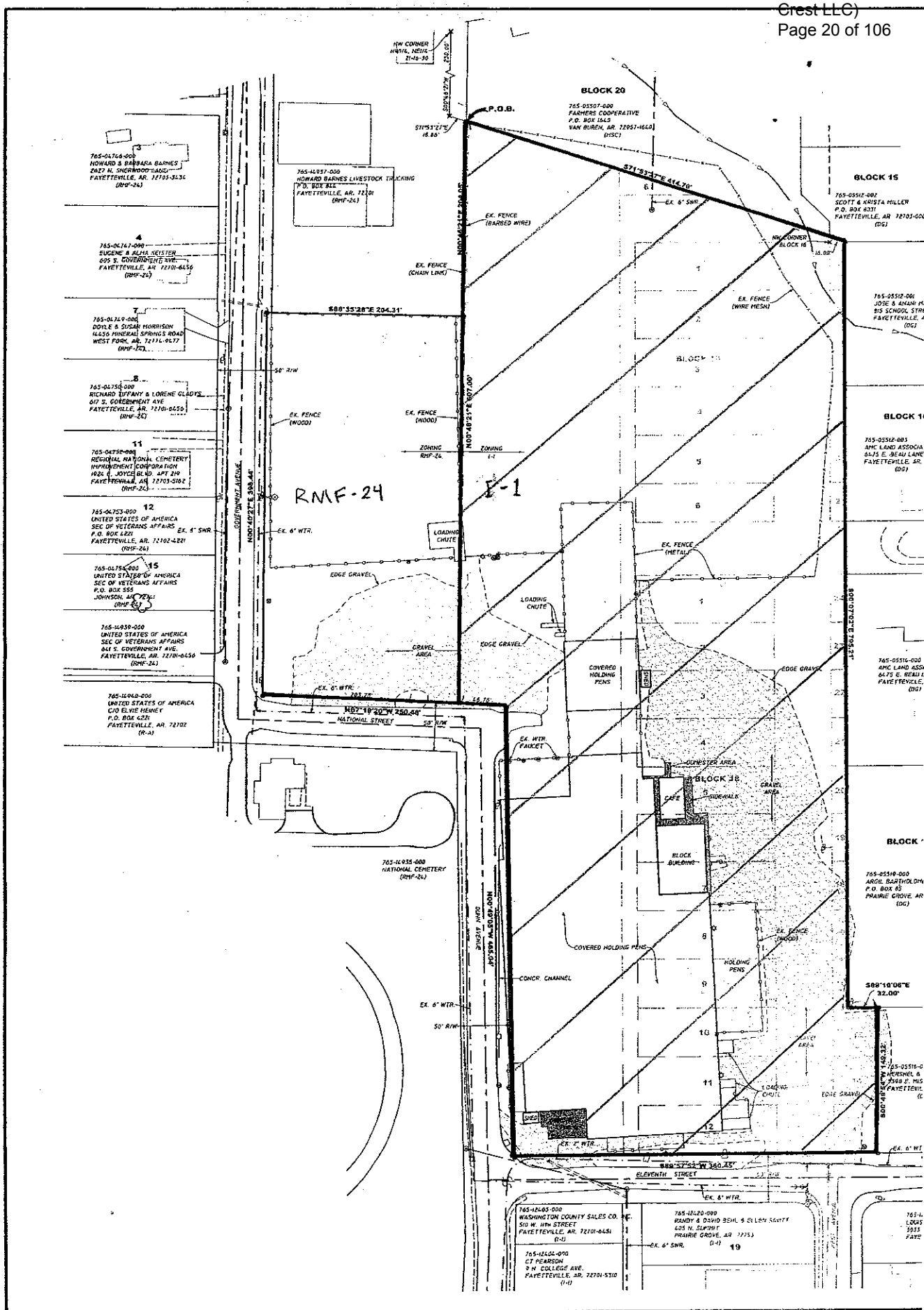
Google "Dan Camp" and "Cotton District" for research.

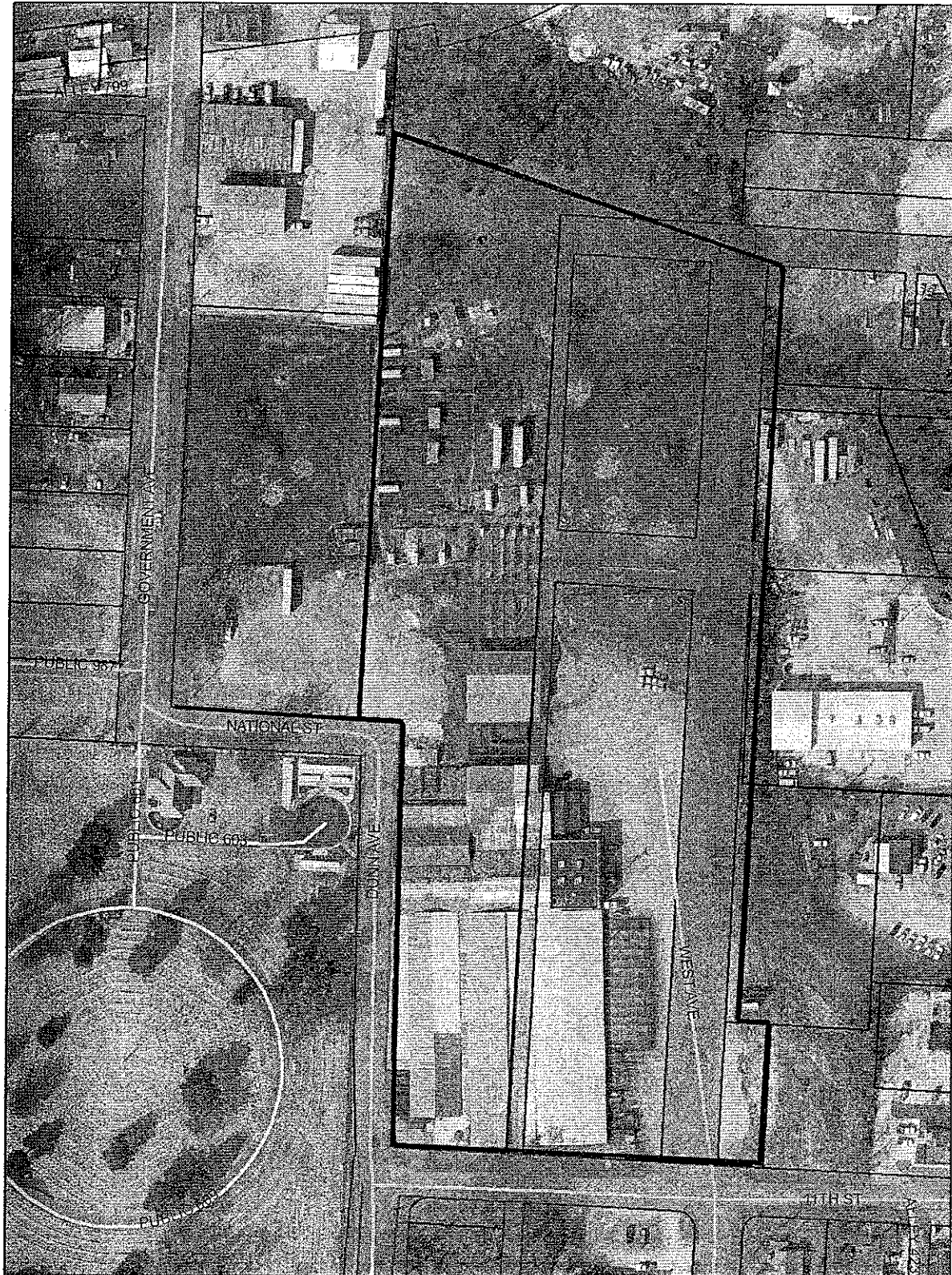
Public
comment

I really see how the areas north of the campus, along Leverett, and the areas to the south could be transitioned into something wonderful like The Cotton District with the proper planning.

Thanks for your hard work to make our city better.

Scott





RZN 09-3271 (Sale Barn)



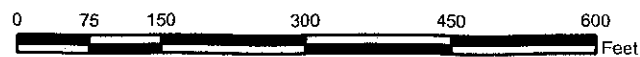
RZN09-3271

SALE BARN/ CAMPUS CREST LLC

Close Up View



Overview



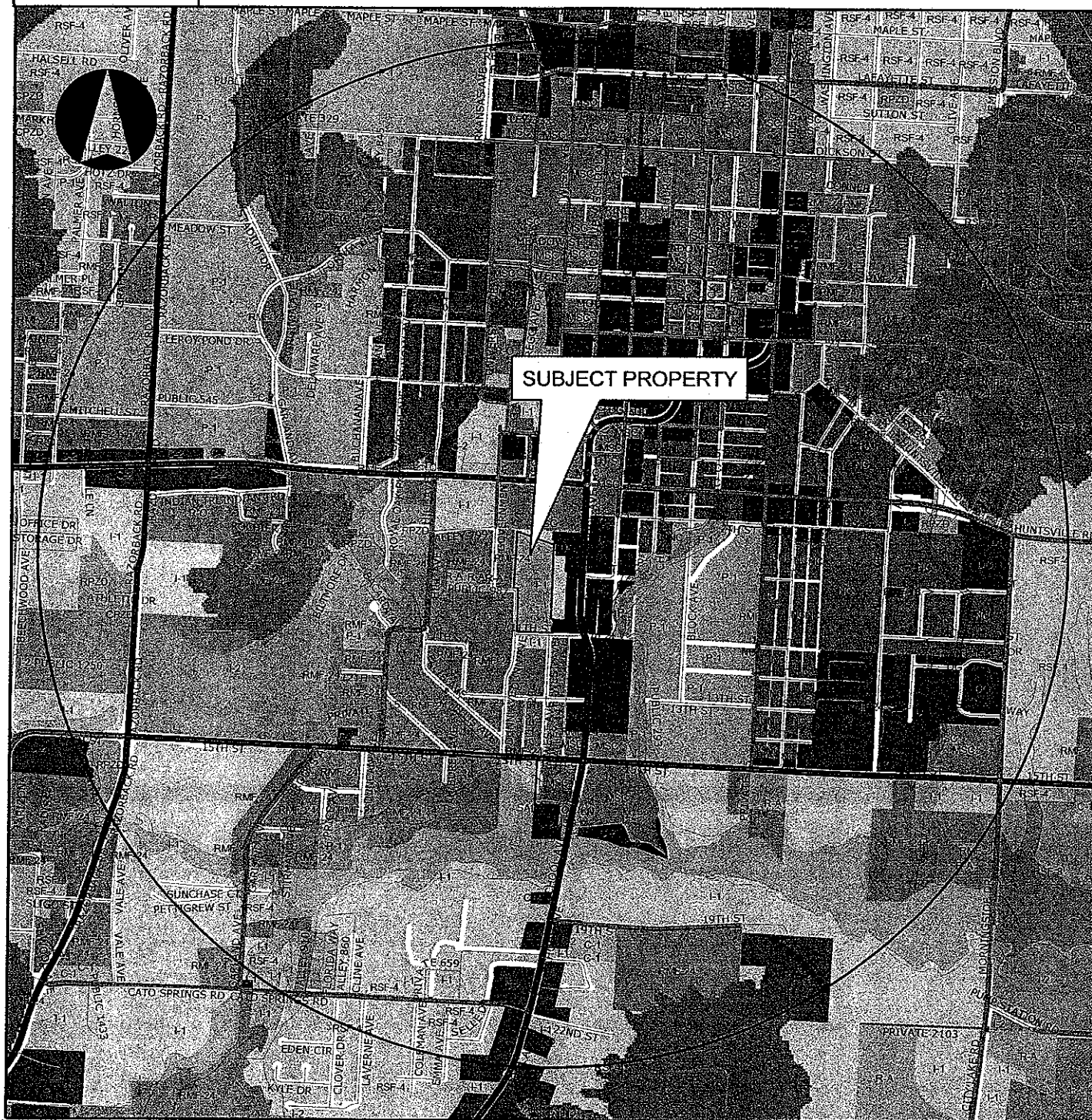
Legend

- RZN09-3271
- 0.2% Chance Floodplain (500 - yr Floodplain)
- Zone A, 1% Chance Floodplain (100 - yr Floodplain)
- Zone AE, 1% Chance Floodplain (100 - yr Floodplain)
- 2007 Footprints
- Design Overlay District
- Fayetteville
- Planning Area
- Fayetteville

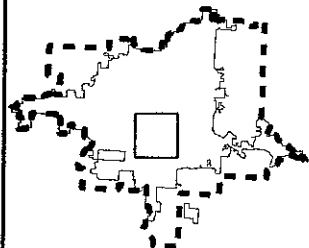
RZN09-3271

One Mile View

SALE BARN/ CAMPUS CREST LLC



Overview



Legend

Subject Property

RZN09-3271

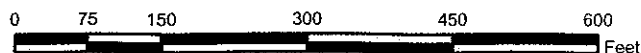
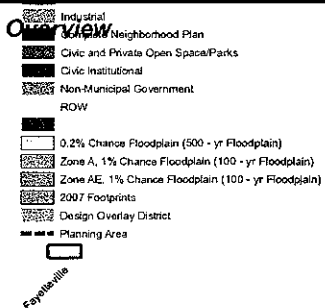
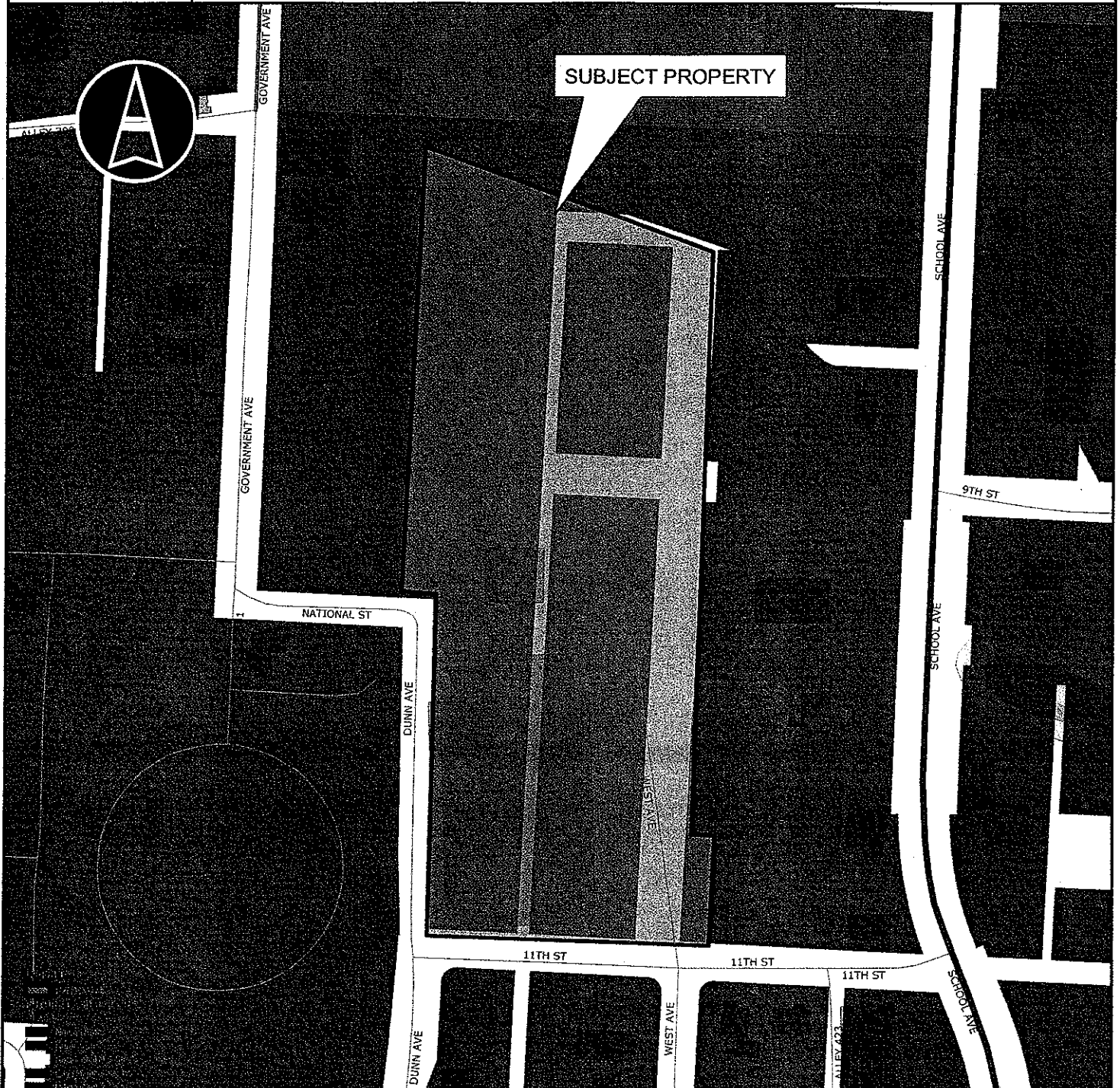
Boundary

0 0.25 0.5 1 Miles

RZN09-3271

SALE BARN/ CAMPUS CREST LLC

Future Land Use



City Clerk - Please do not vote for Downtown General zoning of sale-barnproperty next to cemeteries

From: Lauren Hawkins <ldhdesign@hotmail.com>
To: <adellag@cox.net>, <ward1_pos1@ci.fayetteville.ar.us>,
<bthiel@cox.net>, <ward3_pos2@ci.fayetteville.ar.us>,
<ward2_pos1@ci.fayetteville.ar.us>,
<citycouncil@matthewpetty.org>, <rrhoads@hallestill.com>,
<sarah@springlinegroup.com>, <sel01@uark.edu>,
<sarah.lewis@spring-line.com>, <slucasward4@aol.com>,
<ward4_pos1@ci.fayetteville.ar.us>, <city_clerk@ci.fayetteville.ar.us>
Date: 7/6/2009 12:49 AM
Subject: Please do not vote for Downtown General zoning of sale-barnproperty next to cemeteries

Dear members of the Fayetteville City Council:

I am a homeowner on the south side of Fayetteville — a field away from Pinnacle Foods, the train track, a neighborhood vest-pocket park and with the sale barn.

The blocks that separate me from the sale barn are mostly in the Fayetteville National Cemetery. The cemetery is one of only a few hundred across the country. It is on the National Register of Historic Places and now recognized as a National Shrine.

Many homes in this neighborhood were here when the sale barn was built. The cemetery was. My house was. Two close neighbor's houses were, though one was moved about 200 feet east by mules about the time sale barn was built. A house or two up the road were here to see the Butterfield stagecoach deliver mail. The rest of the neighborhood has grown up with the sale barn as its neighbor.

It is a quiet single-family neighborhood primarily, with a mix of light-industrial, agricultural, a few duplexes and a 12-unit single-story apartment building. The population includes a mix of young families, middle-aged and older folks living here.

This unique neighborhood is one that deserves to be preserved, as we see new developments attempt to emulate much of what we have.

The sale barn has met a few battles as Fayetteville grew up around it, I gather. Established use and preservation of a way of life have won its favor many a time.

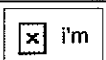
The only thing that makes a bit of sense is to rezone the whole area to neighborhood conservation. Period.

The proposal to rezone the parcel to allow such things as rent-by-the-room student apartments is simply incompatible with the surroundings. We owe our veterans' final resting place as much.

Present estimates of the Fayetteville National Cemetery are for capacity to meet demand for the next decade. Will we have our troops out of harm's way by then?

I urge the Fayetteville City Council to be good stewards and take the opportunity to rezone to neighborhood conservation and nothing less.

Lauren Hawkins



EMAILING FOR THE GREATER GOOD

[Join me](#)

June 25, 2009

Chris B. Traxson

805 Riviera Dr.

Rogers, AR 72758

Attn: City Council

City of Fayetteville

113 W. Mountain St.

Fayetteville, AR 72701

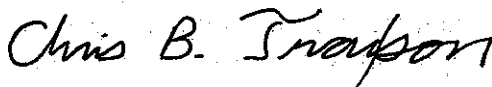
Dear City Council:

I saw on KNWA news the evening of June 24, 2009 about proposed plans to build an apartment complex across from the National Veterans Cemetery in Fayetteville. I am absolutely opposed to building an apartment complex across from the sacred ground of the veteran's cemetery. Building an apartment complex would cheapen the land around the cemetery and is a slap in the face to the honorable men and women laid to rest there, and the families of these individuals.

I don't live in Fayetteville but I am a disabled veteran who was injured by a roadside bomb while fighting against terrorists in Iraq. I have a very good friend who rests in that cemetery and I oppose this development in his honor. It's a proven fact that where an apartment complex is built, crime increases. I don't want to see an increase in crime near the cemetery where the potential for vandalism of gravesites would increase. The noise around the cemetery would also increase which would take away from the serenity and peacefulness of visiting the cemetery.

As a show of respect for those resting forever in the cemetery, please oppose this plan and build somewhere else. Thanks for your time.

Respectfully,



Chris B. Traxson – USMC (ret.)

From: Sondra Smith
To: Pate, Jeremy
CC: Aldermen
Date: 7/13/2009 4:52 PM
Subject: Campus Crest Application
Attachments: Campus Crest Request to Table.doc; Sondra Smith.vcf

Hello all

Campus Crest would like their item tabled to the first meeting in August. I told them that the City Council will have to vote to table this at the City Council meeting on July 21, 2009 and that it would be the City Council's decision whether to table it or not.

Sondra Smith CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> "Bob Estes" <bobestes@arkansas.net> 7/13/2009 4:10 PM >>>

Bob Estes

One East Center Street, Suite 200

Fayetteville, AR 72701-5302

Phone 479-521-4900

Facsimile 479-587-0700

email bobestes@arkansas.net

NOTICE:

This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged. The information contained in this email is intended only for the use of the individual or entity named above. If you are not the intended recipient, you must not review, retransmit, convert to hard copy, copy, and use or disseminate this email or any attachments to it. If you have received this email in error, please immediately notify us by return email or by telephone and delete this message, as well as any attachments.

Thank you.

From: Chris Russ [<mailto:chris.russ@campuscrest.com>]
Sent: Monday, July 13, 2009 2:44 PM
To: Bob Estes

Cc: alex@browningeyssen.com
Subject: Campus Crest Application

Please let this serve as our request to have our re-zone application postponed from the July 21, 2009 City Council meeting to the next regularly scheduled meeting. Thank you for your assistance.

Regards,

Chris Russ, PE

<<http://www.gogrove.com>>

GoGrove

Chris Russ, PE
Development Manager

Campus Crest Development, LLC

<<http://maps.yahoo.com/py/maps.py?Pyt=Tmap&addr=2100+Rexford+Road&csz=Charlotte%2C+NC+28211&country=us>> 2100 Rexford Road
Suite 414
Charlotte, NC 28211

<<mailto:Chris.Russ@campuscrest.com>> Chris.Russ@campuscrest.com

tel:
mobile:

<http://www.plaxo.com/click_to_call?lang=en&src=jj_signature&To=704%2E496%2E2528&Email=chris.russ@campuscrest.com> 704.496.2528

<http://www.plaxo.com/click_to_call?lang=en&src=jj_signature&To=704%2E578%2E3161&Email=chris.russ@campuscrest.com> 704.578.3161

<http://www.plaxo.com/signature?src=client_sig_212_1_banner_sig>=en> Want a signature like this?

Checked by AVG - www.avg.com

Version: 8.5.387 / Virus Database: 270.13.8/2227 - Release Date: 07/13/09

05:56:00

City Clerk - Please forward to all City Council Members

From: Kathy Kisida <mail4ktk@yahoo.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 8/18/2009 8:21 AM
Subject: Please forward to all City Council Members

Dear city council members,

I know that campus Crest is still working on a bill of assurance and will ask for an extension again. I just wanted you to know that no matter what they offer it does not change anything as far as how the neighbors or the veterans feel.. I have talked to several neighbors and veterans, the issue of density, noise, traffic etc will be the same. I have heard rumors on what they will offer, please do not let deflect what the real issues are.

At our neighborhood meeting on June 8, Alex Eysson said that they have a group of investors that they have to satisfy, and there only model of building is student housing rented out by the room, they build nothing else. Also that to make enough money for their investors they never build less than 192 apts/512 people. So whatever they do offer they will surely not be changing that.

A buffer zone, donating land to the National Cemetery, or whatever else, it will not make a difference. It seems that they want to take attention off of the main issues concerning the neighbors & veterans, sort of soften the blow, or throw us a bone to appease the veterans and city council. Nothing will make it right.

When I walk my dogs everynight I can't help but think how an additional 512 people on our streets will affect me. Right now hardly a car goes by, isn't that the way a neighborhood street is supposed to be? A neighborhood street is used almost solely by residents. That is why there is zoning, to protect people from the busy streets such as School Ave. Zoning should define neighborhoods such as ours as to not allow large apartment complexes to be built within our midst. Something like this should be built along Razorback Rd, south of 6th St. for instance. Not within the midst of a neighborhood so small as ours is. Our streets were not designed to accommodate traffic that will be generated with an additional 500 cars plus the transient traffic such as visitors. The driving habits of college students are quite different than of a family.

Below are the city minutes from Jonesboro AR. It clearly shows the problems that can occur here also if Campus Crest builds in our city.

Please read this and support the neighbors.

Sincerely,
Kathy Kisida


900 West Monroe
Jonesboro, AR 72401

City of Jonesboro
Meeting Minutes
Public Safety Council Committee

5:15 PM
Huntington Building
Tuesday, November 18, 2008

1.

Call To Order

Chris Moore;Tim McCall;Mitch Johnson;Harold Perrin and Faye McCall

Present 5 -

Judy Furr

Absent 1 -

November 18, 2008

Public Safety Council Committee

Meeting Minutes

This item was Read.

COM-08:159

Discussion of The Groves Apartment Complex

Sponsors:

Police Department

Disorderly House ordinance

Attachments:

Chairman Moore asked the latest incident at The Grove not be discussed because of an ongoing investigation by the Jonesboro Police Department. **He explained the police have been called out within a 3 month period 148 times, \$20,000 in payroll, not including benefits and overtime, has been spent answering calls and 3 Police Officers have been injured at The Grove.** He asked what the solution to fix this problem would be. Chief Yates explained most of the problem at the apartment complexes stem from the way management conducts business. He added the police have used the nuisance abatement law, but it does not work well because the people move from one apartment or house to another place and it can take up to 24 months to have the case decided. He suggested having a ordinance that would require the leasee or the owner of property be held responsible. Chief Yates stated approximately 5% of the apartment complexes are responsible for 30% of the police calls.

Councilman Perrin questioned if the nuisance abatement ordinance was directed more to the tenant than the property owner. Chief Yates stated the nuisance abatement ordinance is directed more to the property owner than the tenant. He added the disorderly house ordinance is directed more towards the tenant. He explained the nuisance abatement ordinance could be very effective if staffing was available to enforce it. Councilman Perrin questioned whether the law or staffing was the problem with enforcing the law. Chief Yates answered staffing is the problem with

trying to enforce nuisance abatement.

Further discussion was held concerning different **problems** and laws to deal with the **problems**. Chief Yates explained this ordinance is designed for places that have continuing issues with controlled substances, alcoholic beverages violations and gaming issues. He added it is not for the first time offense where someone has a party at their house. He also added he and Mr. Crego disagree on the constitutionality of the ordinance.

Councilman Tim McCall asked if Mr. Crego had looked at the ordinance. Chief Yates answered the ordinance was in Legistar before but it was denied. Councilman McCall suggested Chief Yates work with Mr. Crego on the ordinance and bring the ordinance back to the committee.

Councilman Moore suggested using laws that had been upheld in court instead of creating a new law. Chief Yates explained he took the disorderly house ordinance

from Georgia state law and converted into an ordinance for the City of Jonesboro.

This item was Read



August 17, 2009

Regional National Cemetery Improvement Corporation
Attn: Roger McClain
P.O. Box 4221
Fayetteville, AR 72702

Re: Fayetteville National Cemetery

Dear Mr. McClain;

I am writing on behalf of Campus Crest Development ("Campus Crest"). As you are aware, Campus Crest seeks to construct a student housing development on property east of the Fayetteville National Cemetery ("the Cemetery"). The actual site of our project is the Washington County Livestock Auction.

At this time, I am attempting to identify the appropriate individual or entity by which I can directly communicate regarding this project. For several weeks, I have been in communication with Lt. Col. (ret.) Jim Buckner. Our most recent discussion occurred at the Cemetery on August 11, 2009. However, at that time it was first disclosed to me that Lt. Col. Buckner did not have the consent or authority to represent the Regional National Cemetery Improvement Corporation or the Department of Veterans Affairs. As such, it is my understanding that any agreements, representations, or negotiations between Lt. Col. Buckner and Campus Crest cannot be accepted or acted upon by any controlling or overseeing agency.

Could you please advise me with whom Campus Crest can discuss this project? In short, Campus Crest desires to make a good faith effort to work with the appropriate individual or entity that has any decision-making authority regarding the Cemetery. However, until such individual or entity is acknowledged, Campus Crest is unable to move forward with discussions that might impact and possibly benefit the Cemetery.

In addition, it has been expressed the Cemetery is land-locked and that the only available land for expansion is the Washington County Livestock Auction. However, this is not inaccurate. I have enclosed a map showing the Cemetery and the adjacent land. There are several lots owned by individuals and entities that are contiguous to the Cemetery. Some of these lots are available for immediate purchase. At your convenience, I would like the opportunity to discuss and explore options for expansion.

Overall, I look forward to your advice and recommendations regarding who is the appropriate contact person for these discussions.

Please do not hesitate to contact me via telephone on (325) 370-8121, by e-mail at alex.eyssen@campuscrest.com, or by mail at P.O. Box 1600, Abilene, Texas 79604.

Kind regards,



Alex B. Eyssen
Regional Development Partner
Campus Crest Development

CC:

Fayetteville National Cemetery
700 Government Avenue
Fayetteville, AR 72701

Lt. Col. (ret.) Jim Buckner
5413 W. Wheeler Road
Fayetteville, AR 72704

The Honorable Lioneld Jordan

The Honorable Adella Gray

The Honorable Brenda Thiel

The Honorable Kyle Cook

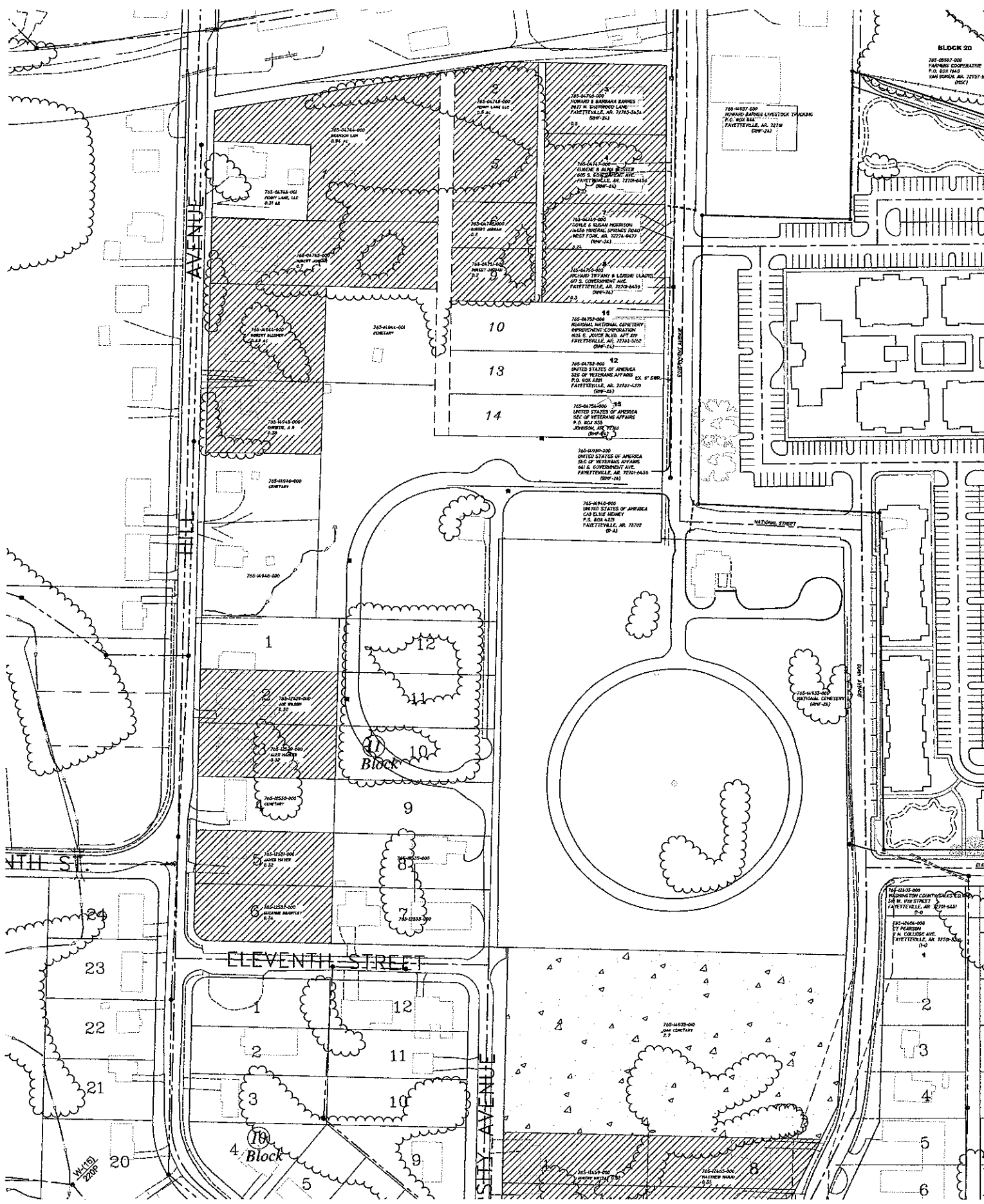
The Honorable Matthew Petty

The Honorable Robert Rhoads

The Honorable Bobby Ferrell

The Honorable Shirley Lucas

The Honorable Sarah Lewis



Petition to City Council

B. 1
RZN 09-3271
(Sale Barn/Campus
Crest LLC)
Page 36 of 106

We the undersigned are requesting that the Town Branch neighborhood be rezoned to "neighborhood conservation" including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it into line with the 2025 Master Plan.

Please consider that the Hill Place complex and the Campus Crest proposal combined would add more than 1,300 residents to this small single-family neighborhood.

We feel that this will adversely affect the neighborhood in many ways, including but not limited to: Traffic, safety and fire protection, noise, litter, and decrease in value of adjoining land. We feel that the current RMF-24 zoning of the neighborhood does not match the actual single-family development of this neighborhood. We also believe that the proposed "Downtown General" is incompatible with the existing neighborhood and the National Cemetery.

Name	Signature	Address w/zip	Phone	Email
Cheryl Hinkle	Cheryl Hinkle	106 W. 5th St FV, AR 72701		
Ellen Parker	Ellen Parker	3142 E. Grey Stone FV, AR 72764	756-8484	
Chase Davis	Chase Davis	4245 W 6th FV AR, 72704	709-4724	
C DART		2301 W Deane FV AR 72703		
Melony Wells	Melony Wells	532 - W 13th		
Sharon Wimberly	Sharon Wimberly	1106 Ridgeway 72701 Fay. AR		
Elois Truisty	Elois Truisty	424 Sanglewood 970-2400 Fay. AR		
Dina Romero	Dina Romero	322 E. 12th St Fay. Ar - 906-7680	906-7680	dinarebka@hotmail.com
Shirley Ridenour	Shirley Ridenour	1149 Morningside Dr.	479 5215548	none
Debra McMillan	Debra McMillan	312 Nonnamaker Fayetteville AR 72702	479- 444-7211	
Donna Dunn	Donna Dunn	2020 Cline Fayetteville AR 7201		mastreco4@yahoo.com
Valetta Collins	Valetta Collins	751 Wood Ave	445-6628	
Tawana Bradford	Tawana Bradford	311 E 12th St	236-4622	serree1202@gmail.com
Ira Boxey	Ira Boxey	414 E 12th St	502-0228	
William Taylor	William Taylor	934 Silverado Fayetteville AR	313 2912	
Michelle Wright	Michelle Wright	1210 S. University Ave Fayetteville, AR	409- 3089	
Deanna Hunter	Deanna Hunter	820 #2 S. College FAY AR	521- 8983	

Dianna Jackson - TOBACCO OUTLET

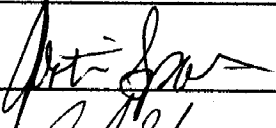
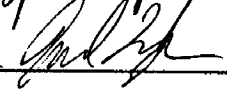
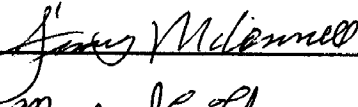
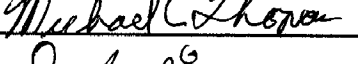
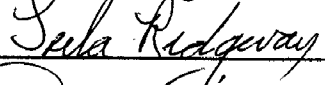
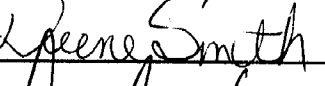
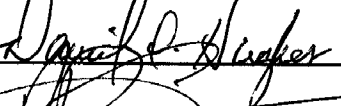
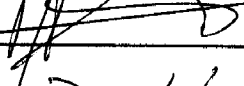
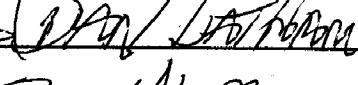
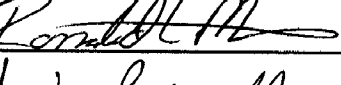
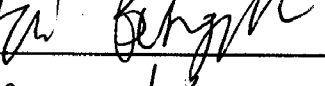
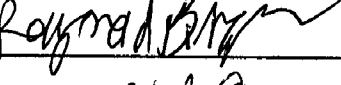
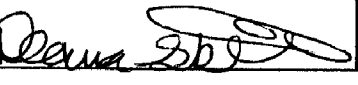
Petition to City Council

B. 1
RZN 09-3271
(Sale Barn/Campus
conservation)
Page 47 of 106

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Name	Signature	Address w/zip	Phone	Email
Justin Spann		725 Skelton St Fayetteville 72701	479 479 1966	1250
Jarrel Langlin		1497 S. West Ave	479-304-0070	jarrel21670@att.net
James McDaniel		1160 Redwood Rd	445-9099	-
MICHAEL C THOMAS		1920 KAYWOOD	-	-
Sula Ridgway		1834 Ashwood	966-0082	
Deene Smith		1952 Ashwood	502-2418	-
DABO HUGHES		12066 S. Harris Rd	871-8328	
Jordan Seals		206 E. ILLIK		
Don Latham		55 E 15th Rd	313 5859	
Ronald M		3832 Ed Edwards R	521 8871	
Lori Bingham		3373 W Harvard Fay	479-269-8121	Lori-Bingham@exha
Raymond Bingham		3573 W Harvard Fay	479-269-8112	
Michael Conn		409-0995		
Lorane Gradiaker		112 S. Hill #17	479-935-5137 479-409-2585	loranegradiaker@aol.com
Jer Williams		9566 Skelton	871-9297	
Donald Bates		6512 S. Hwy 71 West Fork AR	439-0205	
Deanna Skelton		16085 S. Hwy 265 West Fork AR	761-3212	

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Cheryl Gibson	Cheryl Gibson	1432 Van Buren Fay 72701		
Chad Sisson	Chad Sisson	1420 West Ave. Fayetteville, 72701		
Latoya Mahone	Latoya Mahone	Fay 72701		
Latoya Thompson	Latoya Thompson	Fayetteville 72701		
Johnnie Turner	Johnnie Turner	4699 Honda Ln. Fayetteville, 72701	587-8155	
Dusty Danney	Dusty Danney	Fayetteville 72701	479 443-3084	
Calie Daniels	Calie Daniels	Fayetteville AR 72701	479- 443-3084	
Dudley Daniels	Dudley Daniels	Fay, Ar.	443-3084	
Angely Baston	Angely Baston	West Fork AR 72773		
Sherry Good	Sherry Good	Fayetteville		
John Apida	John Apida	4528 E. Huntsville Fayetteville		
James Good	James M Good	Fayetteville		
Kimberly Smith	Kimberly Smith	401 W. 24th St. Apt 15 E Fayetteville		
Lisa Katherland	Lisa Katherland	3361 City Lake Rd Fayetteville AR		
JACK SARGENT	JACK SARGENT	#1 N. DOLLARD Fayetteville AR	527-6906	
Melody Martin	Melody Martin	312 S College Fayetteville		
Jimmy Head	Jimmy Head	1934 S Ashwood Fayetteville AR	871-9550	
Chris		72701#		
TOBACCO OUTLET				

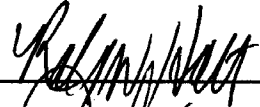
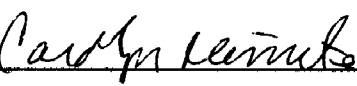
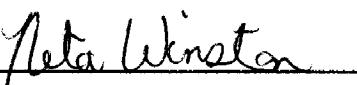
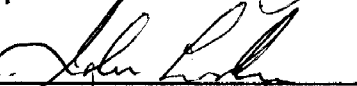
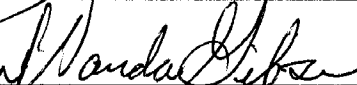
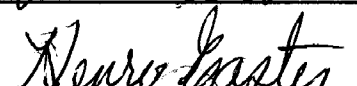
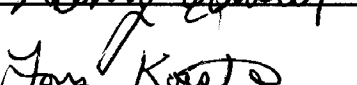
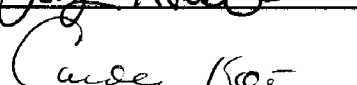
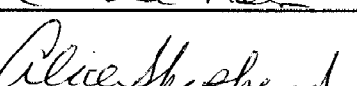
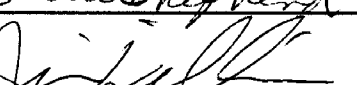
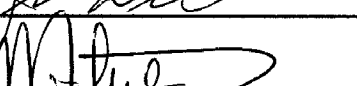
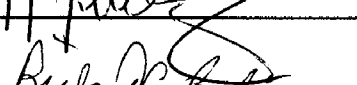
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Name	Signature	Address w/zip	Phone	Email
RALPH HOLT		427 W. W. CAMPUS FAYETTEVILLE 72704	587-9501	
DAVID DOOSON		11 W 15th FAYETTEVILLE	382-0394	DAVID DOOSON Sr @HOTMAIL.COM
MELINDA DOOSON		" "	" "	
CAROLYN DIEMANTE		12100 E. K. Ridge	443-4191	
NETA WINSTON		2877 South LEO Ammens Rd. FAY, AR.	479 587-9484	
CECIL BLACK		520 Gundersen St Fayetteville	871-2042	
ERIC ERIC DIEMANTE		12100 E. K. Ridge Rd.	443-4191	
ROSS BOLLAARD		915 7 Hills Ct		
JOHN ROSCHKE		1419 E. Seagrave St Middletown, CO	582-2400	
WANDA GIBSON		P.O. Box 38		
HENRY GAST		Dr. H. H. Gast P.O. Box 625, Ark.	305-8011	
JAY KOSTER		8013 14th Place S. W. Palm Beach FL	561 301 9920	LLICESTER BECKWITH.NET
CAROLE KOSTER		8213 7th Rd. SE W. Palm Beach, FL 33411	561 324-0044	
ALICE SHEPHERD		1651 N. Broadview Fayetteville, AR.	527, 9537	
JIM WILKINS		238 S. College Ave.		
MICHELLE VINAY		234 Samuel Farmington AR 72730	267- 5194	
RUBEN E. BILSON		13763 B. B. B. Rd Ark. 72730		

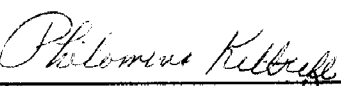
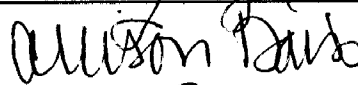
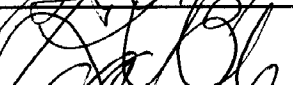
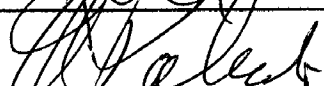
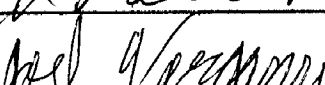
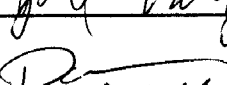
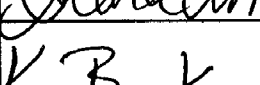
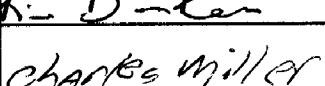
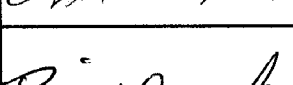
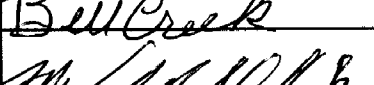
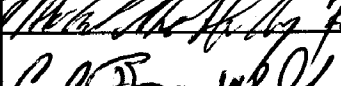
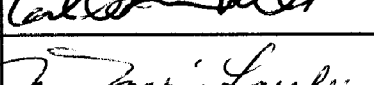
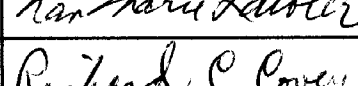
Petition to City Council

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RZN 09-3271
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Crest LLC)
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Name	Signature	Address w/zip	Phone	Email
PHILOMENA KITTRELL		116 Cydnee St Fayetteville, AR	479 444-8183	CARPHIL@CGT.NET
Bailey Boyd		3170 W. Essex FAY, AR 72704	772- 742-4571	bmb@jag88@yahoo.com
Allison Davis		3454 W. Tanyard FAYETTEVILLE, AR 72704	501-620- 0883	allie-324@yahoo.com
Stephan Gray		4432 New Bridge FAY 72704	449 6492	
LARRY Ash		3065 N. COLLEGE FAY, AR 72705	479 466-1767	LVASH@COX.NET
Tom Paladino		21333 Penny Road Springdale 72764	750 2553	
Joel Vargo		327 S University	391-9026	
Dominic Webb		16954 Hammer Rd	524-5753	N/A
Alana Cuffie		1706 W. Minors	522-4801	N/A
Kim Barker		784 15th St	442-3821	N/A
CHARLES Miller		1629 S. Price Ave	251-8327	—
Bill CREEK		2192 W. Stone St	935-5817	—
MICHAEL GENE Holloway		2192 W. Stone St APT #6 FAY AR	935-5817	—
CARL BARNWELL		654 West Blocker Cedar, OK 74338	918 326-0230	clarnw@centurytel.net
JAN MARIE LAWLER		68 S. KESTREL DR FAYETTEVILLE AR 72701	479- 442-2263	nlawler@uark.edu
RICHARD C. COVEY		68 S KESTREL DR, FAYETTEVILLE AR 72701	479- 442-2263	
Eden-2013		257 ARCH RD FAY, AR	479-443 0907	N/A

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[illegible]

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Name	Signature	Address w/zip	Phone	Email
Valerie Hogmire	Valerie Hogmire	521 N College Ave 72701	419 443-3621	_____
Brian Leek	Brian Leek	886 Eastview	443-9857	_____
GEORGE KELKA	George M Kelka	859 Mad. 6290	456-2503	_____
Matthew Osburn	Matthew Osburn	2320 C. Magnolia Dr.	443-7835	_____
JOHN WEAVER	John Weaver	1460 PARADISE LN	790-8614	_____
Chris Legg	Chris Legg	642 Hill Ave	443-7763	_____
XXXXXXXXXX				
RONNIE B CHAMBERLAIN	Ronnie B Chamberlain	598 White Dock St FAY. AR 72707	527 6824	_____
TRAVIS BRADLEY	Travis Bradley	539 W. WILSON ST FAYETTEVILLE AR 72701	305-0124	_____
Judy Daniels	Judy Daniels	1555 W. Martin Luther King Blvd. 72701	_____	_____
Dusty Daniels	Dusty Daniels	1555 Martin Luther King Blvd 72701	200-9479	_____
Callie Smith	Callie Smith	1355 Martin Luther King Blvd 72701	305-2981	_____
Donna Good	Donna Good	271 Hayes St West Fork, AR	530 5315	_____
XXXXXXXXXX		562 Forest Fayetteville	790 82 69.	_____
MARK MONCRIEF	Mark Moncrief	3374 E Hartselle Rd FAY. AR. 72701	587/0511	_____
Daniel Howard	Daniel Howard	1046 W Pettigrew FAYETTEVILLE AR 72701	313-1858	_____
DONNA K KNEE	Donna K Knee	2028 Birch Ave	_____	_____

We the undersigned are requesting that the Town Board recognize the neighborhood conservation including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it in line with the 2025 Master Plan. Please consider that the Hill Place complex and the Campus Crest proposal combined would add more than 1,300 residents to this small single-family neighborhood. We feel that this will adversely affect the neighborhood in many ways, including but not limited to: Traffic, safety and fire protection, noise, litter, and decrease in value of adjoining land. We feel that the current RMF-24 zoning the neighborhood does not match the actual single-family development of this neighborhood. We also believe that the proposed "Downtown General" is incompatible with the existing neighborhood and the National Cemetery.

Name	Signature	Address w/zip	Phone	Email
Bruce Carroll		17334 Brentwood 72701	236-2161 790	
Andre Harris	Andre Harris	112 Hill St.	9705	
Candi Whitaker	Candi Whitaker	1866 Madison Ave 72701	990-3558	
Kathy Upmeyer		633 Government	443-5524	
Jeff W. W. Mann	Jeff W. W. Mann	14943 Cove Creek	761-2923	
Willard Mann	Willard Mann	1010 Pettigrew	856-3397	
Danny Smith		19296 Tuttle Rd	444-7513	
Becky McMullen		106 Cynthia Ave Farmington AR 72730		
Philip McMullen		106 Cynthia	856-9027	
Ladana Curtis	Ladana Curtis	22631 N Hwy 71	634-2123	
Dan Reynolds	Dan Reynolds	10054 Devils Den Rd Winston AR		
Samuel Reynolds	Samuel Reynolds	315 S. Block #13 Fayetteville, AR 72701	522-1252	
Frank Kelly	Frank Kelly	1201 Morning Side Dr Fayetteville	443-3418	
Janet Pryor	Janet Pryor	3480 Huntsville Fay. AR. 72701	502-5800	
Imber Thomas	Imber Thomas	308 Station	203-3134	
Nathan Wilkes	Nathan Wilkes	Fayetteville	203-7726	
Nathan Graham	Nathan Graham	4345 Wynner Rd Fay AR	856 1242	

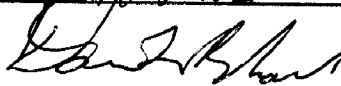
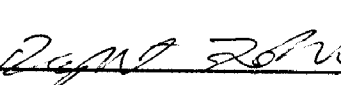
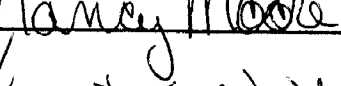
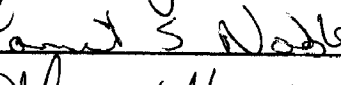
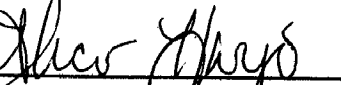
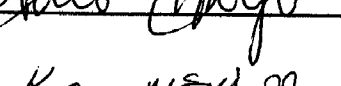
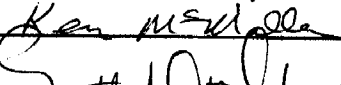
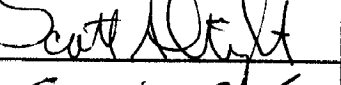
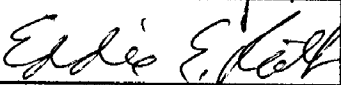
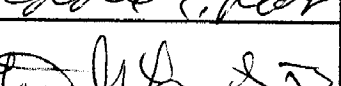
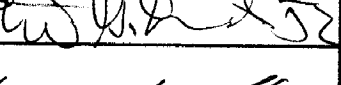
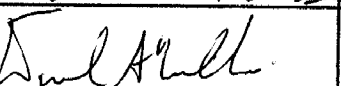
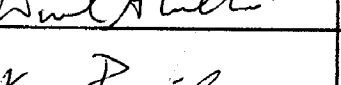
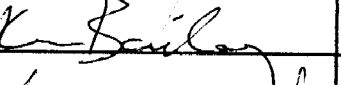
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Name	Signature	Address w/zip	Phone	Email
Doug REED		1212 Dunn Ave 72701	443-2801	doug@reid81
Darrin Barnhart		833 W Sycamore	225-6622	
Dustin 77		561 McClellan	502-800	
Nancy Moore		12496 E Devil's Den	299-4129	
Jan Noble		17050 Ditmar PG 72701	966-2405	
Alexia Harjo		716 S College Fay	500-1826	
Ken McMan		312 Womansk	444-7211	
Scott Albright		15455. Dunecor	521-8989	
Eddie Katz		132 W. Putnam	387-0875	
ROBERT G HARRIS		108 6th ST FAG		traditionson@h
Brandon Harris		3139 B. Yorkshire		
Daniel Milligan		1334 S. Ellis Ave	236-2066	
Kevin Bailey		13211 Fox Run Ln	957-3086	
Tamara Liddle		1327 S. Puncum	935-5918	
Holly Sanchez		915 W Kyle Dr	571-1627	
Ronnie Brock		1322 S DUNCAN	501 259-4803	
Becky Brock		1322 S. Duncan	479-722	

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Bob Stoney	Bob Stoney	10456 265 Fay Highway N. ARK	442-8920	
Amber Mansell	Amber Mansell	2224 W. Maine St. APT 8 Fayetteville AR 72701	916-5630	
Sander Myer	Sander Myer	PO Box 16 Greenland		
Don Brown	Don Brown	Lincoln	824-5039	
Tom Hassell	Tom Hassell	Fayetteville 72701	442-2144	
JOHN RITTER	John Ritter	FAYETTEVILLE ARKINS		
Tom Dorsey	Tom Dorsey	15522 Mt. Olive Rd	643-3832	THOMAS DORSEY
Cody Phillips	Cody Phillips	2516 W. Symcox 72703	3050934	
Lynette Hickman	Lynette Hickman	23325 Shoal		
Cheryl Stout	Cheryl Stout	225 Virginia	790-2376	
Melissa Ryatt	Melissa Ryatt	3139 B Yorkshire	616-0633	
Cliff L	Cliff L	West Fork	761-3573	
Stacy Pless	Stacy Pless	Here		
Wanda Rose	Wanda Rose	2012 Ballard Way	5020024	
David Marshall	David Marshall		5301336	
Russell Coughren	Russell Coughren	16415 school	521-5364	
Melissa Ulrich	Melissa Ulrich	Frick AR		

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
	<i>Theresa Carroll</i>	1418 S Carroll		
LEE MOORE	<i>Lee Moore</i>	1582 N Starke		
Randy Brown	<i>Randy Brown</i>	1715 E. Chasity	444-1886	
Wesley Singletary	<i>Wesley Singletary</i>	741 S Morning Star	502-6885	
Hela Rose	<i>Hela Rose</i>	1101 CURTIS Ave Fork K-86	502-1003	
Spull	<i>Spull</i>	Winkler	134-3932	
Spull	<i>Spull</i>		236-2110	
Sherryl Fletcher	<i>Sherryl Fletcher</i>		427-2447	
KARRY RANKIN	<i>Karry Rankin</i>	13182 WALLIN MTN WESTFORK	839-2185	
Tom McFannell	<i>Tom McFannell</i>	339 S. Duncan	877-508	
Leslie Giddens	<i>Leslie Giddens</i>	13274 Parker Branch	856-2743	
Brandon Seach	<i>Brandon Seach</i>	207 Glenwood Pl	220-0973	
Josh Keck	<i>Josh Keck</i>	1018 S. College	409-6170	
Mike Pelfry	<i>Mike Pelfry</i>	16281 Black Oak Rd	856-8437	
Joann Pelfry	<i>Joann Pelfry</i>	16281 Black Oak	856-8437	
Michael Engel	<i>Michael Engel</i>	3450 Old Farmington	521-0038	
Diana Stackhouse	<i>Diana Stackhouse</i>	3274 N. Martin	251-1147	dianalynn_T

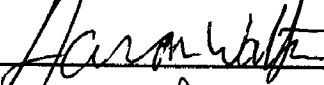
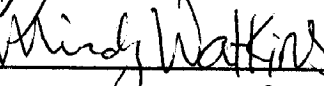
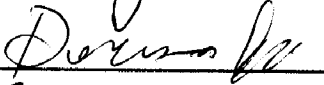
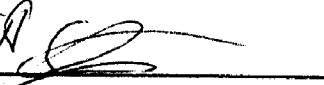
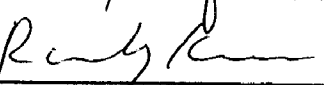
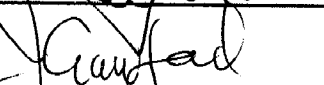
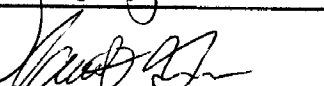
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B. 1
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Name	Signature	Address w/zip	Phone	Email
Carla Burk		207 woodsprings	479-5750003	
McClintock		582 W 13th		
Ed Jester		523 E Prospect St.	479 3050979	
R L Olson		16384 Holcomb ^{sch RRP}	479-839-3401	
Ken Wenders		3145 Alta	442-5153	
Aaron Watkins		14525 Dogwood Dr Fay	479-313-0010	aaron7270@
Mindy Watkins		14525 Dogwood dr Fayetteville, AR 72701	313 - 10010(479)	ladyfire23@
Dorcas Jones		9303 College Fax at 728	5308374	
Holly Baker		330 E 12th Pl Fayetteville Ar 72701	957-6886	Casper-2677@
Travis Sharp		Florch	936-1161	
Wm Man		18 Centurwood West Fork	294-6001	William A-Mos
Julie Shaker		2666 Doke St West Fork	841-8518	
Randy Keen		1225 S. Keen Ln	442-5501	
Cathy H		MT Road Ginslow		
Billy Leamon		3617 E. Huntville	466-4257	
John Crawford			502-1055	
JANICE GORDON		1101 S. CURTIS AVE		

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B. 1
Barn/Campus
Crest, Ct.
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Name	Signature	Address w/zip	Phone	Email
Danielle Ogden	Danielle Ogden	7279 360 S Sang Ave	479-5990	Ogden@Rocket.ma.
Michael Ogden	Michael Ogden		858-8233	
Karen Tourtelot	Karen Tourtelot	401 W 24 th St Apt 63	445-8841	
Jennifer Clements	Jennifer Clements	1555 W. 6 th St.	445-2988	Jaydendylan C Yahoo.C
Sumir Logan	Sumir Logan	218 South Willow	432-7130108	
Edward Bartholmey	Edward Bartholmey	204 South Fry. College 72701	445 2988	
Neyal	Neyal	11	(11)	
Tina Elder	Tina Elder	1101 Curtis Ave Apt 578 Fayetteville	760-450-8703	
Matt Bryner	Matt Bryner	582 West Cherry St	479-935-9118	
Cory Danner	Cory Danner	381 School Ave Winslow AR 72954	479-634-5571	
Bruce Walker	Bruce Walker	127 S. University Ave	421-4948	
Roy Spencer	Roy Spencer	1916 S Euster	870-847-2470	
Elizabeth	Elizabeth			
BILL Ritchie	BILL Ritchie	1909 E. Lee		
ANN JIMENEZ	Ann Jimenez	1016 Beak Dr	502-7354	annjimenez4@yahoo.C
Michael Odum	Michael Odum	684 S. Van Buren Ave	502-8204	
Brad Avery	Brad Avery	1900 E. 15 th St.		

Petition to City Council

B. 1
 PZN 08-3271
 (Sale Barn/Campus
 Crest LLC)
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We the undersigned are requesting that the Town Branch neighborhood be rezoned to "neighborhood conservation" including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it in line with the 2025 Master Plan.

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Name	Signature	Address w/zip	Phone	Email
Jim McConnell	Jim McConnell	310 S. Washington 72701	422-8244	
Janine Aruff	Janine Aruff	1763 N. Creek Ct FAY, AR 72701	443-5805	
DAVID SANTORA	David Santora	1763 N. Creek Ct FAY 72701	443-5805	
Carolyn Jones	Carolyn Jones	332 E. 12th Pl. Fayetteville, AR 72703	935-4266	
Charles Miller	Charles Miller	1629 S. Price Ave Fayetteville, AR 72701	251-8327	
Carol Pukari	Carol Pukari	PO Box 22 West Fork, AR 72774	479-244-6055	
Donnie Pukari	Donnie Pukari	PO Box 22 West Fork, AR 72774	479-244-6055	
Nick Spurlin	Nick Spurlin	2080 N. Chestnut 72703	call	
Don Pollock	Don Pollock	22508 Mason Rd. Fayetteville, AR. 72703	597-6434	
Hazel Cook	Hazel Cook	T. O'Brien Fayetteville, AR		
Beth Hooper	Beth Hooper	1420 Andrew Silvan Springs 72761	479-220-5201	
Janet Fittigrew-Elliott	Janet Fittigrew-Elliott	16710 Woodstock Lane Fayetteville 72704	409-2236	
Brian Bramlet	Brian Bramlet	10600 N. Whitshaw Rd Fayetteville, AR 72715		
Josh Harkins	Josh Harkins	2181 Hecow St. FAY, AR 72701		
Charles S. Davis	Charles S. Davis	204 E Mountain FAY, AR 72701	479-422-4059	
Glenn Reed	Glenn Reed	19275 Park Center Winthrop Ark	479-634-7131	
Robert L. Hennick	Robert L. Hennick	1400 E 15th St 1042 Fayetteville		

Petition to City Council

B. 1
 872000-2271
 (Sale Barn/Campus
 Crest LLC)
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Name	Signature	Address w/zip	Phone	Email
ROBERT	Robert Crouch	9541 Silverado PR 101 7		
Sandy Barker	Sandy Barker	1953 E Citrus Dr Fay. Ar.	935 415-3	
Ruth Hargy		605 Nentuck St		
Jacob Willis		460 OXEN LN.		
Ronnie Farris	Ronnie Farris	488 Pharis		
Nichol Douglas	Nichol Douglas	941 S. Morningside		
Jason D. Kelly	Jason D. Kelly	11270' Culbreth Rd Fay	841-3595	
Charles Vandave	Charles Vandave	12407 Old Branch Hill Rd	854-1243	
Mark Starb	MARK STARB	201 S. SCOT 7		
GARY WOOD	GARY WOOD	2499 N. Center St	443-300	
CASEY CARLISLE	Casey Carlisle	4015 E HUNTERVILLE RD	236-6158	
Lela Williams	Lela Williams	10351 NE SETER Rd	263-4268	
Aaron Barrett	Aaron	260 W. M.L.K.	409 3075	
TERRI MORGAN	TERRI MORGAN	1400 E 15th St	313- 5570	
Art Beeghly	Art Beeghly	1740 N. Gregg, Fay 72703	442- 3809	
ERIC HENKOT	ERIC HENKOT	1555 W. MADISON		
Schaantian	Schaantian	687 N. MADISON	263-3507	

Petition to City Council

B. 1

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Conservation
(Sale Barn/Campus
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Name	Signature	Address w/zip	Phone	Email
Joe Kelly	Joe Kelly	509 E. 3 rd St	444 4657	PHO
Pat Bell	Pat Bell	14335 P.L	444	6576
Donall Brownell	Donall Brownell	2335 Halfield	305-8453	
Frank Spooling	Frank Spooling	DS Willow	3976089	
Jason Kowal	Jason Kowal	977 Hill Ave	445 8107	JA-Kowal@A
Beverly Hays	Beverly Hays	11922 Antionette Rd W Fork	—	—
MERV Doss	M.R. Doss	115 Pleasant St	839 33A	hogital12
Emily Bryant	Emily Bryant	1436 S Duncan Ave Fayetteville, AR 72701	587 0340	ebryant@nucce.
Al Quill	Al Quill	1600 Price St Fry	835 6423	—
Beth Barcus	Beth Barcus	15481 Winn Creek Rd Winslow, AR	294-6018	teardrop@21 hotmail.
Kenny Price	Kenny Price	12502 Kenneth P. Road Elm Springs	409-8805	
Shirley Handley	Shirley Handley	10094 N. Hwy 265 South Fayetteville AR 72701	935-8399	
Larry Handley	Larry Handley	10094, N. Hwy 265 South Fayetteville AR 72701	935-8399	
Bon Collins	Bon Collins	21027 SABLE RD WF	761-3205	
Clarence Tunstall	Clarence Tunstall	3151 Ed Edwards 72701	442-0026	—
Alicia Tims	Alicia Tims	45 Hartman Ave	313 2870	atims@uark
James Allen	James Allen	225 S Locust Ave 72701	443 4635	

Petition to City Council

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B. 1
Conservation
RMF-24 Barn/Campus
Crest LLC
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Name	Signature	Address w/zip	Phone	Email
Jeffrey A Baytes	Jeffrey A Baytes	1184 S Emily D	479-578-1248	jeffrolbodin@aol.com
Thomas S Lacy	Thomas S. Lacy	105 CROSSOVER FAY 7270	479 4090938	
Tommy Murphy	Tom Murphy	418 E 12th st Fayetteville, AR 72701	472 562-0388	
Myosha Moore	Myosha Moore	234 Willow 72701	502-7266	
Regina W. Br.	Regina W. Br.	401 W 24th St Apt 68 Fay Ark 72701	313-0358	
Melissa Howell	Melissa Howell	2576 N. Center Fay	856-8050	
Joe Howell	Joseph Howell	2576 N. Center Fay	409-1720	
Lady Burroughs	Lady Burroughs	4496 ACOM ST. Fayetteville 72704	200-4817	
Dennie Perkins	Dennie Perkins	PO Box 22 West Fork 72774	305-200-28	
Jennifer Sams	Jennifer Sams	PO Box 120 West Fork 72774	409-4432	
Bill Harrell	Billy Harrell	1327 Greenlark Funneln 72709	479-4439	
Diane Jones	Diane Jones	1327 Duncan		
Jack Volk	Jack Volk	10650 Smokey Bear Rd	200-1785	
Sasha Volk	Sasha Volk	10650 Smokey Bear Rd	200-8105	
Joyce Barron	Joyce Barron	Fayetteville, AR		
Rhoda Williams	Rhoda Williams	Fayetteville, AR	856-5877	
Aaron Walker	Aaron Walker			

Petition to City Council

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B.1
 601-99-3271
 Conservation
 (Sale Barn/Campus
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Name	Signature	Address w/zip	Phone	Email
Scott Wood	Scott Wood	773 W Wilson Fayetteville Ar 72701		
Kelly M. Poole	Kelly M. Poole	285 E 12th St. Fayetteville, AR 72701		
FAYE ALTER	Faye Alter	3030 N Gullett Fay AR 72703		
Jeanne Daniels	Jeanne Daniels	1700 Stone St Springdale AR	909-1347	
Michael Leichner	Michael Leichner	12708 Billingsgk Pittsboro		
Bonnie Miller	Bonnie Miller	4050 S. McCollum Fay, AR 72701		
Tom Ritch	Tommy Ritch	553 McClinton St	443-2250	
John Danily	John Danily	1411 S Washington FAY AR 72701	521-2962	
Steven Chiche	Steven Chiche	1341 Homestead West Ark AR 72714	283-7009	
Thomas Webb	Thomas Webb	425 W 11th St Fayetteville	871-0055	
Leslie Stoyte	Leslie Stoyte	19227 E Boak Rd	643-4202	
Benny Stoyte	Benny Stoyte			
Richard Ly	Richard Ly	97 Cotteral	856-7742	
Terry Greenlee	Terry Greenlee			
Mallory King	Mallory King	1008 S. College 72701	445-6458	
Brad Farnes	Brad Farnes	10340 Embury Rd Fay		

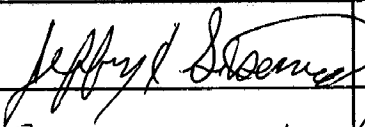
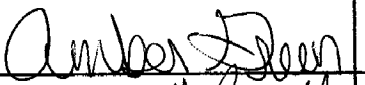
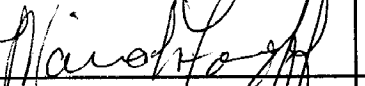
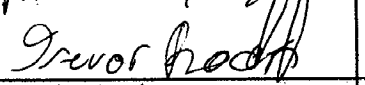
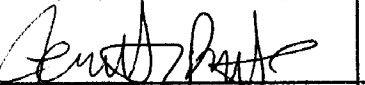
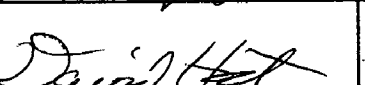
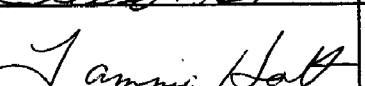
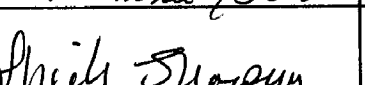
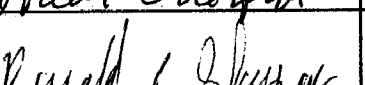
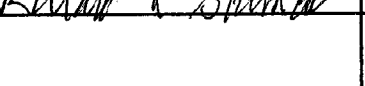
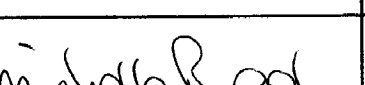
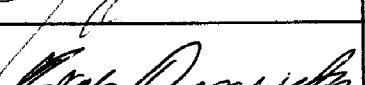
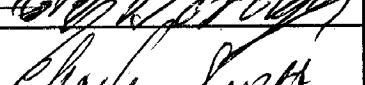
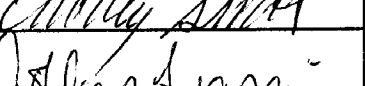
Petition to City Council

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B.1
RZN 09-3271
Sale Barn/Campus
Ordinance
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Name	Signature	Address w/zip	Phone	Email
Jeffrey Stenore		12145 Flowers Rd West Fork Ar 72774	479 839-2908	
George		401 West 24 St	104	
Amber Green		12 N. Centennial Ave	(479)-251-4663	ammgreen@li
Maria Torno		1554 E 5th St	479 966 1568	
Trevor Brock		69 centarwood	839-2402	
Jeannette Bude		47 S. Gregg St		Arkansas love 911@y
hou Ellen Lambert		330 W. 22nd Fayetteville	502-7487	
DAVID Holt		221 E 13th St Fayetteville		
Tammie Holt		221 E 13th Fayetteville 832 S. Coleman Ave		
Sheila Thompson		Fayetteville AR		
Ron Glasscock		735 cherry st		
Pat Fitzgerald		1400 E 15th		
Michelle Reed		10480 W. Sater Pl Fay, AR 72701		mreed6200
Terry Morrison		1571 Loretto		
Greg		601 N. Fay		
Harley Smith		3197 Sandpiper Fay. Ar. 72701		
Dallas		1225 S. Coleman Ave		

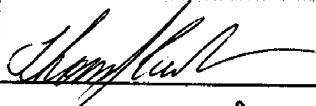
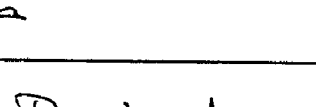
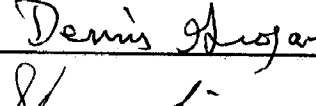
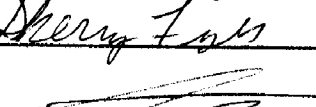
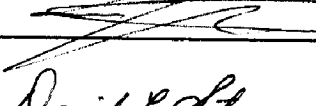
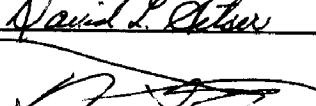
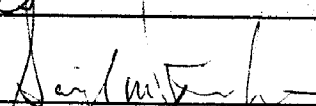
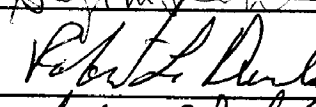
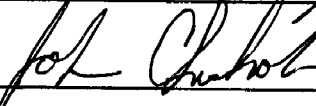
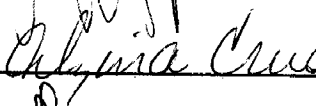
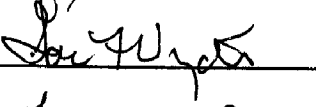
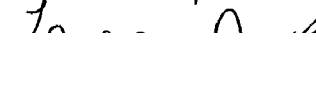
Petition to City Council

B.1
 rezoning
 Site B
 RMF-24
 Crest Hill
 Page 55 of 106

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Name	Signature	Address w/zip	Phone	Email
Thomas Cook		Fay. Ar. 72704		
Kathy Pifer		FAY, AR 72701		
DAVID HENSON		FAY AR 72701		
		378 NONAMAKER		
Dennis Stogren		825 S. School		
Sherry Fish		404 NORTH MAIN FAYETTEVILLE AR 72701 108 W MARKET BLVD		
Jody Tuttle		Fay Ar 72701	251-1335	newerativeweb@ic
DAVID L. SETSER		2300 LAWSON FAYETTEVILLE ARK. 72703 108 W MARKET		
Kenneth M. Miller		Fay AR 13665 Lakeland Heights		
Jane & Walter		Fay. 3924 S. Butterfield		
Saige Pemberton		TRAIL Fay.	901-442-9754	sassysaige@ic
ROBERT D. DUNLAP				
John Chisholm		FAY	366-9414	
Jeffrey Prince		12125 Dunn Ave AR # 11 Fayetteville 72701	856-3049	
Alzira Cruse		105 Willow #210 Fayetteville	8676 1479263-807	
Gabe Wiggins		338 Sketon St	582-3012	
Teresa Wenzel		Fay.		

Petition to City Council

B. 1
 Conservation
 Sale Barn/Campus
 Crest LLC
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Name	Signature	Address w/zip	Phone	Email
Edith McDaniel	E. McDaniel	PO Box 943 West Fork AR	839-8180	
Bob Savier	Bobby D. Savier	377 Skelfo	839-1269	
Casa/Pha	Casa/Pha	481 Shalghena Fayetteville		
Pat Pock	Patricia Pock	611 McClinton Fayetteville	521-3408	
Melissa Clark	Melissa Clark	14448 Sunset Windsor Ar	634-7108	
Barbara Barrette	Barbara Barrette	10825 Rocky Creek Rd Fay, AR 72701		
Daniel Botticher	Daniel Botticher	12687 S. Whitehouse Ar 72701	429-643-4086	
Clady Rogers	Clady Rogers	1215 W Bowers Fay. Ar 72701		
Danna Bergeron	Danna Bergeron	16295 Pridemore Fay Ar 72701		
Rachel Carlton	Rachel Carlton	1210 S. University Ave Fayetteville, AR 72701		
Jason Patterson	Jason Patterson	1210 S University Ave #10 Fayetteville AR 72701		
Cynthia Mason	Cynthia Mason	14408 15th St Fayetteville AR 72703		
Dang Chapman	Dang Chapman	15322 Northview Elkins 72727		
Thomas McSpadden	Thomas McSpadden	170 13th St Fayetteville AR		PitBull12Bull@yahoo
Jessica Adams	Jessica Adams	902 S. Inwood Ave. Fay. AR 72701		
Sandra Bryner	Sandra Bryner	582 Cherry		

Petition to City Council

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B. 1
 RZN 09-3271
 (Sale Barn/Campus
 Crest, LLC)
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Name	Signature	Address w/zip	Phone	Email
Jackie Mahone	Jackie Mahone	4373 W Bluebird Fayville Ark		
Carolyn Robinson	Carolyn Robinson	16512 So. Hwy 1 Winslow, Ar. 72959		
Don Bryant	Don Bryant	Fayetteville		
Les Carney	Les Carney	West Fork		
R. Shull	R. Shull	906 Beechwood		
Susan Latta	Susan Latta	West Fork		
Dee Brown	Dee Ann M Brown	1582 E. 5th St Fayetteville, AR		
Sherron Brown	Sherron Brown			
Alvin Landless	Alvin Landless	10450 Landless Rd		
Alan Barber	Alan Barber	11164 Owl Rd Sib		
Wesley Smith	Wesley Smith	P.O. Box 456 West Fork		
R.H. Stephens	R.H. Stephens	933 Hollywood Ave. Fayetteville, AR 72701		
Zach Morris	Zach Morris	1307 Fairlane St. Fayetteville, AR		
Craig Kirkwood	Craig Kirkwood	507 W. Wilson St		
Joey Reynolds	Joey Reynolds	1305 N. Leavett Ave		
P. Woff	P. Woff	929 W. E. P. E. N. E. S. R		
Brian Thompson	Brian Thompson	4693 Darrell Ln	935-5483	

Petition to City Council

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B. 1
RZN 09-327-1
(Sale Barn/Campus
Crest LLC)
to bring it in
line with the 2025 Master Plan.

Name	Signature	Address w/zip	Phone	Email
Stgh Smith	Stgh Smith	340 Rollston 72701	443-9706	
Candi Yeakley	Candi Yeakley	12496 E Devils Den Rd FAYETTEVILLE AR 72701	841-9693	
BOBBY WELLS	Bobby Wells	2036 CLINE AVE 72701	444-0586	
Ken Crawford	Ken Crawford	187 WALNUT GROVE		
Edna Walker	Edna Walker	304 East Main St		
Robert Reynolds	Robert Reynolds	1335 S School Fayetteville AR	684-9743	
Carolyn Reynolds	Carolyn Reynolds	1335 S School Fayetteville		
Anne Titus	Anne Titus	219 W. South St Fayetteville AR 72701	571-3581	
Christina Grogan	Christina Grogan	18434 McLeod Rd Elkins AR 72727	799-6385	
Cheryl Sanders	Cheryl Sanders	10980 Tony Mh. Day AR 72701		
Colleen Hendrick	Colleen Hendrick	1090 S Woodlawn	442-7681	
Tony H	Tony H	3151 Ed Edwards	442-0024	TNT 9 99 ho.
Danette McCoy	Danette McCoy	617 Gov. Sullivan	443-3084	
Jenni Seabolt	Jenni Seabolt	2230 N. Birch	502-3505	
Martin Smith	Martin Smith	2050 S. Tallgrass	587-8018	
John Callan	John Callan	1316 AQ	750-4599	
Maria Miller	Maria Miller	418 ATR		

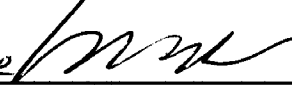
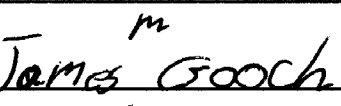
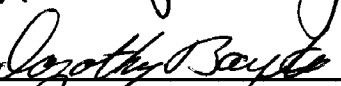
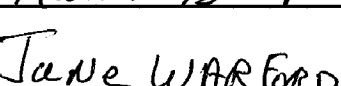
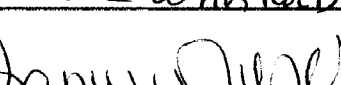
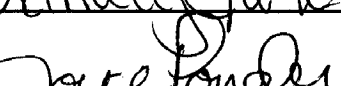
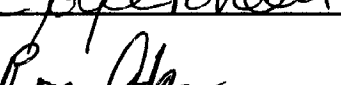
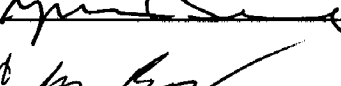
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B.1
R2N-09-3274
Sale Barn/Campus
Creating it into
Page 59 of 106

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Name	Signature	Address w/zip	Phone	Email
Lisa Valentine		521 SHADY AVE #2 Fayetteville, Ar 72701	479 444	lisa.valentine@comcast.net
Daniel Antekhead		"	966 4089	"
James Gooch		Fayetteville		
Ann Millwee		Windlow, AR 72959	479- 634-7051	—
Diana Moore		1236 F Township	479-1144 6672	—
Ashley Turensky		1412 S. Washington	479- 426-5630	
Donna Bayle		1184 S E. 114 Fay	479- 587-1948	—
JAMES A BAKER		2219 EMMA	422-4965	
Arvo Hernandez		6012 N 20th Ogden	542-9837	—
Alma Hand		2336 Clover	799-8937	
Renee Bates		318 E. 13th	443-6602	
Jane Warford		20558 Springtown Ford Rd Elkins	466-9521	
Tammy Jones		913 W. Wilson	799-6001	
Joyce Fonder		1101 Curtis Ave Fay	422-0836	
Ron Allen		440 Circle	2003963	
Tom B		1505 Wilbur	502-6364	
Charles B		887 N. 1st	925-1116	

Petition to City Council

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B.1
R2N09-3211
E-24
Sale Barn/Campus
Crest
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Name	Signature	Address w/zip	Phone	Email
Melva Leichner	Melva Leichner	12688 Billingsley Prairie View, AR		
Pat Hedon	Martha P Hedon	2225 Ashwood Fayetteville, AR		
Linda Greenlee	Linda Greenlee	5545 Duanna		
Charles DeSalvo	Charles DeSalvo	1535 W Nettleship St #6		
Kevin Jordan	Kevin Jordan	1255 S. Washington		
Jay Jordan	Jay Jordan	1396 Scenic View		
Joyce Nielsen	Joyce Nielsen	2102 Helen St		
Malynia Easton	Malynia Easton	1719 S. Garland		
PAUC SPARK	Paul J. Spark	2937 HADDON		
MARK LEE	Mark Lee	850 Pump Station Rd		
Linda Pennock	Linda Pennock	705 Washington		
Bamley, A.D.	BENEFLEY A.D.	1339 W. LEWIS Ave		
Alton Abram	Alton Abram	19546 S Hwy 120 72701		
Nathanial O'Neil	Nathanial O'Neil	1717 Stirman		
Phillip J. Brothel	Phillip J. Brothel	7000 View apt 55		
David S. Sot	Gerald Sot	23585 Park Rd.		
Chris L. Locken	Chris L. Locken	2245 Miller		

Petition to City Council

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B.1
RZN 09-3271
Sale Barn/Campus
Conservation
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Name	Signature	Address w/zip	Phone	Email
William Sagon	<i>William Sagon</i>	1429 Huntsville Rd 72701	(479) 313-4996	
MARY RYAN	<i>Mary Ryan</i>	3480 E Huntsville Rd #51 Fayetteville, AR 72701	(479) 582-3397	
Diana Hawkins	<i>Diana Hawkins</i>	583 S Wood Ave. Fayetteville, AR 72701	479-409-3518	
Toshia Grubbs	<i>Toshia Grubbs</i>	653 W. W Ave Apt. 200 Fayetteville, AR 72701	479-502-8080	
Jeanie Dold	<i>Jeanie Dold</i>	115 W EPM ST FAY, AR 72703	479-419-1611	
Angela Tubbs	<i>Angela Tubbs</i>	108 W. Martin Luther King Jr. Blvd. Fayetteville, Ar. 72701	(479) 251-1335	
Don Shepherd	<i>Don Shepherd</i>	153 S. S. Street Fayetteville, Ar	442-6597	
Steve Roberts	<i>Steve Roberts</i>	6783 W. WEDINGTON FAY. AR. 72704		
Jim Roberts	<i>Jim Roberts</i>	741 S Fayetteville, Ar. 72701	585-8223	
Jeff Zuck	<i>Jeff Zuck</i>	13594 Durango West Fork Rd	966-0297	
Bob Howard	<i>Bob Howard</i>	180 2ND AVE ECKINS	642-2187	
Chris Se	<i>Chris Se</i>	2845 Seneca FAY	856-4769	
Angela Redding	<i>Angela Redding</i>	P.O. Box 578 WEST FK. AR 72701	479-7281	Angela Redding 77
Ray	<i>Ray</i>	1820 Winstown 72704	839-4314	
Arcon Comer	<i>Arcon Comer</i>	1400 E 15th FAYETTEVILLE		
James D. Nimmo	<i>James D. Nimmo</i>	1290 Baldwin Ave. Fayetteville AR 72701		
Heleen	<i>Heleen</i>	1325 So. W. 72701	443-2856	

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B. 1
RZN 09-3271
(Sale Barn/Campus Crest, LLC)
Page 1 of 10

Name	Signature	Address w/zip	Phone	Email
Randy Calhoun	Randy Calhoun	1400 E. 15th St Fayetteville AR 72701	443-2145	
Subi Rosson	Judi Rosson	P.O. Box 435 Fayetteville, AR	422-1334	jro@Dlux.com
Justin Spurbel	Justin Spurbel	1854 S. Garland Fayetteville AR 72701	225-5111	Lord-colstein@yahoo.com
Adam Szalgy	Adam Szalgy	935 S. Cactus Ave	475-6767	
Jim Neight	Jim Neight	10971 Campbell Rd	685-2493	
Mary Stevens	Mary Stevens	6447 W Double Springs	501-4290	
Michael McElrick	Michael McElrick	919 Ctr. Springs		
W. Orancl	W. Orancl	306 Willow		
Vic DeMaze	Vic DeMaze	12452 N. BILLINGS Rd. AR 72753	841-2245	
Cate Brumley	Cate Brumley	401 E. 24th - 72701	442-9633	
Tim Flud	Tim Flud	105 S. Washington		
Eileen Avants	Eileen Avants	1619 Brookes Ave		
Jamie	Jamie Grant	7415 Morningside 34 Fayetteville, AR 72704	502-6845	-
Shannon Tolson	Shannon Tolson	330 W. 22nd St Fayetteville, AR 72701	251-7758	
SHAW HOSKY	Shaw Hosky	850 S. SILVERADO AVE Fay. AR, 72701	879 7553	1/1/4 8752 H.M.
Mike Jones	Mike Jones	151-01 Pittman AR 72701	203-1528	

Petition to City Council

B. 1

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Re: 2009-2271
Sale Barn/Campus
Crest LLC
to bring it in
Page 63 of 108

Name	Signature	Address w/zip	Phone	Email
Deborah Smith	Deborah Smith	226 E. 13th St	283 479-1998	
Michael Head	Michael Head	3480 E. Montevideo Rd Fay Ar. 72703	479-225- 2325	NONE
Thomas Allman	THOMAS ALLMAN	583 WOOD AUE. Fay		
Kevin Kears	Kevin Kears	904 S. College Fayetteville AR	479- 879-2509	NONE
Keith Starnes	Keith Starnes	850 Eden Circle Fayetteville AR 72701	521-0053	
Wilbert Pierre	Wilbert Pierre	324 E. 5th Fay	409- 1267	NONE
Hanette J. Metz	Hanette J. Metz	1307 Fairlane	479/661727	"
Rosanne G. Hankins	Rosanne G. Hankins			
Claud DANIELS	Claud Daniels	10796 Franklyn Rd	444-236	
Robert Woods	Robin Woods	206 Caldwell	—	NONE
Stephen Jones	Stephen Jones	1064 W. 20th St	—	—
John Mos	John Mos	1867 West Custer	—	—
Russell Burk	Russell Burk	1400 E 15th St	3135576	—
Dwayne Martin	Dwayne Martin	Fay	466-6196	
Karen Handamon	Karen Handamon	KAREN	479-601-1331	Karen handamon @48
Jennifer Rister	Jennifer Rister	1414 Bluebird Rd Fayetteville AR 72703	479-856-8137	
Kimberly Burnett	Kimberly Burnett	1327 S Duncan Fayetteville AR 72701	479-445-7416	

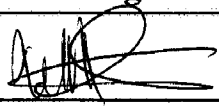
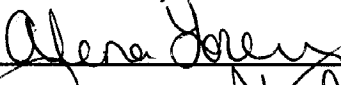
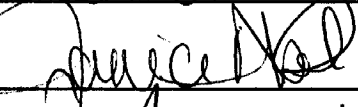
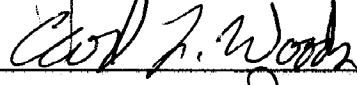
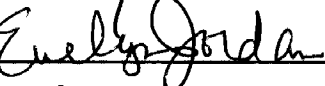
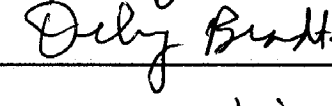
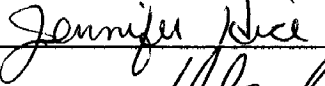
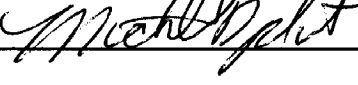
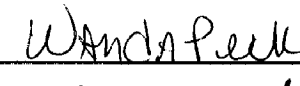
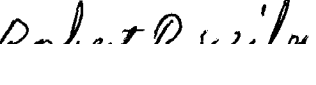
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B-1
RZN 09-3271
(Sale Barn/Campus
Overlay)
Page 64 of 106

Name	Signature	Address w/zip	Phone	Email
William Little		220 W. 15th St. 72701	479 522 0147	shudian@yahoo.com
Dianna Jackson		1219 S. West Ave. Jay		
ALENA LORENZ		228 S. COLLEGE	479 790-6884	ALLENZ123@
Janice Abel		51 N Platinum Dr. Fair. AR 72701	479- 225-1035	
CARL Woods		FAYETTEVILLE		
Marlin Sanders		1000 Madison 7035	479 879 2850	
Catherine Murray		Fay AR		
Larry Peterson		Fay AR	502-3899	
Ervely Jordan		1327 S. Duncan	502-2854	
Dely Brant		879 Eden Circle. FAY.	251-7636	
Terrifer Dice		HOVE 15th St #39	502-1704	
Michelle Pluta		PO BOX 161 Greenland, AR	445-9739	
Laurena Barton		20580 Hughes Rd. Windsor		
Tammie Abel		255 SE Kasky Trwy		
Norman Hill		Fax Arch	501-1907	
Wanda Peck		18616 Bug Scuffle west Fork	761-2933	
D... ..		1553 N. Genoa		

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Donja Barnes		11688 S. Billingsley Prairie Grove, AR	846-1541	None
Heidi Stetson		2910 Bar. 40 Foulk	251-8492	
Vickie Wells		2636 S. Cline Ave Fay	444-0586	none
Brad Elam		375 Willoughby Fayetteville	409-0137	none
Matt Brooks		2042 Cline Ave 72701 FAY	477-5542	none
Starla Moore		1532 Brooks Ave Fayetteville AR	502-638	none
Luke Lucas	Luke Lucas	POB 981 Fayetteville, Ar.	587-6475	"
Alvin Adams	Alvin Adams	1400 East 15th Fayetteville		
Angela Sisco	Angela Sisco	1400 E. 5th St Fayetteville AR 72701	479-504-6210	
Mary Bassett	Mary Bassett	222 S. College Fay, AR 72701	479-313-4772	Lilmacash@H
Donna Jensen		1535 Hummingbird RD Fay	477-575-9441	none
Jennifer Craig	Jennifer Craig	Fay AR 01	/	/
Paula		407 Howard Fay, AR	/	/
Paula Barker	Paula Barker	407 Barclay Fay, Arkansas	443-1360	
Robert J. J. J.	Robert J. J. J.	4034 N. Oldwiler Rd.	871-6721	
Kim Shuh	Kim Shuh	283 Mad Rd		
Bernice Johnson	Bernice Johnson	319 O'Real Ln. Fayetteville AR		

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Creating it int
Page 66 of 106

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Name	Signature	Address w/zip	Phone	Email
Teresa Skelton	Teresa Skelton	N Chestnut #3	502 2544	—
Misty Burks	Misty Burks	1327 S. Duncan Fay. AR 72701	299 4621	—
Robert Mortenson	Robert Mortenson	512 S. College - Fayetteville	2288 879	—
James Stouten	James Stouten	10214 S.E. Campbell Rd	479 935 8068	—
Julie Allen	Julie Allen	2391 Heather Lynn Lane	479-296 6018	—
Robert Allen	Robert Allen	11	11	—
Donna Allen	Donna Allen	1650 N State	11	11
Michael Bryant	Michael Bryant	2135 Lacy dr.	479 200-5506	WHODOTHERE @HOTMAIL.
Bill Jenkins	Bill Jenkins	PO BOX 267 West Fork AR 72774	732- 861 0785	N/A
Stacy Ruff	Stacy Ruff	401 W 24th #18 72701	466 7108	—
Carletta Morris	Carletta Morris	3480 E. Huntsville Fayetteville, AR	479-502- 8377	—
Mary Ruff	Mary Ruff	Winston 72959	200- 9200	—
Sherry Kelley	Sherry Kelley	220 E. ELVA Fayette 72701	346	—
Deborah Jenkins	Deborah Jenkins	223 East 7th 72701		—
Lawrence Taylor	Lawrence Taylor	11266 COLGIBSURE RD	521 8608	—
Handall G. G. G.	Handall G. G. G.	13116 Nichols Rd		—

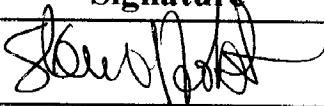
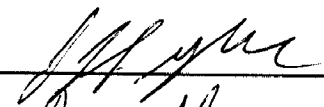
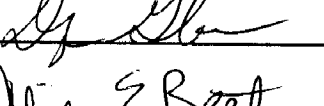
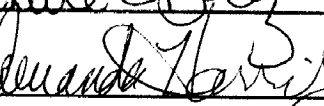
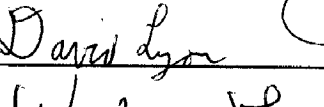
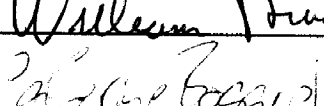
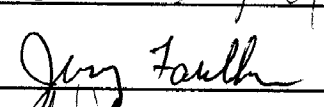
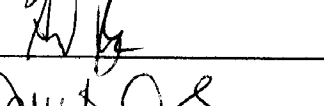
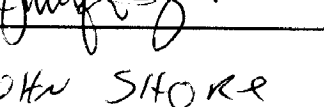
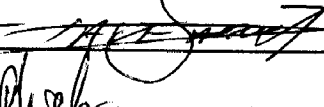
Petition to City Council

B. 1

We the undersigned are requesting that the Town Branch neighborhood be rezoned to "neighborhood conservation" including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that our neighborhood deserves the same consideration as Walker Park and Fayette Junction line with the 2025 Master Plan.

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Name	Signature	Address w/zip	Phone	Email
Steve Holst		1301 Johnny Hill Dr 72703	841-2332	
Jeff Glover		2244 W. Ora Dr	957-0887	
Deja Glover		2244 W. Ora Dr	957-0840	
Alise Beetz		512 S. East Ave	321-6519	
Amanda Harris		2 E. Cleburne St. 72701	790-3559	gingerakula@gmail.com
David Lyon		250 W ^{MLK} Blvd 72701	629-6523	
Bill Lund		8280 Spanner 72712	464-9650	
Catherine Bogan		415 W. Johnson 72764	756-6585	
Jay Faulk		11430 Ashlog Rd 72044	479-916-0536	
Ansle Ogle		328 W. Skelton 72701	474-263-3811	ansle088@sbcc.edu
Jennifer Ogle		P.O. Box 699 Fayetteville AR 72702	479-839-3595	jogledmark.edu
John Shore		12634 Buddy Eizkens Rd, Farmington Ar 72730	479-267-2221	
Richard Metcaler		PO Box 11874 Fort Smith, AR 72917	479-484-1089	
LAURE SARGENT		PRairie Grove AR 72753	479-595-7522	
Phil Barnett		196 Juneyter 72703	444-0265	
GLEN DANN		917 N. LEVERETT	844-0265	gdann@uark.edu
Louise Mann		629 Gray Ave	582-192X	L.Mann2@uark.edu

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Craig Coble	Craig M Coble	11081 Pioneer Rd Prairie Grove Fay, AR 72701	479-790 3890	
Fred W Lane	Fred W Lane	1647 Tallegade Dr. Box 305 Combs, AR 72721	479 521 5792	
Dorothy Mowen	Dorothy Mowen	Po Box 35 Combs, AR 72721	479-	
Dean Mowen	Dean Mowen	Combs, AR 72721	NONE	NONE
Melina Bridges	Melina Bridges	580 East Spring Fay, AR 72701		
Fons Weber	Fons Weber	1850 Hemlock Ave Springdale, AR		
Eric Collier	Eric Collier	401 W 24th St Apt 58		
Lori Neath	Lori Neath	132 E 15th FAY AR 72701	443-2908	NONE
Joshua Hilburn	Joshua Hilburn	532 13th 72701	502-6170	NONE
Laura Hildorn	Laura Hildorn	532 13th/72701	251-1335	NONE
CEDRA BURDOTE	CEDRA BURDOTE	1356 CARDINAL 72703	841-6585	
Janice L. Kelly	Janice L. Kelly	509 E. 15th St Fayetteville Ark	444-6576	
Kevin Smith	Kevin Smith	3055 Wedington 72701	387-8515	KSMITHK.
Tommy D. Payne	Tommy D. Payne	298 South Napier FAY AR 72701	575-5401	
Kathi Glenn	Kathi Glenn	1123 S. West Ave Fayetteville, AR 72701		
Doris Johnson	Doris Johnson	512 Lyttow Ave Fayetteville, AR 72701	402-4213	
Jay Elvins	Jay Elvins	15098 Friendship Church Rd West Fork Ar 72714	479 839-4202	

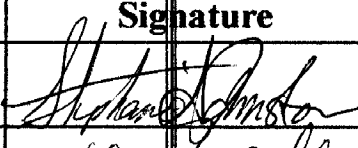
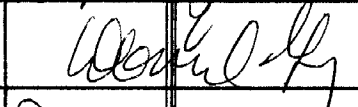
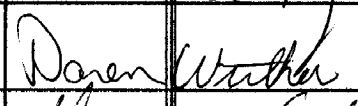
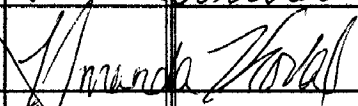
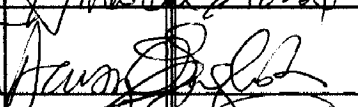
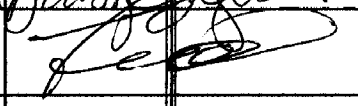
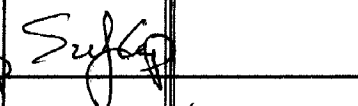
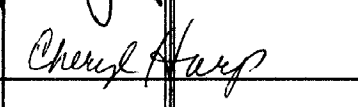
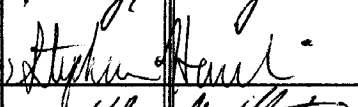
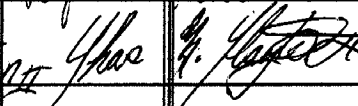
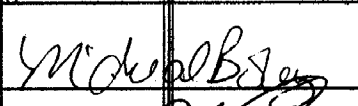
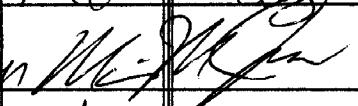
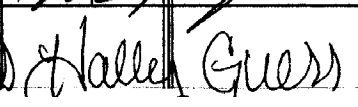
Petition to City Council

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Please consider that the Hill Place complex and the Campus Crest proposal combined would add more than 1,300 residents to this small single-family neighborhood.

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Name	Signature	Address w/zip	Phone	Email
Stephanie Larson		8495 Washington Fayetteville Ark 72701		love1st103@ 86@yahoo
Donna Gregory		1555 Mansuet Fay 72701	5313 4841	
Daren Witham		1745 S. Garland	587 9477	
Amanda Koral		977 Hill Ave 72701	47959703 3	
Devin English		11475 Price Ave 7201	479 443-1369	chasingwell
Leslie Nelson		7522 N. 1st Ave 22nd of Fork	236- 1167	
Scorchy Camp	Scorchy Camp			
Scorchy Camp		P.O. Box 112	238-8712	
Cheryl Hays		P.O. Box 1027	856-4243	
Karen Stacy		22 W. 7th, Fay. Ark	422-5625	
GARY STACY		✓ ✓	790-0883	
Stephanie Hankins		101 W. 21th St	966-1409	
Charles Clayton		#19 N. Duncan Dr	305 8453	
Kenn R Brant		532 W. Sella Dr.	387 1985	
Mike Boley		1051 Beldwin	789-4728	
Marlene Johnson		2697-A Confork St.	502-2244	
Hallen Green		105 Willow	805-0467	

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Gwen Jackson	Gwen Jackson	 		
Kevin Warner	Kevin Warner	Fayetteville, AR 72701	478-788-788	
Sherry Key	Sherry Key	Fayetteville, AR 72701	444-8662	
Clay Pennington	Clay Pennington	West For 2	444-2288	
Chia Gibson	Chia Gibson	Ellis Ave	415-6253	
Missy Strout	Missy Strout	153 Rainsong	879-5837	
Brian Young	Brian Young	1840 N Leberett	906-0114	
Melanie Wood	Melanie Wood	Fayetteville AR	286-4886	
Samuel Jackson	Samuel Jackson	1085 Cato Springs		
ANGELA ORTEGA	Angela Ortega		502-7026	
David Brannon	David Brannon			
Josh Benese	Josh Benese	9055 N 16 St Fayetteville, AR 72702		
Shellie Hennings	Shellie Hennings	270 E 12 St	527-6578	
Chris Kelley	Chris Kelley	Fay Ark 72701	85-3775	
NEAL CRAWFORD	NEAL CRAWFORD	6010 HAWKINS FAYETTEVILLE AR 72701	444-6616	
		Fayetteville AR	444-8887	
Carlos R.	Carolina R.	Fayetteville	502-3326	

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Tasha Davis	Tasha Davis	13116 Nichols Rd West Fork, AR 72774	479-200-5876	
Frank A Harvey	Frank A Harvey	10157 Landelius Rd Winstown AR 72959	530-3900	
Tommy Counts	Tommy Counts	400 SWILLOW AVE FAY AR 72701	445-2045	
Kelly McCawley	Kelly McCawley	11436 Abilene Rd Winston, AR 72959	466-8458	
Vikki Leslie	Vikki Leslie	1101 S. GORDON AVE Fayetteville AR 72701	502-0385	
CHRIS GOENS	Chris Goens	609 W. Skelton St Fayetteville AR 72701	935-4907	
Mike Price	Mike Price	417 E 13th Place FAY ARK		
Crystal Bryant	Crystal Bryant	2602 Sprueller Rd Winston AR 72959	479-634-2270	
Sandra Erbe	Sandra Erbe	19147 Shoreline way Fayetteville AR 72708	530-5865	
Sally Erbe	Sally Erbe	19141 Shoreline way Fayetteville AR	466-9771	
Tony Kelly	Tony Kelly	Huntsville RD	455-3791	
Sara Mothers	Sara Mothers	S W Ave Fay AR		
RICHARD LANCASTER	Richard Lancaster	1256 ELLIS AVE FAY AR	582-3955	
Rick L. Clark	Rick L. Clark	10271 S HWY FAY AR 7265		
Shannon	Shannon	401 West 2nd STUNT, 7	443-2809	
Patrick Blackburn	Patrick Blackburn	132 E. 5th St.	443-2809	
Jessica	Jessica	1016 W. Pettigrew AD 72701	305-0913	Jessica Be

Petition to City Council

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[illegible]

Petition to City Council

We the undersigned are requesting that the Town Branch neighborhood be rezoned to “neighborhood conservation, including the land known as the sale-barn property, and also the sale-barn property already zoned RME (Sale-Barn/Campus). We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction (being it in line with the 2025 Master Plan.

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[illegible]

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Petition to City Council

B. 1
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Name	Signature	Address w/zip	Phone	Email
Kathy Kisida	Kathy Kisida	1227 S. West, 72701	479-443-5751	mail4k+k@yahoo.com
Kathy Frances Sundell	Kathy Frances Sundell	1219 Dunn 72701	581-9238	
Josh Henley	Josh Henley	1232 S. University 72701	479-879-7045	henleyjosh@honda.com
Julia McGowan	Julia McGowan	1232 S. University 72701	479-685-7740	juliamcgowan@gmail.com
Pat McFarland	Pat McFarland	625 N. 11th	442-8939	
Kristy Payne	Kristy Payne	1203 S. Ellis	479-871-8118	
Billy Worl	Billy Worl	1917 Brower	479-935-4416	
Paula Ellish	Paula Ellish	1301 S. West Ave Fayette 72701	479-444-7047	paulaello@yahoo.com
James Malachuk	James Malachuk	1301 S West Ave	479-444-7047	polish-artist@yahoo.com
Patricia Jean Hill	Patricia J. Hill	1210 S. West AVE	479-443-5234	None
Lindsey Wimberly	Lindsey Wimberly	1267 S. West AVE	870-784-2529	l1miller@uov.com
Erin E. Cain	Erin E. Cain	1318 S. West Ave.	479-442-3533	erin.cain@gmail.com
Mario Hernandez	Mario Hernandez	1220 S West Ave	479-5969	mario4236@yahoo.com
Jaeger Wainford	Jaeger Wainford	1362 SW Ave	935-420	
Mike Tate	Mike Tate	1203 S West Ave	283-4596	

Petition to City Council

B. 1
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Name	Signature	Address w/zip	Phone	Email
H Dorge	H Dorge	P.O. 72751	846-2433	
CAROL MCMAIR	Carol McMaier	20088 HIDDEN VALLEY RD WINDSOR AR	313-2652	
S YERMACK	S Yermack	775 S. GOVT	312 267-8432	
G HIRSHBERG	G Hirschberg	775 S. GOVT	Same	
M. MELLINGER	Mary Mellinger	680 CRESCENT	973-2804	
Douglas William Corns	Douglas William Corns	1543 E 5th	443-6459	
Mary Chaplin	Mary Chaplin	Fayetteville 401 W. 24 St #43		
Paul Campbell	Paul Campbell	712 S. Polkery Ln	575-0988	
David Lizaout	David Lizaout	119 S. Duncan Fayetteville AR 72701	442-4564	
Robert Mortensen	Robert Mortensen	312 S. COLLEGE FAXVILLE, AR	877-2288	
Deanna Portwood	Deanna Portwood	1023 S Washington Fayetteville AR 72701	966-7523	
Stephen Wood	Steph Wood	2132 S Columbia Ave Fayetteville AR 72701		
David R. Graves	David R. Graves	1074 So. Washington Fayetteville, Ark	443-4699	
Arnold Jackson	Arnold Jackson	915 So Seven Hills Ct	856-6484	
Randy Blythe	Randy Blythe	7929 7th Hill	856-6777	
Mark Cormier	Mark Cormier	1886 Pleasant Woods Dr	5625-714	
DeCarroll Bridges	DeCarroll Bridges	514 E McClinton Fayetteville AR 72701	502-9991	

Dianna - Tobacco Outlet

Petition to City Council

RZN 09-3271

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Name	Signature	Address w/zip	Phone	Email
Velma Duncan	Velma Duncan	381 School	1-479 634-5571	
Dora/Maura	Dora/Maura	S. School	N/A	
Sandra	Sandra	2507 E. 14th	N/A	
Frank Perkins	Frank Perkins	PO BOX 7058 Fayetteville	N/A	
Ryan Lerz	Ryan Lerz	3017 N. Dorchester	479-444-7052	
Laura Hilburn	Laura Hilburn	532 13th 72701	79-5482	
MARY PHEBUS	Mary Phebus	3666 WILSON HOLLOW	521-8992	
RACHEL WINTERS	Rachel Winters	10060 W. DEVILS DEN RD	834-2157	
Amada Jones	Amada Jones	15598 S. Whitehouse Rd.	368 N/A	N/A
Letisha Starr	Letisha Starr	503 Ray Fayette	521-8235	
Deberta Larsen	Deberta Larsen	3074 W. Sandra Fayette	443-5793	kelndel@sbeglobal.net
Brenda English	Brenda English	949 BOONE	718 0840	
Dennis D. Wray	Dennis D. Wray	2920 S. School Ave.		
ZACHARY C. McMillan	Zachary C. McMillan	300 W. NONNAMAKER	444-7211	ZMCMILLAN@COMPVARK.EDU
Shelley Shomberg	Shelley Shomberg	14045 W. Wallingford	2636877	
Nicole Woodruff	Nicole Woodruff	1064 W. Cates Springs Fayetteville AR 72701		
Paula Elvins	Paula Elvins	1535 Garland Fayette 72703	602-2141	ELVINX8@AOL.COM
Oranna - Tobacco Outlet				

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Phyllis Williams	Phyllis Williams	4575 Hill Ave, Jay	—	phyllis1957@comcast.net
Susan Mathis	Susan Mathis	1510 Laura Fayetteville	—	—
Ann Porter	Ann Porter	1027 Washington	—	—
Angela Sparks	Angela Sparks	249 N. Village Fayetteville	—	mangela115@yahoo.com
Lisa Bridges	Lisa Bridges	935 S. Wood Fayetteville	—	none
Jerry Barth	JERRY BARTH	2364 Henson Ln Fayetteville	—	—
Andy Belser	Andy Belser	1481 15th St Fayetteville	870-377-2996	—
Lina Waldrip	Lina Waldrip	309 S. Black Fayetteville	—	—
Rick Laughlin	Rick Laughlin	1656 Huntville Rd Fayetteville	313 3620	Rikr91a@yahoo.com
Mitchell Hollingsworth	Mitchell Hollingsworth	930 S. Co Fayetteville	—	—
Tommy Gibson	Tommy Gibson	84 E 7th St #5 Fayetteville	—	—
Rebecca Moore	Rebecca Moore	1522 N. Green St Fayetteville, AR	—	emyladmyg10@yahoo.com
James Moore	James Moore	1522 N. Green St Fayetteville	—	—
Susan Vaight	Susan Vaight	1805 S. ED Edwards Rd Fayetteville	—	—
Frances McKinley	Frances McKinley	155 N Vaughan Rd Fayetteville AR 72701	—	—
Karen L. Robbins	Karen Robbins	1 N. School #709 Fayetteville AR 72701	—	—
Kathy Kaldner	Kathy Kaldner	10222 Pearce Rd Wrenn	—	Kat1635@comcast.com

Chad

TOBACCO OUTLET

Petition to City Council

B. 1
RZN 09-3271
(Sole Service) Bus
Crest LLC
Page 80 of 106

We the undersigned are requesting that the Town Branch neighborhood be rezoned to "neighborhood conservation" including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it into line with the 2025 Master Plan.

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Name	Signature	Address w/zip	Phone	Email
Kerh Smiley	Kerh Smiley	3875 Wedgwood	442-8265	—
Patricia Roberts	Patricia Roberts	Fayetteville, AR 387 W. Skelton	790-9950	patricia.towler@yahoo.com
Christine Moss	Christine Moss	16 Court Street Fay. AR 72701	887-7057	—
Bill Taylor	Wm. H. Taylor	300 E. Bean St, Lynch, AR	824-5784	—
Greg Van Meter	Greg Van Meter	7378 Wedgwood Fayetteville, AR 72701.	443-5524	—
Angela McCain	Angela McCain	605 E. Vanhook Dr Fay. AR 72701	502-6644	angie.arkans@516.yaho
Scott Alvarez	Scott Alvarez	619 McKnight Ave West Fork 72774	887-2588	—
Beth Davis	Beth Davis	3480 E. Huntsville Rd Fayetteville AR 72701	—	benrig@yahoo.com
Patricia Paxton	Patricia Paxton	10 S. Willow Ave. Fayetteville AR 72701	966-9000	—
DIANA PARRIS	DIANA PARRIS	1277 So. Washington Ave Fayetteville, Ark	445-7712	—
Barbara Meacham	Barbara Meacham	P.O. Box 17 Goshen Ar.	521-5892	—
Kimberly Hull	Kimberly Hull	741 S. Morningside #21 Fayetteville 72701	502-3600	—
Milton Patrick	Milton Patrick	1936 Woodford Fayetteville 72701	521-2631	—
Joy Marshall	Joy Marshall	18887 Combs-Bell Rd Elkins, AR 72727	443-5678	—
Leah Jackson	Leah Jackson	2200 N. Jimmie Fayetteville, AR	601-2036	—
Robert Taylor	Robert Taylor	Fayetteville 17887 Rocky Hollow	595-9014	—
Victoria L. Bostman	Victoria Bostman	841 Bell Air Dr. Fayetteville AR 72701	502-5015	—

Dianna S.S. Tobacco Outlet

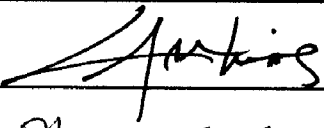
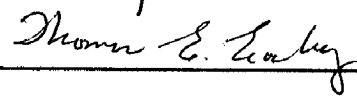
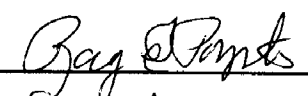
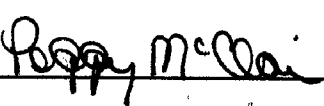
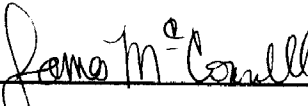
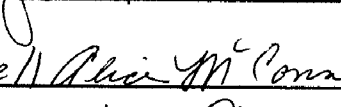
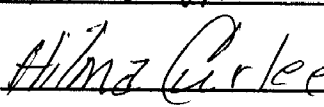
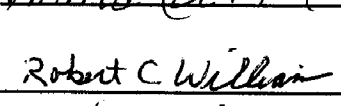
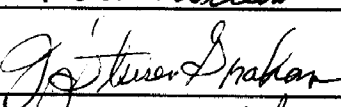
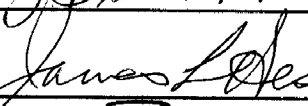
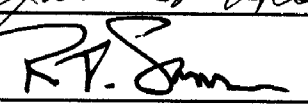
Petition to City Council

B. 1
RZN 09-3271
(Sale Barn/Campus
Conservation)
Page 81 of 106

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Name	Signature	Address w/zip	Phone	Email
W.C. LAMKINS		1202 Scrimshaw Cove #4 FAYETTEVILLE AR 72701	877-8358	Wc@lamkins.com
THOMAS E. EASLEY		8494 RANGE RD ROCKES, AR 72756	479- 925-3753	t.easley@cox.net
Ray Poynter		977 E 1st St Fayetteville AR 72703	(479) 587-0641	n/a
Sue Madison		573 Rockcliff Rd Fayetteville, AR 72701	479 442-2997	smadisen@ shcglobal.net
Peggy McCain		6371 Tall Oaks Loop S. Springdale, AR 72762	479 306-6459	
JAMES M'CONNELL		209 E North St FAY. 72701-2130		
Alice B. M'Connell		310 S. WASH. May, Ark. 72701 West Fork	479-8344	
Hilma Curlee		P.O. Box 42 Elkins, Ar 72727	839-2226	
Robert C. Wilkin		12723 S. Hwy 16E Fayetteville, AR 72701	643-355	Wendy@1923.net
STEVE GRAHAM		957 S. Hill Ave 202 E North St Fay. AR 72701	521-6456 414-7070	phyllis1951@cox.net
JAMES L. HESS		14127 Becton Lane Fayetteville AR 72701	643-2854	jameshess@hotmail.com
RICHARD SAMPSON		16120 ONDA MT RD WEST FORK, AR 72774	761-3772	PGTC.com SAMAYEAM@com
MICHAEL C. GATLIN		116 RILLINGTON DR. Bella Vista, AR. 72714	876-5160	bm@GATLIN@cox.com

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Charlotte Massand	Char Massand	West Fox	479 466 7301	Char-maggie@yahoo.com
BARBARA McCLENATHAN	Barbara McClenathan	613 W 512 nd St Fayetteville, AR 72701		
Carolyn Barnes	Carol Barnes	507 Samantha	502-5562	
S.F. Miller	S.F. Miller	1549 Tally Ho Dr. FAY	799-1818	
MELISSA TAYLOR	Melissa Taylor	411 W. 24 th St Fay 72701	789-4813	
Heather McCarver	Heather McCarver	896 Silverado Dr #203 203 502-2773	801	
Mason Harkins	Mason Harkins	896 Silverado Dr #203	502-2773	
Danny Riley	Danny Riley	15373 Harris Rd	466-4649	
BETH ZWOLANER	Beth Zvolner	2364 HENSON FARM RD 72701	-	-

Deanna - Tobacco Outlet

Jeanette Lisenbee	Jeanette Lisenbee	1374 W. Wedington Fay, AR 72704	No phone
William Flournoy	William Flournoy	222 Old Farmington Farmington, AR 72730	No phone
Eric Jackson	Eric Jackson	1219 S. West Ave 72701	No phone

Petition to City Council

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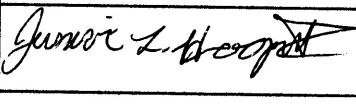
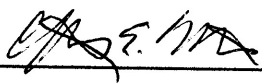
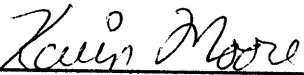
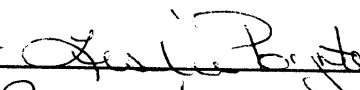
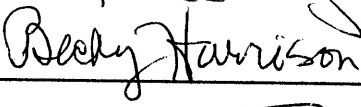
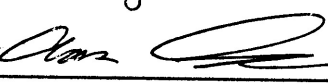
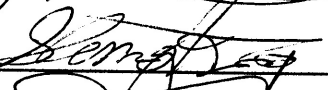
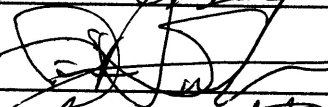
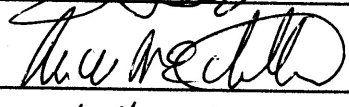
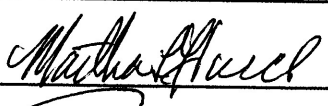
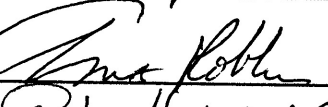
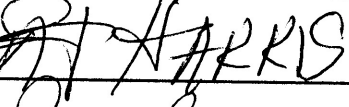
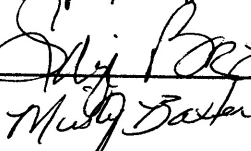
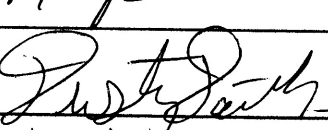
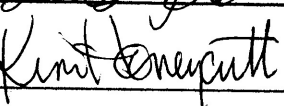
Name	Signature	Address w/zip	Phone	Email
GLEN GREENE	Glen S. Greene	11386 CRYPT. CRT. Rd. P. GREENE	387-5423	L HEARTFIELD @VAH10
HEARTFIELD HEARTFIELD	Lynne Heartfield	" "	" "	" "
Glenn MacChurlan	Glenn MacChurlan	3355 Oak Hollow Dr	479-492 1926	"
Heather Barlow	Heather Barlow	606 Bryant Meadows Bryant AR	501 847 1516	—
JEFF REDNEKOPP	Jeff Rednekopp	P.O. BOX 10887 FAYETTEVILLE, AR	479 443 3030	
Gary Champlin	Gary Champlin	Fort Smith, AR	479 783-1827	
Christy Pollock	Christy Pollock	Fay AR	571 2550	
Don Baker	Don Baker	24 Smith	646 6404	
JASON PORTER	Jason Porter	Fayetteville, AR	443 2423	JR Rebel 26 @ AOL Com
LARRY CARSON	Larry Carson	FAYETTEVILLE AR	443-9156	
Diana Carson	Dian Carson	Fayetteville AR	443-9156	
Colleen Jones	Colleen Jones	Elkins Ar		
SANDRA WHITE	Sandra White	Elkins Ar.	790 1885	
Arthur Nalley	Arthur Nalley			
JANETT POWELL	Janett Powell	Fayetteville		
LORENE CHESNIER	Lorene Chesnier	Fayetteville		
Kathy Hobel	Kathy Hobel	1260 Mally Wagner Fayetteville 72701	530-8547	

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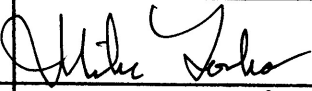
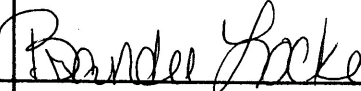
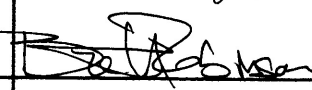
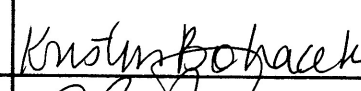
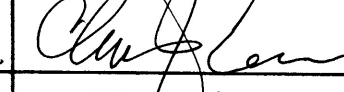
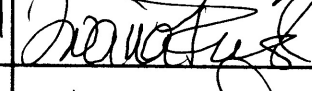
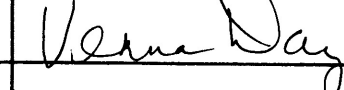
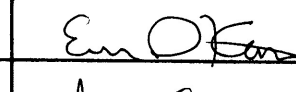
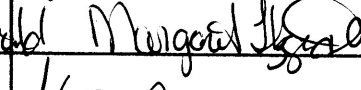
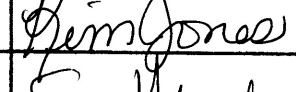
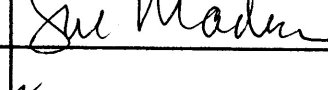
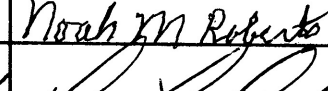
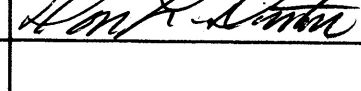
Name	Signature	Address w/zip	Phone	Email
Junior Cooper		1037 N. Main Fayetteville	479-856-6608	
Chuck Morris		578 Ray Fay AR, 72701	313 0668	
Kevin More		3783 S. Duncan	—	—
Leslie Poynter		1589 Sandy Fayetteville	416-3409	—
Becky Harrison		1227 N. Double Springs Rd Fay., AR 72704	2541 747-0183	—
Aaron Garrett		260 W. MLK.	409 3075	
MARK O'SULLS		1247 STEPHENS Fay 72703	422 9397	—
Shams Kitz		910 W. Lawson St. Fayetteville, AR 72703	479 799 4915	—
Jim SANDERS		1717 OVERCREST FAY	—	—
Russell McElhiney		1878 S Hwy 71 Union Blount 900 EDEN Fay 72701	485-7687	
Martha Hurd		FAY AR 1875 West Custer Ln	442-2435	
Antia Robbins		5480 Wheeler	442-6876	
Suzi Brannon		14153 Jasper Hwy	502-1316	SHARON
Misty Baxter		4301 Old Missouri Rd Fayetteville AR	479-294 6068	m-baxter@live.com
Dusty Jones		5555 King Bl Martin Luther 72701	443-3084	
Kim Honeycutt		14698 Wall in Mt Rd West Fork	879 0526	—

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Name	Signature	Address w/zip	Phone	Email
MIKE Locke		11360 S. Hwy 265 / 72753	419-8034	
BRANDEE Locke		11360 S Hwy 265	419-8039	
Brett Robinson		2438 St. Peter Ct. 72701	414-2877	
Kristin Bohacek		173 Pinyon 72701	920-321-6618	
Clay Johnson		1798 E Huntsville	442-9286	
Nina Sawyer		2820 Madison 1360	325-0100	nina.sawyer@yahoo
Thana Rush		1201 Sugarhill ^{Lincoln} 72744	844-2456	thanasattitude@yahoo
Verna Day		12085 W Art Hwy 1570 ^{WF 72774}	846-2080	
Eric Korny		125 San Jose	409-5793	eric.korny@gmail.com
Jesse Sells		1325 McClelland	296-6002	
Margaret Fitzgerald		12670 Hogeye Rd	236-1596	
Kim Jones		Po Box 618 P. Greav	263-1830	
Sue Madison		573 Rockchill Way 72701	442-2997	
Noah M Roberts				
Noah M Roberts		574 E Nantucket Dr Apt. 5 Fayetteville	587-8933	
Don DENTON		2376 MARKHAM RD	479-459-6740	6266057@yahoo.com

Witnesses by: Lauren Hawkins,

Contact Info: 1101 S. Duncan Ave. 444-6072

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Name	Signature	Address w/zip	Phone	Email
Stanley D. Sullins	Stanley D. Sullins	1210 S. Duncan 72701	(479) 521-2598	
Leona Hodenpyle	Leona Hodenpyle	1049 S. Hill Ave	443-3812	
Ray Hodenpyle	Ray Hodenpyle	1049 S Hill Ave	443-3812	
Ben Maguire	Ben Maguire	701 W. 15th St.		

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Name	Signature	Address w/zip	Phone	Email
Kristi Beck	Kristi Beck	802 Dogwood Lane Princeton AR 72753	(479) 719-2900	kbeck@hettel.com
Gary Solman	Gary Solman	19230 LAHA RD Cone Hill AR	479 848 0078	
ELIOT H. KAMINSKY	Eliot H. Kaminsky	543 ASSEMBLY FAY. AR 72701	479 283 4842	
Gladys Jeffery	Gladys Tiffany	4617 S. Government Fayetteville 72701	973-9049	ghdystaff@faytelco.com
Nicole Grove	Nicole Shore	601 S. Government FAY AR 72701	479-465-315-0724	
Dana Shumaker	Dana Shumaker	829 Betty Jo Dr Fayetteville AR 72701	479-313-0103	
Luke Schumade	Luke Schumade	829 Betty Jo Dr Fayetteville AR 72701	479 313 0103	

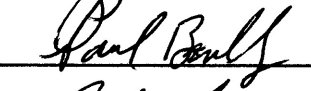
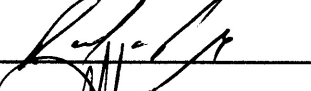
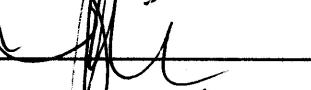
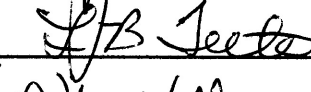
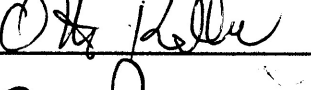
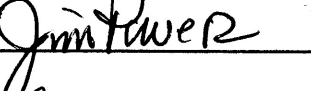
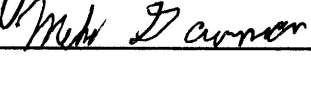
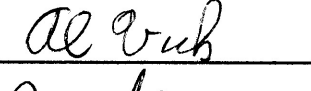
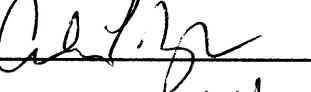
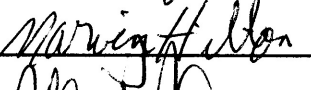
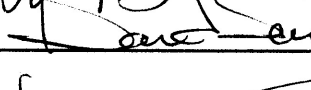
Petition to City Council

B. 1
RZN 09-3271
(Sale Barn/Campus
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Name	Signature	Address w/zip	Phone	Email
Tammy E Pulliam		937 S. Curtis Ave Fayetteville, AR 72701	479- 902- 5275	tep6796@yahoo.com
Paul Bradley		1975 S Cline FAY. AR 72701	445-2166	
PAUL A PAYNTE		15 E. 4th Street FAYETTEVILLE AR 72701	443-0858	
Jim Buckner		5413 W. Winkler Ln FAYETTEVILLE AR 72704	524-6951	
LB TEETER		1009 E. Linder Rogers, Ar	246- 0026	
Otto Keller		1444 W. Mimosa St Rogers 72755	636 5104	
Jim Power		16992 Misty Woods Rd West Fork Ar. U.S. NAVY	479 839-2243	redkeyr@gmmh.com
Mike Gannon		650 W Poplar B6	479 200-2508	
Jc Hughes		Winslow Ar	643-2147	
Daron McDell		1878 - E Scott Hollow Springdale AR 72714	445-7728	
Al Vick		514 EAST ROCK Fayetteville, Ar. 72701	587-8412	m4096975_032607@mail.com
ANDREW MAYES		3601 W. WEIR RD. FAYETTEVILLE, AR 72704	435-1351	andy.mayes@gmail.com
MARVIN HILTON		689 WINBAUGH FAY. 72703	479-466 9240	mshwinhilton@cox.net
Jeffrey L. Johnson		696 S. VAN BUREN FAY, AR 72701	479- 586-5816	
David Sevier		2210 meadowbrook Elkins Ar	4301 253-4659	
Howard Taylor		1104 N. Levee St Fayetteville, AR	417-9 841-1152	howardtaylor.info
Steve Hernandez		PO 221 WINSLOW AR	479 363-6261	

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Walt Eilers	<i>Walt Eilers</i>	2044 W. Archer Dr.	283-2784	walteilers@stglocal.net
ELLEN KNIGHT	<i>Ellen D. Knight</i>	627 N ROCK CLIFF 72701	442-9934	
Mary Kwas	<i>Mary L. Kwas</i>	2408 N. Hampton Ct. Fay 72703	444-6871	
Robert Mainfort	<i>Robert Mainfort</i>	2408 N. Hampton Ct. Fay 72703	444-6871	
Amanda Bancroft	<i>Amanda Bancroft</i>	524 W. Lafayette St. #5 Fayetteville AR 72701	799-9909	
Lauren Johnson	<i>Lauren Johnson</i>	2428 E SWEETBRIAR Fay 72703	527-6793	
Larry Johns	<i>Larry Johns</i>	2468 E-Sweetbriar Fay 72707	527-6793	
Martha Kay Garriss	<i>Martha Kay Garriss</i>	26 E 4th St. Fayetteville, Ar. 72701	443-6535	
Barbara Thorensen	<i>Barbara Thorensen</i>	408 W. Wilson ST Fayetteville 72701	479-236-4948	btparkers@markmedia
Curt Richardson	<i>Curt Richardson</i>	1116 S. Duncan FAYETTEVILLE AR 72701	479-587-1344	
Jean Shinkard	<i>Jean Shinkard</i>	Box 265 2759 Prairie Grove		479 483-2389
Harold Shinkard	<i>Harold Shinkard</i>	Box 265		
Harold Harris	<i>Harold Harris</i>	1603 E. 10th Springdale AR 72762	479-251-2397	USN Mustang 1942 @yahoo.com
Olis Harris	<i>Olis Harris</i>	3310 Liberty Ave.	479-361-2744	

Witnessed by Lauren Hawkins, 1101 S. Duncan Ave., 444-6072

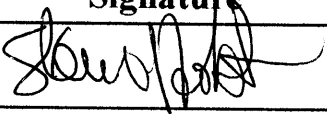
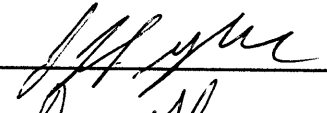
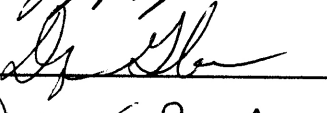
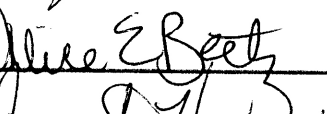
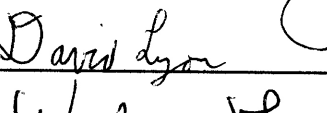
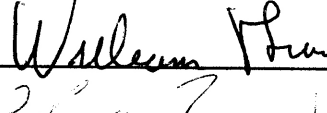
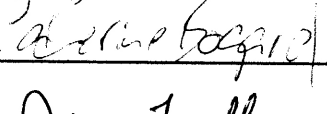
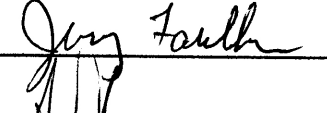
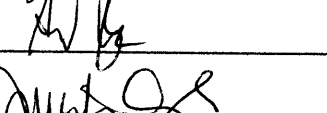
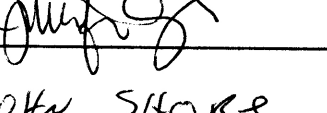
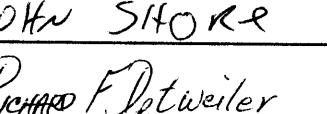
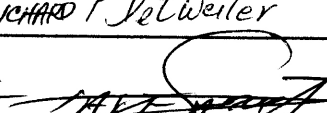
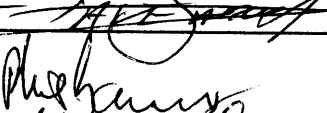
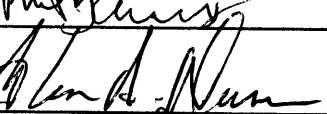
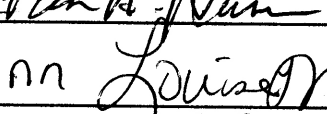
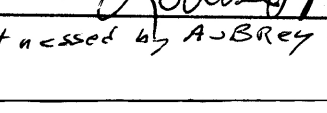
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Name	Signature	Address w/zip	Phone	Email
Steve Holst		1301 Johnny Hill Dr 72703	841-2332	
Jeff Glover		2244 W. Ora Dr	957-0887	
Deja Glover		2244 W. Ora Dr	957-0840	
Alise Beetz		512 S. East Ave	321-6519	
Umaida Harris		2 E. Okburn St. 72701	790-3559	gingeraku@ipho.com
David Lyon		250 W. ^{MLK} Blvd 72701	629-6523	
Bill Lund		8280 Spanner 72712	464-9650	
Catherine Boggs		415 W. Johnson 72764	756-6585	
Guy Faulk		11430 Ashley Rd 72064	479-916-0536	
Arnel Ogle		328 W. Skelton 72701	479-263-3811	arnel08@sbogld.net
Jennifer Ogle		P.O. Box 699 Fayetteville AR 72702	419-839-3595	jogledark.edu
John Shore		12634 Badly ELKINS Rd, Farmington AR 72730	479-267-2221	
Richard Metcalf		PO Box 11874 FORT SMITH, AR 72917	479 484-1089	
LAURE SARGENT		PRAIRIE GROVE AR P.O. Box 228 72753	479 595-7522	
Phil Barnett		1946 Juneytor 72103	441-0265	
GLEN DANN		917 N. LEVERETT	857-2274	gdann@uark.edu
Louise Mann		629 Gray Ave	582- 1928	LMann2@earthlink.net

Signatures witnessed by Aubrey Shepherd on June 6, 2009

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Lorna Sterrett	(military widow) Lorna Sterrett	8 Dunedin Lane Bella Vista, Ar 72715	855-6588	bnlsterrett@sbeglobal.net
ROGER McCLURE	R. McCLURE	6371 TALL OAK L.P.S. SPRINGDALE, AR 72726	306-6459	VET
Beverley Swain	Beverley Swain	4461 Serviceburg Fayetteville, AR	236-1113	Coffeebees @ aol.com
Wesley Stites	Wesley Stites	1506 E. Columbus Blvd Fayetteville AR	582-2934	stites-582-2934@sbeglobal.net
Ronald L. Butler	Ronald L. Butler	1430 meagan St. Springdale, AR 72762	750-2598	wedunit@cox.net
Harold Cornett	RETIRED MILITARY Harold Cornett	5 SCOTSDALE PLACE BELLA VISTA AR 72715	855-3577	VET
Buck Sanders	Buck SANDERS	18665 MC CORT BL. ELKINS, ARK.	663-3580	LOKE
VIRGIL BRADSHAW	Virgil Bradshaw	1208 ELMLEY DR FAYETTEVILLE AR 72701	409-8217	NONE
W.A. Quinn	W.A. Quinn	1530 WOODBROOK DR FAYETTEVILLE AR 72703	414-9510	wquinn@oark.de
T.R. Quinn	T.R. Quinn	SAME ↑	444-9510	NONE
Diana Danforth	Diana Danforth	3490 N SASSAFRAS Fayetteville 72703	501-8382	dancian6@hotmail.com
Rob Knight	Rob Knight	6272 Rock Creek Hwy Fayetteville, AR	479-24936	
Lon Jones	Lon Jones	6216 Kavanagh Little Rock, AR	501-280-0288	
Phillip Green	Phillip Green	1551 S. Campus Cove Fayetteville, AR	479-283-7485	pgreen14@cox.net
Michelle Green	Michelle Green	1551 S. Campus Cove Fayetteville, AR 72701	479-4303	jimgreen63@yahoo.com
DR BURRACK	DR BURRACK	17455 LK SEC FAY AR 72701	521-1009	
Ashley Hollingsworth	Ashley Hollingsworth	1101 S Curtis Apt E-70 Fayetteville AR 72701	966-5234	

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Melba Smith	Melba Smith	2240 East OAKS DRIVE	917-558 0913	Melbasmitte@ny.c.R.R.Com
Sharon Killian	Sharon Killian	2227 N College Fayetteville 72703	703 623-2390	SKillian@cox.net
JEANNINE Presley	Jeannine Presley	808 N. Vanoverter Fayetteville 72701-1948	479-521-4529	NO
JOHN BROWN	John Brown	22703 N. Brown Fayetteville 72703	479-521-4529	NO
HARRISS HENRY	Harris Henry	2465 Conner Dr. Nashville, Mo. 64550	417-451-8852	b.henry@chrysler.net
Beth Ann Meff	Beth Ann Meff	11333 Norway Dr. Fayetteville, AR 72703	479-527-6553	NO
PAT COLLINS	Pat Collins	350 Margaret, Fayetteville, AR 72703	479-527-6553	NO
Lee Grissom	Lee Grissom	4064 1/2 32nd Ave Fayetteville, AR 72703	479-228-9	
ED L. KISTNER	Ed L. Kistner	2816 Old Wire Rd Fayetteville, AR 72703	479-8132	
Kathleen Potter	Kathleen Potter	2651 CLARK TOWERS CT LAS VEGAS, NV 89102	702-221-0507	
Ruth Warford	Ruth Warford	P.O. BOX 233 GOSHEN, AR 72735	479-841-6457	
JAMES MAXWELL	James Maxwell	103 N. Elm Springs Fayetteville, AR 72703	871-6520	JAMESMAXWELL@FAYETTEVILLE.AZ
Bill Barnett	Bill Barnett	PO Box 245 Winslow, AR 72759	634-3000	
ANTHONY DENTON	Anthony Denton	215 S HOLLY SILVER SPRINGS AR 72761	210 463-3001	
Deirdre Shepherd	Deirdre Shepherd	3 E South Fayetteville, AR 72701	479-444-0121	
Pete Heinzelmann	Pete Heinzelmann	1737 Applebury Fayetteville, AR 72703	479-521-8973	
Margo Heinzelmann	Margo Heinzelmann	1737 Applebury Fayetteville, AR 72703	521-8973	

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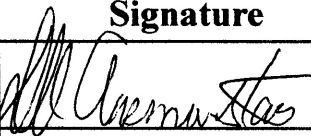
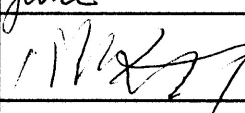
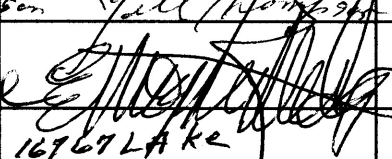
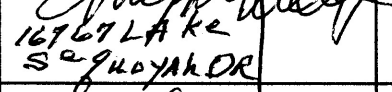
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Debra Asmundstad		4701 Copper Creek Dr. Fayetteville, AR 72764	479- 757- 5847	2dkaasi@ sbcglobal.net
JANE SHOUSE	Jane Shouse	624 Golden Meadow Springdale, AR 72764	750- 1143	-
Robt S Myking		940 ARLINGTON	442- 2538	
Wanda Stephens	Wanda B. Stephens	1177 E. Ridgeway, Fayetteville		wandasteph@ aol.com
JANICE BUNCH	Janice Bunch	3364 N. Peardilly		
JOHN BUNCH	John Bunch	3364 N. Peardilly		
Lysell Thompson	Lysell Thompson	412 E 125 Fayetteville, AR 72704		lthompson@ aol.com
Erin Maye R. Hedge		104 Skyline Dr Fayetteville 72704		
Pauline Estes		16767 LAKE SAGUAY, AR	442- 4583	PEstes9023@ aol.com
PETER LORIS	Peter Loris	2700 Brookberry Xing	443-1866	P.LORIS@COX.NET
Emma G. Buzick	Emma G. Buzick	13 Canova Lane Bella Vista, AR, 72714	1855-4235	N/A
Ann LIRA	Ann Lira	9 Canova Ln Bella Vista AR 72714	876-2453	annlira@arr.com
James B Sawyer	James B Sawyer	306 N. Willow Ave Fayetteville AR 72701	479- 521-6850	jsaw59@yahoo.com
Mary H. Charlton	Mary H. Charlton	306 N. Willow Ave Fayetteville Ar. 72701	479- 521-6850	marycharlton@ cox.net
PAT MORAN	Pat Moran	522 S. 4th Rogers, Ar.		
Myra Moran	MYRA MORAN	522 S. 4th Rogers AR.		
Diane Bryant	Diane Bryant	11761 East-Creek	479- 2671967	d.bryant1215@ gmail.com
Susan O'Neal	SUE O'NEAL	Farmington 10 Whitwick Lane BV	479- 855-0162	TRNEA46044@ AOL.com

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GREG LEDING	<i>GREG LEDING</i>	505 SCHOOL AVE NO. 1 FAYETTEVILLE, AR 72701		gregleding@gmail.com
Martha M. Agee	<i>Martha M. Agee</i>	1000 CREST DR. FAYETTEVILLE, AR 72701		marthaagee@sbcglobal.net
Bettie La Lancaster	<i>Bettie La Lancaster</i>	1271 LAKENIDGE DR. FAYETTEVILLE 72703		
David L. Hunter	<i>David L. Hunter</i>	833 E BRYAN LANE FAYETTEVILLE 72701		dhunter@sbcglobal.net
JACKIE WILLIAMS	<i>Jacqueline Williams</i>	1623 W. YMAPLE FAYETTEVILLE, AR 72701		@uph jwilliams@comcast.net
BOB SIGAFOOS	<i>Bob Sigafos</i>	2650 HARDY LN. FAY. 72703		
Eunice Noland	<i>Eunice Noland</i>	2190 INMAN DR FAYETTEVILLE, AR 72701		
Miller Williams	<i>Miller Williams</i>	1111 VALLEY VIEW DR FAYETTEVILLE AR 72701		mwm51000@cox.net
Jo A. Bennett	<i>Jo A. Bennett</i>	2473 JIMMIE AVE. FAYETTEVILLE, AR 72703		
E. L. Rudolph	<i>E. L. Rudolph</i>	513 Highland FAYETTEVILLE, AR 72701		
M. K. HAYS	<i>M. K. Hays</i>	2110 E. COUNTRY WAY FAYETTEVILLE, AR 72703		Kathyhays@kw.com
Katharine M. Sigafos	<i>Katharine M. Sigafos</i>	2689 HARDY DR FAYETTEVILLE, AR 72703	(479) 571- 03 3626	
Edmund Fitch	<i>Edmund Fitch</i>	P.O. Box 389 PRAIRIE GROVE, AR	1-521-5885	cnamor@sbcglobal.net
Chester L. Naramor	<i>Chester Naramor</i>	439 S Church FAYETTEVILLE, AR 72701	521-5885	cnamor@sbcglobal.net
Doris Naramor	<i>Doris Naramor</i>	439 S Church Fay. AR 72701	521-5885	cnamor@sbcglobal.net
DIANE FERGUSON	<i>Diane Ferguson</i>	529 So. Sherman Fayetteville, AR 72701	521-8581	
Ralph Ferguson	<i>Ralph Ferguson</i>	" " "	"	

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Name	Signature	Address w/zip	Phone	Email
Nelle Haught	American Legion Aux. HAZEL Nelle Haught	Huntsville		
Nadine Jones	Nadine Jones	Huntsville		
Velma Livermore	Velma Livermore	Huntsville		
Velma Napier	Velma Napier	Huntsville		
Freda Mikker	Freda Miller	Huntsville		
Lorene McElhenny	Lorene McElhenny	Huntsville		
Ray Vazgen	Ray Vazgen	1005 S. Hill RAY Vazgen	571-3378	
Bob Sizemore	Bob Sizemore	West Fork		W Vet
Betty Christian	Betty Christian	Rt. 1 Box 191 Fay. AR	479 789-5864	
COLE-PAJ	Cole-Paj	Hwy 62	846 870	
Larry Woodall	Larry Woodall	303 W. Grove Springdale, AR 72769		
Charles Bance	Charles Bance	19250 4th St Rogers, AR 72758	636 1387	Veteran
DAVID W HARRIS	David W Harris	1549 H. A. KIRKMAN RD FAYETTEVILLE	442- 7752	Karen Vet greg@gregg.co.uk edu
Todd Turner	Todd Turner	Arkadelphia, AR		
H.M. HATTA	H.M. HATTA	Little Rock, AR		

Petition to City Council

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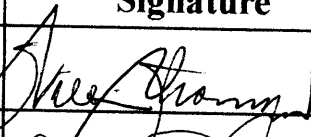
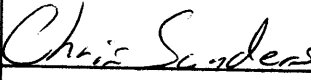
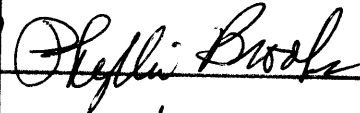
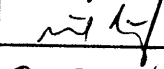
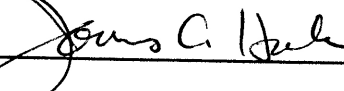
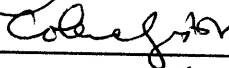
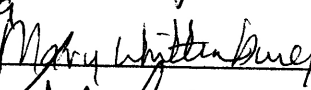
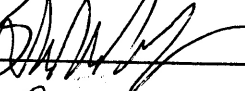
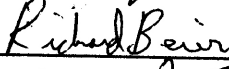
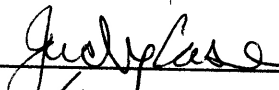
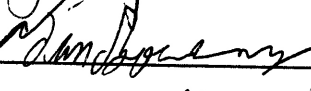
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Name	Signature	Address w/zip	Phone	Email
BILL THOMPSON		2 EDDLESTON DR. 72715 B.N.	479 855-6428	
Cherie Pointer		1809 Ed Edwards Rd Fay, Ar. 72701	479 409-1297	
Chris Sanders		21983 E. Hwy 74 Wesley AR, 72773	479 601-6055	
Phyllis Brook		12987 N. Futrell St Fay AR 72703	856-6245	
Mike Fupel		284 W. Cleburn Fay AR 72701	713-4568	
Joyce E. Hale		285 W. Cleburn Fay AR 72701	527-2777	joyceale@outlook.com
JAMES C. HALE		285 W. CLEBURN, FAY. AR 72701	527-2777	JHALE30@sbcc.edu
COLLENE GARDON		72703 3270 Rom Orchard Rd	442-6860	
Karen McSpadden		878 N. Jackson Dr. Fay. 72701	225-2077	karen.b.mcspadden@gmail.com
Mary Whittenburg		Fay ARK 72701 Duncan St #32	427-1531 52	
Stephen Perry		1249 W. Saps Rd	479 445-3764	PerryStephen1@gmail.com
Richard Beier		Wcato Springs Road	479 409-9995	rbeier1@netcom.net
ANNE L. TURNER		1694 MADISON Hindsville AR	479 3630	
Judy Case		15329 S. Skyline Trl Caneyville AR 72717	313-828	
Vion Bowman		108 Madison 3056 Hartsville	232-5378	
FREDERICK SMITH		9522 White Rd	72947	
James Carter		1011 Hollywood Ave.	72701	

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Name	Signature	Address w/zip	Phone	Email
KEITH DOUGHTY	<i>D. Keith Doughty</i>	616 REDS 1159 W MLK FAYETTEVILLE, AR 72701	582-2232	
ROBERT COOK	<i>Robert D. Cook</i>	14358 DRAPER RD FAYETTEVILLE ARK. 72704	521-7731	
Sheri Baker	<i>Sheri Baker</i>	55 E 15TH ST Fayetteville	445-2429	
KEITH COOPER	<i>Keith Cooper</i>	FAY ARK 4574 OZARK TRAIL	267-3548	
LaVerne Cooper	<i>LaVerne Cooper</i>	FAY, Ar. 4584 OZARK Trail	267-3548	
Leon Jones, JR	<i>Leon Jones</i>	FAY ARK 2330 N Kerswick Ave	582-5652	
Ed Heckathorn	<i>Ed Heckathorn</i>	FAY. ARK. 2117 Loren Circle	479-442-8851	
Junell Davis	<i>Junell Davis</i>	2550 N. Center	442-9863	
WILLIAM COUCH	<i>William Couch</i>	713 10 church	621-3812	
Alice Daub	<i>Alice Daub</i>	2619 N. Quality Ln	444-6830	
Myra Williams	<i>Myra Williams</i>	8514 N. Quality Ln	582-9423	
James Beares	<i>James Beares</i>	2610. deadhorse west of ark	443-5957	
Leon	<i>Leon</i>	1042 Bonnie Jagville	none	
Jim Kadel	<i>Jim Kadel</i>	1956 East Oaks	-	
PAUL D. HAMMOND	<i>Paul D. Hammond</i>	46 E WILSON ST. FARMINGTON	267-3137	
Margie Lunsford	<i>Margie Lunsford</i>	Johnson, Ar.		

Witnessed by Aubrey Shepherd June 11, 2009

Petition to City Council

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Name	Signature	Address w/zip	Phone	Email
Bill Orton	Wm. O. Orton	1641 Halsell	442-8036	aberit@earthlink.net
Marion Orton	Marion O. Orton	1641 Halsell	442-8036	marionorton@aol.com
Dianne Zimmerman	Dianne Zimmerman	1618 E Brighton 72703	479-521-5112	diannezimmerman@sbglobal.net
Joan Campbell	Joan E. Campbell	1410 W. Ridgeway	583-1660	N.A.
Suzie Jenkins	Suzie Jenkins	33 Greenbriar Dr.	422-7444	tsjenk@yahoo.com
Tommi Perkin	Tommi Perkin	2840 N. Gayestall Huntington Dr.	841-2110	tommi.perkins@earthlink.net
Cecile Chouinard	Cecile Chouinard	11115 S. Wedington	824-3670	
Kathleen Everett	Kathleen Everett	114 E. Adobe #2503	601-3472	katkeeneverett@yahoo.com
Joyce Carney	Joyce Carney	293 Wallace St	846-1774	
Marie Chouinard	Marie Chouinard	510 S. Pittman St	846-5153	N/A
Debbi Chaney	Debbi Chaney	14577 Greasy Valley Rd 72753	824-3106	N/A
Lin H	Lillie Mae Hughes	1101 Curtis	521437	
KEN SISEMORE	Ken Siseamore	2409 Robin Ct.	409-1677	N/A
Earlyne Keen	Earlyne Keen	1085 S. Keen Ln.	443-6685	
W. Buck Ebbrecht	W. Buck Ebbrecht	416 So. Willow	442-7019	
Bob Conner	Bob Conner	55 RAISON ST FARMINGTON APTS		
Bill Conner	William B Conner	2616 MAINE FAY		

Witnesses by Aubrey Shepherd June 11, 2009

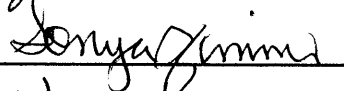
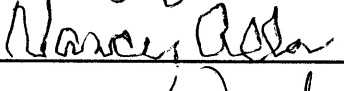
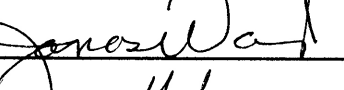
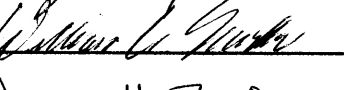
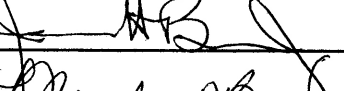
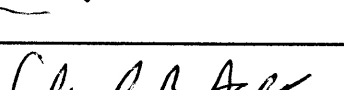
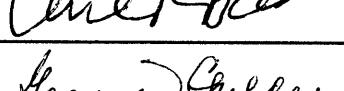
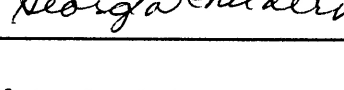
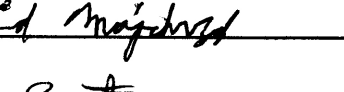
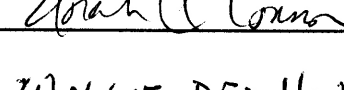
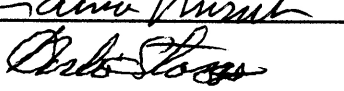
Petition to City Council

B. 1
RZN 09-3271
(Sale Barn/Campus
conservation)
Page 103 of 106

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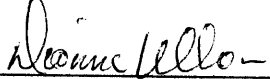
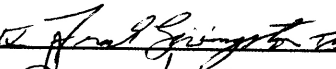
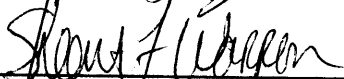
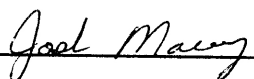
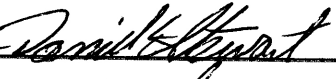
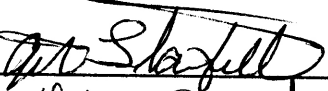
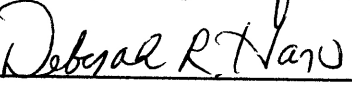
Name	Signature	Address w/zip	Phone	Email
James Alexander		1946 Fox Hunter Rd 72701	442-5307	
Sonya Zimmer		2845 N Prince William 72703	841-0194	
Nancy Allen		P.O. Box 3105		
James Ward		16365 Hamstring Fay.	601-2477	
Emily Shirley		140 Glen St. Farmington 72730	267 0840	
William A. Moore		10711 MACKHAM RD FAYETTEVILLE AR 72701	575-0219	
JIM BEMIS		1325 Pine Creek 72704	444-9825	
Mayra Bemis		1325 Pine Creek	841-0050	
Det. Neely		1244 MISSION, 72701		dgn.edensgreen@gmail.com
Rice B. Felt		904 E. KODAKS 72701	587-8034	
Georgia Childers		1125 E. ELM FAYETTEVILLE AR	443-1931	georgachilders@com.com
Ed Herson		Thagburn 72703 2701 Chestnut	312-339	
Reed		Thagburn 72703 821 Dury St	512-1797	Reed
Norah O'Connor		4695 S. Huntsville Rd	527-0005	
Willie Dee Howe		FAY AR 72701 #3 1350 S. WOOD AVE	429- 445- 6728	NO WE
Ronald G. Foltz		955 E Rodgers Drive Fayetteville, AR 72701	442- 5248	
CARMA VUKICH		1560 Electric Springdale 72769	727-64	
ARLIE STILES		4230 PARKER FAYETTEVILLE 72704	443- 7886	arlie.stiles@att.net

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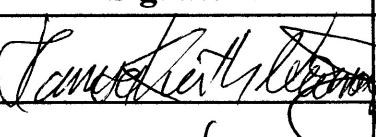
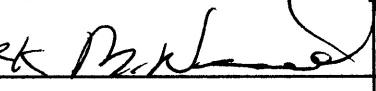
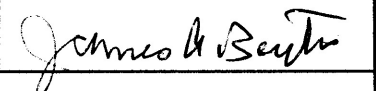
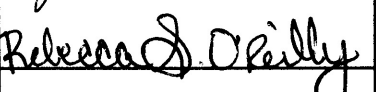
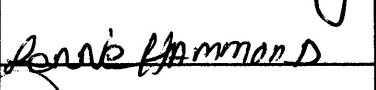
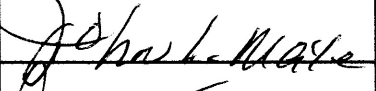
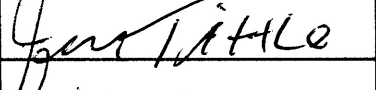
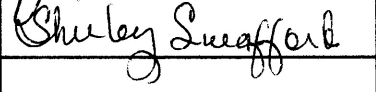
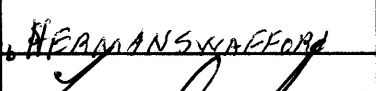
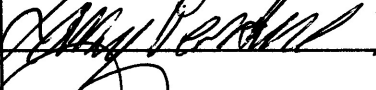
Name	Signature	Address w/zip	Phone	Email
Spencer Presley		1401 S. Ellis	263-2560	SpencerPresley@gmail.com
Leonard Schulte		1235 S West Ave	790-1664	lschulte@juno.com
Roni Schilling		1327 S. Ellis Ave	521-0981	dobie_0981@yahoo.com
Dionne Ullom		1258 S. Ellis Ave	521-7761	nanau1lom@yahoo.com
Frank Livingston		1234 S. Ellis Ave	445-3683	—
Sheena Warren		1234 Ellis Ave	841-3199	—
Brad Langston		1229 S Ellis Ave	857 7749	Brad-a-Langston@yahoo.com
Josh Macey		1209 S. Ellis Ave	445-6253	—
Keturah Stewart		1402 S. ELLIS AVE. 72701	225-5120	—
DANIEL E. STEWART		1402 S. ELLIS AVE.	195-4878	—
Michael Layton		1515 S. Ellis Ave	387-5232	—
Amenda Moore		642 W 13th St	251-1813	—
Gil Stanfill		619 W 13th St	918-348-9979	—
Leah Wee Brassfield		611 West 12th Fayetteville, AR 72701	313-0051	11brassfield@pro.com
Deborah R. Haro		611 W. 13th Fayetteville 72701	479 313-0671	—
Witnessed by Leonard Schulte 6/11/09				

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Name	Signature	Address w/zip	Phone	Email
Newmark Hemlock		1039 Overcrest St	530-7486	
Moshe Newmark		"	521-7786	
Sonia Hausman	S. H. —	301 S. West Ave	444-7747	
James A. BAYTES		1134 S. Emory St	205 568-0172	
Rebecca S. O'Reilly		424 E. 13th Place	479-313-3221	roreill@uark.edu
Lonnie HAMMOND		2020 N. CHESTNUT AVE Fayetteville, 72702	477 313-3864	
John Maye		P.O. Box 4061 SPRINGDALE	479 884-2894	vet Global.west I have used SBC works directly
Shirley Swafford		1229 S. DUNEAN FAYETTEVILLE, 72701	443-3550	
HERMAN SWAFFORD		"	"	
LARRY PEARCE		915 S. MAIN AVE FAYETTEVILLE, AR	443-3630	
DONALD CONNER		1686 E. SHADDOCK DR FAYETTEVILLE, AR	479 841-7349	dod@donalconnor.com

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Moshe Newmark	[Signature]	"	521-7786	
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James A. BAYTES	[Signature]	1134 S. Emory M-	205 568-0772	
Lebecca S. O'Reilly	[Signature]	424 E. 13 th Place	479-313-3221	rdoell@uark.edu
Lonnie HAMMOND	[Signature]	2020 N. CHESTNUT ALLE Fayetteville, 72702	Cy 477 313-3864	
John Maye	[Signature]	P.O. Box 4061	713-884-2894	VET Global Net Maye & Son LLC WORKS ORIENT
Jim Voss	[Signature]	SPRINGDALE		
Shirley Swafford	[Signature]	1229 S DUREAN Fayetteville 72701	443-3550	
HELMAN SWAFFORD	[Signature]	" "	" "	
LARRY PEARCE	[Signature]	415 S. MILL AVE FAVETTEVILLE, AR	443-3130	
DORIS CORNER	[Signature]	1686 E. SHADOWGROVE DR FAVETTEVILLE, AR	479-841-7349	dorisdoriscorner.com

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 1, 2009

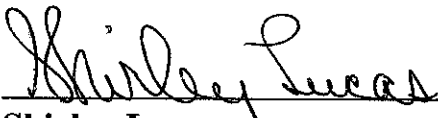
FROM:

Shirley Lucas, Council Member
Sarah Lewis, Council Member

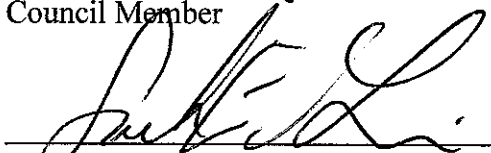
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Prevent Injury Or Annoyance Within The Corporate Limits Of Fayetteville By
Regulating Rock Quarrying Facilities So That These Facilities Will Not Be Nuisances

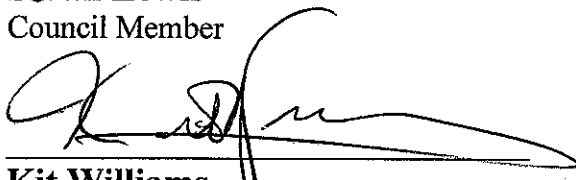
APPROVED FOR AGENDA:


Shirley Lucas
Council Member

8/25/09
Date


Sarah Lewis
Council Member

8/25/09
Date


Kit Williams
City Attorney (as to form)

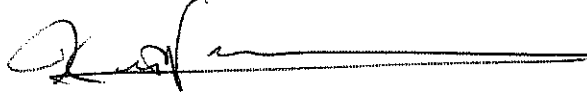
8-10-09
Date

Let on First Reading @ 9-1-09 CC mtg.

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

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

FROM: **Kit Williams**, City Attorney



DATE: **August 19, 2009**

RE: **Proposed Chapter 113 Rock Quarries and Red Dirt Mining Facilities of the Code of Fayetteville**

Several months ago, City Council members Sarah Lewis and Shirley Lucas asked me to attend a meeting of Ward 4 residents who were concerned and unhappy about problems caused to their neighborhood by a Rock Quarry and Red Dirt Mining Facility near their homes. These city residents described regular disturbing activities that operation of the quarry and red dirt mine were inflicting upon them in their homes and on their property. These nuisance type activities included:

- (1) the dust, noise and vibration from frequent blasting of the rock for quarrying;
- (2) the noise, dust and fumes from the machines operating at the quarry and red dirt mine;
- (3) the large number of dump trucks which serviced the quarry and red dirt farm which often immediately entered city streets and caused traffic problems and safety issues during morning and afternoon school rush hours;
- (4) the amount of red dirt and rocks that fell from these dump trucks onto city streets and right-of-way. These trucks were often uncovered with very little freeboard.

The City Council Ordinance Review Committee held several meetings to fine tune the initial ordinances I drafted pursuant to the requests of City Council Members Lucas and Lewis. Neighbors attended these public meetings and also provided input information and suggestions. The owners or managers of the rock quarry and red dirt mining operation did not attend to provide any input. I recommend that the ordinances be left on the first reading so that the rock quarry and red dirt mining owners and operators can review these ordinances for fairness and utility.

These ordinances would mandate that each operator of a rock quarry or red dirt mining facility within the city and within one mile of the city limits must obtain a license from the City to operate their facility. The ordinances prescribe measures that an operator must take to prevent his facility from being a nuisance to Fayetteville residents. These measures restrict:

- (1) the frequency of allowed explosions;
- (2) require dust control measures;
- (3) restrict the days of operation to regular workdays (Monday-Friday);
- (4) restrict the hours of operation with longer hours allowed in the summer when school is out;
- (5) require dump trucks servicing the facility to have their loads covered more frequently than now allowed; and
- (6) require other measures to abate the potential of the facility to be a nuisance to our citizens.

ORDINANCE NO. _____

**AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE
WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY
REGULATING ROCK QUARRYING FACILITIES SO THAT
THESE FACILITIES WILL NOT BE NUISANCES**

WHEREAS, the City Council of the City of Fayetteville, Arkansas recognizes the need for rock quarries to supply necessary road building material within and near the corporate limits of Fayetteville; and

WHEREAS, the Fayetteville City Council has reviewed scientific evidence and listened to experts and determined that rock blasting causes unavoidably damaging effects upon nearby structures (especially homes); and

WHEREAS, the Fayetteville City Council has also learned and determined that an operating rock quarry causes vibrations, dust, ground upheaval, loud noises, fumes and other deleterious effects within a mile from the quarry; and

WHEREAS, the Fayetteville City Council has also heard from citizens living near an existing and operating rock quarry and determined that unregulated rock blasting, rock crushing and other rock quarry activities are offensive and potentially unhealthy and dangerous to Fayetteville citizens and damaging to their homes; and

WHEREAS, unless the frequency of rock blasting, its distance from houses and the hours and days of rock quarry operation near residences is regulated and controlled to prevent dust, fumes and noise from escaping the quarry, such a rock quarry would constitute a nuisance to Fayetteville residents and citizens and should be abated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Chapter 113 **Rock Quarries and Red Dirt Mining Facilities** of the Code of Fayetteville, Article I **Rock Quarry Operating License** as shown below:

“
ARTICLE I.
Rock Quarry Operating License

“§113.01. Finding of Nuisance and Need for Abatement.

The City Council of the City of Fayetteville, Arkansas determines and finds that the operation of a rock quarry is a nuisance to the citizens and City of Fayetteville, Arkansas if operated or used other than as prescribed in §113.02 and, therefore, should be abated by the reasonable regulations required by this ordinance.

“§113.02. Abatement of Nuisance.

(A) Rock Blasting/Use of Explosives.

(1) No rock blasting shall be allowed within 60 yards of any house within the city limits of Fayetteville.

(2) No rock blasting explosive charge or location shall exceed the most restrictive limitations within federal, state and Washington County regulations or laws.

(3) All rock blasting within the permitted quarry shall only be allowed one time per month between the hours of 10:00 a.m. and 3:00 p.m. during a single weekday (non-holiday) pursuant to the Rock Quarry Operating License.

(B) Operation of Rock Quarry.

(1) All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate during the period of 8:30 a.m. until 3:00 p.m. Monday through Friday from August 20th through June 5th and during the period of 8:00 a.m. until 5:30 p.m. Monday through Friday from June 6th through August 19th. No rock quarry shall be allowed to operate on a federally recognized holiday.

(2) All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall be prohibited from any operations until the owner/operator of such quarry has obtained a valid, annual Rock Quarry Operating License. This license to operate shall be issued by the Fayetteville Planning Department on a fiscal year (July 1 through June 30) schedule with no fee assessed.

(C) Dust, Mud and Rock Control Measures.

All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate with the following safeguards and measures to ensure that dust, dirt, mud, loose rock and gravel, and all other possible irritants or nuisance substances do not adversely affect Fayetteville residents. It is the express continuing duty of the licensed rock quarry operator to ensure all of these safeguards, requirements and measures are constantly enforced.

(1) *Dust control measures.* Water or other substances or measures must be fully effective during the operation of the rock quarry to prevent the escape of dust from the rock quarry. During any period of a week or longer when the rock quarry is not operating, the operator shall take all measures necessary to ensure dust does not escape from the rock quarry.

(2) *Dirt and mud control measures.* The rock quarry operator is required to ensure that any and all vehicles leaving the rock quarry shall have all mud and dirt removed from the tires and exterior parts of the body of the vehicles prior to exiting the site onto public roads.

(3) *Loose rock and gravel.* The rock quarry operator is responsible to ensure that all dump trucks leaving the rock quarry site that may utilize any city street and are carrying more than half a truck load of gravel, rocks or dirt have their load fully and properly covered.

(4) *Dump truck identifying number.* In order for citizens to easily and correctly identify dump trucks and their owner/operators who are servicing the rock quarry, the rock quarry operator shall require any dump truck accessing or servicing his facility to have an easy to read four digit number at least six inches high and twelve inches wide on the tail gate of the dump truck. The rock quarry operator shall maintain an up-to-date and accurate log of the owner and operator of each numbered dump truck and shall immediately supply the owner and operator's name, address and contract information to any Fayetteville employee, official or citizen who requests such information.

(5) *Only dump trucks with proper identifying number may be loaded.* The rock quarry operator shall not load or permit to be loaded or permit to exit the rock quarry any dump truck unless the identifying number specified in subsection (4) is clearly legible, easy to read and not obscured by dirt, mud or otherwise.

"§113.03: Jurisdiction of This Ordinance.

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all rock quarries located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

"§113.04: Definitions.

(A) "*Explosive force*" means the amount of explosive power generated by various types of explosive substances such as dynamite, blasting powder, etc.

(B) "*Rock Quarry*" means any open excavation used for obtaining building stone, slate, limestone or other type of rock used for paving or building purposes.

(C) "*House*" means any habitable structure including a mobile or manufactured home, a dwelling, a residence, an apartment, a condominium, a dormitory, a hotel or motel.

(D) *“Operation of Rock Quarry”* means any blasting, operation of any mechanical equipment on the premises of the rock quarry or any operation of dump trucks or other large vehicles on the premises of the rock quarry site. Starting, running the engine or moving any equipment or dump truck on the premises shall constitute operation of the rock quarry. However, as long as the dust control measures remain in operation and effective, dump trucks may be driven onto the rock quarry to park (but may not be loaded) on the premises up until 5:30 p.m. during the August 20th to June 5th period.

“113.05: Issuance, Suspension or Revocation of License.

(A) *Issuance.* The Director of Development Services or designee shall prepare and issue an annual Rock Quarry Operating License upon proper application of an owner/operator of a rock quarry within the jurisdiction of this ordinance after ensuring the rock quarry operator will be in full compliance with all requirements of this ordinance and has all other current and valid federal, state and county permits required for rock quarrying operation.

(B) *Suspension.* The Director of Development Services may suspend a Rock Quarry Operating License for up to thirty (30) days for violations of the terms of the license after a due process hearing.

(C) *Revocation.* The Director of Development Services may revoke a Rock Quarry Operating license for repetitive, continuing, intentional, or substantial violations of the requirements of this ordinance. The Director of Development Services may require adequate assurances that any operator whose license has been revoked will fully comply with the Rock Quarry Operating License before reissuing another license.

(D) *Appeal.* Any person whose license has been suspended or revoked pursuant to this section, may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten business days of the issuance of suspension or revocation. The City Council may then determine whether the rock quarry operator violated the requirements of the ordinance and, if so, whether suspension (up to 30 days) or revocation is appropriate for such violation.

“§113.06: Penalty.

(A) Any owner, lessor or lessee of real property upon which is located a rock quarry and any operator, manager, or employee of such rock quarry shall ensure such quarry is operated within the limits of this ordinance and shall be guilty of a criminal violation for any violation of the requirements of this ordinance.

(B) The Rock Quarry Operating License may be suspended or revoked by the Director of Development Services after a due process hearing for an owner's, manager's, operator's, employee's, or lessee's violation of any terms or limits within this ordinance or for operating the rock quarry not in conformity with its Rock Quarry Operating License.

(C) Any owner, operator, manager, lessee or employee of a rock quarry shall be guilty of a criminal violation if such person operates the rock quarry in violation of any of the terms of this ordinance, without a current and valid Rock Quarry Operating License, or in violation of any of the terms of his Rock Quarry Operating License.

(D) Each violation of the operational hour limitations or the number of explosions or the explosive force of any rock blasting of this Ordinance or the applicable Rock Quarry Operating License shall constitute a separate violation of this ordinance and shall be punishable by a fine of up to \$500.00.

"§113.07: No reduction in property owner's right to sue for nuisance.

Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of rock quarry if such facility constitutes a private or public nuisance to that property owner."

PASSED and APPROVED this the 1st day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 1, 2009

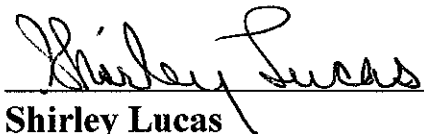
FROM:

Shirley Lucas, Council Member
Sarah Lewis, Council Member

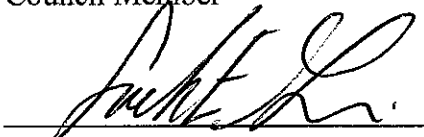
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Prevent Injury Or Annoyance Within The Corporate Limits Of Fayetteville By
Regulating Red Dirt Mining Facilities So That These Facilities Will Not Be Nuisances

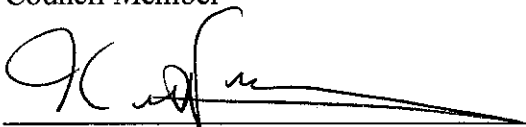
APPROVED FOR AGENDA:


Shirley Lucas
Council Member

8/25/09
Date


Sarah Lewis
Council Member

8/25/09
Date


Kit Williams
City Attorney (as to form)

8-10-09
Date

Left on First Reading 9-1-09 mtg.

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

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

FROM: **Kit Williams**, City Attorney

DATE: **August 19, 2009**

RE: **Proposed Chapter 113 Rock Quarries and Red Dirt Mining Facilities of the Code of Fayetteville**

Several months ago, City Council members Sarah Lewis and Shirley Lucas asked me to attend a meeting of Ward 4 residents who were concerned and unhappy about problems caused to their neighborhood by a Rock Quarry and Red Dirt Mining Facility near their homes. These city residents described regular disturbing activities that operation of the quarry and red dirt mine were inflicting upon them in their homes and on their property. These nuisance type activities included:

- (1) the dust, noise and vibration from frequent blasting of the rock for quarrying;
- (2) the noise, dust and fumes from the machines operating at the quarry and red dirt mine;
- (3) the large number of dump trucks which serviced the quarry and red dirt farm which often immediately entered city streets and caused traffic problems and safety issues during morning and afternoon school rush hours;
- (4) the amount of red dirt and rocks that fell from these dump trucks onto city streets and right-of-way. These trucks were often uncovered with very little freeboard.

The City Council Ordinance Review Committee held several meetings to fine tune the initial ordinances I drafted pursuant to the requests of City Council Members Lucas and Lewis. Neighbors attended these public meetings and also provided input information and suggestions. The owners or managers of the rock quarry and red dirt mining operation did not attend to provide any input. I recommend that the ordinances be left on the first reading so that the rock quarry and red dirt mining owners and operators can review these ordinances for fairness and utility.

These ordinances would mandate that each operator of a rock quarry or red dirt mining facility within the city and within one mile of the city limits must obtain a license from the City to operate their facility. The ordinances prescribe measures that an operator must take to prevent his facility from being a nuisance to Fayetteville residents. These measures restrict:

- (1) the frequency of allowed explosions;
- (2) require dust control measures;
- (3) restrict the days of operation to regular workdays (Monday-Friday);
- (4) restrict the hours of operation with longer hours allowed in the summer when school is out;
- (5) require dump trucks servicing the facility to have their loads covered more frequently than now allowed; and
- (6) require other measures to abate the potential of the facility to be a nuisance to our citizens.

ORDINANCE NO. _____

**AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE
WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY
REGULATING RED DIRT MINING FACILITIES SO THAT
THESE FACILITIES WILL NOT BE NUISANCES**

WHEREAS, the City Council of the City of Fayetteville, Arkansas recognizes the need for red dirt mining facilities to supply necessary red dirt for building construction, parking lot and road construction within and near the corporate limits of Fayetteville; and

WHEREAS, the Fayetteville City Council has reviewed scientific evidence and listened to experts and determined that any blasting that could be used in red dirt mining could cause unavoidable damaging effects upon nearby structures (especially homes); and

WHEREAS, the Fayetteville City Council has also learned and determined that an operating red dirt mining facility causes vibrations, dust, ground upheaval, loud noises, fumes and other deleterious effects within a mile from the red dirt mining facility; and

WHEREAS, the Fayetteville City Council has also heard from citizens living near an existing and operating red dirt mining facility and determined that unregulated blasting, dirt excavating, dump truck loading and other red dirt mining facility activities are offensive and potentially unhealthy and dangerous to Fayetteville citizens and damaging to their homes and city streets;

WHEREAS, unless the frequency of blasting, its distance from houses, the hours and days of red dirt mining facility operation near residences and the red dirt mining's dust causing activities are regulated and controlled, such a red dirt mining facility would constitute a nuisance to Fayetteville residents and citizens and should be abated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Chapter 113 **Rock Quarries and Red Dirt Mining Facilities** of the Code of Fayetteville, Article II **Red Dirt Mining Facility Operating License** as shown on the attached Exhibit A.

PASSED and APPROVED this the 1st day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

ARTICLE II.

Red Dirt Mining Facility Operating License

§113.11. Finding of Nuisance and Need for Abatement

The City Council of the City of Fayetteville, Arkansas determines and finds that the operation of a red dirt mining facility is a nuisance to the citizens and City of Fayetteville, Arkansas if operated or used other than as prescribed in §113.12 and, therefore, should be abated by the reasonable regulations required by this ordinance.

§113.12. Abatement of Nuisance

(A) Rock Blasting/Use of Explosives.

(1) No blasting shall be allowed within 60 yards of any house within the city limits of Fayetteville.

(2) No blasting explosive charge or location shall exceed the most restrictive limitations within federal, state and Washington County regulations or laws.

(3) All blasting within the permitted red dirt mining facility shall only be allowed one time per month between the hours of 10:00 a.m. and 3:00 p.m. during a single weekday (non-holiday) pursuant to the Red Dirt Mining Operating License.

(B) Operation of Red Dirt Mining Facility.

(1) All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate during the period of 8:30 a.m. until 3:00 p.m. Monday through Friday from August 20th through June 5th and during the period of 8:00 a.m. until 5:30 p.m. Monday through Friday from June 6th through August 19th. No red dirt mining facility shall be allowed to operate on a federally recognized holiday.

(2) All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall be prohibited from any operations until the owner/operator of such facility has obtained a valid, annual Red Dirt Mining Operating License. This license to operate shall be issued by the Fayetteville Planning Department on a fiscal year (July 1 through June 30) schedule with no fee assessed.

(C) Dust, Mud and Rock Control Measures.

All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate with the following safeguards and measures to ensure that dust, dirt, mud, loose rock, and all other possible irritants or nuisance substances do not adversely affect Fayetteville residents. It is the express continuing duty of the licensed red dirt mining operator to ensure all of these safeguards, requirements and measures are constantly enforced.

(1) *Dust control measures.* Water or other substances or measures must be fully effective during

the operation of the red dirt mining to prevent the escape of dust from the red dirt mining facility. During any period of a week or longer when the red dirt mining facility is not operating, the operator shall take all measures necessary to ensure dust does not escape from the red dirt mining facility.

(2) *Dirt and mud control measures.* The red dirt mining operator is required to ensure that any and all vehicles leaving the red dirt mining facility shall have all mud and dirt removed from the tires and exterior parts of the body of all vehicles prior to exiting the site onto public roads.

(3) *Red dirt.* The red dirt mining operator is responsible to ensure that all dump trucks leaving the red dirt mining site that may utilize any city street and are carrying more than half a truck load of red dirt have their load fully and properly covered.

(4) *Dump truck identifying number.* In order for citizens to easily and correctly identify dump trucks and their owner/operators who are servicing the red dirt mining facility, the red dirt mining operator shall require any dump truck accessing or servicing his facility to have an easy to read four digit number at least six inches high and twelve inches wide on the tail gate of the dump truck. The red dirt mining operator shall maintain an up-to-date and accurate log of the owner and operator of each numbered dump truck and shall immediately supply the owner and operator's name, address and contract information to any Fayetteville employee, official or citizen who requests such information.

(5) *Only dump trucks with proper identifying number may be loaded.* The red dirt mining operator shall not load or permit to be loaded or permit to exit the red dirt mining facility any dump truck unless the identifying number specified in subsection (4) is clearly legible, easy to read and not obscured by dirt, mud or otherwise.

§113.13: Jurisdiction of This Ordinance.

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all red dirt mining facilities located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

§113.14: Definitions.

(A) "*Explosive force*" means the amount of explosive power generated by various types of explosive substances such as dynamite, blasting powder, etc.

(B) "*Red dirt mining*" means any open excavation used for obtaining red dirt or other type of soil used for paving or building purposes.

(C) "*House*" means any habitable structure including a mobile or manufactured home, a dwelling, a residence, an apartment, a condominium, a dormitory, a hotel or motel.

(D) "*Operation of Red Dirt Mining Facility*" means any blasting, operation of any mechanical equipment on the premises of the red dirt mining facility or any operation of dump trucks or other large vehicles on the premises of the red dirt mining site. Starting, running the

engine or moving any equipment or dump truck on the premises shall constitute operation of the red dirt mining facility. However, as long as the dust control measures remain in operation and effective, dump trucks may be driven onto the red dirt mining facility to park (but may not be loaded) on the premises up until 5:30 p.m. during the August 20th to June 5th period.

113.15: Issuance, Suspension or Revocation of License.

(A) *Issuance.* The Director of Development Services or designee shall prepare and issue an annual Red Dirt Mining Facility Operating License upon proper application of an owner/operator of a red dirt mining facility within the jurisdiction of this ordinance after ensuring the owner/operator will be in full compliance with all requirements of this ordinance and has all other current and valid federal, state and county permits required for red dirt mining operation.

(B) *Suspension.* The Director of Development Services may suspend a Red Dirt Mining Facility Operating License for up to thirty (30) days for violations of the terms of the license after a due process hearing.

(C) *Revocation.* The Director of Development Services may revoke a Red Dirt Mining Facility Operating license for repetitive, continuing, intentional, or substantial violations of the requirements of this ordinance. The Director of Development Services may require adequate assurances that any operator whose license has been revoked will fully comply with the Red Dirt Mining Facility Operating License before reissuing another license.

(D) *Appeal.* Any person whose license has been suspended or revoked pursuant to this section, may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten business days of the issuance of suspension or revocation. The City Council may then determine whether the red dirt mining facility owner/operator violated the requirements of the ordinance and, if so,

whether suspension (up to 30 days) or revocation is appropriate for such violation.

§113.16: Penalty.

(A) Any owner, lessor or lessee of real property upon which is located a red dirt mining facility and any operator, manager, or employee of such red dirt mining facility shall ensure such facility is operated within the limits of this ordinance and shall be guilty of a criminal violation for any violation of the requirements of this ordinance.

(B) The Red Dirt Mining Facility Operating License may be revoked or suspended by the Director of Development Services after a due process hearing for an owner's, manager's, operator's, employee's, or lessee's violation of any terms or limits within this ordinance or for operating the red dirt mining facility not in conformity with its Red Dirt Mining Facility Operating License.

(C) Any owner, operator, manager, lessee or employee of a Red Dirt Mining Facility shall be guilty of a criminal violation if such person operates the red dirt mining facility in violation of any of the terms of this ordinance, without a current and valid Red Dirt Mining Facility Operating License, or in violation of any of the terms of his Red Dirt Mining Facility Operating License.

(D) Each violation of the operational hour limitations or the number of explosions or the explosive force of any blasting of this Ordinance or the applicable Red Dirt Mining Facility Operating License shall constitute a separate violation of this ordinance and shall be punishable by a fine of up to \$500.00.

§113.17: No reduction in property owner's right to sue for nuisance.

Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of a red dirt mining facility if such facility constitutes a private or public nuisance to that property owner.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

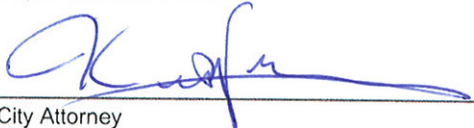
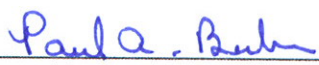
Planning
Division

Development Services
Department

Action Required:

RZN 09-3398: (Schaffer, 446): Submitted by Lance and Julie Schaffer for property located at 528 North College Avenue. The property is zoned C-2, Thoroughfare Commercial and contains approximately 0.17 acres. The request is to rezone the subject property to DG, Downtown General.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name
Budgeted Item ☐	Budget Adjustment Attached ☐		

 Department Director	8-28-2009 Date	Previous Ordinance or Resolution #
 City Attorney	8-28-09 Date	Original Contract Date:
		Original Contract Number:
 Finance and Internal Services Director	8-28-2009 Date	Received in City Clerk's Office
 Chief of Staff	8-31-09 Date	Received in Mayor's Office
 Mayor	9/1/09 Date	

Comments:

City Council Meeting of September 15, 2009
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Development Services Director

From: Jesse Fulcher, Current Planner

Date: August 26, 2009

Subject: Rezoning for Schaffer (RZN 09-3398)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from C-2, Thoroughfare Commercial to DG, Downtown General, located at 528 N. College Avenue.

BACKGROUND

The subject property is located at 528 N. College Avenue and is currently developed with one single-family home constructed in approximately 1909. The property is zoned C-2 Thoroughfare Commercial and has been used for various residential and nonresidential uses in the past.

The applicant proposes to rezone the property from C-2, Thoroughfare Commercial to DG, Downtown General to bring the existing building into compliance and to permit mixed use on the property.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 24, 2009. The Planning Commission voted 9-0-0 to forward this rezoning 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 09-3398, FOR APPROXIMATELY 0.17 ACRES, LOCATED AT 528 NORTH COLLEGE AVENUE FROM C-2, THOROUGHFARE COMMERCIAL, TO DG, DOWNTOWN GENERAL

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From C-2, Thoroughfare Commercial to DG, Downtown General, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

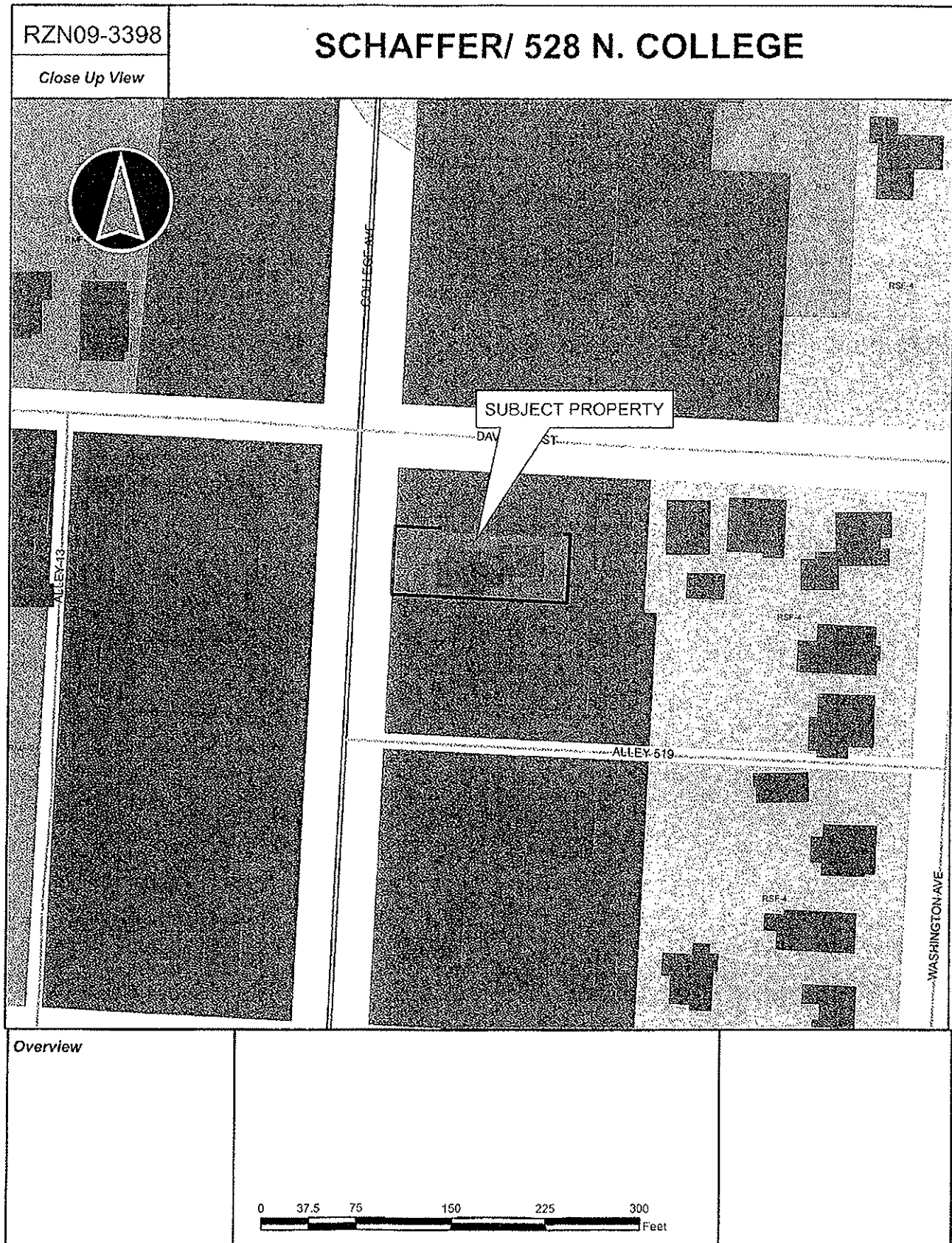


EXHIBIT "B"
RZN 09-3398

PART OF LOT NUMBERED TWO (2) IN DAVIDSON'S ADDITION TO THE CITY OF FAYETTEVILLE, AS DESIGNATED UP ON THE RECORDED PLAT OF SAID ADDITION, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 362 FEET AND 7 INCHES NORTH AND 30 FEET EAST OF THE SOUTHWEST CORNER OF SECTION TEN (10), TOWNSHIP SIXTEEN (16) NORTH, OF RANGE THIRTY (30) WEST, AND RUNNING, THENCE NORTH 54 FEET 5 INCHES; THENCE EAST 140 FEET; AND THENCE SOUTH 54 FEET 5 INCHES; THENCE WEST 140 FEET TO THE POINT OF BEGINNING.



PC Meeting of August 24, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~August 17, 2009~~ Updated August 27, 2009

RZN 09-3398: (SCHAFER / 528 N. COLLEGE, 446): Submitted by LANCE AND JULIE SCHAFER for property located at 528 N. COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.17 acres. The request is to rezone the subject property to DG, Downtown General. Planner: Jesse Fulcher

BACKGROUND:

Property Description: The subject property is located at 528 N. College Avenue and is currently developed with one single-family home constructed in approximately 1909. The property is zoned C-2 Thoroughfare Commercial and has been used for various residential and nonresidential uses in the past.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Commercial	C-2, Thoroughfare Commercial
South	Commercial	C-2, Thoroughfare Commercial
East	Commercial	C-2, Thoroughfare Commercial
West	Commercial	C-2, Thoroughfare Commercial

Proposal: The applicant proposes to rezone the property from C-2, Thoroughfare Commercial to DG, Downtown General to bring the existing building into compliance and to permit mixed use on the property.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding rezoning request RZN 09-3398 (Schaffer/528 N. College Avenue) to the City Council with a recommendation for approval based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 24, 2009</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Cabe</u>	Second: <u>Winston</u>	Vote: <u>9-0-0</u>	
CITY COUNCIL ACTION:		Required <u>YES</u>	
		☐ Approved	☐ Denied
Date:			

INFRASTRUCTURE:

- Streets:** The site has access to N. College Avenue, which is a four-lane paved state highway. Street improvements would be evaluated at the time of redevelopment.
- Water:** Public water is available to the property. There is an 8" main along N. College Avenue. A public main may need to be extended through the property to provide domestic and fire flow for future development.
- Sewer:** Sanitary sewer is available to the site. There is a 6" public main along N. College Avenue. A public main may need to be extended through the property to serve future development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.
- Police:** It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. The extent of any added traffic congestion will depend on the type of business.
- Fire:** This property will be covered by Engine #1 located at 303 W. Center Street. It is 1.1 miles from the station with an anticipated response time of 3 minutes. The Fire Department does not feel that this rezoning will affect the calls for service or response times.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area, which are denser and primarily residential. However, this land use designation supports mixed and low-intensity nonresidential uses. City Neighborhood Areas recognize conventional strip commercial developments, but encourage complete, compact, and connected neighborhoods.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that rezoning the property to Downtown General would be more consistent with the land use planning objectives, principles and policies than the existing C-2 zoning district. The Downtown General zoning district will allow for office, retail, light commercial and residential uses. A conventional zoning district such as C-2, Thoroughfare Commercial may allow some of the same types of uses, but prohibit a desired development pattern due to the large setbacks from the right-of-way (between 25'-50'). Additionally, residential uses in the C-2 zoning district are only permitted as an accessory use, restricting the use of the property to predominantly commercial use.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The subject property has been utilized both for residential and commercial uses, since construction in the early 1900's. The current C-2 zoning designation requires that at least 51% of the structure be utilized for commercial purposes. A rezoning to Downtown General would allow the applicant to utilize the existing residential structure for residential or commercial uses with no restriction on the size of either use.

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 would not create or appreciably increase traffic danger and congestion in the area. The property is served by College Ave., a Principal Arterial. Access to the site will be reviewed at the time of redevelopment.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a 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. The property is currently zoned C-2, Thoroughfare Commercial. The change in zoning to Downtown General would not permit uses that would adversely impact public services.

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

161.18 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09)

161.22 Downtown General.

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* *None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
---------------------------	--------

(2) *Lot area minimum.* *None.*

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	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.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

Date 8/13/09

Jeremy Pate
Development Services Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request comments on the proposed RZN 09-3398: (SCHAFER / 528 N. COLLEGE, 446): Submitted by LANCE AND JULIE SCHAFER for property located at 528 N. COLLEGE AVENUE.

I do not believe the rezoning of this property will cause any substantial call volume increases or traffic danger and congestion problems.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Captain William Brown
Fayetteville Police Department

RZN 09-3394: (S & M, LLC / BOX AVENUE SUBDIVISION LOTS 2 & 3, 372):
Submitted by H2 ENGINEERING, INC. for property located at 2013 and 2037 BOX AVE.
The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains
approximately 1.05 acres. The request is to rezone the subject property to RMF-6,
Residential Multi-family, 6 units per acre. Planner: Dara Sanders

Public water is available to the property. There is a public main along Box Avenue. Public water may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is an 8" public main running through the west side of this property. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Box Avenue. Box Avenue is a partially improved two lane paved city street in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain.

RZN 09-3398: (SCHAFFER / 528 N. COLLEGE, 446): Submitted by LANCE AND JULIE
SCHAFFER for property located at 528 N. COLLEGE AVENUE. The property is zoned
C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.17 acres. The
request is to rezone the subject property to DG, Downtown General.
Planner: Jesse Fulcher

Public water is available to the property. There is an 8" main along College Avenue. Public water may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is a 6" public main running along College Avenue. Public mains may need to be extended through the property to serve any proposed development.

The site has access to College Avenue. College is a five lane paved state highway in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.

Rezoning Request from C-2 to Downtown General:

528 North College
Fayetteville, AR 72701

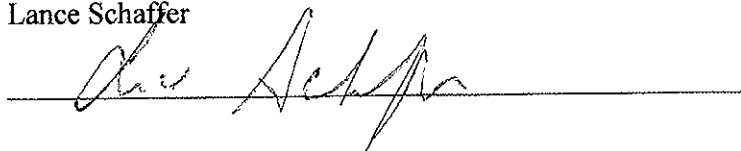
Current Owners:
Lance Schaffer
Julie Mendenhall Schaffer

Planning Commission Specific Findings in regards to the following:

- a) The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use zoning plans.
 - The property was designed as a dwelling: structure and lot. The 4 bedroom/ 2 bath house was built in 1900, the lot has a driveway and one parking spot. The structure would have to undergo extensive remodel to meet the requirements for use as a C-2 zoned property. The current use does not conform to the C-2 zoning, nor is there sufficient parking to comply.
- b) Whether the proposed zoning is justified and/or needed at the time of the request.
 - The property is currently not compliant and has not been since the blanket zoning of C-2.
- c) Whether the proposed zoning will create or appreciably increase traffic danger and congestion.
 - The proposed rezoning will not increase the traffic with limited parking.
- d) Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.
 - The proposed rezoning will not in the population density as a single family dwelling.
- e) Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.
 - The house was built in 1900 to nonconforming codes and regulations, structural deficiencies, and 2 parking places.

Signed:

Lance Schaffer

A handwritten signature in black ink, appearing to read 'Lance Schaffer', is written over a horizontal line.

Rezoning Request from C-2 to Downtown General:

528 North College
Fayetteville, AR 72701

Current Owners:
Lance Schaffer
Julie Mendenhall Schaffer

Proposed or Pending Property Sales:

As there are no contracts or formal pending sale of the property, there is interest from potential buyers if property is rezoned to Downtown General.

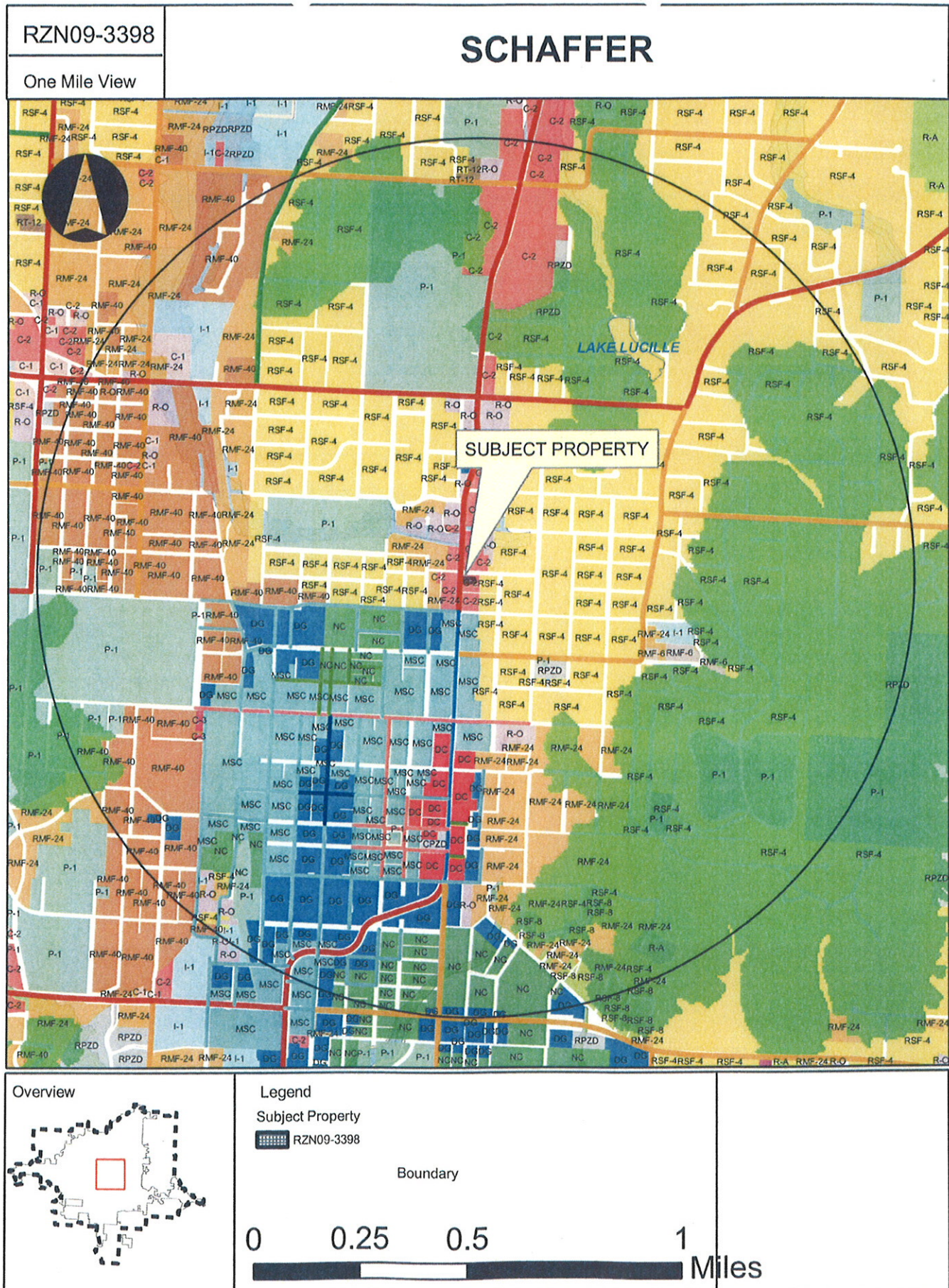
The request for rezoning the property to Downtown General from C-2 is based on the existing structure and current use. The house was built in 1900 and was not designed to be used as a commercial property. The house was purchased in 2003 and was zoned as Residential/Commercial property at the time of that sale. The house is currently being used as single family dwelling and as a by-appointment-only wedding design shop. The house has only 2 parking spots and limited access to public parking in the area. The house is adjacent to the Historical District and is gives the same appearance as the surrounding structures. The current use and proposed rezoning would not have any new affects on the land use, traffic, appearance, water usage and/or signage.

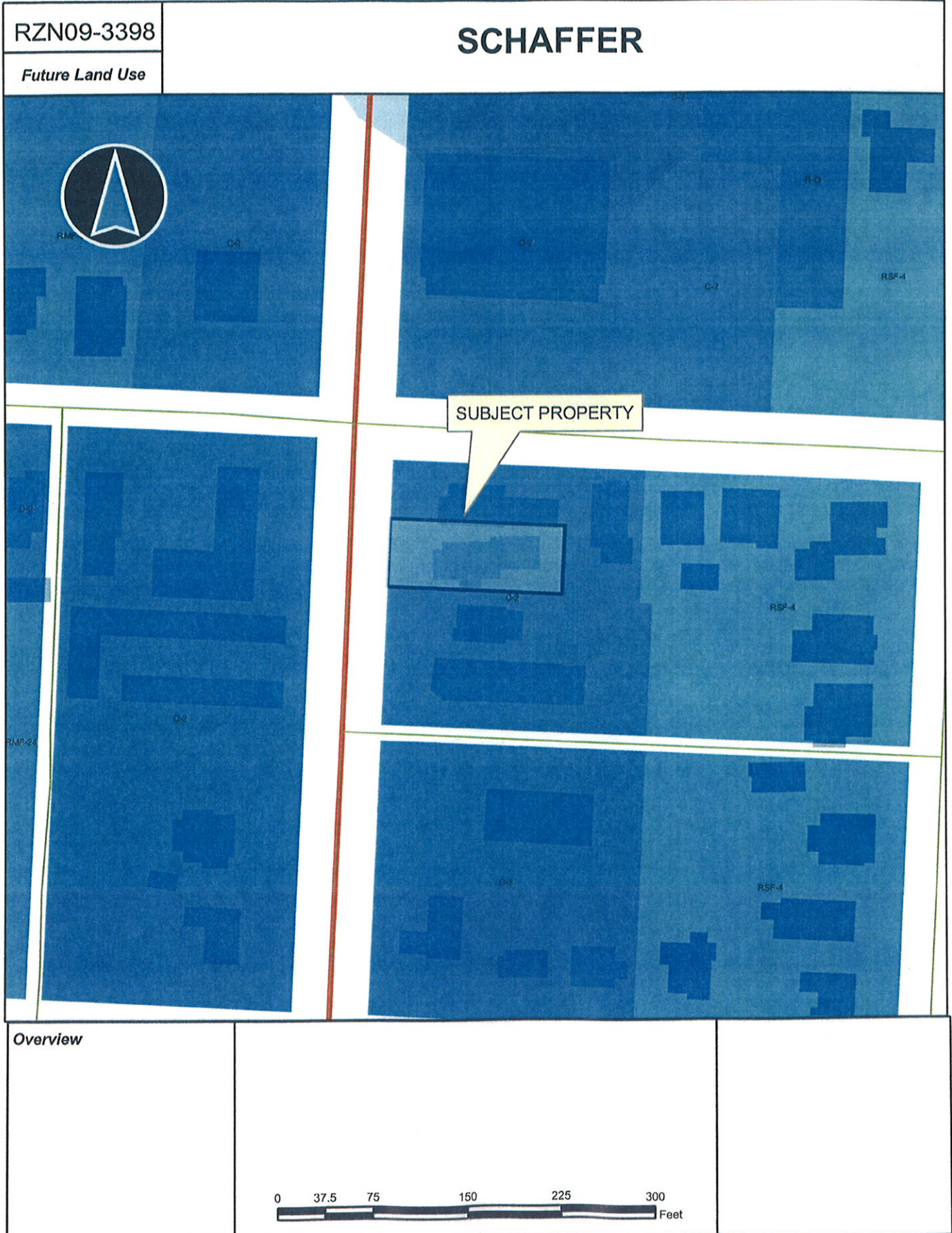
Signed:

Lance Schaffer









City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Dara Sanders

Submitted By

Planning

Division

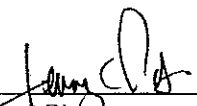
Development Services

Department

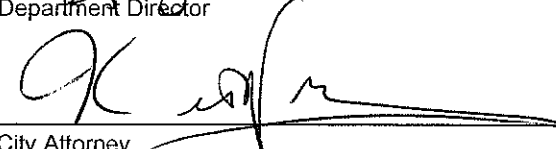
Action Required:

RZN 09-3394: (Box, 372): Submitted by H2 Engineering, Inc. for property located at 2013, 2025, 2037, and 2049 Box Avenue. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 1 acre. The request is to rezone the subject property to RMF-6, Residential Multi-Family, 6 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

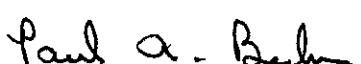
Budgeted Item ☐Budget Adjustment Attached ☐

 Department Director
08.28.09
Date

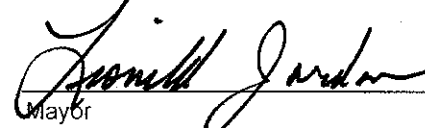
Previous Ordinance or Resolution # _____


 City Attorney
8-28-09
Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director
8-28-2009
DateReceived in City
Clerk's Office

 Chief of Staff
8-31-09
DateReceived in
Mayor's Office

 Mayor
9/1/09
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Development Services Director

From: Dara Sanders, Current Planner

Date: August 26, 2009

Subject: Rezoning for Box Avenue (RZN 09-3394)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RSF-4, Residential Single-family to RMF-6, Residential Multi-Family, 6 dwelling units/acre, located at 2013, 2025, 2037, and 2049 Box Avenue.

BACKGROUND

The subject property contains 1.05 acres and is located north of the intersection of Mission Boulevard and Box Avenue, east of Crossover Road. In October of 2007 the Planning Commission approved a lot split to create three (3) tracts of 0.42, 0.52 and 0.52 acres and a conditional use permit to allow for the development of two-family dwellings on two (2) of the created lots.

The applicant proposes to rezone the two lots that have been developed for duplexes from RSF-4, Residential Single Family, 4 dwelling units/acre to RMF-6, Residential Multi-family, 6 units per acre, in order to permit the existing duplexes to be further subdivided into separate lots and sold individually. With the rezoning request, the applicant has offered a Bill of Assurance that is designed to restrict the use and density of the property to that which already exists – four (4) dwelling units per acre and no more than two (2) dwelling units per lot.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 24, 2009. The Planning Commission voted 9-0-0 to forward this rezoning 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 09-3394, FOR APPROXIMATELY 1 ACRE, LOCATED AT 2013, 2025, 2037, AND 2049 BOX AVENUE FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single-Family, 4 units per acre to RMF-6, Residential Multi-Family, 6 units per acre as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the zoning is subject to the Bill of Assurance offered by the applicant and shown as Exhibit "C" attached hereto and made a part hereof.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

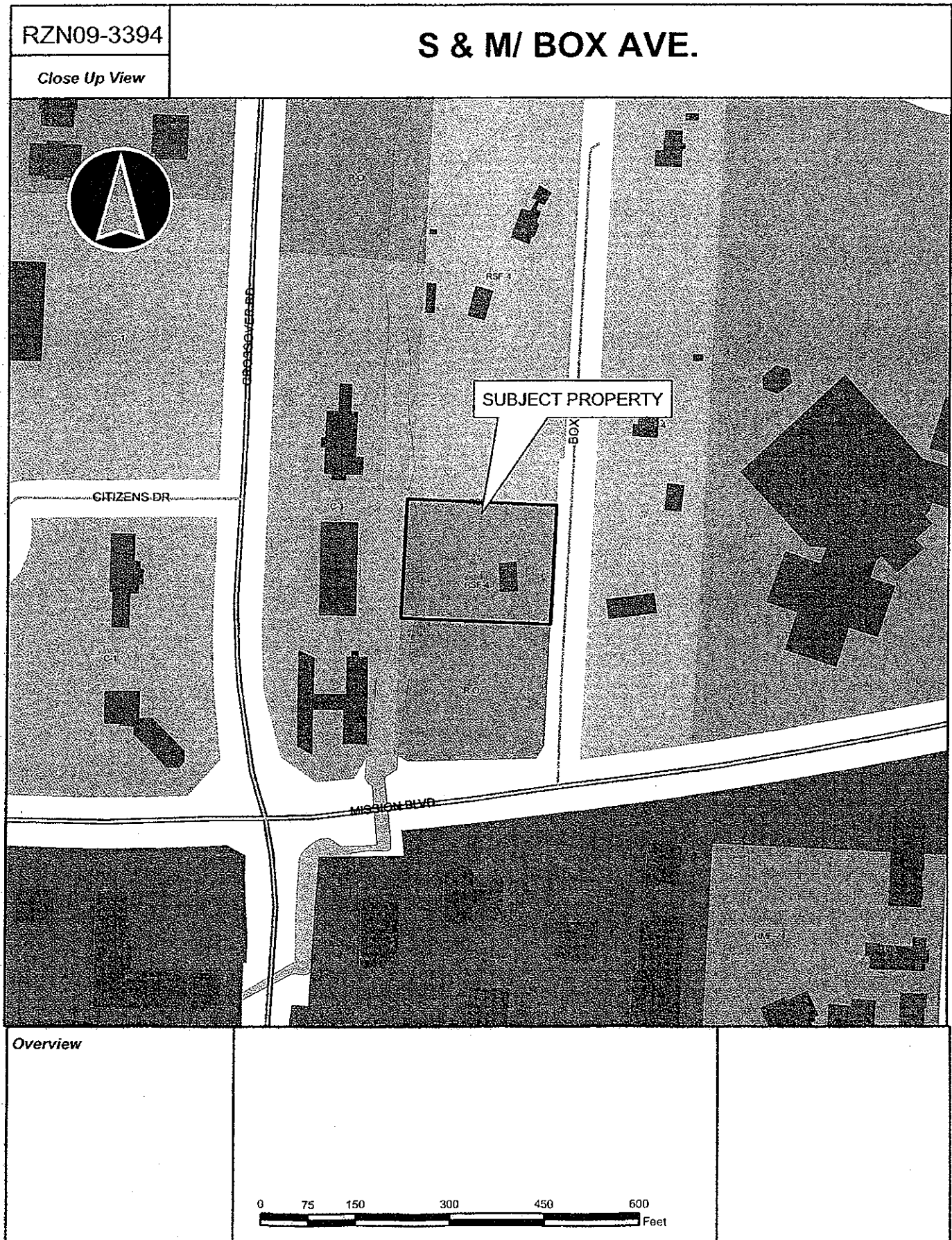


EXHIBIT "B"
RZN 09-3394

ALL OF LOTS 2 & 3 OF THE BOX RESIDENTIAL LOT SPLIT RECORDED AS FILE #2007-40820 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS BEING ALSO DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE ABOVE SAID LOT 3; THENCE N02°33'58"E, ALONG THE WEST LINE OF THE ABOVE SAID LOTS 2 & 3, A DISTANCE OF 190.82 FEET TO THE NORTHWEST CORNER, OF THE ABOVE SAID LOT 2; THENCE S87°29'50"E, ALONG THE NORTH LINE OF THE ABOVE SAID LOT 2; A DISTANCE OF 239.39 FEET TO THE NORTHWEST CORNER OF THE ABOVE SAID LOT 2; THENCE S02°33'58"W, ALONG THE EAST LINE OF THE ABOVE SAID LOT 2 & 3, A DISTANCE OF 190.82 FEET TO THE SOUTHEAST CORNER OF THE ABOVE SAID LOT 3; THENCE N87°29'50"W, ALONG THE SOUTH LINE OF THE ABOVE SAID LOT 3, A DISTANCE OF 239.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 45,679 SQUARE FEET OR 1.05 ACRES, MORE OR LESS.

EXHIBIT "C"

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") S & M, LLC, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonably rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the Permitted Uses and Conditional Uses as described in a RSF-4 zoning district. Use Unit 8 (Single Family Dwellings), Use Unit 9 (Two Family Dwellings) and Townhomes with no more than two units per lot. No other residential development will be allowed.
2. Other restrictions including number and type of structures upon the property are limited to the following: The total maximum density shall remain at four units per acre.
3. Specific activities will not be allowed upon petitioner's property include the following: N/A.
4. No other terms or conditions are applicable to this rezoning request.
5. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

EXHIBIT "C"

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, SSM LLC, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

8-27-09
Date

Po Box 693
Address

FARMINGTON, AR
72730

SSM LLC
BILLY BARNES
Printed Name

SSM LLC
[Signature]
Signature

NOTARY OATH

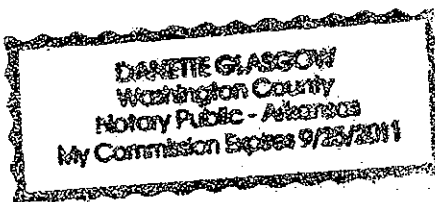
STATE OF ARKANSAS }
COUNTY OF WASHINGTON } .ss

And now on this the 27 day of August, 2009, appeared before me, Danette Glasgow, Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Danette Glasgow
NOTARY PUBLIC

My Commission Expires:

9/25/2011





PC Meeting of August 24, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: August 19, 2009 *Updated August 26, 2009*

RZN 09-3394: (S & M, LLC / BOX AVENUE SUBDIVISION LOTS 2 & 3, 372): Submitted by H2 ENGINEERING, INC. for property located at 2013, 2025, 2037, and 2049 BOX AVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.05 acres. The request is to rezone the subject property to RMF-6, Residential Multi-family, 6 units per acre. Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property is located north of the intersection of Mission Boulevard and Box Avenue, east of Crossover Road. The properties contain two-family dwellings located in the Braden Addition and zoned RSF-4.

Background: In October of 2007 the Planning Commission approved a lot split to create three (3) tracts of 0.42, 0.52 and 0.52 acres and a conditional use permit to allow for the development of two-family dwellings on two (2) of the created lots.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Residential Single-family
South	Undeveloped	R-O, Residential Office
East	Single-family structure	RSF-4, Residential Single-family
West	Commercial	C-1, Neighborhood Commercial

Proposal: The applicant proposes to rezone the two lots that have been developed for duplexes from RSF-4, Residential Single Family, 4 dwelling units/acre to RMF-6, Residential Multi-family, 6 units per acre, in order to permit the existing duplexes to be further subdivided into separate lots.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding rezoning request RZN 09-3394 to the City Council with a recommendation for approval based on the findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 24, 2009</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Lack	Second: Cabe	Vote: 9-0-0	
CITY COUNCIL ACTION:		Required <u>YES</u>	
		☐ Approved	☐ Denied
Date:			

INFRASTRUCTURE:

- Streets:** The site has access to Box Avenue. Box Avenue is a partially improved two lane paved city street in this location. Street improvements will be evaluated with development submittal.
- Water:** Public water is available to the property. There is a public main along Box Avenue. Public water may need to be extended through the property to provide domestic and fire flow for any proposed development.
- Sewer:** Sanitary sewer is available to the site. There is an 8" public main running through the west side of this property. Public mains may need to be extended through the property to serve any proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.
- Police:** No comments received.
- Fire:** This property will be covered by Engine #5 located at 2979 N. Crossover Road. It is 1.4 miles from the station with an anticipated response time of 5 minutes. The Fire Department does not feel that this rezoning will affect the calls for service or response times.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area, which are denser and primarily residential. However, this land use designation supports mixed and low-intensity nonresidential uses. City Neighborhood Areas recognize conventional strip commercial developments, but encourage complete, compact, and connected neighborhoods.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that rezoning the property to RMF-6 would be consistent with the land use planning objectives, principles and policies of the City of Fayetteville to provide transitions of land uses, attainable housing, and a “wide range of residential building types” where appropriate. Staff finds that the property, located between the R-O, Residential Office building and undeveloped single-family zoned properties, has established an appropriate transition between land uses and a variety of residential building types, especially in its location near a Principal Arterial (Mission Boulevard).

Furthermore, staff finds that changing the underlying zoning of the subject property to reflect the use of the property and to allow for ownership of attached single-family dwellings increases access to attainable housing for the variety of socio-economic groups in the City of Fayetteville.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that the rezoning request is due to ownership issues rather than a land use issue. In October of 2007, the Planning Commission approved by a vote of 7-0-0 to approve a conditional use request to allow for the construction of the two-family dwelling units that occupy the subject property, finding that the requested use would not adversely affect the public interest. Since the construction of the two-family dwellings, the Planning Division has not received any complaints from the public regarding these dwellings. The proposed zoning is needed to allow for these duplexes to be subdivided and sold as separate lots of record.

Staff has reviewed the other residential zoning districts available inside the city limits and finds that, due to the City’s various definitions of “dwelling” (see Chapter 151 Definitions, page 9) and the need for a zero-foot side setback allowance, the RMF-6 zoning district is the lowest density zoning district available to the applicant. Staff finds that this rezoning request will not modify the existing development and is merely to update the underlying zoning to reflect the use and density of the property and to allow for the dwellings to be owner-occupied.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Because the subject property has been recently developed for duplexes, staff finds that traffic to and from the existing two-family dwellings would likely not change as a result of changing the underlying zoning. The property is currently developed at a density of four (4) dwelling units per acre.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a 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

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 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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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)

161.11 . District RMF-6, Residential Multi-Family – Six Units Pper Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(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

(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	MobileManufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	6 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

MobileManufactured home park	100 ft.
Lot within a mobilemanufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

MobileManufactured home park	3 acres
Lot within a MobileManufactured home park	4,200 sq. ft.
Townhouse:	
•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 acre

(3) *Land area per dwelling unit.*

MobileManufactured home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
10 ft.	8 ft.	25 ft.

Cross reference(s)—Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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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.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09)

RZN 09-3394: (S & M, LLC / BOX AVENUE SUBDIVISION LOTS 2 & 3, 372):
Submitted by H2 ENGINEERING, INC. for property located at 2013 and 2037 BOX AVE.
The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains
approximately 1.05 acres. The request is to rezone the subject property to RMF-6,
Residential Multi-family, 6 units per acre. Planner: Dara Sanders

Public water is available to the property. There is a public main along Box Avenue. Public water may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is an 8" public main running through the west side of this property. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Box Avenue. Box Avenue is a partially improved two lane paved city street in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain.

RZN 09-3398: (SCHAFFER / 528 N. COLLEGE, 446): Submitted by LANCE AND JULIE SCHAFFER for property located at 528 N. COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.17 acres. The request is to rezone the subject property to DG, Downtown General. Planner: Jesse Fulcher

Public water is available to the property. There is an 8" main along College Avenue. Public water may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is a 6" public main running along College Avenue. Public mains may need to be extended through the property to serve any proposed development.

The site has access to College Avenue. College is a five lane paved state highway in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: Mark Stevens
Date: August 19, 2009
Re: RZN 09-3394 Rezoning (**MATHIAS / MISSION & BOX, 372**)

This development will be protected by Engine 5 located at 2979 North Crossover Rd.
It is 1.4 miles from the station with an anticipated response time of 5 minutes to the beginning of the development.
The Fire Department anticipates 1(1 EMS - 0 Fire/Other) calls for service each year after the development is completed. 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.

Captain Mark Stevens
Asst. Fire Marshal
Fayetteville Fire Department



July 16, 2009

City of Fayetteville
Attn: Planning Staff
113 West Mountain St.
Fayetteville, AR 72701

**RE: REZONING APPLICATION
BOX RD RESIDENTIAL – LOTS 2 & 3**

To Whom It May Concern:

Please accept this letter and application as our official request for rezoning of two residential lots owned by S&M LLC along Box Rd in Fayetteville. The extent of the rezoning includes all of Lots 2 & 3 of the Box Road Residential Lot Split recorded as File #2007-40820 in the Circuit Clerk's office of Washington County, Arkansas.

The subject property is currently zoned RSF-4 and is proposed for rezoning to RMF-6, Residential Multi-Family. There is currently a duplex on each of the two lots, which was made possible by virtue of a Conditional Use Permit. Unfortunately, the units would have to be conveyed by use of a Horizontal Property Regime (HPR), which results in financing problems involving condominium properties.

The proposed RMF-6 zoning will not modify the existing development. The intent is to simply create a residential lot around each individual unit. The units were constructed with individual utility services and in conformance with townhouse building criteria.

Respectfully,

A handwritten signature in black ink, appearing to read 'K. Hearne', with a horizontal line extending to the right.

Kipp Hearne, P.E.
President
H2 Engineering, Inc.

Created by: ELL
 Drawn by: ELL
 Horizontal Scale: 1" = 40'
 Vertical Scale: N/A
 Date: 12/28/09
 Revision:

City Project Number:
Plot Point:

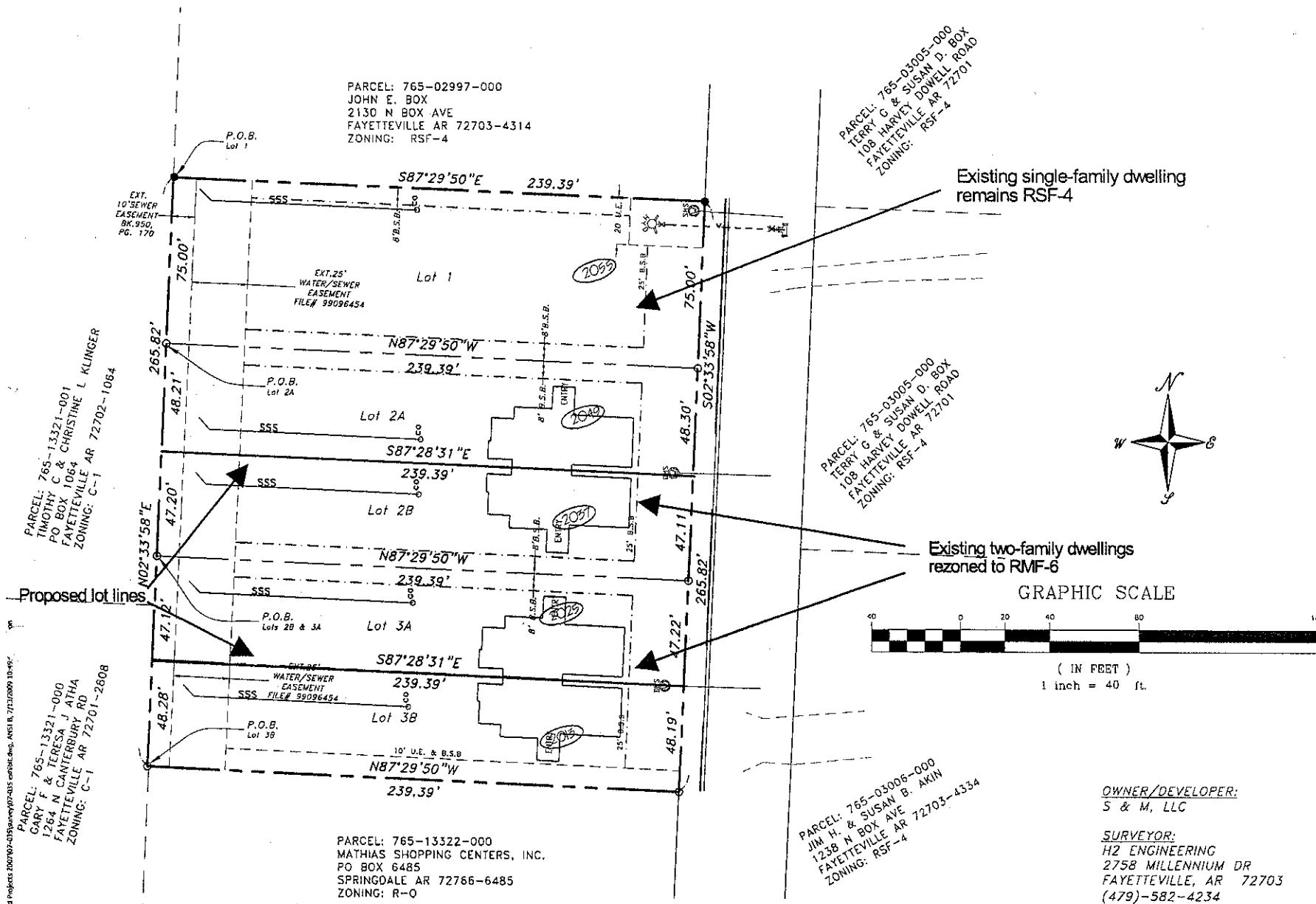
**EXHIBIT FOR
S & M, LLC**

PAGE		PAGES
1	of	1

PROJECT NUMBER: 57-435	DATE: 10/1/78
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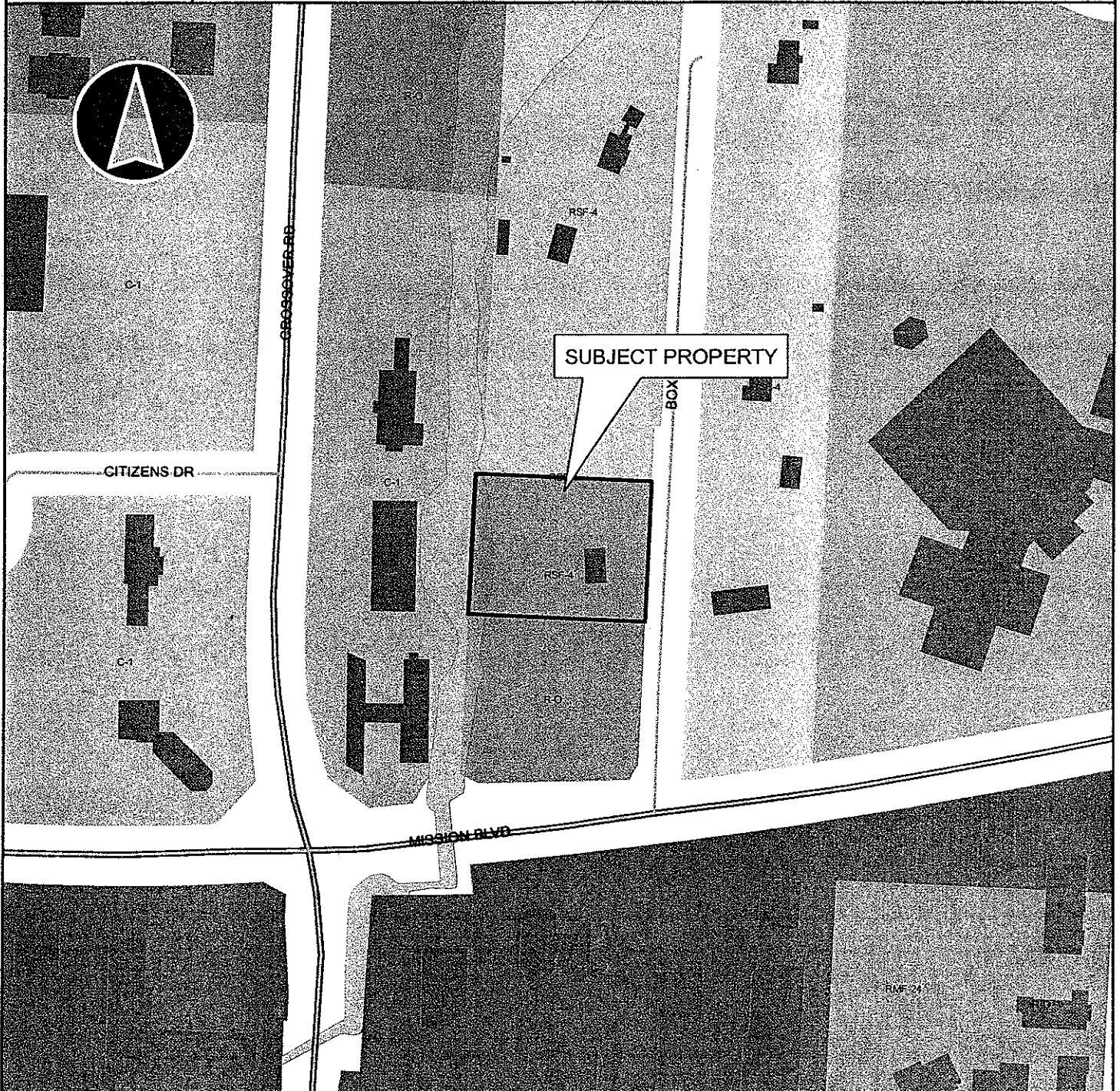
ENGINEERING, INC.
2788 MILLENNIUM DR.
SUITE 1
FAYETTEVILLE, ARKANSAS 72703
PHONE: (479) 582-4200
FAX: (479) 582-9200



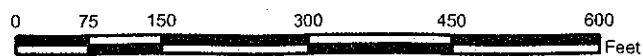
RZN09-3394

S & M/ BOX AVE.

Close Up View

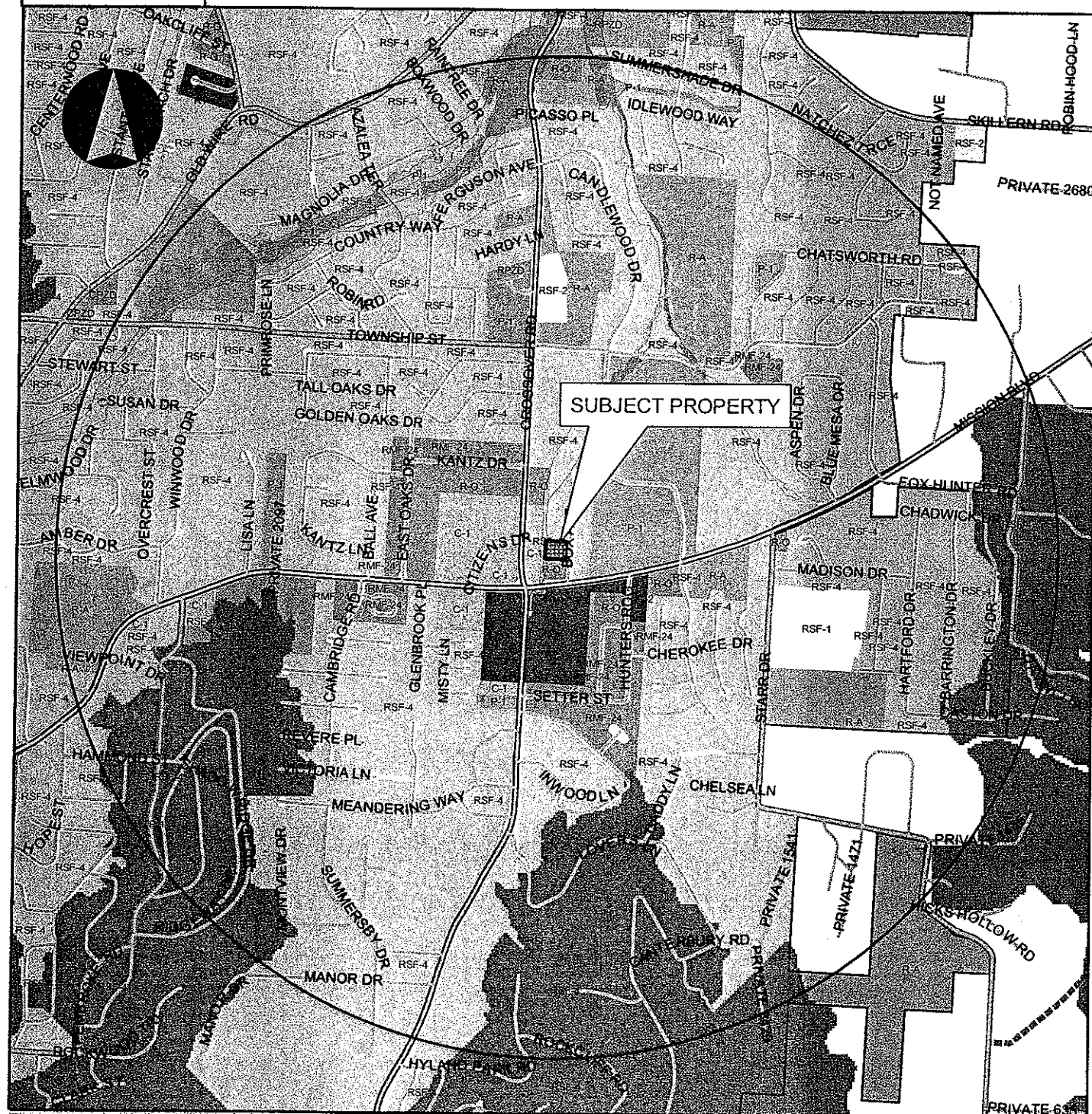


Overview

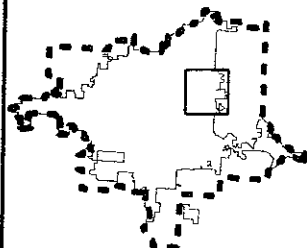


One Mile View

S & M, LLC/BOX AVE.



Overview



Legend

Subject Property



Boundary

1

Miles

City of Fayetteville Staff Review Form

C. 3
 VAC 09-3397
 (University of Arkansas)
 Page 1 of 10

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
 Agenda Items Only

Andrew Garner

Planning

Development Services

Submitted By

Division

Department

Action Required:

VAC 09-3397: (University of Arkansas, 483): Submitted by the University of Arkansas for property located at 10 North Garland Avenue. The property is zoned P-1, Institutional. The request is to vacate a portion of an existing utility easement on the subject property.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

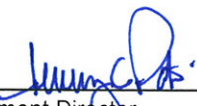
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Remaining Balance

Fund Name

Budgeted Item

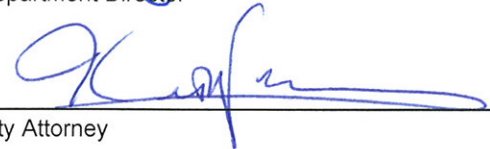
Budget Adjustment Attached


 Department Director

08.28.09

Date

Previous Ordinance or Resolution #

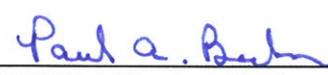

 City Attorney

8-28-09

Date

Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director

8-28-2009

Date

 Received in City
 Clerk's Office


 Chief of Staff

8-31-09

Date

 Received in
 Mayor's Office


 Mayor

9/1/09

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services *JCP*

From: Andrew Garner, Senior Planner

Date: August 25, 2009

Subject: Vacation for University of Arkansas at 10 North Garland (VAC 09-3397)

RECOMMENDATION

Staff and the Planning Commission recommend approval of vacating a portion of an existing utility easement on the subject property.

BACKGROUND

The subject property is located at 10 North Garland Avenue. The property contains the Phi Gamma Delta fraternity house and a parking lot.

The applicant's request is to vacate a portion of a utility easement for construction of a new development on the property that may conflict with the easement.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 24, 2009. The Planning Commission voted 9-0-0 on the consent agenda to forward this vacation request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3397 SUBMITTED
BY UNIVERSITY OF ARKANSAS FOR PROPERTY
LOCATED AT 10 NORTH GARLAND TO VACATE
APPROXIMATELY 5,663 SQUARE FEET OF EXISTING
UTILITY EASEMENT ON THE SUBJECT PROPERTY

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described 5,663 square foot portion of the platted utility easement is not required for corporate purposes;

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 vacates and abandons the 5,663 square feet of utility easement as described in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met.

1. Any damage or relocation of existing utilities shall be at the owner/developer's expense.
2. A new utility easement shall be dedicated along the property's Garland Avenue frontage, maintaining a minimum of 10-feet from the centerline of the existing sewer line.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

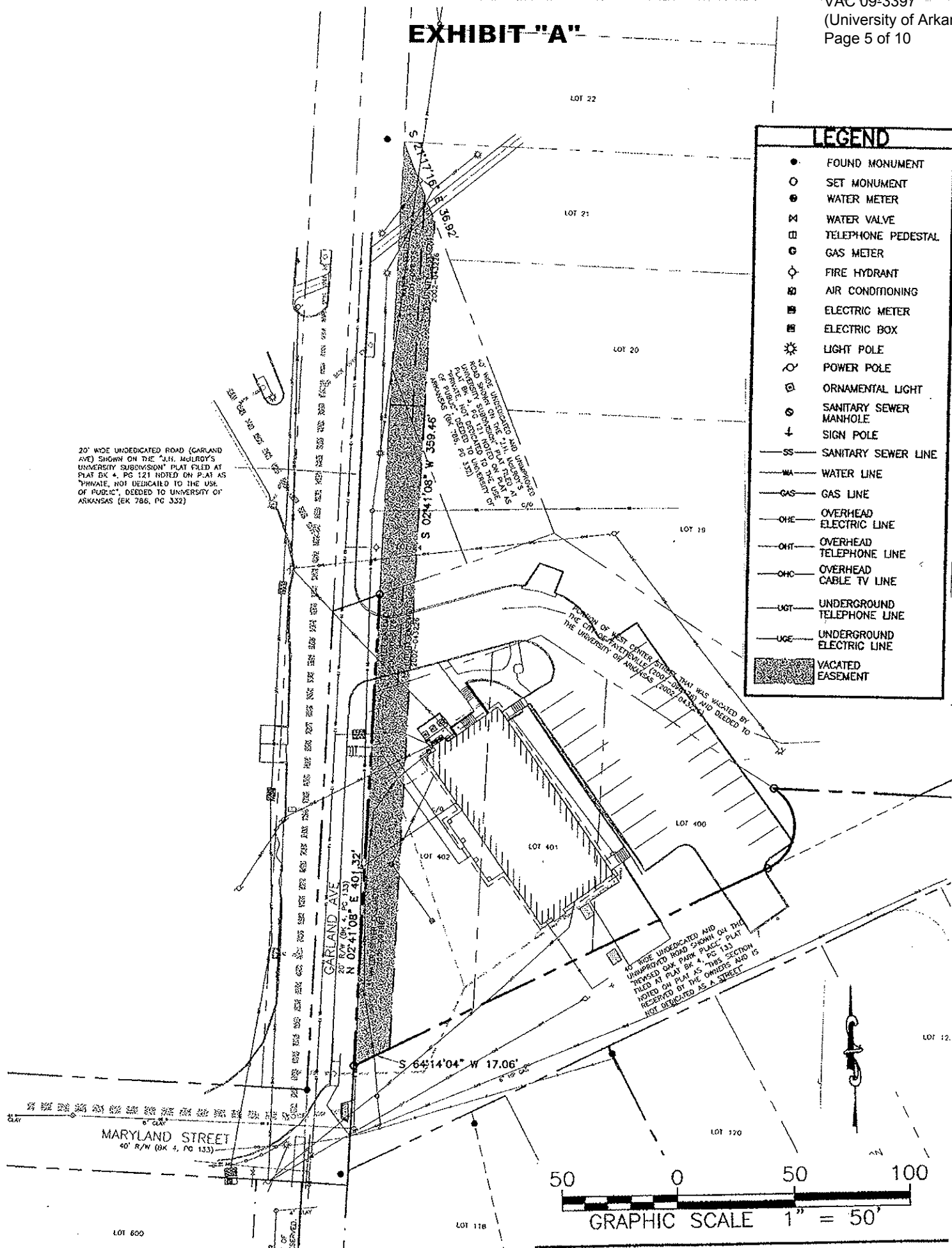


EXHIBIT "B"
VAC 09-3397

EASEMENT VACATION DESCRIPTION:

THE WESTERLY 15 FEET OF LOT 24 OF J.H. MCILROY'S UNIVERSITY SUBDIVISION, BEING ADJACENT TO THE EASTERLY LINE OF GARLAND AVE; THE WESTERLY 15 FEET OF LOTS 400, 401, & 402 OF THE REVISED OAK PARK PLACE ADDITION, BEING ADJACENT TO THE EASTERLY LINE OF GARLAND AVE; AND THE WESTERLY 15' OF THE VACATED PORTION OF WEST CENTER STREET FILED FOR RECORD AT 2001-098176 AND DEEDED TO THE UNIVERSITY OF ARKANSAS AS FILED FOR RECORD AT 2002-043226, BEING ADJACENT TO THE EASTERLY LINE OF GARLAND AVE, ALL BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SW CORNER OF SAID LOT 402; THENCE N 02°41'08" E ALONG THE EASTERLY LINE OF GARLAND AVE, A DISTANCE OF 401.32 FEET TO THE NW CORNER OF LOT 21 OF J.H. MCILROY'S UNIVERSITY SUBDIVISION; THENCE S 21°17'16" E ALONG THE WESTERLY LINE OF SAID LOT 21, A DISTANCE OF 36.92 FEET; THENCE S 02°41'08" W ALONG A LINE THAT IS PARALLEL WITH AND 15' EASTERLY OF THE AFORESAID EASTERLY LINE OF GARLAND AVE, A DISTANCE OF 359.46 FEET TO THE SOUTH LINE OF SAID LOT 402; THENCE S 64°14'04" W ALONG THE SOUTH LINE OF SAID LOT 402, A DISTANCE OF 17.06 FEET TO THE POINT OF BEGINNING, CONTAINING 0.13 ACRES, MORE OR LESS.



PC Meeting of August 24, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~August 19, 2009~~ Updated August 25, 2009

VAC 09-3397: (UNIVERSITY OF ARKANSAS, 483): Submitted by the U OF A for property located at 10 N. GARLAND AVENUE. The property is zoned P-1, INSTITUTIONAL. The request is to vacate a portion of an existing utility easement.

Planner: Andrew Garner

Findings:

Property Description: The subject property is located at 10 North Garland Street and is owned by the University of Arkansas. The property contains the Phi Gamma Delta fraternity house and a parking lot. There is a 15-foot utility easement that runs parallel to Garland along the property frontage.

Request: The applicant's request is to vacate a portion of a utility easement to allow for construction of a new development on the property that may conflict with the easement.

The applicant has submitted the required notification forms to the utility companies and the City with the result summarized below.

UTILITIES

RESPONSE

AEP/SWEPCO	No Objections
Cox Communications	No Objections
Arkansas Western Gas	No Objections
ATT	No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer; Engineering

No objections, provided a new easement is provided, maintaining a minimum of 10-feet from the centerline of the existing sewer line.

Solid Waste

No Objections

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding **VAC 09-3397** to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing utilities shall be at the owner/developer's expense.
2. A new utility easement shall be dedicated along the property's Garland Avenue frontage, maintaining a minimum of 10-feet from the centerline of the existing sewer line.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: August 24, 2009

Motion: Graves

Second: Cabe

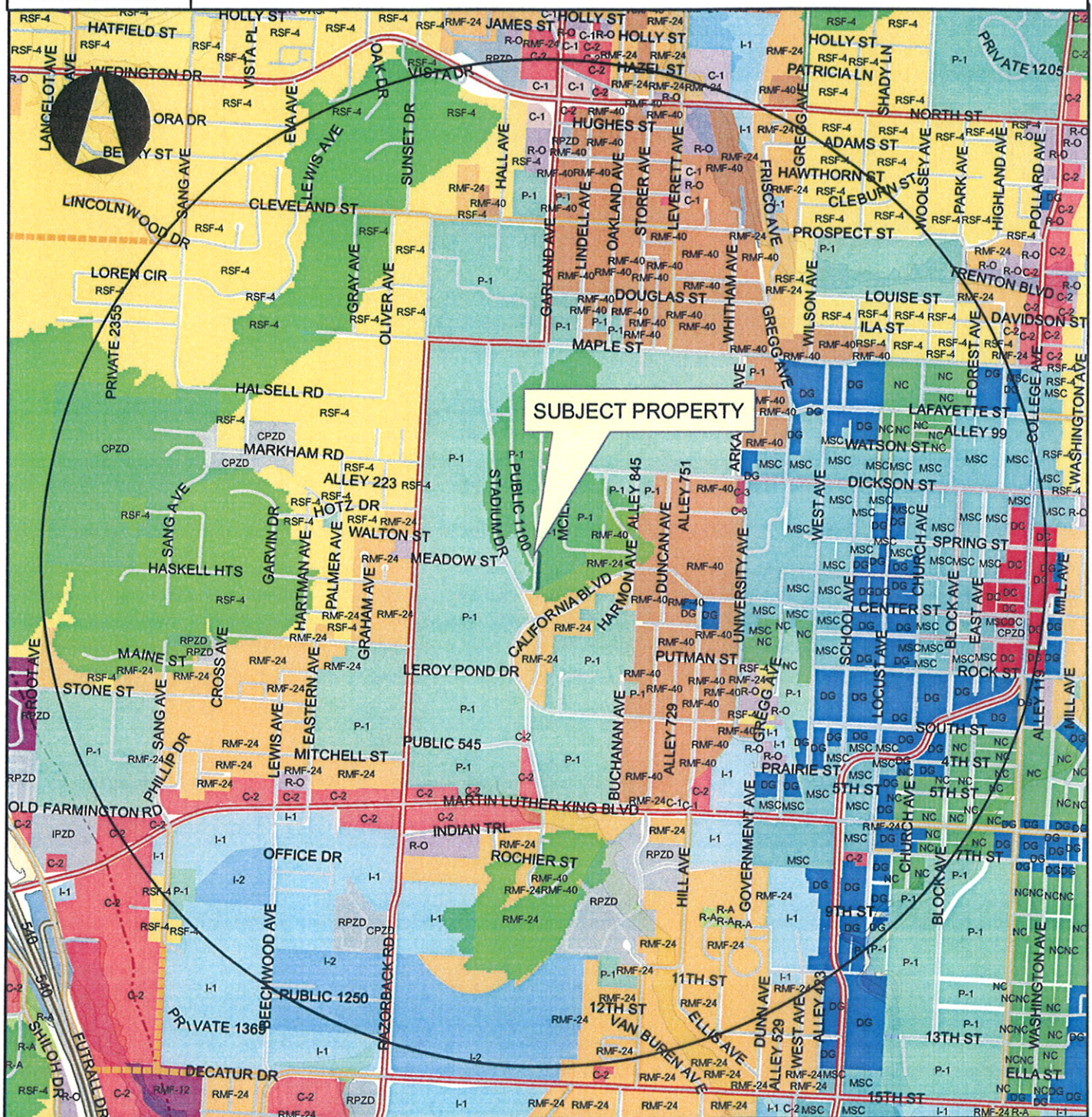
Vote: 9-0-0

Comments: On consent agenda.

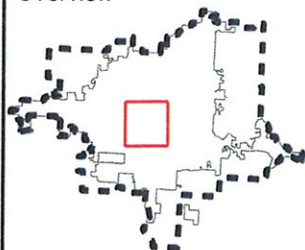
VAC09-3397

UNIVERSITY OF ARKANSAS

One Mile View



Overview



Legend

Subject Property

VAC09-3397

Boundary

0 0.25 0.5 1 Miles

VAC09-3397

Close Up View

UNIVERSITY OF ARKANSAS



Overview

0 37.5 75 150 225 300
Feet

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Jesse Fulcher

Submitted By

Planning

Division

Development Services

Department

Action Required:

VAC 09-3399: (Harris, 523): Submitted by Bates and Associates for property located at 303 S. West Avenue. The property is zoned DG, Downtown General and contains approximately 0.10 acres. The request is to vacate a portion of the West Avenue right-of-way and an un-constructed 30' street right-of-way.

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 ☐

Jesse Fulcher
Department Director

08-27-09
Date

Previous Ordinance or Resolution #

OK
City Attorney

8-28-09
Date

Original Contract Date:

Original Contract Number:

Paul A. Butler
Finance and Internal Services Director

8-28-2009
Date

Received in City
Clerk's Office

ENTERED
8-28-09
KJ

Alan Mann
Chief of Staff

8-31-09
Date

Received in
Mayor's Office

ENTERED
8/28/09
PJT

Freddie Jordan
Mayor

9/1/09
Date

Comments:

City Council Meeting of September 15, 2009
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services ✂

From: Jesse Fulcher, Current Planner

Date: August 27, 2009

Subject: Vacation for Harris at 303 S. West Avenue (VAC 09-3399)

RECOMMENDATION

Staff and the Planning Commission recommend approval of vacating a portion of the S. West Avenue right-of-way and an un-constructed 30' right-of-way.

BACKGROUND

The subject property is located on the west side of West Avenue at 303 S. West Avenue. There is an existing single-family structure located on the property. There is excess right-of-way along the property's West Avenue frontage and an un-built 30' street right-of-way along the west side of the property.

The applicant's request is to vacate an approximately 20' wide and 50' long strip of un-constructed right-of-way adjacent to the existing West Avenue, and an un-constructed 30' right-of-way along the west side of the property.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 24, 2009. The Planning Commission voted 9-0-0 on the consent agenda to forward this vacation request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 09-3399 SUBMITTED BY BATES AND ASSOCIATES FOR PROPERTY LOCATED AT 303 SOUTH WEST AVENUE TO VACATE A PORTION OF THE WEST AVENUE RIGHT-OF-WAY AND AN UN-CONSTRUCTED 30' STREET RIGHT-OF-WAY ON THE SUBJECT PROPERTY

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described rights-of-way are not required for corporate purposes;

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 vacates and abandons the rights-of-way as described in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A (attached) shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follow.

1. A Master Street Plan amendment for S. West Avenue shall be approved by the City Council.
2. Relocation of existing utilities shall be at the owner/developer's expense including the possible need for utility easements.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

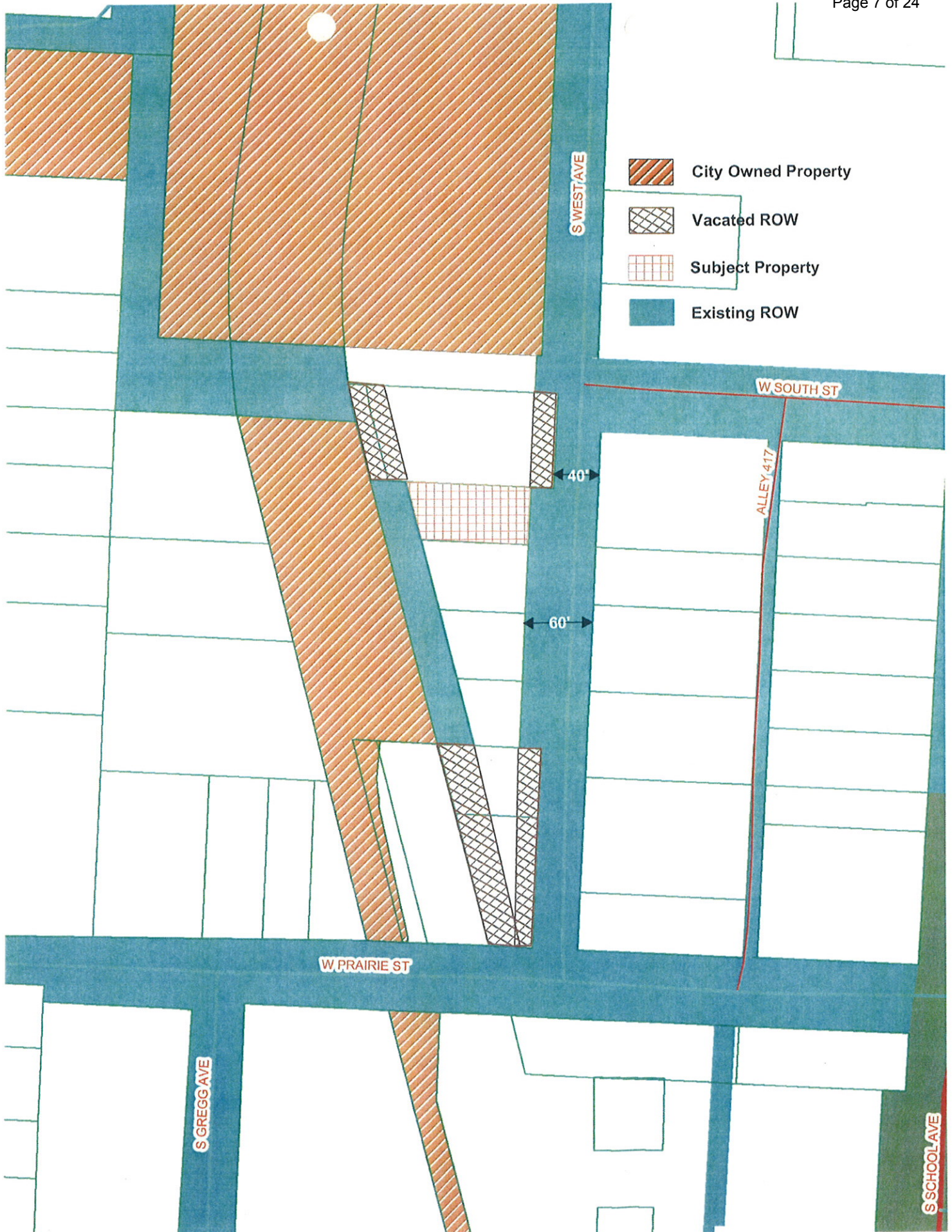
EXHIBIT "B"
VAC 09-3399

PROPOSED WEST AVENUE RIGHT-OF-WAY VACATION:

A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBERD TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING. CONTAINING 0.04 ACRES, MORE OR LESS.





PC Meeting of August 24, 2009

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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 19, 2009~~ Updated August 27, 2009

VAC 09-3399: (HARRIS / 303 S. WEST AVENUE, 523): Submitted by BATES & ASSOCIATES for property located at 303 S. WEST AVENUE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.10 acres. The request is to vacate a portion of the West Avenue right-of-way and a 30' alley right-of-way.

Planner: Jesse Fulcher

Findings:

Property Description and Background: This property is located on the west side of West Avenue at 303 S. West Avenue. There is an existing single-family structure located on the property. There is excess right-of-way along the property's West Avenue frontage and an un-built street right-of-way along the west side of the property. These areas of right-of-way are proposed to be vacated.

Request:

- (1) The **West Avenue** right-of-way is located on the west side of West Avenue in front of 303 West Avenue. This right-of-way is an approximately 20' wide and 50' long strip of un-constructed right-of-way adjacent to the existing West Avenue (*see attached exhibit*).
- (2) The **un-constructed right-of-way** along the west property line was originally platted to be a 30' wide street. This street was never built and now adjoins a block of residences and the subject property. The right-of-way traverses from the southwest property line to the northwest property line (*see attached exhibit*).

These areas are not anticipated to be needed by the City for transportation purposes because:

- (1) Two other sections of the West Avenue have been reduced from 60' to 40'; however, the current Master Plan Plan, which was adopted after the previous vacations, designates West Avenue as a 45' right-of-way (ST-45); and
- (2) the southern 178' of right-of-way, which provides the connection to Prairie Street, was vacated by Ordinance No. 5017, and the northern 51' was vacated by Ordinance No. 5072.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

Ozarks Electric

RESPONSE

No Objections

Cox Communications No Objections

Southwestern Electric Power Company No Objections

Arkansas Western Gas No Objections

Southwestern Bell Telephone No Objections

CITY OF FAYETTEVILLE: **RESPONSE**

Water/Sewer No Objections

Transportation No Objections

Solid Waste No Objections

Engineering-Trails Coordinator No Objections

Public Comment: No objections to the vacation have been received.

Recommendation: Staff recommends forwarding (VAC 09-3399) to the City Council with a recommendation for approval subject to the following conditions of approval.

Conditions of Approval:

1. Planning Commission determination of an amendment to the Master Street Plan for S. West Avenue, reducing the street section from an ST-45 to an ST-40 along 303 S. West Avenue. *Staff finds in favor of the request, given that two segments of West Avenue between South and Prairie have already been vacated, resulting in a 40' right-of-way for West Avenue (see attached exhibit).* **THE PLANNING COMMISSION FOUND IN FAVOR OF THE AMENDMENT.**
2. Relocation of existing utilities shall be at the owner/developer's expense including the possible need for utility easements.

CITY COUNCIL ACTION: Required **PLANNING COMMISSION ACTION:** Required
Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: August 24, 2009

Motion: Graves

Second: Cabe

Vote: 9-0-0

Comments: _____

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Date _____

Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr., Suite 3 / Fayetteville, AR 72703

PH: 479-442-9350 * FAX: 479-521-9350

June 23, 2009

Planning Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: West Ave ROW vacation and Alley Vacation

Dear City Planner,

Mr. Harris is requesting that a portion of the West Ave Right of Way be vacated and the 30' alley on the west side of the property be vacated. The vacation is needed because of the excess right of way and the alley are not necessary as shown on the Master Street Plan. Currently, there is 60' of right of way along West Ave. and the owner is proposing to vacate approximately 20' of the right of way to leave 40' remaining. The vacation will not affect any future construction of West Avenue. The 30' alley has been previously vacated off site of this property and Mr. Harris would like to continue the vacation of the alley.

If you have any questions or require additional information, please feel free to call.

Sincerely

Bates & Associates, Inc.



Geoffrey H. Bates, P.E.
President of Engineering

PETITION

PETITION TO VACATE A *right-of-way and an alley* LOCATED ALONG S. West Avenue, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the *right-of-way and alley* hereinafter sought to be abandoned and vacated, lying along S. West Avenue, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a *right-of-way and Alley* which is described as follows:

PROPOSED RIGHT-OF-WAY VACATION:

A part of West Avenue lying east of and being adjacent to Lot Two (2) in Block Twetny (22) of Ferguson's Addition to the City of Fayetteville, Arkansas, as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at found iron marking the northeast corner of said lot 2 and running thence s89°51'44"e 19.95' to a found iron pin, thence s00°05'49"w 49.97', thence n89°57'45"w 19.85' to the souttheast corner of said lot 2, thence along the east line of said lot 2 n00°00'54"w 50.00' to the point of beginning. containing 0.02 acres, more or less.

PROPOSED 30' ALLEY VACATION:

A part of a non-constructed alley lying west of and being adjacent to lot numberd two (2) in block twenty-two (22) of Ferguson's Addition to the City of Fayetteville, Arkansas, as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at a found iron pin marking the northwest corner of lot 2 and running thence along the west line of said lot 2 s15°12'41"e 51.79' to the southwest corner of of said lot 2, thence leaving said west line n89°57'45"w 31.09' to the west side alley, thence along said west line n15°12'41"w 51.72' to a found iron pin, thence leaving said west line n89°54'50'e 31.08' to the point of beginning. containing 0.04 acres, more or less.

That the abutting real estate affected by said abandonment of the right of way and alley is *lot 2, Ferguson's Addition* City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described *right-of-way and Alley*.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this ____ day of _____, 20 ____.

printed name

signature

printed name

signature

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY & ALLEY, VACATION

DATE: June 23, 2009

UTILITY COMPANY: ARKANSAS WESTERN GAS

Applicant Name: Bates & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

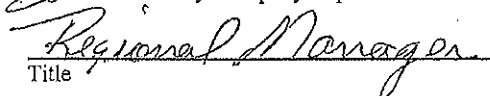
PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBERD TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING. CONTAINING 0.04 ACRES, MORE OR LESS.

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)


Signature of Utility Company Representative


Title

UTILITY APPROVAL FORM**FOR RIGHT-OF-WAY & ALLEY, VACATION**DATE: June 23, 2009UTILITY COMPANY: OZARKS ElectricApplicant Name: Bates & Associates, Inc.Applicant Phone: 479-442-9350REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:General location / Address: West side of S. West Ave (303 S. West Ave.)PROPOSED RIGHT-OF-WAY VACATION:

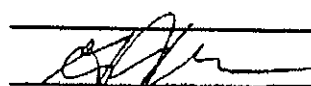
A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING, CONTAINING 0.02 ACRES, MORE OR LESS.

PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBER TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING, CONTAINING 0.04 ACRES, MORE OR LESS.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)


Signature of Utility Company RepresentativeLead Starting Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY & ALLEY, VACATION

DATE: June 23, 2009

UTILITY COMPANY:

AEP/SWEPCO

Applicant Name: Bates & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Jim Sargent

Signature of Utility Company Representative

ENGINEER I

Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY & ALLEY VACATION

DATE: June 23, 2009

UTILITY COMPANY: Cox Communications

Applicant Name: Hales & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF PAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

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UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Field Engineer
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY & ALLEY, VACATION

DATE: June 23, 2009

UTILITY COMPANY: Southwestern Bell Telephone

Applicant Name: Bates & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Jason L. Brown

Signature of Utility Company Representative

OSP DESIGN ENGINEER

Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY & ALLEY, VACATION

DATE: June 23, 2009

UTILITY COMPANY: Fayetteville Solid Waste & Recycling

Applicant Name: Bates & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBER TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING. CONTAINING 0.04 ACRES, MORE OR LESS.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Brian P. [Signature]
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY & ALLEY, VACATION

DATE: June 23, 2009UTILITY COMPANY: Fayetteville Water & SewerApplicant Name: Bates & Associates, Inc.Applicant Phone: 479-442-9350REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:General location / Address: West side of S. West Ave (303 S. West Ave.)PROPOSED RIGHT-OF-WAY VACATION:

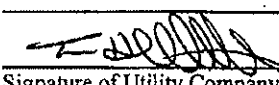
A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBER TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING. CONTAINING 0.04 ACRES, MORE OR LESS.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)


Signature of Utility Company Representative

Title

Water & Sewer Ops Mgr

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY & ALLEY, VACATION

DATE: June 23, 2009

UTILITY COMPANY: CITY OF FAYETTEVILLE TRANSPORTATION DIVISION

Applicant Name: Bates & Associates, Inc.

Applicant Phone: 479-442-9350

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following *right-of-way & Alley*, described as follows:

General location / Address: West side of S. West Ave (303 S. West Ave.)

PROPOSED RIGHT-OF-WAY VACATION:

A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44"E 19.95' TO A FOUND IRON PIN, THENCE S00°05'49"W 49.97', THENCE N89°57'45"W 19.85' TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54"W 50.00' TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES, MORE OR LESS.

PROPOSED 30' ALLEY VACATION:

A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NUMBERD TWO (2) IN BLOCK TWENTY-TWO (22) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 2 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 2 S15°12'41"E 51.79' TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE LEAVING SAID WEST LINE N89°57'45"W 31.09' TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41"W 51.72' TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°54'50"E 31.08' TO THE POINT OF BEGINNING. CONTAINING 0.04 ACRES, MORE OR LESS.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

[Signature]
Signature of Utility Company Representative

ASST. TRANSPORTATION MANAGER
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM
FOR RIGHT- OF- WAY & ALLEY VACATION REQUESTS

Date: June 23, 2009

Address / location of vacation: 303 S. West Avenue

Adjacent property address: 301 S. West Av.

Lot: _____ 02
Block: _____ 22
Subdivision: Ferguson's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following *right-of-way and Alley*, described as follows:

PROPOSED RIGHT-OF-WAY VACATION:

A part of West Avenue lying east of and being adjacent to Lot Two (2) in Block Twetny (22) of Ferguson's Addition to the City of Fayetteville, Arkansas, as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at found iron marking the northeast corner of said lot 2 and running thence s89°51'44"e 19.95' to a found iron pin, thence s00°05'49"w 49.97', thence n89°57'45"w 19.85' to the soututheast corner of said lot 2, thence along the east line of said lot 2 n00°00'54"w 50.00' to the point of beginning. containing 0.02 acres, more or less.

PROPOSED 30' ALLEY VACATION:

A part of a non-constructed alley lying west of and being adjacent to lot numberd two (2) in block twenty-two (22) of Ferguson's Addition to the City of Fayetteville, Arkansas, as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at a found iron pin marking the northwest corner of lot 2 and running thence along the west line of said lot 2 s15°12'41"e 51.79' to the southwest corner of of said lot 2, thence leaving said west line n89°57'45"w 31.09' to the west side alley, thence along said west line n15°12'41"w 51.72' to a found iron pin, thence leaving said west line n89°54'50"e 31.08' to the point of beginning. containing 0.04 acres, more or less.

ADJACENT PROPERTY OWNERS COMMENTS:

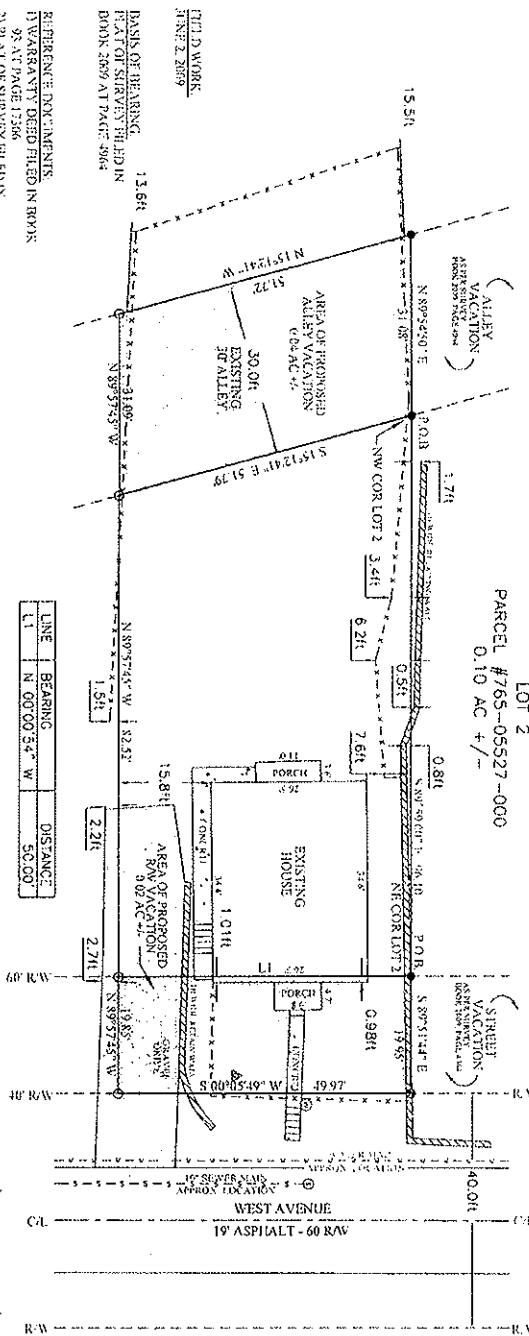
- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I *do not object* to the vacation described above.
- ☐ I *do object* to the requested vacation because:

TOM MENNINGER & SONJA HAUHMANN
Name of Property Owner (printed)
[Signature]
Signature of Property Owner

*You are welcome to
come by and
visit with us!*

RIGHT-OF-WAY & ALLEY VACATION

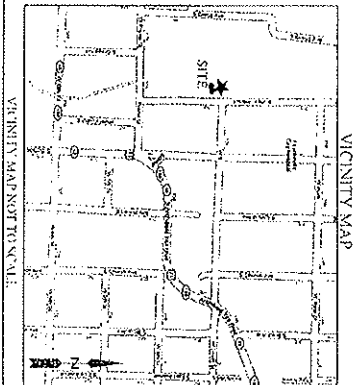
LOT 2
PARCEL #765-05527-000
0.10 AC +/-



LINE	BEARING	DISTANCE
1	N 00°00'54" W	50.00

- REFERENCE DOCUMENTS:
1) VACANT LOT DEED FILED IN BOOK 3699 AT PAGE 3964
2) CITY PLAT PAC 453
3) CITY PLAT PAC 453
4) FERGUSON'S ADDITION PLAT

PROPERTY ZONED:
DC - DOWNTOWN GENERAL



EXISTING LEGAL DESCRIPTION BOOK 31, PAGE 1236, LOT 10, NINE EIGHT TWO (2) IN BLOCK TWENTY TWO (2) IN FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PROPOSED RIGHT-OF-WAY VACATION:
A PART OF A NON-CONSTRUCTED ALLEY LYING WEST OF AND BEING ADJACENT TO LOT NON-BEARD TWO (2) IN BLOCK TWENTY TWO (2) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND IRON PIN MARKING THE NORTHWEST CORNER OF LOT 1 AND RUNNING THENCE ALONG THE WEST LINE OF SAID LOT 1 S15°24'14" E 31.97 TO THE SOUTHWEST CORNER OF SAID LOT 1, THENCE LEAVING SAID WEST LINE N89°57'45" W 31.09 TO THE WEST SIDE ALLEY, THENCE ALONG SAID WEST LINE N15°12'41" W 31.72 TO A FOUND IRON PIN, THENCE LEAVING SAID WEST LINE N89°57'45" W 31.08 TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES, MORE OR LESS.

PROPOSED RIGHT-OF-WAY VACATION:
A PART OF WEST AVENUE LYING EAST OF AND BEING ADJACENT TO LOT TWO (2) IN BLOCK TWENTY TWO (2) OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT FOUND IRON MARKING THE NORTHEAST CORNER OF SAID LOT 2 AND RUNNING THENCE S89°51'44" E 19.95 TO A FOUND IRON PIN, THENCE S89°50'49" W 49.97, THENCE N89°57'45" W 19.85 TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE ALONG THE EAST LINE OF SAID LOT 2 N00°00'54" W 50.00 TO THE POINT OF BEGINNING, CONTAINING 0.02 ACRES, MORE OR LESS.

GRAPHIC SCALE (IN FEET):
1 inch = 20 ft.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1642
THOMAS J. HARRIS

I, THE SIGNATURE ON THIS SEAL, IS NOT AN ORIGINAL AND NOT BLUE IN COLOR. ANY REPRODUCTION OF THIS SEAL MAY BE USED FOR ANY PURPOSE, BUT THE ORIGINAL SEAL AND SIGNATURE SHALL NOT BE REPRODUCED OR COPIED IN ANY MANNER.

FOR USE AND BENEFIT OF:
NEWLIN REALTY
RAY HARRIS

ADDRESS:
303 S. WEST AVE.
FAYETTEVILLE, ARKANSAS

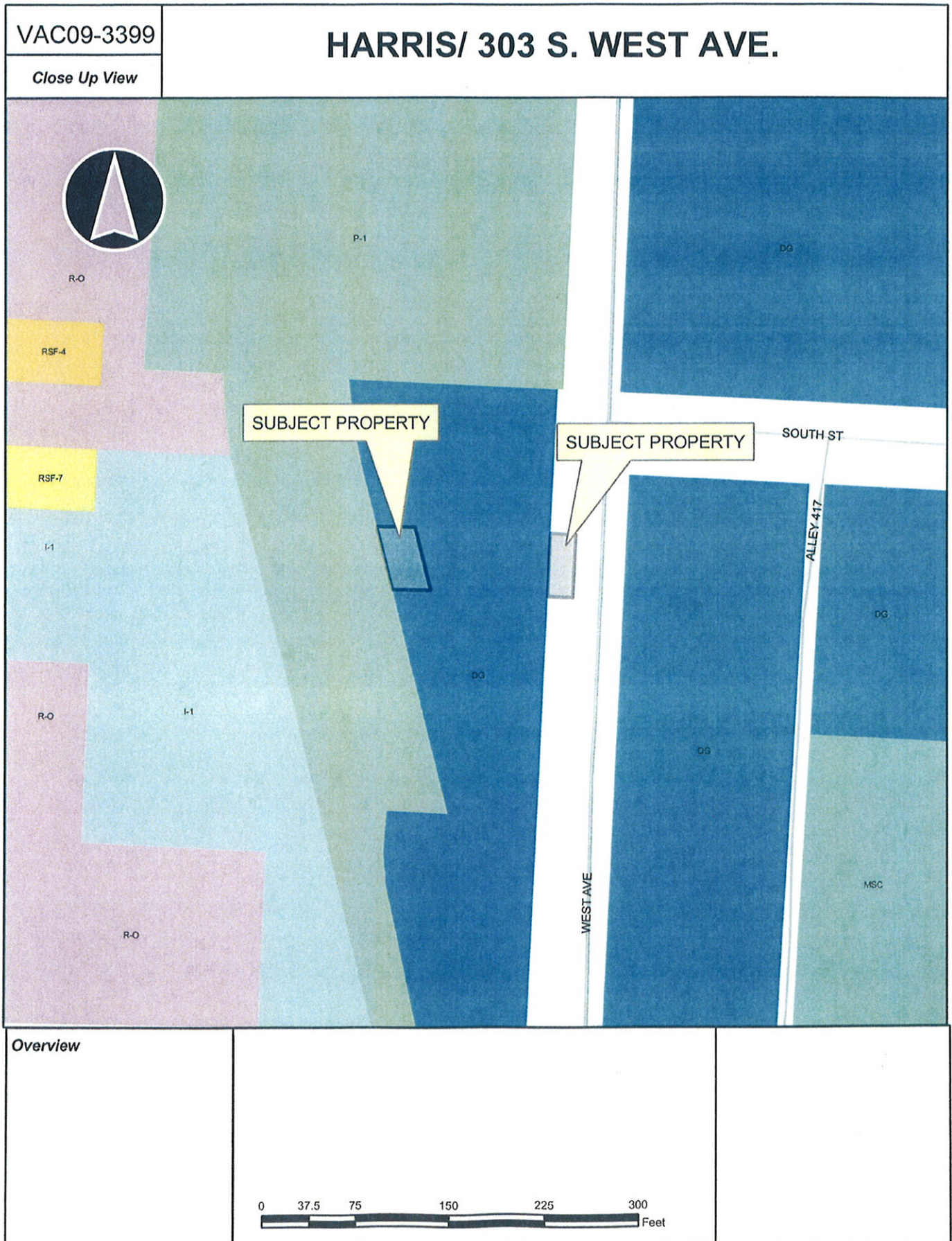
DATE: 06/03/09 SCALE: 1"=20'

LOCATION:
LOT 2
BLOCK 22
FERGUSON'S
ADDITION

SURVEYED: [] DRAFTED: []
BY: [] FOR: []
REVIEWED: DT

Bates & Associates, Inc.
Civil Engineering & Land Surveying
91 W. Colt Square Dr. Fayetteville, Arkansas 72701-478-642-8350 Fax 478-521-6350

LEGEND:
● FOUND 1" IRON BAR (CAP 1/2")
● FOUND 1" IRON BAR
● 4 1/2" x 8" REBAR CAP
--- WATER METER
--- SAND OR SEWER
--- GAN MEHLER
--- BOUNDARY LINE (PER 1990)
--- CENTERLINE OF ROAD
--- RIGHT-OF-WAY
--- ALLEY
--- WATER LINE



One Mile View



SUBJECT PROPERTY



City of Fayetteville Staff Review Form

C. 5
 ADM 09-3423 (S. West Avenue
 Master Street Plan Amendment)
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
 Agenda Items Only

Jesse Fulcher
 Submitted By

Planning
 Division

Development Services
 Department

Action Required:

ADM 09-3423: (S. West Avenue Master Street Plan Amendment): Submitted by Planning Staff, reclassifying S. West Avenue, between W. South Street and W. Prairie Street, from a 45 foot right-of-way to a 40 foot right-of-way.

Cost of this request

\$ -
 Category / Project Budget

Program Category / Project Name

Account Number

\$ -
 Funds Used to Date

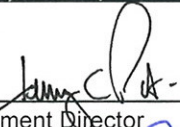
Program / Project Category Name

Project Number

\$ -
 Remaining Balance

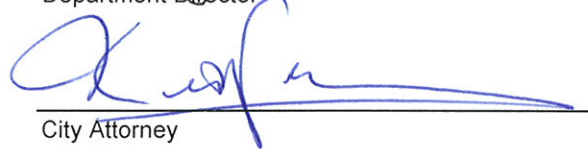
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐


 Department Director

08/26/09
 Date

Previous Ordinance or Resolution #


 City Attorney

8-31-09
 Date

Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director

8-31-2009
 Date

Received in City
 Clerk's Office




 Chief of Staff

8/31/09
 Date

Received in
 Mayor's Office




 Mayor

9/11/09
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services 

From: Jesse Fulcher, Current Planner

Date: August 27, 2009

Subject: Master Street Plan Amendment (VAC 09-3399) 303 S. West Avenue

RECOMMENDATION

Staff and the Planning Commission recommend approval of a Master Street amendment for a section of S. West Avenue, between W. South Street and W. Prairie Street, associated with VAC 09-3399.

BACKGROUND

The south section of West Avenue, between South Street and Prairie Street, contains 60' of right-of-way, dedicated in the 1930's with the platting of the Ferguson Addition. Prior to re-adopting the Master Street Plan in 2007 and designating this section of West Avenue as an ST-45' right-of-way, West Avenue was designated as an ST-40' right-of-way. Two separate property owners therefore requested that the City Council reduce the right-of-way from 60' to 40' adjacent to their properties. Consistent with the classification of West Avenue at the time, the City Council approved both vacations (Ord. No. 5017 and 5072). The reduction in right-of-way was, and still is appropriate given that the right-of-way, 40' of which is located on the west side of the centerline, encroaches into several existing structures (see attached maps).

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 24, 2009. The Planning Commission voted 9-0-0 on the consent agenda to forward this vacation request to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN, RECLASSIFYING S. WEST AVENUE, BETWEEN W. SOUTH STREET AND W. PRAIRIE STREET, FROM A 45 FOOT RIGHT-OF-WAY TO A 40 FOOT RIGHT-OF-WAY, AS DESCRIBED AND DEPICTED IN THE ATTACHED MAP.

WHEREAS, the north and south sections of West Avenue between South Street and Prairie Street have been previously vacated, resulting in a 40' right-of-way; and

WHEREAS, a 40 foot right-of-way maintains the integrity and purpose of the Master Street Plan, providing sufficient right-of-way for future improvements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends the Master Street Plan to reclassify S. West Avenue between W. South Street and W. Prairie Street from a required 45 foot right-of-way to a 40 foot right-of-way.

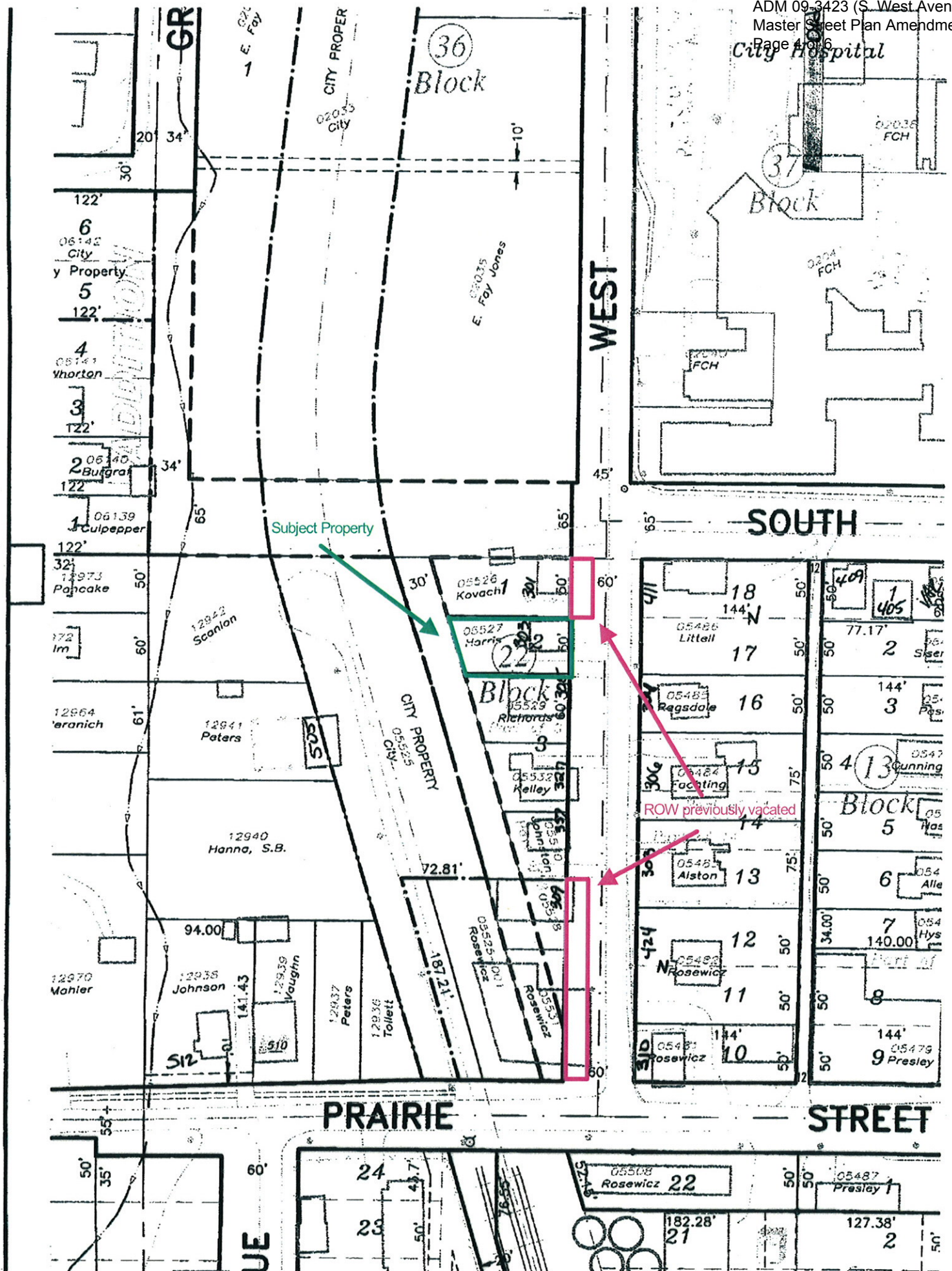
PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer





[illegible]

A circular seal for a Professional Land Surveyor. The outer ring contains the text "PROFESSIONAL LAND SURVEYOR" at the top and "STATE OF ARKANSAS" at the bottom. In the center, the name "DERICK L. THOMAS" is written above the number "NO. 1642". The word "SIGNATURE" is written vertically between the name and the number.

GRAPHIC SCALE (IN FEET)
1 inch = 200



City of Fayetteville Staff Review Form

A. 7
Economic Development Services
Page 1 of 50

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items Only

Don Marr

Administration

Administration

Submitted By

Division

Department

Action Required:

Resolution to approve a two year contract for Economic Development Services (RFP 09-14) with the Fayetteville Chamber of Commerce; and a budget adjustment for \$250,000 (\$125,000 per year for a 2 year period)

\$ 250,000.00

Cost of this request

\$ -

Category / Project Budget

Economic Development Services

Program Category / Project Name

1010.6600.5315.00

Account Number

\$ -

Funds Used to Date

Program / Project Category Name

09027 0901

Project Number

\$ -

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Don Marr

Department Director

9-7-09

Date

Previous Ordinance or Resolution #

K. Kraf

City Attorney

9-4-09

Date

Original Contract Date:

Original Contract Number:

Paul A. Behn

Finance and Internal Services Director

9-4-2009

Date

Received in City
Clerk's Office



Don Marr

Chief of Staff

9-7-09

Date

Received in
Mayor's Office



Don Marr

Mayor

9/8/09

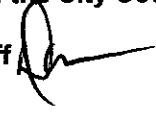
Date

Comments:



City Council Meeting Date:
September 15, 2009

City Council Agenda Memo

To: Mayor and Members of the City Council
From: Don Marr, Chief of Staff 
Thru: Mayor Jordan 
Date: 9/8/2009
Subject: (EIF) Economic Development Consulting Services

Recommendation:

The City Staff and Administration recommend on behalf of the Mayor's office that the City of Fayetteville, AR contract with the Fayetteville Chamber of Commerce for Economic Development Services.

Background:

During the Fayetteville Forward Economic Development Summit it was recommended by the Economic Breakout group for the City to evaluate and if feasible move towards contracting an entity to provide ongoing economic development services on behalf of the City of Fayetteville. The City Council voted on the 30+ action items that were identified as "City Initiated" items and the City Staff has been working to move forward with those items where the majority of the Council voted to proceed.

The city solicited request for proposals (RFP 09-14) seeking Economic Development Consulting Services. The RFP which outlines the requested services is provided as an attachment to this agenda item.

There were four (4) companies that responded to the RFP request and the Selection Committee (made up of Council Member Adella Gray, Finance Director, Paul Becker, Director of Airport Services Ray Boudreaux, Director of Strategic Planning & Internal Consulting Karen Minkel, Fayetteville Forward Citizen Representative from the Economics Incentives Group Eva Madison, and myself Don Marr Chief of Staff for Mayor Jordan) selected the Fayetteville Chamber of Commerce. This selection was an unanimous recommendation.

Budget Impact:

We are submitting a budget adjustment seeking \$125,000 funds for a two (2) year contract from the Wilson Springs Economic Development Fund to pay for these services.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A TWO YEAR CONTRACT FOR
ECONOMIC DEVELOPMENT WITH THE FAYETTEVILLE
CHAMBER OF COMMERCE IN THE AMOUNT OF \$250,000.00
AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT**

WHEREAS, the Fayetteville Chamber of Commerce was competitively selected by a city selection committee to provide economic development services to the City of Fayetteville at a rate of \$31,250.00 per quarter.

**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 attached two year contract (with a thirty day right to terminate clause) with the Fayetteville Chamber of Commerce in the amount of \$250,000.00 at the rate of \$31,250.00 per quarter.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached budget adjustment in the amount of \$250,000.00 to fully pay for this contract unless it is terminated earlier by either party.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

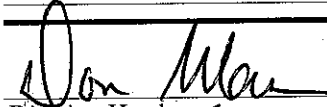
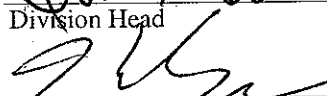
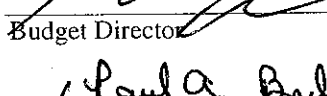
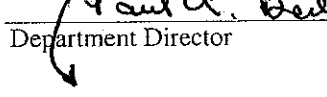
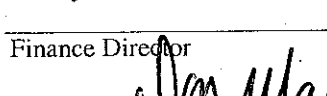
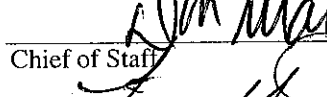
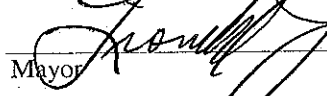
A. 7
Economic Development Services
Adjustment Number
Page 4 of 50

Budget Year 2009	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 9/15/2009	
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Project or Item Added/Increased: \$250,000 is requested in the contract service account.	Project or Item Deleted/Reduced: \$250,000 is requested from the Use of Designated Fund Balance account.
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Justification of this Increase: Prospecting and secure new businesses, retain existing businesses and provide economic development services for marketing the City in places such as trade shows through a dedicated website. The contractor hired will represent the City of Fayetteville while networking with local representatives and organization.	Justification of this Decrease: These funds are from the sale of Wilson Springs. Sufficient funding remains to comply with City Policies.
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Increase Budget							
Account Name	Account Number				Amount	Project Number	
Contract Services	1010	6600	5315	00	250,000	09027	0901
Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Use Of Designated Fund Balance	1010	0001	4999	98	250,000	09027	0901

      	9-8-09 Date 9-9-09 Date 9-8-2009 Date 9-8-09 Date 9-9-09 Date	V.090403 Budget & Research Use Only Type: A B C <u>D</u> E Requested By _____ General Ledger Date _____ Posted to General Ledger Initial _____ Date _____ Posted to Project Accounting Initial _____ Date _____
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City Council Voting Results

Policy - Economic Incentives

4. Establish a \$5 million quick action closing fund with performance benchmarks to protect the tax payer with performance requirements. (Owner: City of Fayetteville; ½ MT Goal, other ½ LT Goal) Staff - Don Marr & Paul Becker; Council Member Bobby Ferrell; Time Frame: January 2011	9
5. Develop additional city incentives that can be utilized to attract prospective businesses to Fayetteville by evaluating the following areas within 24 months: (Owners: City of Fayetteville, Chamber of Commerce/Business Community; MT Goal) Staff - Don Marr & Paul Becker; Council Member Brenda Thiel; Time Frame: June 2010	8
6. Establish "smart" form-based codes with a commitment to community desired design standards and allow for expedited administrative approval (with appeal to City Council) for projects that meet the standards. (Owners: City of Fayetteville; ST Goal) Staff - Jeremy Pate; Council Member Kyle Cook; Time Frame: September 2009	5
7. Contract with External Economic Development Entity (Chamber of Commerce, Green Valley, Economic Development Specialist etc.) to develop a targeted business prospecting plan for the following industries: (Owner: City of Fayetteville; ST Goal) Mayor Jordan and Council Member Adella Gray; Time Frame: July 2009	8
8. Establish a Citizen Ambassador Committee for the recruitment and development process to preview possible business opportunities. (Owner: City of Fayetteville; MT Goal)	1
9. Promote a 'Buy-Fayetteville' Campaign through City and Advertising & Promotions Commission. (Owner: City of Fayetteville & A&P Commission; ST Goal) Staff - Julie McQuade; Council Member Matthew Petty; Time frame: Planning completed by September 2009, Funded January 2010	4
10. Develop a Geographical Model for prospective companies. (Owner: City Staff; ST Goal)	3

**CONTRACT FOR
ECONOMIC DEVELOPMENT CONSULTING SERVICES
BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
THE FAYETTEVILLE CHAMBER OF COMMERCE**

WHEREAS, the City of Fayetteville, Arkansas wishes to contract for Economic Development Consulting Services, and;

WHEREAS, the Fayetteville, Arkansas Chamber of Commerce wishes to provide Economic Development Consulting Services to the City of Fayetteville, Arkansas, and;

WHEREAS, the Fayetteville, Arkansas Chamber of Commerce was selected to perform Economic Development Consulting Services for the City of Fayetteville utilizing the competitive Request for Proposal selection process (via RFP 09-14, Economic Development Consulting Services), and;

WHEREAS, the City Council of Fayetteville, Arkansas has approved a contract for Economic Development Consulting Services with the Fayetteville, Arkansas Chamber of Commerce,

NOW THEREFORE:

In consideration of the mutual promises contained in this Agreement and other good and valuable consideration,

Agreement is made this ____ day of _____, 2009 by and between the City of Fayetteville, Arkansas located at 113 W. Mountain, Fayetteville, Arkansas 72701 and the Fayetteville, Arkansas Chamber of Commerce located at 123 West Mountain Street, Fayetteville, Arkansas 72701.

1. **Term:** This Agreement shall be for a term of two (2) years. This contract may be canceled by either party within thirty days written notice.
2. **Renewals:** This agreement may be renewed for one additional term of two (2) years with mutual agreement of the parties.

3. **Appendix & Attachments:** The Contract documents which comprise the contract between the City of Fayetteville and the Fayetteville Chamber of Commerce consist of this Contract and the following documents attached hereto, and made a part hereof:

a.) Appendix A - Fayetteville Chamber of Commerce response to RFP 09-14, Economic Development Consulting Services

b.) Appendix B –Schedule Detail for Deliverables and Performance Measures

* The City of Fayetteville shall coordinate with the Fayetteville Chamber of Commerce for modifications to this schedule. Any modifications shall be agreed upon by both the City and Fayetteville Chamber of Commerce; however, any changes affecting price shall have prior approval by the Fayetteville City Council. In the event Appendix B is revised and price is not modified, such revised document shall be provided to the City Council at the next regularly scheduled quarterly update.

4. **Services to be Provided:** During the terms of this Agreement, the Fayetteville Chamber of Commerce Shall:

- Serve as the first point of contact for economic development services;
- Ensure that the City of Fayetteville is competitive locally, nationally and internationally in attracting prospective companies;
- Produce materials that market Fayetteville including a website that caters to existing and prospective businesses and information packets for targeted industries;
- Conduct trend and market analyses;
- Build mutually beneficial relationships with the Arkansas Economic Development Commission and regional entities engaged in economic development; and
- Provide a diversity of opportunity in business types, job wages, & skill sets
- Provide all deliverables and performance measures outlined in RFP 09-14

5. **Fees and Expenses:** The City of Fayetteville agrees the consulting fee shall be paid upon invoice as follows:

Consultation Services shall be invoiced for each quarter in the amount of \$31,250.00 per quarter. Total fees for consultation services shall not exceed \$125,000 annually, from date of contract. The Fayetteville Chamber of Commerce shall track, log and report hours and expenses directly related to this Agreement along with invoice for payment for each quarter. Invoices shall be itemized.

6. **Notices:** Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax (receipt confirmed), or overnight courier.

7. **Applicable Law:** This Agreement shall be governed by and construed in accord with the laws of the State of Arkansas.

8. **Entire Agreement:** This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

9. **Amendments and Waivers:** Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees. No modification of this Agreement shall be binding unless made in writing and executed by both parties. No waiver by either party or any breach or obligation of the other party under this Agreement shall constitute a waiver of any other prior or subsequent breach or obligation.

10. **Performance Measures:** The Fayetteville Chamber of Commerce shall provide the following deliverables. Performance measures are included (with examples) for each item and will be used to evaluate the work performed throughout the entire term of the contract.

One: Economic Development Website

The Economic Development website will have, as a minimum, a graphically engaging design, relevant demographic information, a comprehensive list of awards and distinctions received by the City, identification of publicly-owned, shovel-ready sites, incentive packages and materials for targeted industries, and opportunities and support services for existing businesses.

Performance measure:

- *Active website, updated content, and easy-to-find content as provided by other cities*
- *Number of weekly hits on the website*
- *Maintain & review community profile with AEDC*

Two: Support Services for Existing Businesses

The City wants to ensure existing businesses thrive and remain or expand in Fayetteville. The Fayetteville Chamber of Commerce shall solicit continual feedback from the more than 2600 existing businesses to determine how they can best be served and how programs can be developed to leverage their assets and the assets of other similar businesses and the assets of the City of Fayetteville. The Chamber of Commerce shall develop concepts which promote existing business. For example, businesses located on the Fayetteville Square and in the Downtown are

sponsoring a First Thursday event with extended store hours and additional attractions.

Performance measure:

- *Development of business community data*
 - *Retention rate for existing businesses*
 - *Existing employee headcount*
 - *Other data as requested by and coordinated with the City*
- *Focus group and anecdotal evidence related to existing business satisfaction with the City of Fayetteville*
- *Creation of an instrument resulting in a report containing anecdotal evidence related to existing businesses*

Three: Prospective Company Recruitment

The Fayetteville Chamber of Commerce shall take steps necessary to ensure that Fayetteville competes at local, state, national and international levels for prospective businesses. ARTP incubates companies that are developing new technologies and products. As these companies scale up and consider permanent locations, the Chamber of Commerce shall coordinate programs, procedures, policies and promotional materials that make the City an attractive and competitive option. In addition, the Chamber of Commerce shall actively promote the City of Fayetteville at the state, national and international levels, particularly to companies in the clean tech, healthcare, hospitality and tourism and nonprofit sectors.

Performance measure:

- *Number of trade shows or similar events attended*
- *Number of home grown businesses locating in Fayetteville*
- *New businesses in Fayetteville*
- *Employee headcount attributed to new businesses*
- *Assistance in the coordination and development of a regional economic development council*
- *Listing of contacts or potential businesses obtained through serving as the lead contact*
- *Implementation of business registry*

Four: Strengthened Relationship with the Arkansas Economic Development Commission (AEDC) and Regional Economic Development Organizations

These organizations are assets to the City's economic development efforts. They can provide free marketing for the City and expand our contact base and opportunities. Fostering relationships with these organizations will provide a competitive advantage at the state and regional level and ensure that the City receives feedback

from prospective companies about what Fayetteville can do to provide an attractive business package. The Fayetteville Chamber of Commerce shall serve as the primary point of contact for the City of Fayetteville for economic development related purposes.

Performance measure:

- *Regular meetings with AEDC staff and commissioners, Green Valley Corporation staff, ARTP staff and other relevant organizations*
- *Documented efforts and participation in regional partnership*
- *Positive relationship with AEDC and appropriate communicated vision for Fayetteville*
- *AEDC understanding of firm's primary contact responsibility*

Five: Marketing Materials Directed Toward Target Industries

Four industries were identified for growth and expansion at the Fayetteville Forward Economic Development Summit: 1) "Green" or clean tech; 2) Healthcare and medical; 3) Tourism, hospitality, entertainment and arts; and 4) Non-profit, non-governmental organizations. Information that sells Fayetteville to these industries should be included in all marketing materials. Materials shall be updated annually.

Performance measure:

- *Industry packets*
- *Additional promotional materials such as DVDs, etc.*
- *City approved "incentive booklet" containing highlights on why companies should locate in Fayetteville*

Six: Market Statistics and Demographics

The City of Fayetteville is interested in market statistics and demographics.

Performance measure:

- *Utilize and provide updated market, trend, and demographic analysis through current studies.*

Seven: Reports and Presentations to the Mayor and City Council

The Fayetteville Chamber of Commerce shall provide a written report and prepare a brief presentation for the Mayor and City Council on a quarterly basis. Reports and presentations should outline the tasks accomplished and include statistics for each performance measure outlined herein.

Performance measure:

- *Written report and presentation on a quarterly basis to Mayor and City Council*
- *Timely updates to Mayor and City Council on potential and ongoing projects as necessary*

The City recognizes that the overall economy will affect some of the performance measures and success will be outside the control of the Fayetteville Chamber of Commerce. The City also recognizes that some of the needed statistics are not currently collected in a systematic way. However, the City expects the Fayetteville Chamber of Commerce to show evidence of experience in conducting comparative market and trend analyses and due diligence in amassing the detailed information necessary to support the Economic Development effort..

11. Contract Administration

The Mayor or his/her Designated Representative shall be the Contract Administrator for this contract. The Fayetteville Chamber of Commerce President and CEO or his/her Designated Representative shall be the primary contact for all matters pertaining to this contract. While it is understood that many facts pertaining to projects must be held in the strictest confidence, the Fayetteville Chamber of Commerce President and CEO will insure that the Mayor is kept abreast of details and progress made pertaining to Economic Development prospects considering development in Fayetteville to the greatest extent possible.

12. Freedom of Information Act

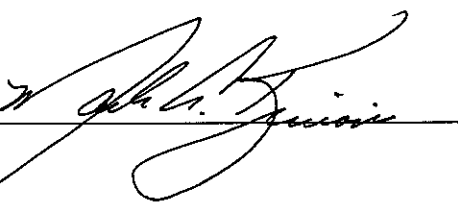
City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Fayetteville Chamber of Commerce will do everything possible to Economic Development Consulting Services Contract

provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Fayetteville Chamber of Commerce

By:  Date: 09/08/09
J. Steven Clark, President and CEO

Witness:  Date: 9/8/09

The City of Fayetteville, Arkansas

By: _____ Date: _____
Lioneld Jordan, Mayor

Attest:

Sondra E. Smith, City Clerk/Treasurer

Date: _____

City of Fayetteville, Arkansas & Fayetteville Chamber of Commerce
Contract - Economic Development Consulting Services
Appendix B - Deadline Schedule Detail for Deliverables and Performance Measures
Version 1 - Last Updated: 09/02/2009

SECTION I: Deadline Identification Schedule

Quarter	Dates per Quarter	Deadline for Quarter	Update Deadline to Admin	Update Deadline to City Council
Qtr 1 -	October 2009 - December 2009	Thursday, December 31, 2009	Tuesday, December 22, 2009	Monday, January 05, 2009
Qtr 2 -	January 2010 - March 2010	Wednesday, March 31, 2010	Wednesday, March 24, 2010	Tuesday, April 06, 2010
Qtr 3 -	April 2010 - June 2010	Wednesday, June 30, 2010	Wednesday, June 23, 2010	Tuesday, July 06, 2010
Qtr 4 -	July 2010 - September 2010	Thursday, September 30, 2010	Wednesday, September 22, 2010	Tuesday, October 05, 2010
Qtr 5 -	October 2010 - December 2010	Friday, December 31, 2010	Tuesday, December 21, 2010	Tuesday, January 04, 2011
Qtr 6 -	January 2011 - March 2011	Thursday, March 31, 2011	Wednesday prior to 1st April Agenda Session	1st City Council meeting in April
Qtr 7 -	April 2011 - June 2011	Thursday, June 30, 2011	Wednesday prior to 1st July Agenda Session	2nd City Council meeting in July
Qtr 8 -	July 2011 - September 2011	Friday, September 30, 2011	Wednesday prior to 1st Oct. Agenda Session	3rd City Council meeting in October

SECTION II: Details of Deliverables and Performance Measures

Category	Category Description	Performance Measure	Deadline (Quarter)	Notes
1	Economic Development Website	A Active website, updated content, and easy-to-find content as provided by other cities	1st Quarter + monthly thereafter	Provide number of weekly hits on website
		B Number of weekly hits on the website	1-8: Quarterly	
		C Maintain and review community profile with AEDC	1-8: Quarterly	Provide monthly updates to the Mayor
2	Support Services for Existing Businesses	A Development of business community data: retention rate for existing businesses, existing employee headcount	2nd Quarter; and quarterly thereafter (2-8)	Include other data requested and coordinated with the City
		B Focus group and anecdotal evidence related to existing business satisfaction with the City of Fayetteville	Quarter 3	Quarterly FCC meeting
		C Creation of an instrument resulting in a report containing anecdotal evidence related to existing businesses	Quarter 4	
3	Prospective Company Recruitment	A Number of trade shows or similar events attended	Quarter 2 or 3 for events held in spring; Qtr 4 or 5 for events in fall (will depend on trade show dates)	local representation to be reported on as events occur
		B Number of home grown businesses locating in Fayetteville	Quarters 1 through 8	
		C New businesses in Fayetteville	Quarters 1 through 8	
		D Employee headcount attributed to new businesses	Quarters 2 through 8 (after implementation of Item 3G)	after implementation

		E	Assistance in the coordination and development of a regional economic development council	Quarters 2 through 8	after completion of council, FCC shall provide update on progress made by the council
		F	Listing of contacts or potential businesses obtained through serving as the lead contact	Quarters 1 through 8	
		G	Implementation of business registry	Quarter 2	
4	Strengthened Relationship with the AEDC and Regional Economic Development Organizations	A	Regular meetings with AEDC staff & commissioners, Green Valley Corporation staff, ARTP staff & other relevant organizations	Quarter 1: Reporting required in Quarters 2 through 8	
		B	Documented efforts and participation in regional partnership	Quarter 1: Reporting 2 through 8	
		C	Positive relationship with AEDC & appropriate communicated vision for Fayetteville	Quarter 1: Reporting 2 through 8	
		D	• AEDC understanding of firm's primary contact responsibility	Quarter 1: Reporting 2 through 8	
5	Marketing Materials Directed Toward Target Industries	A	Creation and distribution of Industry packets	Quarter 3 with updates on distributon contacts 2 through 8	
		B	Creation of additional promotional materials such as DVDs, etc.	Quarter 3 with updates on distributon contacts 2 through 8	
		C	Creation of City approved "incentive booklet" containing highlights on why companies should locate in Fayetteville	Quarter 6	
6	Market Statistics and Demographics	A	Utilize & provide updated market, trend, & demographic analyses through current studies	1st Quarter + monthly thereafter	Provide number of weekly hits on website
7	Reports and presentations to the Mayor and City Council				
	The Fayetteville Chamber of Commerce shall provide a written report and prepare a brief presentation for the Mayor and City Council on a quarterly basis. Reports and presentations should outline the tasks accomplished and include statistics for each performance measure outlined herein. Performance measures include: • Written report and presentation on a quarterly basis to Mayor and City Council • Timely updates to Mayor and City Council on potential and ongoing projects as necessary				
The City recognizes that the overall economy will affect some of the performance measures and success will be outside the control of the Fayetteville Chamber of Commerce. The City also recognizes that some of the needed statistics are not currently collected in a systematic way. However, the City expects the Fayetteville Chamber of Commerce to show evidence of experience in conducting comparative market and trend analyses and due diligence in amassing the detailed information necessary to support the Economic Development effort..					

RFP 09-14, Economic Development Consulting

Fayetteville Chamber of Commerce

2009



Fayetteville Chamber of Commerce
123 W Mountain
Fayetteville, AR 72701
(479)-521-1710
Fax (479)-521-1791

Fayetteville Chamber of Commerce

Proposal for Services

Technical Proposal

RFP 09-14, Economic Development Consulting

One: Economic development website

The Fayetteville Chamber of Commerce has recently contracted with Weblink* International the leading software development and web design company for Chambers of Commerce in the world. With the assistance of Weblink and local web design group Red Rooster. The Chamber will develop and manage an engaging website serving as a single point of contact for economic development and a website that contains easy-to-find content for existing and prospective businesses. Please see the new design at www.redroosterdesign.com/chamber . This is a preliminary design. Additional area's dedicated to economic development, the arts, entertainment and creative economy and the Fayetteville GreenWAY initiative/ Fayetteville GreenWAY Institute will be added to the site. The website will have a graphically engaging easy to navigate design, including the following information with easy to follow links:

1. relevant demographic information
2. a comprehensive list of awards and distinctions received by the City,
3. identification of publicly-owned, shovel-ready sites,
4. incentive packages and materials for targeted industries,
5. opportunities and support services for existing businesses.
6. Additional ideas content that will strengthen and expand economic development opportunities.

The information manager at the Chamber of Commerce follows the activity of 20 cities/websites to monitor new trends in economic development and Chamber Services with close attention to business recruitment, business services, and business retention and expansion. Links will point to the City website, Convention and Visitors Bureau, Washington County and the AEDC. GIS data for city and state data will be linked for easy access.

Performance measure:

- *Active website, updated content, and easy-to-find content as provided by other cities*
- *Number of weekly hits on the website*

*Some other cities using Weblink International include:

International

- American Chamber of Commerce of México

State

- Maryland Chamber of Commerce
- Florida Chamber of Commerce

- [Delaware Chamber of Commerce](#)
- [South Carolina Chamber of Commerce](#)
- [North Carolina Chamber of Commerce](#)
- [Oregon State Chamber of Commerce](#)
- [The Kansas Chamber of Commerce](#)

Metro Chambers of Commerce

- [Greater Boston Chamber of Commerce \(MA\)](#)
- [Greater Philadelphia Chamber of Commerce \(PA\)](#)
- [Las Vegas Chamber of Commerce \(NV\)](#)
- [Nashville Area Chamber of Commerce \(TN\)](#)
- [Denver Metro Chamber of Commerce \(CO\)](#)
- [Salt Lake Chamber \(UT\)](#)
- [Dallas Regional Chamber \(TX\)](#)
- [Greater Phoenix Chamber of Commerce \(AZ\)](#)
- [Greater Miami Chamber of Commerce \(FL\)](#)
- [Greater San Antonio Chamber of Commerce \(TX\)](#)
- [Columbus Chamber \(OH\)](#)
- [Portland Business Alliance \(OR\)](#)
- [Sacramento Metro Chamber \(CA\)](#)
- [Boise Metro Chamber of Commerce \(ID\)](#)
- [Oakland Metropolitan Chamber of Commerce \(CA\)](#)

Local Chambers of Commerce

- [Rogers/Lowell Chamber of Commerce](#)
- [Arlington Chamber of Commerce \(VA\)](#)
- [Naperville Area Chamber of Commerce \(IL\)](#)
- [Oceanside Chamber of Commerce \(CA\)](#)
- [Waxahachie Texas Chamber of Commerce \(TX\)](#)
- [Birmingham Business Alliance \(AL\)](#)
- [Fort Wayne Chamber \(IN\)](#)
- [The Greater Bloomington Chamber of Commerce \(IN\)](#)
- [Lubbock Chamber of Commerce \(TX\)](#)
- [Santa Clara Chamber of Commerce and Convention-Visitors Bureau \(CA\)](#)
- [Oxnard Chamber of Commerce \(CA\)](#)
- [Terre Haute Chamber of Commerce \(IN\)](#)
- [Little Rock Regional \(AR\)](#)
- [The Colorado Springs Chamber \(CO\)](#)
- [Long Beach Area Chamber of Commerce \(CA\)](#)
- [Tampa Bay Beaches Chamber of Commerce \(FL\)](#)

- Toledo Regional Chamber of Commerce (OH)

Business Associations

- Arizona Grantmakers Association
- Washington State Hospital Association
- Indiana Manufacturers Association
- El Dorado Builders Association
- Florida Association of Chamber Professionals
- National Rehabilitation Association
- Santa Barbara Contractors Association
- Society of Telecommunications Consultants, Inc.

Convention and Visitor Bureaus

- Door County Visitors Bureau, WI
- Santa Clara Chamber of Commerce and Convention-Visitors Bureau, CA
- Catalina Island Chamber of Commerce and Visitors Bureau, CA
- Half Moon Bay Coastside Chamber of Commerce and Visitors Bureau, CA
- The Greater Top Sail Area Chamber of Commerce and Tourism, CA
- Glenwood Springs Chamber Resort Association, CO
- Healdsburg Chamber of Commerce and Visitors Bureau, CA
- Santa Cruz Chamber of Commerce, CA
- Ocean City Hotel, Motel and Restaurant Association

Two: Support services for existing businesses

The City of Fayetteville has over 2,600 businesses that contribute to the local economy. The City wants to ensure that these businesses thrive and remain or expand in Fayetteville. The City expects that the selected organization will solicit continual feedback from existing businesses to determine how they can best be served and bring ideas about how to leverage assets. For example, businesses located on the Fayetteville Square and in the Downtown are sponsoring a First Thursday event with extended store hours and additional attractions. The City expects the selected organization to develop similar concepts.

Performance measure:

- *Development of business community data*
 - o *Retention rate for existing businesses*
 - o *Existing employee headcount*
 - o *Other data as requested by and coordinated with the City*
- *Focus group and anecdotal evidence related to existing business satisfaction with the City of Fayetteville*

The Fayetteville Chamber of Commerce completed a project in Spring of 2009 with the Arkansas Economic Development Commission regarding data management and business retention programs. With our Weblink database management tool complete information can be regularly updated and trends followed regarding Business Retention and Expansion.

We have an established relationship with:

LaJuana Delph, PCED,BREC

Arkansas Retention Resource Network

Business Retention and Expansion Division

Arkansas Economic Development Commission

One Capitol Mall

Phone: 501-682-7382

Fax: 501-682-1188

Further programming with State Agencies such as the Dept. of Workforce Services, Northwest Arkansas Community College, Governor's Task Force on Skill Career Readiness Certification and Work Keys Training , Arkansas Economic Development Commission, as well as ongoing relationships with Adult Education and Continuing education Programs, the area Education Cooperative based in Farmington (Consisting of 16 area School Districts) and the University of Arkansas Center for Business and Economic Research provide quantitative and qualitative evidence of existing business activity and evidence of business satisfaction. The Chamber additionally has 1135 active business partners as members to draw on as a resource for information and business climate indicators. This is 43% of the known businesses operating in the city. The national average for chamber participation by locally operated business is only 20%. The Fayetteville Chamber of Commerce maintains a high degree of involvement and contact with the local business market and its nuances regarding change.

The database developed from the Governors Career Readiness Certification program recently implemented locally by the Fayetteville Chamber of Commerce will quantify the skills readiness of potential employees in the region. This will be used as a tool for Economic Development. A similar program has been successful through the Jonesboro Chamber of Commerce. The Fayetteville Chamber of Commerce has established a relationship

with the Jonesboro Chamber of Commerce so their successful model can be implemented here in Northwest Arkansas.

The Fayetteville Chamber of Commerce has an ongoing relationship with the Arkansas Small Business and Technology Development Center. Workshops and seminars are scheduled throughout the year at The Chamber office providing support to area businesses.

Current technology upgrades being installed at the Chamber office will provide on demand video programming/workshops via the Chamber of Commerce website. This technology will also allow The Chamber to host and produce webinars regarding economic development and related subject areas for training and education for green, clean growth. Additional internet links on the new Chamber website will connect existing businesses to State and National business resources.

The Fayetteville Chamber of Commerce has two full time staff members assigned to business retention responsibilities with regular calls to existing businesses scheduled throughout the year. New Business statistics are updated monthly including names of businesses, new number of employees, wage data, square footage and ribbon cuttings celebrating new businesses in Fayetteville. Monthly new business updates are also compiled from data base information from the Blair Public Library.

Staff members and volunteers collect "real" cost of living data quarterly and report to ACCRA. Using this data ACCRA publishes quarterly the ACCRA Cost of Living Index, Comparative data for 303 Urban Areas. The ACCRA Index measures differences between areas in the cost of consumer goods and services, excluding taxes and nonconsumer expenditures, for professional and managerial households in the top income quintile. It is based on 59 items for which prices are collected by chamber of commerce, economic development organization, or some similar organization in each participating urban area.

Three: Prospective company recruitment

The City wants to ensure that Fayetteville competes at local, state, national and international levels for prospective businesses. ARTP incubates companies that are developing new technologies and products. As these companies scale up and consider permanent locations, the City wants to be an attractive and competitive option. In addition, the City wants Fayetteville actively promoted at the state, national and international levels, particularly to companies in the clean tech, healthcare, hospitality and tourism and nonprofit sectors.

Performance measure:

- *Number of trade shows or similar events attended*
- *Number of home grown businesses locating in Fayetteville*
- *New businesses in Fayetteville*
- *Employee headcount attributed to new businesses*
- *Assistance in the coordination and development of a regional economic development council*

The Fayetteville Chamber of Commerce is participating as a joint partner with the AEDC for new business recruitment. The Fayetteville Chamber of Commerce along with the NWA Regional Chamber, the Little Rock Area Chamber of Commerce and the AEDC has joined together for an advertising campaign to promote new business recruitment. The Fayetteville Chamber of Commerce has confirmed two regional trade show engagements with the AEDC in 2010 to maximize joint business recruitment efforts.

Additional regional, state, national, and international trade shows and business recruitment events will be scheduled as funding permits. The Fayetteville Chamber of Commerce will always look for sponsors and partnerships when planning such recruitment activities.

The Fayetteville Chamber of Commerce in conjunction with ARVEST has started a new series of small business expos to be known as "Fayetteville Small Business Showcases" beginning in September. This will showcase selected small businesses. Other larger expos such as the Education Expo which had over 70 companies showcasing products to over 750 local educators support business growth of existing businesses here in our community.

The Fayetteville Chamber of Commerce is an active member of the NWA Regional Chamber creating regional business recruitment opportunities for the area. This group with representatives of the five largest Chambers (Rogers/Lowell, Fayetteville, Springdale, Bentonville, Siloam Springs) recently traveled to North Carolina Research Triangle Park, Piedmont Triad to evaluate and learn about productive regional recruitment efforts. Denisa Pennington, AEDC Community Development Director and Phil Stafford of the Research Technology Development Center at the University of Arkansas participated in this trip.

The Fayetteville Chamber of Commerce is an active participant of the Arkansas Economic Developers Association.

The Fayetteville Chamber of Commerce is an active member of the National Association of Chamber of Commerce Executives, the premier professional training organization for economic development and chamber of commerce services. Local Chamber of Commerce Executives, Perry Webb of Springdale and Raymond Burns of Rogers/Lowell serve on the National Board and Committees with this organization.

The Fayetteville Chamber of Commerce is a member of both the Arkansas State Chamber of Commerce and the US Chamber of Commerce. This allows access to training, information, and governmental action impacting economic development.

The Fayetteville Chamber of Commerce recently hosted the Mayor of Branson and her staff to increase regional economic development opportunities extending from Fayetteville to Branson.

Other face-to-face contacts made by the Fayetteville Chamber of Commerce in the past thirty days to promote Fayetteville and Northwest Arkansas Regional Economic Development includes:

- Ted Abernathy, Executive Southern Growth Policies Board
- Tom Dayvault, President/CEO, High Point Chamber of Commerce, High Point, NC
- Dan Lynch, President, Greensboro Economic Development Alliance, Greensboro, NC
- Robert E. Leak, Jr., President, Winston-Salem Business Inc., Winston-Salem, NC
- Sydney Paul Miller, Program Manager, Triangle J Council of Governments, Durham, NC
- Robert Clapper, President, Greensboro Chamber of Commerce, Greensboro, NC
- Conley Hilliard, Economic Developer, ElectriCities of North Carolina, Inc, Raleigh, NC
- Erin Bemis, Executive Director, Charlevoix Area Chamber of Commerce, Charlevoix, MI
- Adam Klein, Vice-President, Chapel Hill Carrboro Chamber of Commerce, Chapel Hill, NC
- Gayle Anderson, President, Winston-Salem Chamber of Commerce, Winston-Salem, NC
- Maysa Humadi, Exec Director, Dubai Chamber of Commerce, Dubai
- Dianne T. Rodwell, Director, Artspace Studios 210 Project, Raleigh,
- Luana Luconi Winner, Winner Studios at Artspace Project, Raleigh, NC
- Strib Boynton, City Manager, High Point, NC
- Dale Carroll, Deputy Secretary/CEO, State of NC Dept. of Commerce, Raleigh, NC
- Kenneth Atkins, Exec. Director, Wake County Economic Development, Raleigh, NC
- Adrienne Cole, Exec. Director, Raleigh Economic Development, Raleigh, NC
- Aura Lee Durham, Sr. VP, Warner Robins Area Chamber of Commerce, Warner Robins, GA
- Lavern Squier, SR. VP, Overland Park Chamber of Commerce, Overland Park, KS
- Rob Guidry, President/CEO, Greater Lafayette Chamber of Commerce, Lafayette, LA
- Kathleen Snyder, President/CEO, Maryland Chamber of Commerce, Annapolis, MD
- Leslie Bright, Communications and Research Director, Arkadelphia Regional Economic Development Alliance, Arkadelphia, AR
- Steve Jones, Building & Sites Coordinator, Business Development, AEDC
- Steve Sparks, Director, Training and Quality Management, AEDC
- Becky Rheinhardt, Project Mgr, Training and Quality Management, AEDC
- Maria Haley, Exec. Director, AEDC
- Becky Thompson, Deputy Director of Global Business, AEDC
- Mike Gaines, Deputy Director for Administration and Finance, AEDC
- Jessica Breaux, NW Area Community Development Consultant, AEDC
- Denisa Pennington, Division Director, Community Development, Community Development Institute, AEDC
- Bentley Story, Business Development, Information Technology/Telecommunications/Steel, AEDC
- Doyce Hill, Area Operations Chief, Arkansas Dept. of Workforce Services
- Jane Wheeler, Workforce Administrator, Northwest Arkansas Economic Development District, Inc.
- Kathy Spigarelli, Director, Arkansas Dept. of Workforce Education
- Pam Kanakis, Asst. VP for Workforce Development, NWACC

In an effort to further establish Fayetteville as a clean tech/ green tech business community, the Fayetteville Chamber of Commerce has developed the GreeNWay initiative. This initiative will certify area businesses with a "GreeNWay" certification based on Energy/Water/Waste resource management, "green" education, sustainable business practices, "people" management and sustainable purchasing. The GreeNWay program will be managed as a 501 (c) 3 which includes the GreeNWay Institute. All will be under the auspices of the Fayetteville Chamber of Commerce and housed at the Fayetteville Chamber of Commerce. This program will help enhance the unique "green" reputation of our city, attract green tech businesses, encourage a green economy, and provide long-term sustainable business models for existing businesses in our region.

Answering the need for support to the Arts, Entertainment and Creative Economy, the Fayetteville

Chamber of Commerce has established an Arts, Entertainment and Creative Economy Committee to support related industry in Fayetteville. This also defines our community as a unique business destination for this niche of economic development. **(See Display #1)**

The Fayetteville Chamber of Commerce currently has over 75 Non-Profit Agencies as members and has established a task force to meet the needs of Non-Profit Agencies. Sr. Policy Advisor Fred Vorsanger is heading up this project. This will provide an anchor of support for relocation of future non-profit agencies moving to Fayetteville while offering continuing support for established local non-profit organizations.

The Fayetteville Chamber of Commerce is active in the FFEAC Health Economy Committee and has established a Health/Medical Committee to follow current health business trends and recruit/develop health related jobs in Fayetteville. The Chamber recognizes the importance of maintaining a good relationship with the new UAMS campus and existing healthcare providers.

The Fayetteville Chamber of Commerce has a well defined and respected relationship with the University of Arkansas which enhances future opportunities for business development through business incubation.

Display #1

Fayetteville Chamber of Commerce

Arts, Entertainment, Creative Economy

Chairman: Julie Gabel, Lindsay and Associates

Creative Economy

- Creative class that fuels economic engine
- Cool place to live, work and play / unique identity of Fayetteville
 - Committee will work to fuel the creative class;
 - Jobs
 - Cultural activity
 - Housing
 - Promote entertainment
 - Promote arts education
- Creative people and related institutions help cities thrive in profound ways.
- **Ann Markusen, Economist point towards the “creative/ artistic dividend.”**
 - *Relationship between the presence of influences of thriving artist communities and successful business and industries of all types.*
- **CREATIVE ECONOMY:**
 - Advertising
 - Media
 - Entertainment
 - Design professions
 - Fashion
 - Packaging
 - Media producers and performers
 - Artists
 - Entities that preserve and showcase the creative culture such as art galleries, museums
 - The creative community and related industries nurture innovation, develop skilled workforce and help the businesses in a community remain competitive
 - A creative culture and community creates a “place”
 - Cultural organizations. Particularly small, community based cultural groups, have far greater impact than their size would suggest – and that impact is felt in areas not typically associated with the arts.
 - Positive relationship between the arts, participation and population stability and real estate values

Economic development strategies

1. Create Jobs
2. Stimulate trade through cultural tourism
3. Attract investment by creating live/work zone/communities for artists
4. Diversify the Local Economy
5. Improve property and enhance values
6. Public Art

Social Development Strategies

1. Promote interaction in public space
2. Increase civic participation through cultural events
3. Engage youth
4. Promote stewardship of place
5. Broaden participation in the civic agenda

First Committee Luncheon Meeting

Thursday

September 17th, 2009

**Luncheon will be held at the
Fayetteville Chamber of Commerce
123 W Mountain,
Fayetteville, AR
Reservations: (479)-521-1710**

Speaker:

Joy Pennington, Executive Director

Arkansas Arts Council

323 Center Street, Suite 1500

Little Rock, Arkansas 72201

Phone: 501-324-9766

FAX: 501-324-9207

www.arkansasarts.org

<http://www.facebook.com/ArkansasArtsCouncil>

Four: Strengthened relationship with the Arkansas Economic Development Commission (AEDC) and regional economic development organizations

These organizations are assets to the City's economic development efforts. They can provide free marketing for the City and expand our contact base and opportunities. Fostering relationships with these organizations will provide a competitive advantage at the state and regional level and ensure that the City receives feedback from prospective companies about what Fayetteville can do to provide an attractive business package. Awarded firm shall serve as a primary contact for the City of Fayetteville for economic development related purposes.

Performance measure:

- *Regular meetings with AEDC staff and commissioners, Green Valley Corporation staff, ARTP staff and other relevant organizations*
- *Documented efforts and participation in regional partnership*
- *Positive relationship with AEDC and appropriate communicated vision for Fayetteville*
- *AEDC understanding of firm's primary contact responsibility*

(See previous sections for additional information)

Chamber Staff has over 30 years of personal and professional relationships with AEDC Deputy Directors Mike Gaines and Becky Thompson and with 3 of the 9 AEDC Board Members, Jack McNulty (Pine Bluff), John Lipton (Warren) and Paul Harvel (Ft. Smith).

Chamber Staff has over 20 years of personal and professional relationship with AEDC Director Maria Haley.

Chamber Staff has a personal and professional relationship with Franklin McLarty, chair of the AEDC.

Chamber Staff has maintains lifelong personal and professional relationships with the Arkansas Governor, the Arkansas Attorney General, Arkansas Secretary of State, over 20 members of the Arkansas General Assembly including the probable speaker elect of the House of Representatives.

Chamber Staff has personal and professional relationships with the Arkansas Congressional Delegation and 8 additional U.S. Senators and 4 members of the US House of Representatives as well as 6 sitting Governors and the U.S. Secretary of State.

Chamber Staff has a personal and professional relationship with Dan Hendrix, President of the Arkansas World Trade Center.

Five: Marketing materials directed toward target industries

Four industries were identified for growth and expansion at the Fayetteville Forward Economic Development

Summit: 1) "Green" or clean tech; 2) Healthcare and medical; 3) Tourism, hospitality, entertainment and arts;

and 4) Non-profit, non-governmental organizations. Materials that sell Fayetteville to these industries should

highlight Fayetteville's assets to these industries and be updated annually.

Performance measure:

- Industry packets*
- Additional promotional materials such as dvds, etc.*
- City approved "incentive booklet" containing highlights on why companies should locate in Fayetteville*

Relocation packets similar to those used by the Austin Chamber of Commerce targeted to 1)Green Tech/Clean Tech, 2)Healthcare and Medical, 3)Tourism, Hospitality, Entertainment, Arts and the Creative Economy and 4)Non-Profit, Non-Governmental Organizations are presently being developed by the Fayetteville Chamber of Commerce.

The Fayetteville Chamber of Commerce is working directly with the FFEAC Economic Development Committee to develop incentive packages locally. This information will be added to all Economic Development literature upon availability. State and Federal Economic Development Incentive information will be included on the Fayetteville Chamber/ Economic Development Website and included in all published materials.

Six: Reports and presentations to the Mayor and City Council

The City expects the selected organization to provide a written report and prepare a brief presentation for the Mayor and City Council on a quarterly basis. Reports and presentations should outline the tasks accomplished and include statistics for each performance measure outlined in the scope of services.

Performance measure:

- Written report and presentation on a quarterly basis to Mayor and City Council*
- Timely updates to Mayor and City Council on potential and ongoing projects as necessary*

The City recognizes that the overall economy will affect some of the performance measures and will be outside the control of the selected organization. The City also recognizes that some of the needed statistics are not currently collected in a systematic way. However, the City expects the applicant to show evidence of experience in conducting comparative market and trend analyses. The applicant should be able to demonstrate how it will provide context for the requested statistics and recommend methodologies for collecting the requested information.

The Fayetteville Chamber of Commerce will incorporate Weblink data base management systems to set benchmarks, measurables, tracking programs, graphs, tables, comparative market analysis, and trend analysis.

Written reports, supporting data and statistics will be provided to the Mayor and City council on a quarterly basis.

Chamber staff has broad experience in collecting, analyzing and presenting data based on sound and accepted scientific protocol. Context will show objective measurables based on productivity vs. expectations and comparative data measured against nationally recognized economic indicators.

Staff and Office Location:

Fayetteville Chamber of Commerce
123 W. Mountain Street
Fayetteville, AR 72701

Resumes:

Person: Steve Clark
Position/Title: President/CEO
Education (See attached resume)
Experience (See attached resume)
Estimated number of hours by task: 50% Economic Development/ 50% Chamber of Commerce
Other pertinent information

Person: Suet J. Chung
Position/Title: Manager of Economic Development
Education: (See attached resume)
Experience: (See attached resume)
Estimated number of hours by task: 100% Economic Development
Other pertinent information: International Languages: International Economic Development, Malaysia

Person: Candis Harrell
Position/Title: Manager Economic Development Information and Communication
Education: (See attached resume)
Experience: (See attached resume)
Estimated number of hours by task: 65% Economic Development / 35% Chamber of Commerce
Other pertinent information: languages Spanish/ Italian

Person: Mark Kinion
Position/Title: Manager Member Services/Community Services
Education: (See attached resume)
Experience: (See attached resume)
Estimated number of hours by task: 20% Economic Development / 80% Chamber of Commerce
Other pertinent information: National Business Development Biotech, Pharmaceutical, Finance

Person: Fred Vorsanger
Position/Title: Sr. Policy Advisor
Education:
Experience: Higher Education, VP Finance, University of Arkansas; City Government (Mayor/ Council Member)
Estimated number of hours by task: 50% Economic Development
Other pertinent information

J. Steven Clark

President and Chief Executive Officer

Fayetteville Chamber of Commerce

Attorney at Law – Mediator - Lecturer/Trainer

Certified Fraud Examiner

438 East Fairway Lane

479-521-4725

Fayetteville, Arkansas 72701

479-521-1364 (Fax)

SteveClark@BigPlanet.com

PROFESSIONAL EXPERIENCE

Business

- **President and Chief Executive Officer**, Fayetteville Chamber of Commerce. Advocate for promoting a positive business climate and highest quality of life in Fayetteville. Responsible for promoting positive community interaction and continued economic development of knowledge based green and clean jobs. Manage and direct a staff of seven employees and a near million dollar budget.
- **Founder, President and Chief Executive Officer**, The InnerCare Group. InnerCare was a behavioral health company specializing in treating difficult to serve populations to include geriatric and terminally ill. Founded January 1994, and when sold in 1998, The InnerCare Group was one of the five largest providers in the United States providing this type of care. The InnerCare Group operated in nine offices in eleven states with fifteen

employees and twenty-two contract employees with annual billings exceeding 3 million dollars.

- **Vice President of Managed Care and Chief Operating Officer**, Private Services Division, ABC Home Health, a national home health company. Managed offices located in 17 states, supervised 120 employees, annual billings 5 million dollars.
- **Acting Administrator**, Central Medical Supply, durable medical equipment supplier. Managed 4 offices, annual billings 1.5 million dollars.
- Strategic Advisor, Choicepoint, Inc. Fraud Prevention, Fraud Control
- Strategic Advisor, Accupoll Inc. Electronic voting processes
- Strategic Advisor, Plaintiff's Trial Team Tobacco Litigation, State of Missouri

Academic

- **Permanent Faculty Member, Association of Certified Fraud Examiners**, Teach Principles of Fraud Examination; Legal Principles of Fraud; Advanced Fraud Examination; Investigating Conflicts of Interest; Report Writing – Documenting and Making the Case for Fraud; Staying Out of Trouble: Properly Conducting Investigations; How to Testify as an Expert; Certified Fraud Exam Review
- **Visiting Professor of Law**, St. Thomas University School of Law, Miami Gardens, Florida. Taught Criminal Law, Criminal Procedure, Advanced Criminal Procedure, Race, Racism and the Law, Advanced Evidence. Served Moot Court Advisor: Member, Admissions Committee
- **Founding Director, Center for the Study of Economic Crime**, collaborative effort St. Thomas University School of Law and Florida State University School of Criminology and Criminal Justice
- **Adjunct Professor, South Texas College of Law**, Taught Corporate and White Collar Crime
- **Director of Admissions, Assistant Dean, Assistant Professor**, University of Arkansas School of Law, Fayetteville, AR
- **Adjunct Professor, University of Arkansas School of Law**, Little Rock, AR Taught Practice Skills: Interviewing, Drafting and Counseling"

Legal

- **Law Offices of J. Steven Clark**, Licensed Texas, Private practice focusing on mediation, arbitration and dispute resolution; corporate and white collar fraud; business litigation; administrative law, legislative advocacy; governmental affairs federal and state; corporate and institutional development of ethics, best practices and conflicts of interest programs and training
- **State/Federal Legislative Consultant**, Global USA, Washington, D.C.

- **Legislative Consultant**, Texas, Quest Software, Inc.
- **Regulatory and Congressional Strategy Advisor**, E-Z-On Products, Jupiter, Florida, Product review by National Highway Traffic Safety Administration

Pro Bono Activity

- **Member, Board of Directors**, Northwest Arkansas Business Council
- **Member, Board of Directors**, Northwest Arkansas Regional Chamber of Commerce
- **Member, Fayetteville Forward Economic Feasibility Council**
- **Member, Board of Directors**, Bikes, Blues, and Bar-B-Que
- **Member, Board of Directors**, Habitat for Humanity, Fayetteville, AR
- **Member, Public Facilities Board**, City of Fayetteville, AR
- **State Liaison, National Abraham Lincoln Bicentennial Commission**, Appointed by Governor Mike Beebe
- **Member, Board of Directors** Any Baby Can, Inc, Austin, TX
- **Member, "Statewide Planning Advisory Committee"**, Texas Commission on Alcohol and Drug Abuse
- **Member, "Availability and Accessibility of Services Workgroup"**, Texas Commission on Alcohol and Drug Abuse
- **Member and Volunteer**, Texas Lawyer's Assistance Program, Austin,
- **Legal Counsel (Pro Bono), Executive Committee and Board of Directors**, Candlelighters Childhood Cancer Foundation, Austin, TX

Public Service

- **Attorney General of Arkansas**, five terms
- **Advocate** before the **United States Supreme Court**, eight cases
- **Member, United States Attorney General's Executive Working Group**, Department of Justice
- **Chief of Staff and Legislative Director**, Governor David Pryor, Arkansas
- **Legislative Consultant** to United States Nuclear Waste Negotiator
- **Municipal Judge**, Brinkley, AR
- **Veteran, United States Army, Infantry**

EDUCATION AND CERTIFICATIONS

- **Bachelor of Arts**, Arkansas State University, Jonesboro, AR
Academic Honors - Distinguished Graduate and Alumnus
- **Juris Doctor**, University of Arkansas School of Law, Fayetteville, AR
Distinguished Alumnus
- **Theological Studies**, Southern Methodist University, Dallas, TX
- **Basic Mediation Skill Training**, American Arbitration Association,
Dallas, TX
- **Family Law Mediation Training**, Dispute Resolution Center, Austin, TX
- **Negotiation Workshop**, Center for Public Policy Dispute Resolution
University of Texas School of Law, Austin, TX
- **Arbitration Workshop**, Center for Public Policy Dispute Resolution,
University of Texas School of Law, Austin, TX
- **Resolving Public Policy Conflicts/Managing Contention in Public
Meetings**, Center for Public Policy Dispute Resolution, University of
Texas School of Law, Austin, TX
- **Certified Fraud Examiner**

Legal Education and Bar Association Activity

- **Member of College of the State Bar of Texas**
- **Member, Booher Inns of Court**, Broward County Bar, Ft. Lauderdale, FL
- **Member, House of Delegates**, Arkansas Bar Association
- **Board of Directors**, Arkansas Institute of Continuing Legal Education
- **Trustee**, Arkansas Continuing Legal Education Fund

Professional Education Lectures, Speeches and Trainings

- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"Investigating Conflicts of Interest"***, Las Vegas, NV
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"CFE Exam Review"**, Austin, TX
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"Investigating Conflicts of Interest"***, Washington, DC
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"CFE Exam Review"**, Austin, TX
- **Speaker**, National Association of Attorneys General, New Attorneys General Orientation Session, **"Ethical Leadership in Public Service"***, Ft. Lauderdale, FL
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"CFE Exam Review"**, Austin, TX
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"CFE Exam Review"**, Washington, D.C.
- **Lecturer/Trainer**, United States Department of Housing and Urban Development, **"CFE Exam Review"**, Colorado Springs, Colorado
- **Lecturer/Trainer**, Oklahoma Bar Association, Insurance Bar Section, **"Personal and Workplace Ethics – Making the 'Right, Right' Decision"*** and **Ethical Leadership in Public Service – The Role of an Attorney"***, Tulsa, OK
- **Lecturer/Trainer**, USAA Insurance, **"CFE Exam Review"**, San Antonio, TX
- **Lecturer/Trainer**, Department of Commerce and Consumer Affairs State of Hawaii, **"How To Testify as an Expert"***, Honolulu, HI*
- **Lecturer/Trainer**, Craighead County Bar Association, **"Ethical Leadership in Public Service: the Role of an Attorney"***, Jonesboro, AR
- **Lecturer/Trainer**, Lorman Educational Services, **"Making a 'Right Right' Decision, Ethical Issues and Concerns Facing the Motor Carrier Industry"***, Little Rock, AR
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"Investigating Conflicts of Interest"***, Seattle, WA
- **Speaker**, Arkansas Administrative Office of the Courts – District Judges Fall College, **"Responsibilities of a Public Servant and the Importance of AR Lawyers Assistance Program"***, Hot Springs, AR
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"Investigating Conflicts of Interest"***, Philadelphia, PA
- **Speaker**, Arkansas Association of Defense Counsel Annual Meeting, **"Everyday Ethics"***, Branson, MO
- **Lecturer**, Louisiana State University, Ourso College of Business, Fraud and Forensic Accounting Conference, **"Everyday Ethics"***, Baton Rouge, LA
- **Lecturer/Trainer**, New England Graduate Accountancy Study Conference, **"Legal Elements of Fraud"***, Biddeford, Maine
- **Speaker**, Texas School District Accounting and Auditing Conference, **"Everyday Ethics"***, San Antonio, TX
- **Lecturer/Trainer**, Association of Certified Fraud Examiners, **"Investigating Conflicts of Interest"***, Los Angeles, CA

- **Lecturer/Trainer**, Institute for Internal Auditors, Northern California East Bay Chapter, **“Legal Elements of Fraud”** *, San Ramon, CA
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners, **“How to Testify”***, Atlanta, GA
 - **Speaker**, National Association of Attorneys General, New Attorney General Orientation, **“Ethical Leadership in Public Service: What Can Go Wrong?”***, Ft. Lauderdale, FL
 - **Speaker**, Rhode Island Society of Certified Public Accountants, **“Everyday Ethics – Understanding and Practicing Ethical Behavior”***, Newport, R.I.
 - **Speaker**, Texas Society of Certified Public Accountants, **“Everyday Ethics- Understanding and Practicing Ethical Behavior”***, Austin, TX
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners Annual Conference, **“Report Writing – Documenting and Making the Case for Fraud”***, Las Vegas, NV
 - **Key Note Speaker**, U. S. Department of Agriculture, Office of the Inspector General, **“Ethics and Public Service”***, St. Louis, MO,
 - **Speaker**, Texas Lottery Commission, **“Ethics and Public Service”**, Austin, TX
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners, **“Investigating Conflicts of Interest”***, Ft. Lauderdale, FL
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners, **“Investigation Conflicts of Interest”***, New York City, N.Y
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners, **“Investigating Conflicts of Interest”***, Washington, D.C
 - **Lecturer/Trainer**, Association of Certified Fraud Examiners, **“Investigating Conflicts of Interest”***, Anaheim, CA
 - **Key Note Speaker**, University of Southern Maine, School of Business Fourth Annual Ethics Symposium, **“Ethics and Public Service”***, Portland, ME
 - **Authored Program Curriculum/Trainer**, Columbia University Finance Division, **“Ethics, Compliance and Reporting - Implementation of a System Hotline**, New York City, NY
-
- **Lecturer/Trainer**, Association of Certified Fraud Examiners Annual Conference, **“Investigating Conflicts of Interest”***, and **“Staying Out of Trouble: Properly Conducting Investigations, Case Management Tools and Fraud Investigations”***, Washington, D.C.
 - **Guest Lecturer**, University of Texas School of Business, **“Business Ethics”**, Spring and Summer, Austin, TX
 - **Keynote Speaker**, Texas Society of Certified Public Accountants, **“Fraud and Ethics in Politics”***, Austin, TX
 - **Speaker**, Texas Center for Legal Ethics and Professionalism, **“Hard Knocks in Little Rock from Who’s Who to Who’s He”***, Austin, TX
 - **Lecturer**, U.S. Department of Transportation, **“Investigating Conflicts of Interest”***, Washington, D.C.

- **Keynote Speaker**, Canadian Association of Certified Fraud Examiners, **"Ethics and Public Service"***, Toronto, Canada
- **Keynote Speaker**, Middle Tennessee Certified Fraud Examiners Conference, **"Fraud and Ethics in Politics"***, Nashville, TN
- **Keynote Speaker**, Hospital Corporation of America Internal Audit Conference, **"Fraud and Ethics in the Workplace"**, Nashville, TN
- **Keynote Speaker**, Association of Certified Fraud Examiners Annual Conference, Orlando, FL, **"Fraud & Ethics in Politics"**
- **Featured Speaker**, Baylor Medical Systems Fall Symposium, Dallas, TX **"Ethics in Business"**
- **Featured Speaker**, National Association of Attorneys General, Ft. Lauderdale, FL, **"How to Avoid Going from Who's Who to Who's He?"**

*Approved for continuing education credit

Suet J. Chung

1460 Crest Vista Dr.

Monterey Park, CA 91754

Tel: 626-278-0663

E-mail : chungtan@gmail.com

Seeking an Economic Development position with the Fayetteville Chamber of Commerce which utilizes my varied, well-rounded and strong economic and business development skills, plus analytical, marketing and promotion capabilities.

Economic and Business Development Skills

- Carry out strategic planning, develop marketing programs and events, and implement programs using team approach in an organized manner thereby meeting deadlines and resource limitations such as staffing, time and finance.
- Had promoted Arkansas companies through participation in fairs, trade shows, and social events resulting in interest by ASEAN companies to become agents or distributors for Arkansas companies.
- Identify and expand network of organizations, vendors, individuals and government agencies or associations.
- Coordinate several programs and activities that can be going on at the same time. Am involved in all aspects of development programs that include but not limited to design and management of marketing materials, letter writing, printing, mailing, and phone call/e-mail follow up.
- Development of local community through the tying in of job creation through business development; retention and expansion of businesses through redevelopment projects; and affordable housing programs.
- Participate in local, regional and statewide economic development initiatives. Partner with local and nearby Chambers of Commerce and institutes of higher learning such as community colleges and vocational colleges.

Analytical and Creative Thinking Skills

- Develop and use analytical tools and mathematical formulae when conducting analysis. Compile information, analyze and draw conclusions. Present analysis and make recommendations to clients. Recommendations may include development of new policies; amendments to existing policies, rules and regulations; and on long-range economic and community development plans.
- Work with a variety of consultants, commissions, focus groups in the planning implementation and/or monitoring of research studies.
- Develop RFPs, RFQs; interview and participate in selection of vendors; prepare contracts and agreements.
- Constant development and evaluation of programs and events to meet promotion and marketing objectives. Examples are business workshops, seminars, training sessions; business to business breakfasts and mixers; and an annual street fair. Promotion and marketing is done through various media, such as community TV, newspaper, internet, and trade shows and conferences.

Experience & Knowledge

International

- Traded in latex gloves with Italy. Handled all operation aspects of exports from handling of suppliers and buyers, price and terms negotiations, banking facilities, to freight forwarding, clearing of customs, documentation to collection of revenues.
- Possess 11 years of overseas working experience which require travel within the covered territory.
- Managed a 15-country territory that included 10 ASEAN nations, Taiwan, China, Italy, Australia and New Zealand. Countries that received emphasis were Malaysia, Singapore, Thailand, and China.
- Able to communicate effectively from different ethnicity through fluency in 7 languages and Chinese dialects--English, Mandarin Chinese, Malay, Indonesia languages, Hokkien, Hakka and Cantonese.

Local

- Community Development process with respect to capital and infrastructure improvements and redevelopment
- Principles of supervision and training and public administration
- Applicable City, County, State and Federal laws, rules and regulations pertaining to community and economic development programs
- Principles of local government organization and financing.
- Budget development, preparation, and administration

Work History

Economic Development Specialist, City of Monterey Park, CA (July 07 – present)

Trader, Malaysia (July 2006 – June 2007)

Marketing Manager, OneCapitol Holdings Sdn. Bhd., Malaysia (July 2003- June 2006)

Marketing Manager, States of Arkansas and Georgia ASEAN Office, Malaysia (May 1996-June 2003)

*Manager, Network Support, **Coresource, Inc., Little Rock, AR, USA (1992-1994)***

Director, Dietary Services, Arkansas State Hospital, Little Rock, AR, USA (1992)

Director, Food Service Dept., Rosecare Center of Little Rock, AR, USA (1989-90)

Additional Information

1. US permanent resident
2. Above average computer skills in Microsoft Office including Word, Excel, Powerpoint and internet. Technical knowledge on Photoshop
3. Attended courses given by California Redevelopment Association, California Economic Development and California Downtown Association.
4. Masters in Health Services Administration from University of Arkansas at Little Rock, AR, USA. (1992) GPA = 4.0 out of 4.0

Candis Harrell

4104 N. Meadow View Drive

Fayetteville, Arkansas 72703

501-425-8285

candisharrell@sbcglobal.net

CORPORATE EXPERIENCE

May 2009 - Present ~ Fayetteville Chamber of Commerce ~

Position: Manager, Information Specialist

August 1997 – August 2004 ~ Electric Cooperatives of Arkansas

Position: Governmental Affairs Coordinator

May 1993 – August 1997 ~ Roach Marketing Co. (dba, Candy Harrell Jewelry)

Position: Owner

May 1989 – May 1993 ~ Jonesboro Human Development Position: Staff Development Director

September 1986 – May 1989 ~ Arkansas Gazette ~

Position: Educational Services Coordinator

January 1981 – July 1983 ~ Jon R. Brittenum & Associates ~

Position: Training Manager for securities exams

1983 – 1985 Lakewood School District – Hot Springs, Arkansas (501)262-1880

Advanced 10th grade English, Remedial 12th grade English

1978 – 1981 Weiner School District – Weiner, Arkansas (870)684-2253

9th, 10th, 11th grade English, Speech Classes and Club

1977 Beebe School District – Beebe, Arkansas (501)882-3463

12th grade English, Journalism

2007 UALR ~ Spanish which included a semester in Guadalajara, Mexico – Post Baccalaureate.
Speak Spanish at the advanced level.

2006 ASU ~ Renaissance Art History and Italian Culinary classes in participation with Florence
University of Arts in Florence, Italy. Studied Italian language.

2004 UALR ~ Completed requirements for ESL (English as a Second Language) certification
required for state endorsement to teach ESL classes. Taught ESL classes as a volunteer in Little
Rock.

1992 Webster University ~ Master of Arts – Human Resources Development

1975 Arkansas State University ~BSE – English

Mark A. Kinion

418 Ila Street Fayetteville, AR 72701

Phone (479) 442-7868 *Cell (479) 263-1308

mkinion@Fayettevillear.com

EDUCATION

Bachelor of Science

University of Arkansas

Bumpers School of Agriculture, Environmental and Life Sciences

Major: Food Science/Chemistry

Certified Health Consultant (Achieved top ten percentile score nationally)

Jerry Holland Assoc. Facilitation Certification

BayGroup International Negotiation Certification

Brigham and Women's Hospital Harvard Medical School Preceptorship

GSK Emerging Leadership Development Program/ Harvard Mngr Mentor Program

EMPLOYMENT

January 2009 – Present **Fayetteville Chamber of Commerce**

Chamber Manager, Member Services / Community Development

April 2007 – October 2008 **Dent-A-Med, d/b/a/ HelpCard**

Market Development; Merchant Account Manager

April 2006 – April 2007 **Business Development Consultant**

Self Employed

Dec 2003 – April 2006 **GlaxoSmithKline**

Senior Executive Medical Center Manager

March 2002 – Dec 2003 **GlaxoSmithKline**

Sr. Executive Therapeutic Area Specialist

Feb 1998-March 2002 **GlaxoSmithKline Biologics**

Sr. Executive Vaccine Manager/ Business Development

Oct 1991- Feb 1998 **SmithKline Beecham**

**Pharmaceutical Consultant/ Senior Executive Pharmaceutical
Consultant**

Approach:

The Proposer shall provide, in this section of its proposal, a description of the method(s) that will be used to successfully accomplish the tasks outlined in this document.

Management by objective with quarterly review and accountability measures.

Measurables outlined in previous areas of RFP will be outlined and followed. These indicators will be used to measure success of programs and will be reported to the City of Fayetteville quarterly or upon request with full documentation and transparency.

Organization Experience:

The Proposer shall provide, in this section of its proposal, a detailed description of similar projects or contracts, on behalf of Cities or Counties within the State of Arkansas, or other public entities, completed and those presently engaged during the past five (5) years.

The Fayetteville Chamber of Commerce has a long history of economic development support for the city of Fayetteville.

Recent Staff additions bring unparalleled professional support for economic development potential to the organization. Full Time Employee Equivalent staffing (2.85 FTE) exceeds any other municipal economic development entity in the region. The Fayetteville Chamber of Commerce staff has over 50 years combined experience in business and economic development.

Organization Capabilities:

The Proposer shall provide, in this section of its proposal, a description of its limitations relative to facilities, staff personnel, on-going projects/contracts, etc. Specifically, list what priority it intends to place on this project and how it intends to "Staff Up", if necessary, should it be the successful Proposer.

The Fayetteville Chamber of Commerce has a long history of economic development support for the city of Fayetteville. Recent Staff additions bring unparalleled professional support for economic development potential of the organization. Full Time Employee Equivalent staffing (2.85 FTE) exceeds any other municipal economic development entity in the region.

The Fayetteville Chamber of Commerce has a well established presence, modern facilities, investment in new technology and commitment to economic development for the City of Fayetteville. The Fayetteville Chamber of Commerce recognizes the best jobs for Fayetteville are those already here and is committed to job retention and job growth in existing companies. Additional funding will expand the opportunities to support current business/industry and enhance opportunities for business recruitment. Additionally, the Fayetteville Chamber of Commerce is vested in and follows the principals set forth by the Fayetteville Forward Economic Summit and Fayetteville Forward Economic Accountability Committee.

Organization Primary Business:

Provide, in this section, the organization's primary business interest and/or operations including organization and affiliations. Include the magnitude of the operation as it relates to this project.

The Fayetteville Chamber of Commerce has a long history of economic development support for the city of Fayetteville. Recent Staff additions bring unparalleled professional support for economic development potential of the organization. Full Time Employee Equivalent staffing (2.85 FTE) exceeds any other municipal economic development entity in the region.

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Fayetteville Chamber of Commerce

Proposal for Services

Fee Proposal

RFP 09-14, Economic Development Consulting

The proposal should clearly set forth the basis for the time and fees to be charged for the work proposed and at a minimum should contain the following information:

*Estimate of the number of hours to complete the scope of services on a quarterly basis;
Any and all costs associated with the scope of work including any tools to be used; and
Total annual organization fixed cost to complete the outlined tasks.*

Fayetteville Chamber of Commerce

Staff Time Devoted to Economic Development Consulting as outlined in the RFP

Suet J. Chueng	100% Full Time Equivalent	Economic Development
Candis Harrell	65% FTE	Economic Development
Mark Kinion	20% FTE	Economic Development
Fred Vorsanger	50% FTE	Economic Development
Steve Clark	50% FTE	Economic Development

Annual Fee Request for	Salaries	\$90 K	
	Benefits	\$13 K	
	Travel	\$ 3 K	
	*Advertising	\$12 K	*:print, online, dvd, electronic media
	Continuing Ed	\$ 3.5K	
	WebDesign	\$ 3 K	
TOTAL		\$124.5K	Divide Quarterly

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Requisition No.:
Date: A: 7
9/15/2009 Economic Development Services
Page 40 of 50
P.O Number:
Expected Delivery Date:
10/1/2009

Vendor #: 2420 Vendor Name: Fayetteville Chamber of Commerce
Mail No

Address: P O BOX 4216 Fob Point:
Taxable
Yes: No: X Quotes Attached
Yes: N/A No:

City: Fayetteville State: AR Zip Code: 72702-4216 Ship to code:
Divison Head Approval:

Requester: Requester's Employee #: Extension:

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1									
2	Contract for Economic Development Services	8	quarter	31,250.00	\$250,000.00	1010.6600.5315.00	09027.0901		
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$250,000.00
Tax: \$0.00
Total: \$250,000.00

Approvals:

Mayor:

Department Director:

Purchasing Manager:

Finance & Internal Services Director:

Budget Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

Petition to City Council

We the undersigned are requesting that the Town Branch neighborhood be rezoned to “neighborhood conservation including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24.

We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it into line with the 2025 Master Plan.

Please consider that the Hill Place complex and the Campus Crest proposal combined would add more than 1,300 residents to this small single-family neighborhood.

We feel that this will adversely affect the neighborhood in many ways, including but not limited to: Traffic, safety and fire protection, noise, litter, and decrease in value of adjoining land. We feel that the current RMF-24 zoning of the neighborhood does not match the actual single-family development of this neighborhood. We also believe that the proposed “Downtown General” is incompatible with the existing neighborhood and the National Cemetery.

[illegible]

Witnesses by:

Contact Info:

Petition to City Council

We the undersigned are requesting that the Town Branch neighborhood be rezoned to "neighborhood conservation" including the land known as the sale-barn property, and also the sale-barn property already zoned RMF-24. We feel that this neighborhood deserves the same consideration as Walker Park and Fayette Junction to bring it into line with the 2025 Master Plan.

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Name	Signature	Address w/zip	Phone	Email
James A. Scanlon	[Signature]	5410 Casey Ln. West Fork, AR 72774	521-7439	JScanlon@uark.edu
LPE SCHMIDT	[Signature]	2312 S. 13TH ROGERS, AR 72728	581-2674	
GUY J WILKERSON	[Signature]	412 NW 6th BENTONVILLE AR 72712	479-273 2740	
Heath Stanley	[Signature]	1592 River Meadows Fayetteville, AR 72701	479 527-9423	
WILLIAM W HENSMAN	[Signature]	2941 N STRAWBERRY DR FAYETTEVILLE, AR 72703	479 521-5535	
JAN OLSON	[Signature]	2026 N BARRY AVE FAYETTEVILLE, AR 72701	479 445-6726	
Paul Graham	[Signature]	25 CANTON AVE FAYETTEVILLE, AR 72701	479-2345	
JAMES L. BUCKNER	[Signature]	5413 W. WALLER FAYETTEVILLE, AR 72701	479-521- 6451	
Rachael Cheaney	[Signature]	1220 Ellis Ave Fayetteville AR 72701		rachaelcheaney@hotmail.com
Brianne Sumner	[Signature]	1220 Ellis Ave Fayetteville AR 72701	479-213 1661	
Charlath Vance	[Signature]	305 8th Osage KS	620-795 2141	
Don McWhorter	[Signature]	OSAGE KS.		
Jim Lindsay	[Signature]	Fayetteville AR		

Witnessed by:

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council
Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in dark ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: **September 10, 2009**

RE: **Amendments to Rock Quarry and Red Dirt Mining Facility Ordinances
recommended by City Attorney**

I have some proposed amendments to what I handed out to you. In the **Definitions** section, I mistakenly left in (A) "*Explosive force*" which would have been necessary if we regulated how much explosive force would be allowed for explosions in the quarries and red dirt farms. However, I recommended and the Ordinance Review Committee agreed to remove any such attempted regulation because the state and federal laws and regulations had probably preempted this consideration. Thus, there is no need for the "*Explosive force*" definition which should be deleted from both ordinances and the other definitions renumbered.

I also recommend some modifications relating to dust and dust control measures. The Arkansas Department of Environmental Quality is given the exclusive power to regulate, control and abate "air pollution and contamination." A.C.A. §8-4-306. Although most citizens probably would not consider "dust" as air pollution, the definition of "Air Pollution" in the Water and Air Pollution Control Act (A.C.A. §8-4-301 *et seq.*) is so broad that it probably covers dust.

"'Air pollution' means the presence in the outdoor atmosphere of one (1) or more air contaminants in quantities ... which are materially injurious ..., or which unreasonably interfere with enjoyment of life or use of property"

"'Air contamination' means any solid, liquid, gas or vapor or any combination thereof." A.C.A. §8-4-303

Thus, the Arkansas Department of Environmental Quality has the sole right and power to regulate "dust" (a "solid" air contaminant) through the Water and Air Pollution Control Act. I, therefore, recommend the amendments to §113.02 (C)(1) *Dust Control Measures* which now refer to ADEQ permits, limitations and controls. Please see the attached proposed modified ordinances with this change in place.

As this ordinance may likely be challenged in Court, I considered adding a severability section, but I believe the Unified Development Code's general severability section (**§150.13 Severability**) is sufficient without adding a specific severability section for these ordinances.

I do recommend some minor changes in the "Whereas" clauses portion. I have removed "Reviewed scientific evidence" as I am unsure if such a review will actually occur and is not necessary for the passage of these ordinances. I have proposed a few other changes ("homes" replaced by "property") (adding "and citizens" after "experts" in the second "Whereas" clause) (inserting "properly" before "regulated and controlled" in the last "Whereas" clause) (adding "in excess of ADEQ permitted limits" in the last "Whereas" clause). I believe that these changes should strengthen these ordinances and so recommend your approval of these amendments.

Finally in §113.12 (A)(3) and §113.02 (A)(3), I replaced "one time" with "one day." Blasting in rock quarries does not happen in one large explosion, but many smaller explosions often only milliseconds apart. It has always been the intent to limit such explosions so that they occur on a single day per month not in a single explosion so that this change clarifies what was intended.

ORDINANCE NO. _____

**AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE
WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY
REGULATING ROCK QUARRYING FACILITIES SO THAT
THESE FACILITIES WILL NOT BE NUISANCES**

WHEREAS, the City Council of the City of Fayetteville, Arkansas recognizes the need for rock quarries to supply necessary road building material within and near the corporate limits of Fayetteville; and

WHEREAS, the Fayetteville City Council has listened to experts and citizens and determined that rock blasting causes unavoidably damaging or nuisance effects upon nearby structures (especially homes); and

WHEREAS, the Fayetteville City Council has also learned and determined that an operating rock quarry can cause vibrations, dust, ground upheaval, loud noises, fumes and other deleterious effects within a mile from the quarry; and

WHEREAS, the Fayetteville City Council has also heard from citizens living near an existing and operating rock quarry and determined that unregulated rock blasting, rock crushing and other rock quarry activities are offensive and potentially unhealthy and dangerous to Fayetteville citizens and damaging to their property; and

WHEREAS, unless the frequency of rock blasting, its distance from houses and the hours and days of rock quarry operation near residences is regulated and controlled to prevent noise, dust and fumes (in excess of ADEQ permitted limits) from escaping the quarry, such a rock quarry would constitute a nuisance to Fayetteville residents and citizens and should be abated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Chapter 113 **Rock Quarries and Red Dirt Mining Facilities** of the Code of Fayetteville, Article I **Rock Quarry Operating License** as shown below:

“
ARTICLE I.
Rock Quarry Operating License

“§113.01. Finding of Nuisance and Need for Abatement.

The City Council of the City of Fayetteville, Arkansas determines and finds that the operation of a rock quarry is a nuisance to the citizens and City of Fayetteville, Arkansas if operated or used other than as prescribed in §113.02 and, therefore, should be abated by the reasonable regulations required by this ordinance.

“§113.02. Abatement of Nuisance.

(A) Rock Blasting/Use of Explosives.

(1) No rock blasting shall be allowed within 60 yards of any house within the city limits of Fayetteville.

(2) No rock blasting explosive charge or location shall exceed the most restrictive limitations within federal, state and Washington County regulations or laws.

(3) All rock blasting within the permitted quarry shall only be allowed one day per month between the hours of 10:00 a.m. and 3:00 p.m. during a single weekday (non-holiday) pursuant to the Rock Quarry Operating License.

(B) Operation of Rock Quarry.

(1) All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate during the period of 8:30 a.m. until 3:00 p.m. Monday through Friday from August 20th through June 5th and during the period of 8:00 a.m. until 5:30 p.m. Monday through Friday from June 6th through August 19th. No rock quarry shall be allowed to operate on a federally recognized holiday.

(2) All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall be prohibited from any operations until the owner/operator of such quarry has obtained a valid, annual Rock Quarry Operating License. This license to operate shall be issued by the Fayetteville Planning Department on a fiscal year (July 1 through June 30) schedule with no fee assessed.

(C) Dust, Mud and Rock Control Measures.

All rock quarries within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate with the following safeguards and measures to ensure that dust, dirt, mud, loose rock and gravel, and all other possible irritants or nuisance substances do not adversely affect Fayetteville residents. It is the express continuing duty of the licensed rock quarry operator to ensure all of these safeguards, requirements and measures are constantly enforced.

(1) *Dust control measures.* Water or other substances or measures must be fully effective during the operation of the rock quarry to ensure the quarry is in full and continual compliance with the requirements of the Arkansas Water and Air Pollution Control Act as administered by the Arkansas Department of Environmental Quality. A violation of the permit conditions required by the Arkansas Department of Environmental Quality can be grounds for a suspension or revocation of the City's Rock Quarry Operating License. (See §133.05)

(2) *Dirt and mud control measures.* The rock quarry operator is required to ensure that any and all vehicles leaving the rock quarry shall have all mud and dirt removed from the tires and exterior parts of the body of the vehicles prior to exiting the site onto public roads.

(3) *Loose rock and gravel.* The rock quarry operator is responsible to ensure that all dump trucks leaving the rock quarry site that may utilize any city street and are carrying more than half a truck load of gravel, rocks or dirt have their load fully and properly covered.

(4) *Dump truck identifying number.* In order for citizens to easily and correctly identify dump trucks and their owner/operators who are servicing the rock quarry, the rock quarry operator shall require any dump truck accessing or servicing his facility to have an easy to read four digit number at least six inches high and twelve inches wide on the tail gate of the dump truck. The rock quarry operator shall maintain an up-to-date and accurate log of the owner and operator of each numbered dump truck and shall immediately supply the owner and operator's name, address and contract information to any Fayetteville employee, official or citizen who requests such information.

(5) *Only dump trucks with proper identifying number may be loaded.* The rock quarry operator shall not load or permit to be loaded or permit to exit the rock quarry any dump truck unless the identifying number specified in subsection (4) is clearly legible, easy to read and not obscured by dirt, mud or otherwise.

“§113.03: Jurisdiction of This Ordinance.

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all rock quarries located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

“§113.04: Definitions.

(A) “*Rock Quarry*” means any open excavation used for obtaining building stone, slate, limestone or other type of rock used for paving or building purposes.

(B) “*House*” means any habitable structure including a mobile or manufactured home, a dwelling, a residence, an apartment, a condominium, a dormitory, a hotel or motel.

(C) *“Operation of Rock Quarry”* means any blasting, operation of any mechanical equipment on the premises of the rock quarry or any operation of dump trucks or other large vehicles on the premises of the rock quarry site. Starting, running the engine or moving any equipment or dump truck on the premises shall constitute operation of the rock quarry. However, as long as the dust control measures remain in operation and effective, dump trucks may be driven onto the rock quarry to park (but may not be loaded) on the premises up until 5:30 p.m. during the August 20th to June 5th period.

“113.05: Issuance, Suspension or Revocation of License.

(A) *Issuance.* The Director of Development Services or designee shall prepare and issue an annual Rock Quarry Operating License upon proper application of an owner/operator of a rock quarry within the jurisdiction of this ordinance after ensuring the rock quarry operator will be in full compliance with all requirements of this ordinance and has all other current and valid federal, state and county permits required for rock quarrying operation.

(B) *Suspension.* The Director of Development Services may suspend a Rock Quarry Operating License for up to thirty (30) days for violations of the terms of the license after a due process hearing.

(C) *Revocation.* The Director of Development Services may revoke a Rock Quarry Operating license for repetitive, continuing, intentional, or substantial violations of the requirements of this ordinance. The Director of Development Services may require adequate assurances that any operator whose license has been revoked will fully comply with the Rock Quarry Operating License before reissuing another license.

(D) *Appeal.* Any person whose license has been suspended or revoked pursuant to this section, may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten business days of the issuance of suspension or revocation. The City Council may then determine whether the rock quarry operator violated the requirements of the ordinance and, if so, whether suspension (up to 30 days) or revocation is appropriate for such violation.

“§113.06: Penalty.

(A) Any owner, lessor or lessee of real property upon which is located a rock quarry and any operator, manager, or employee of such rock quarry shall ensure such quarry is operated within the limits of this ordinance and shall be guilty of a criminal violation for any violation of the requirements of this ordinance.

(B) The Rock Quarry Operating License may be suspended or revoked by the Director of Development Services after a due process hearing for an owner's, manager's, operator's, employee's, or lessee's violation of any terms or limits within this ordinance or for operating the rock quarry not in conformity with its Rock Quarry Operating License.

(C) Any owner, operator, manager, lessee or employee of a rock quarry shall be guilty of a criminal violation if such person operates the rock quarry in violation of any of the terms of this ordinance, without a current and valid Rock Quarry Operating License, or in violation of any of the terms of his Rock Quarry Operating License.

(D) Each violation of the operational hour limitations or the number of explosions or the explosive force of any rock blasting of this Ordinance or the applicable Rock Quarry Operating License shall constitute a separate violation of this ordinance and shall be punishable by a fine of up to \$500.00.

"§113.07: No reduction in property owner's right to sue for nuisance.

Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of rock quarry if such facility constitutes a private or public nuisance to that property owner."

PASSED and APPROVED this the 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council
Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **September 10, 2009**

RE: **Amendments to Rock Quarry and Red Dirt Mining Facility Ordinances
recommended by City Attorney**

I have some proposed amendments to what I handed out to you. In the **Definitions** section, I mistakenly left in (A) "*Explosive force*" which would have been necessary if we regulated how much explosive force would be allowed for explosions in the quarries and red dirt farms. However, I recommended and the Ordinance Review Committee agreed to remove any such attempted regulation because the state and federal laws and regulations had probably preempted this consideration. Thus, there is no need for the "*Explosive force*" definition which should be deleted from both ordinances and the other definitions renumbered.

I also recommend some modifications relating to dust and dust control measures. The Arkansas Department of Environmental Quality is given the exclusive power to regulate, control and abate "air pollution and contamination." A.C.A. §8-4-306. Although most citizens probably would not consider "dust" as air pollution, the definition of "Air Pollution" in the Water and Air Pollution Control Act (A.C.A. §8-4-301 *et seq.*) is so broad that it probably covers dust.

"Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in quantities ... which are materially injurious ..., or which unreasonably interfere with enjoyment of life or use of property"

"Air contamination" means any solid, liquid, gas or vapor or any combination thereof." A.C.A. §8-4-303

Thus, the Arkansas Department of Environmental Quality has the sole right and power to regulate "dust" (a "solid" air contaminant) through the Water and Air Pollution Control Act. I, therefore, recommend the amendments to §113.02 (C)(1) *Dust Control Measures* which now refer to ADEQ permits, limitations and controls. Please see the attached proposed modified ordinances with this change in place.

As this ordinance may likely be challenged in Court, I considered adding a severability section, but I believe the Unified Development Code's general severability section (**§150.13 Severability**) is sufficient without adding a specific severability section for these ordinances.

I do recommend some minor changes in the "Whereas" clauses portion. I have removed "Reviewed scientific evidence" as I am unsure if such a review will actually occur and is not necessary for the passage of these ordinances. I have proposed a few other changes ("homes" replaced by "property") (adding "and citizens" after "experts" in the second "Whereas" clause) (inserting "properly" before "regulated and controlled" in the last "Whereas" clause) (adding "in excess of ADEQ permitted limits" in the last "Whereas" clause). I believe that these changes should strengthen these ordinances and so recommend your approval of these amendments.

Finally in §113.12 (A)(3) and §113.02 (A)(3), I replaced "one time" with "one day." Blasting in rock quarries does not happen in one large explosion, but many smaller explosions often only milliseconds apart. It has always been the intent to limit such explosions so that they occur on a single day per month not in a single explosion so that this change clarifies what was intended.

ORDINANCE NO. _____

**AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE
WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY
REGULATING RED DIRT MINING FACILITIES SO THAT
THESE FACILITIES WILL NOT BE NUISANCES**

WHEREAS, the City Council of the City of Fayetteville, Arkansas recognizes the need for red dirt mining facilities to supply necessary red dirt for building construction, parking lot and road construction within and near the corporate limits of Fayetteville; and

WHEREAS, the Fayetteville City Council has listened to experts and citizens and determined that any blasting that could be used in red dirt mining could cause unavoidable damaging or nuisance effects upon nearby structures (especially homes); and

WHEREAS, the Fayetteville City Council has also learned and determined that an operating red dirt mining facility can cause vibrations, dust, ground upheaval, loud noises, fumes and other deleterious effects within a mile from the red dirt mining facility; and

WHEREAS, the Fayetteville City Council has also heard from citizens living near an existing and operating red dirt mining facility and determined that unregulated blasting, dirt excavating, dump truck loading and other red dirt mining facility activities are offensive and potentially unhealthy and dangerous to Fayetteville citizens and damaging to their property and city streets;

WHEREAS, unless the frequency of blasting, its distance from houses, the hours and days of red dirt mining facility operation near residences and the red dirt mining's dust causing activities are properly regulated and controlled, such a red dirt mining facility would constitute a nuisance to Fayetteville residents and citizens and should be abated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Chapter 113 **Rock Quarries and Red Dirt Mining Facilities** of the Code of Fayetteville, Article II **Red Dirt Mining Facility Operating License** as shown on the attached Exhibit A.

PASSED and APPROVED this the 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

ARTICLE II.

Red Dirt Mining Facility Operating License

§113.11. Finding of Nuisance and Need for Abatement

The City Council of the City of Fayetteville, Arkansas determines and finds that the operation of a red dirt mining facility is a nuisance to the citizens and City of Fayetteville, Arkansas if operated or used other than as prescribed in §113.12 and, therefore, should be abated by the reasonable regulations required by this ordinance.

§113.12. Abatement of Nuisance

(A) *Rock Blasting/Use of Explosives.*

(1) No blasting shall be allowed within 60 yards of any house within the city limits of Fayetteville.

(2) No blasting explosive charge or location shall exceed the most restrictive limitations within federal, state and Washington County regulations or laws.

(3) All blasting within the permitted red dirt mining facility shall only be allowed one day per month between the hours of 10:00 a.m. and 3:00 p.m. during a single weekday (non-holiday) pursuant to the Red Dirt Mining Operating License.

(B) *Operation of Red Dirt Mining Facility.*

(1) All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate during the period of 8:30 a.m. until 3:00 p.m. Monday through Friday from August 20th through June 5th and during the period of 8:00 a.m. until 5:30 p.m. Monday through Friday from June 6th through August 19th. No red dirt mining facility shall be allowed to operate on a federally recognized holiday.

(2) All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall be prohibited from any operations until the owner/operator of such facility has obtained a valid, annual Red Dirt Mining Operating License. This license to operate shall be issued by the Fayetteville Planning Department on a fiscal year (July 1 through June 30) schedule with no fee assessed.

(C) *Dust, Mud and Rock Control Measures.*

All red dirt mining facilities within the city limits of Fayetteville or within one mile beyond the city limits of Fayetteville shall only be allowed to operate with the following safeguards and measures to ensure that dust, dirt, mud, loose rock, and all other possible irritants or nuisance substances do not adversely affect Fayetteville residents. It is the express continuing duty of the licensed red dirt mining operator to ensure all of these safeguards, requirements and measures are constantly enforced.

(1) *Dust control measures.* Water or other substances or measures must be fully effective during

the operation of the red dirt mining to ensure the red dirt mining facility is in full and continual compliance with the requirements of the Arkansas Water and Air Pollution Control Act as administered by the Arkansas Department of Environmental Quality. A violation of the permit conditions required by the Arkansas Department of Environmental Quality can be grounds for a suspension or revocation of the City's Red Dirt Mining Facility Operating License.

(2) *Dirt and mud control measures.* The red dirt mining operator is required to ensure that any and all vehicles leaving the red dirt mining facility shall have all mud and dirt removed from the tires and exterior parts of the body of all vehicles prior to exiting the site onto public roads.

(3) *Red dirt.* The red dirt mining operator is responsible to ensure that all dump trucks leaving the red dirt mining site that may utilize any city street and are carrying more than half a truck load of red dirt have their load fully and properly covered.

(4) *Dump truck identifying number.* In order for citizens to easily and correctly identify dump trucks and their owner/operators who are servicing the red dirt mining facility, the red dirt mining operator shall require any dump truck accessing or servicing his facility to have an easy to read four digit number at least six inches high and twelve inches wide on the tail gate of the dump truck. The red dirt mining operator shall maintain an up-to-date and accurate log of the owner and operator of each numbered dump truck and shall immediately supply the owner and operator's name, address and contract information to any Fayetteville employee, official or citizen who requests such information.

(5) *Only dump trucks with proper identifying number may be loaded.* The red dirt mining operator shall not load or permit to be loaded or permit to exit the red dirt mining facility any dump truck unless the identifying number specified in subsection (4) is clearly legible, easy to read and not obscured by dirt, mud or otherwise.

§113.13: Jurisdiction of This Ordinance.

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all red dirt mining facilities located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

§113.14: Definitions.

(A) "*Explosive force*" means the amount of explosive power generated by various types of explosive substances such as dynamite, blasting powder, etc.

(B) "*Red dirt mining*" means any open excavation used for obtaining red dirt or other type of soil used for paving or building purposes.

(C) "*House*" means any habitable structure including a mobile or manufactured home, a dwelling, a residence, an apartment, a condominium, a dormitory, a hotel or motel.

(D) "*Operation of Red Dirt Mining Facility*" means any blasting, operation of any mechanical equipment

on the premises of the red dirt mining facility or any operation of dump trucks or other large vehicles on the premises of the red dirt mining site. Starting, running the engine or moving any equipment or dump truck on the premises shall constitute operation of the red dirt mining facility. However, as long as the dust control measures remain in operation and effective, dump trucks may be driven onto the red dirt mining facility to park (but may not be loaded) on the premises up until 5:30 p.m. during the August 20th to June 5th period.

113.15: Issuance, Suspension or Revocation of License.

(A) *Issuance.* The Director of Development Services or designee shall prepare and issue an annual Red Dirt Mining Facility Operating License upon proper application of an owner/operator of a red dirt mining facility within the jurisdiction of this ordinance after ensuring the owner/operator will be in full compliance with all requirements of this ordinance and has all other current and valid federal, state and county permits required for red dirt mining operation.

(B) *Suspension.* The Director of Development Services may suspend a Red Dirt Mining Facility Operating License for up to thirty (30) days for violations of the terms of the license after a due process hearing.

(C) *Revocation.* The Director of Development Services may revoke a Red Dirt Mining Facility Operating license for repetitive, continuing, intentional, or substantial violations of the requirements of this ordinance. The Director of Development Services may require adequate assurances that any operator whose license has been revoked will fully comply with the Red Dirt Mining Facility Operating License before reissuing another license.

(D) *Appeal.* Any person whose license has been suspended or revoked pursuant to this section, may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten business days of the issuance of suspension or revocation. The City Council may then determine whether the red dirt mining facility owner/operator

violated the requirements of the ordinance and, if so, whether suspension (up to 30 days) or revocation is appropriate for such violation.

§113.16: Penalty.

(A) Any owner, lessor or lessee of real property upon which is located a red dirt mining facility and any operator, manager, or employee of such red dirt mining facility shall ensure such facility is operated within the limits of this ordinance and shall be guilty of a criminal violation for any violation of the requirements of this ordinance.

(B) The Red Dirt Mining Facility Operating License may be revoked or suspended by the Director of Development Services after a due process hearing for an owner's, manager's, operator's, employee's, or lessee's violation of any terms or limits within this ordinance or for operating the red dirt mining facility not in conformity with its Red Dirt Mining Facility Operating License.

(C) Any owner, operator, manager, lessee or employee of a Red Dirt Mining Facility shall be guilty of a criminal violation if such person operates the red dirt mining facility in violation of any of the terms of this ordinance, without a current and valid Red Dirt Mining Facility Operating License, or in violation of any of the terms of his Red Dirt Mining Facility Operating License.

(D) Each violation of the operational hour limitations or the number of explosions or the explosive force of any blasting of this Ordinance or the applicable Red Dirt Mining Facility Operating License shall constitute a separate violation of this ordinance and shall be punishable by a fine of up to \$500.00.

§113.17: No reduction in property owner's right to sue for nuisance.

Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of a red dirt mining facility if such facility constitutes a private or public nuisance to that property owner.

City of Fayetteville Staff Review Form

C. 1
ECO Vista Waste Management Landfill
Page 1 of 10

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

9/15/2009

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Solid Waste and Recycling
Division

Utilities
Department

Action Required:

Ordinance to approve a bid waiver to waive competitive bidding requirements for an interim rate with the ECO Vista Waste Management landfill to dispose of class 1 municipal solid waste from the City of Fayetteville, and approval of a budget adjustment, *and declaring an emergency.*

\$	127,165.00
\$	58,872.00
\$	49,453.00

Cost of this request

\$	821,345.00
\$	418,240.00
\$	328,550.00

Category / Project Budget

Services and Charges
Services and Charges
Services and Charges

Program Category / Project Name

5500.5010.5316.00
5500.5020.5316.00
5500.5030.5316.00

Account Number

\$	518,969.51
\$	230,008.24
\$	200,204.64

Funds Used to Date

Commercial Collection
Residential Collection
Commercial Drop Box Collection

Program / Project Category Name

Project Number

\$	302,375.49
\$	188,231.76
\$	128,345.36

Remaining Balance

Solid Waste
Solid Waste
Solid Waste

Fund Name

Budgeted Item ☒ XXBudget Adjustment Attached ☐

[Signature]
Department Director

8 Sep 09
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney

9/9/09
Date

Original Contract Date: _____

Original Contract Number: _____

[Signature]
Finance and Internal Services Director

9-10-2009
Date

Received in City
Clerk's Office



9/8/09

[Signature]
Chief of Staff

9-10-09
Date

Received in
Mayor's Office



[Signature]
Mayor

9/10/09
Date

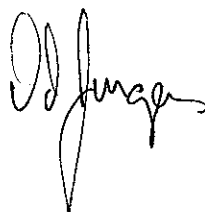
Comments:

Meeting Date of September 16, 2009

UTILITIES DEPARTMENT CORRESPONDENCE

To: City Council

Thru: Mayor Lionel Jordan
Don Marr, Chief of Staff 

From: David Jurgens, Utilities Director 

Date: September 8, 2009

Subject: **Operational Response to the Cherokee Nation Breach of Contract for Solid Waste Services- Ordinance Approving Bid Waiver for ECO Vista Management Landfill, Approving two Budget Adjustments**

RECOMMENDATION

City Administration recommends approval the following items to allow the City to continue its trash service after the Cherokee Nation breach of contract (1) one new full time employee in the Solid Waste Division, (2) accepting a letter confirming a rate of \$24.00 per ton plus fees with Waste Management to dispose of trash at the Eco Vista Landfill in Tontitown for disposal of trash at \$26.35 per ton for 60 days, (2) a bid waiver with Waste Management to dispose of trash at the Eco Vista Landfill in Tontitown for disposal of trash at \$26.35 per ton for 60 days; and (4) a budget adjustment for \$380,000 for contract services and a budget adjustment for \$50,000 for the employee and equipment.

BACKGROUND

Cherokee Nation has stated in a letter dated August 31, 2009, that they intend to terminate the contract between the Nation and the City for solid waste services including operation of the transfer station and scale house as well as hauling and disposal of the waste. This termination is effective September 30, 2009.

The Cherokee Nation has provided solid waste services to the City since September 2006. The contracted rate, after an early adjustment to cover mandated fees, is and has been fixed at \$24.47 per ton. The City produced 53,614.44 tons in 2008. Budget numbers are based on this volume remaining unchanged for 2009 and 2010.

DISCUSSION

There does not appear to be any physical benefit to attempting to force the Nation to continue the contract. They have provided thirty days notice for the City to resolve the issue, rather than simply walking away from the contract as we experienced with our biosolids landfill operation last year. This gives us time to develop a plan to accomplish the mission. The City Attorney is pursuing action to recover damages for the breach in contract. The City is holding a \$100,000 cash deposit which serves as the Nation's performance and payment bond.

The mission includes the following tasks:

- 1. Operate the transfer station floor.** This requires one full time employee, one bucket loader for loading trash, and one backhoe for compacting trash in the trailer.
- 2. Operate the scale.** This requires one full time employee and a computer system with software.
- 3. Haul trash to a landfill.** This involves hauling trash to a properly licensed and permitted landfill. Hauling trash to the landfill requires a fleet of no less than five tractors, eight walking floor trailers, and four full time employees. We currently haul an average of ten loads per day, Monday through Saturday. Monday is the peak day with (typically) 14 loads. To meet our ADEQ permit, the trash must be hauled the same day. The number of loads one tractor trailer combination can make per day is dictated by the landfill location and operating hours. For example, hauling to the Tontitown landfill, a rig can make 2 – 3 trips per day. Hauling to Russellville, a truck can make one load per day. This mission is currently executed by Roll Off Services by a competitively

Meeting Date of September 16, 2009

UTILITIES DEPARTMENT CORRESPONDENCE

bid contract with the City. Roll Off is paid by the City; the City is then reimbursed by Cherokee Nation per the contract.

4. Dispose of the trash at a landfill. This involves negotiating and paying the tipping fee and all other fees (State, District, recycling, post closure fund fees fuel surcharges, etc.) associated with disposal at the landfill.

Long Term Proposal. Operate the transfer station floor and scale house with in-house assets, and to contract for haul and disposal through a competitive bid. This solicitation for bids will be published this week.

Interim Proposal. Until we can hire a contractor through a published solicitation for bids for haul disposal of our solid waste, staff proposes that we operate the transfer station floor and scale house with in-house assets, and contract for haul and disposal. This will require the following:

- Hire two full time employees, one an equipment operator to run the bucket loader on the floor, and one to run the scale house. Solid Waste has one open budgeted position that can be used. One additional position must be authorized for the division. The cost is estimated at \$24,963 for 2009 and \$99,850 for 2010. Funds for one position are available within the 2009 Solid Waste budget; the second position will funded by the budget adjustment.

- Lease one bucket loader and one backhoe. Fleet is making tentative arrangements. The cost is estimated at \$6,500 for 2009. This needs to be funded by the attached budget adjustment. In the future, it may be more cost effective to purchase this equipment.

- Purchase a computer and software system for solid waste scale house operation. The cost is estimated at \$19,500 in 2009. This needs to be funded by the attached budget adjustment.

- Continue the City's existing contract with Roll Off Services to haul trash to the Eco Vista Landfill in Tontitown. This contract would be part of the long term competitive bid for hauling and disposing of the trash. Contracting this service avoids the capital and operational expenses of purchasing the tractor-trailer fleet. This needs to be funded by the attached budget adjustment as Cherokee Nation was reimbursing the City for this cost.

- Dispose of the trash at the Eco Vista Landfill in Tontitown for a negotiated price of \$24.00/ton plus \$2.35/ton in fees. This is the price Cherokee Nation has been paying. The disposal landfill and the per-ton price would be part of the long term competitive bid for hauling and disposing of the trash. For the short term plan, this requires a bid waiver to accept the negotiated \$24.00/ton price, plus \$2.35/ton in fees, and needs to be funded by the attached budget adjustment.

Long term impacts. Operating the transfer station in-house opens up opportunities to the City to maximize use of the transfer station to other local haulers, gradually increasing overall revenue over the next few years.

BUDGET IMPACTS

Impacts to the 2009 budget are shown below. Two budget adjustments are being presented: one for \$380,000 for contract services and one for \$50,000 for the employee and equipment.

Work Task	Contract Rates 2006 thru present	Current Annual Cost	Interim rates October to December 2009	Estimated Cost October through December 2009
Operate Floor and Scale	\$3.50	\$ 187,649.00		\$ 44,463.00
Hauling	\$5.50	294,877.00	\$ 6.00	80,421.00
Disposal	\$13.97	748,987.58	\$ 24.00	321,684.00
Environmental Fees	\$1.50	80,421.00	\$ 2.35	31,498.23
Total Cost	\$24.47	\$ 1,231,513.58	\$ 32.35	\$ 446,568.00
Tonnage (using 2008 actual)		53,614		13,404
Total 2009 Cost Increase				\$ 138,689.61

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND ACCEPTING AN INTERIM RATE QUOTE FROM WASTE MANAGEMENT FOR THE DISPOSAL OF SOLID WASTE; APPROVING A BUDGET ADJUSTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the Cherokee Nation has breached its contract to haul the City's solid waste; and

WHEREAS, in the interest of the citizens' continued health and safety, the City of Fayetteville must provide for the collection and removal of solid waste while the formal bidding process goes forward.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives these requirements and accepts an interim rate quote from Waste Management for the disposal of Class 1 Municipal Solid Waste at the Eco Vista Landfill.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$166,110.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby declares that these circumstances constitute an emergency, and this ordinance, being necessary to preserve the health and safety of the citizens of the City of Fayetteville, shall be in full force and effect from and after its passage and approval.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



September 8, 2009

Ms. Carrol Hill
Solid Waste Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72801

Dear Ms. Hill:

As per our conversation, Waste Management will extend the current rate of \$24.00 a ton to the city of Fayetteville during this transitional period for the city. This rate is good for 60 days.

Please contact us if we can be of any service to the city of Fayetteville. We look forward to partnering with the city for many years to come.

Sincerely,

Wayne Rathbun for Wayne Rathbun

Wayne Rathbun
Director of Business Development
Waste Management



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

C. 1
ECO Vista Waste Management Landfill
Page 6 of 10
Adjustment Number

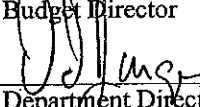
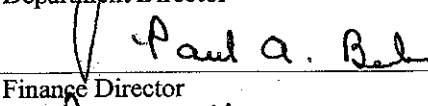
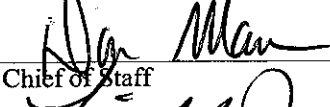
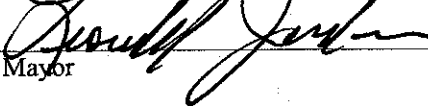
Budget Year 2009	Department: Operations Division: Solid Waste & Recycling Program: Operations & Administration	Date Requested	
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Project or Item Added/Increased: Increased cost of disposal for trash at the Waste Management ECO Vista landfill in Tontitown.	Project or Item Deleted/Reduced: Funds are being drawn from Solid Waste reserves.
---	--

Justification of this Increase: Breach of contract by Cherokee Nation requires the City find an alternate method of trash disposal.	Justification of this Decrease: Sufficient funds remain to cover reserve requirements.
--	---

Increase Budget						
Account Name	Account Number				Amount	Project Number
Solid Waste Disposal	5500	5010	5316	00	89,700	
Solid Waste Disposal	5500	5020	5316	00	41,527	
Solid Waste Disposal	5500	5030	5316	00	34,883	

Decrease Budget						
Account Name	Account Number				Amount	Project Number
Use of Fund Balance	5500	0950	4999	99	166,110	

Division Head  Date: 9-9-09		Budget & Research Use Only Type: A B C <u>D</u> E Requested By _____ General Ledger Date _____ Posted to General Ledger _____ Initial Date Posted to Project Accounting _____ Initial Date	
Budget Director  Date: 8 Sep 09			
Department Director  Date: 9-10-2009			
Finance Director  Date: 9-10-09			
Chief of Staff  Date: 7/12/09			
Mayor  Date:			



GWJ'S DBP
CHEROKEE NATION™
P.O. Box 948 • Tahlequah, OK 74465-0948 • (918) 453-5000

CHGJ
Chad "Comtassel" Smith
Principal Chief
JLO @ JCH @
Joe Grayson, Jr.
Deputy Principal Chief

August 31, 2009

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: Don Marr, Chief of Staff

Reference: Operation of the Fayetteville Transfer Station

Dear Mr. Marr,

This letter is to advise you that the Cherokee Nation will be terminating the services provided by Cherokee Nation Waste Management, LLC ("CNWM") at the City of Fayetteville's Transfer Station effective October 1, 2009. CNWM's last day to provide these services will be Wednesday, September 30, 2009. Should you have any questions regarding this matter, please contact my office.

Very Truly Yours,

Melanie Knight
Secretary of State

Cc: Carrol Hill, Solid Waste & Recycling Division



THE CITY OF FAYETTEVILLE, ARKANSAS

COPY

September 3, 2009

Secretary of State Melanie Knight
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465-0948

RE: Contract with the City of Fayetteville

Dear Secretary Knight:

Thank you for your letter of August 31, 2009. We regret that you have decided to breach the Agreement To Transport And Dispose Of Municipal Solid Waste And For Operation Of Transfer Station that was agreed to by the City of Fayetteville and the Cherokee Nation on April 4, 2006. The term of the agreement began on September 26, 2006, and was for five years. Nothing within the Agreement gives either the Cherokee Nation or City of Fayetteville the right to unilaterally terminate its responsibilities under the agreement.

Your letter of August 31, 2009 to me in which you state "the Cherokee Nation will be terminating the services provided by the Cherokee Nation Waste Management, LLC ('CNWA') at the City of Fayetteville's Transfer Station effective October 1, 2009," constitutes a clear and irrevocable breach of our agreement. The City must immediately take measures in an attempt to reduce the amount of damages your breach of contract will cause our citizens and our City.

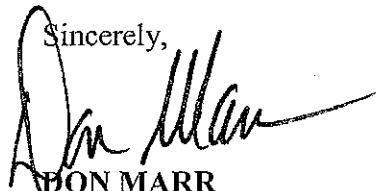
The City of Fayetteville has performed all of its responsibilities pursuant to our agreement for the last three years and stood ready and willing to continue to abide by our agreement with you for the remaining years of our agreement. The City does not consent or agree to your unilateral and unjustified termination and breach of our agreement. The City of Fayetteville will be left with no choice but to recover from you the full amount of damages our citizens and City have and will suffer from your breach of contract. The amount of these damages will be substantial, but will not be clear until the City is able to contract with responsible parties to provide the services you had promised to provide us for five years.

Because of your failure to pay the full amount of previously owed debt to the City of Fayetteville, we have had to withhold transmission of checks to you. Although we had prepared the checks and were ready to forward them to you once you paid your agreed overdue debt to us,

Secretary of State Melanie Knight
Cherokee Nation
Page 2

we cannot send these checks to you now, but must hold them as setoffs against the substantial damages we will suffer in the future because of your breach of contract. We will continue to fully account for all revenues and charges related to our agreement. The Cherokee Nation will receive full credit for these setoffs upon the determination of our damages.

The City of Fayetteville regrets that the Cherokee Nation has broken our long standing agreement. We hope we can amiably arrive at a fair settlement that fully compensates the City of Fayetteville's losses caused by your breach and enhances the prospect of mutually beneficial agreements between the City of Fayetteville and the Cherokee Nation in the future.

Sincerely,

DON MARR
Chief of Staff

DM/

cc: Principal Chief Chad Smith
Attorney General Diana Hammons
Mayor Lioneld Jordan, Fayetteville
Kit Williams, Fayetteville City Attorney
~~Paul Becker, Fayetteville Finance Director~~



THE CITY OF FAYETTEVILLE, ARKANSAS

9/04/2009

CHEROKEE NATION
PO BOX 490
FORT GIBSON, OK 74434

To Whom This May Concern,

Invoices due from Cherokee Nation per the attached statement are \$152,359.44,
less payments due Cherokee Nation as follows.

<u>Date</u>	<u>Invoice #</u>	<u>Amount</u>
6/30/2009	60312	\$ 99,878.02
4/30/2009	307	<u>\$107,185.08</u>

\$207,063.10

As of 9/4/2009, Cherokee Nation has a credit balance in the amount of \$ 54,703.66. This will be
applied against future breach of contract amounts due from Cherokee Nation.

Paul A Becker
Finance Director
City of Fayetteville

City Council Agenda Items
and
Contracts, Leases or Agreements

9/15/2009

City Council Meeting Date
Agenda Items OnlyDavid Jurgens
Submitted BySolid Waste and Recycling
DivisionUtilities
Department

Action Required:

Resolution to approve adding one full time employee for the Solid Waste Division to move operations in house for the Solid Waste Transfer Station and scale house, and approval of a budget adjustment.

\$	12,500.00
\$	12,500.00
\$	12,500.00
\$	12,500.00

Cost of this request

\$	657,290.00
\$	627,022.00
\$	164,041.00
\$	686,161.00

Category / Project Budget

Services and Charges
Services and Charges
Services and Charges
Services and Charges

Program Category / Project Name

5500.5010.XXXX.XX
5500.5020.XXXX.XX
5500.5030.XXXX.XX
5500.5060.XXXX.XX

Account Number

\$	400,349.19
\$	430,772.07
\$	91,843.81
\$	535,145.21

Funds Used to Date

Commercial Collection
Residential Collection
Commercial Drop Box Collection
Recycling Collection

Program / Project Category Name

Project Number

\$	256,940.81
\$	196,249.93
\$	72,197.19
\$	151,015.79

Remaining Balance

Solid Waste
Solid Waste
Solid Waste
Solid Waste

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City
Clerk's OfficeReceived in
Mayor's Office

Chief of Staff

Date

Mayor

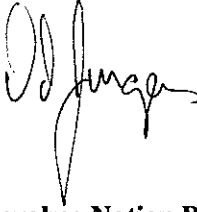
Date

Comments:

UTILITIES DEPARTMENT CORRESPONDENCE

To: City Council

Thru: Mayor Lionel Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director 

Date: September 8, 2009

Subject: **Operational Response to the Cherokee Nation Breach of Contract for Solid Waste Services- Ordinance Approving Bid Waiver for ECO Vista Management Landfill, Approving two Budget Adjustments**

RECOMMENDATION

City Administration recommends approval the following items to allow the City to continue its trash service after the Cherokee Nation breach of contract (1) one new full time employee in the Solid Waste Division, (2) accepting a letter confirming a rate of \$24.00 per ton plus fees with Waste Management to dispose of trash at the Eco Vista Landfill in Tontitown for disposal of trash at \$26.35 per ton for 60 days, (2) a bid waiver with Waste Management to dispose of trash at the Eco Vista Landfill in Tontitown for disposal of trash at \$26.35 per ton for 60 days; and (4) a budget adjustment for \$380,000 for contract services and a budget adjustment for \$50,000 for the employee and equipment.

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The mission includes the following tasks:

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UTILITIES DEPARTMENT CORRESPONDENCE

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BUDGET IMPACTS

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Tonnage (using 2008 actual)		53,614		13,404
Total 2009 Cost Increase				\$ 138,689.61

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ADDITION OF ONE (1) FULL-TIME EMPLOYEE IN THE SOLID WASTE & RECYCLING DIVISION TO MOVE OPERATIONS IN-HOUSE FOR THE SOLID WASTE TRANSFER STATION AND SCALE HOUSE; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$50,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the addition of one (1) Full-Time Employee in the Solid Waste & Recycling Division to move operations in-house for the Solid Waste Transfer station and scale house.

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$50,000.00.

PASSED and APPROVED this 15th day of September, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

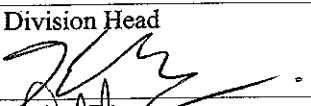
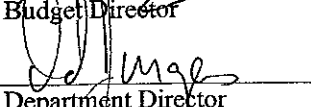
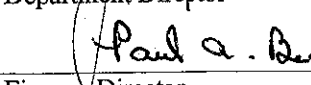
C. 2
Solid Waste Transfer Station Employee
Page 5 of 12
Adjustment Number

Budget Year 2009	Department: Operations Division: Solid Waste & Recycling Program: Operations & Administration	Date Requested
--------------------------------	---	----------------

Project or Item Added/Increased: Cost of adding one full time employee to operate the scale house due to Cherokee Nation's breach of the contract by which they currently operate the scale house.	Project or Item Deleted/Reduced: Funds are being drawn from Solid Waste reserves.
--	---

Justification of this Increase: Breach of contract by Cherokee Nation requires the City assume the responsibility for scale house operation.	Justification of this Decrease: Sufficient funds remain to cover reserve requirements.
--	--

Increase Budget				Amount	Project Number
Account Name	Account Number				
Personnel Services - Contra	5500	5010	5120 00	12,500	
Personnel Services - Contra	5500	5020	5120 00	12,500	
Personnel Services - Contra	5500	5030	5120 00	12,500	
Personnel Services - Contra	5500	5060	5120 00	12,500	
Decrease Budget				Amount	Project Number
Account Name	Account Number				
Use of Fund Balance	5500	0950	4999 99	50,000	

Division Head  Date: 8-5-09		Budget & Research Use Only Type: A B C <u>D</u> E	
Budget Director  Date: 8 Sep 09		Requested By _____	
Department Director  Date: 9/9/2009		General Ledger Date _____	
Finance Director  Date: 9-9-09		Posted to General Ledger Initial _____ Date _____	
Chief of Staff  Date: 9/10/09		Posted to Project Accounting Initial _____ Date _____	
Mayor 			

Job Grading Request Form

Instructions: Before a job grading request form is completed, a required meeting should occur with the designated HR representative. The purpose of this meeting is to 1) Make sure the job description is current and contains all the necessary information needed by the MAG job grading committee; 2) Make sure the job changes are significant enough to merit the lengthy Committee review; and 3) Make sure the requestor is aware of how the job grading process works, how to fully prepare for their role at the Committee meeting, etc..

After the meeting with HR has taken place, please complete this form and have it signed. Then return it to HR. The job may then be submitted by HR to the job grading committee for review.

Important Note: It is always possible that existing City jobs submitted for grading may end up being graded the same, higher, or lower than the current job grade. If the job is graded higher, it does not necessarily follow that the person in that job will receive a raise. A raise would involve budget considerations and administrative approval by, at a minimum, the City Finance Director, the Chief of Staff, and anyone else designated by them to approve the raise. If the job is graded lower, the person presently in the position will not receive a pay cut. However, the next person hired or transferred into the position would be subject to the pay range limitations, including the maximum salary allowed.

Current Job Title: _____

New Job Title (If applicable): Scale House Attendant

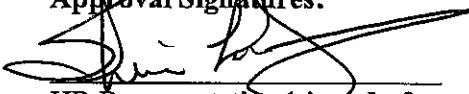
Please attach a copy of the former job description and the new, proposed job description. Check here that this has been done: X

Please explain what changes have occurred that led you to request a review of the job grade:

Contractor breeched agreement with division; Solid Waste must take over operations by October 1, 2009.

If new duties have been added, were these duties removed from another position?
No. If yes, which position(s) was previously performing these duties? Please attach a copy of the job description from which the duties were removed. Check here that this has been done: _____

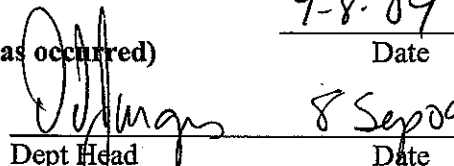
Approval Signatures:



HR Representative (signed after meeting has occurred)

9-8-09
Date


Division Head Date 9/4/09


Dept Head Date 8 Sep 09

Finance Director Date

Chief of Staff Date



CITY OF FAYETTEVILLE

Position Description

POSITION TITLE: Scale House Attendant

EXEMPT (Y/N): No	DEPARTMENT: Utilities
SUPERVISOR: Office Manager	DIVISION: Solid Waste & Recycling
DATE REVISED: September 2009	Job Grade:

ESSENTIAL DUTIES AND RESPONSIBILITIES: *Note: All City of Fayetteville positions require the employee to provide good customer service to both internal and external customers, maintain positive and effective working relationships with other City employees (especially members of his or her own team), and have regular and reliable attendance that is non-disruptive. Other essential duties of this position include the following:*

1. Operate the scale house computer to obtain weight records of customers and waste haulers/incoming/outgoing.
2. Maintain and keep all scale tickets for the City's transfer stations. Type in customer information, print scale ticket/receipts, file tickets into appropriate categories and process necessary paperwork for deposit.
3. Receive customers onto the scale and direct them to the correct off loading facility.
4. Once materials have been off-loaded, work with customer to finish the scale process.
5. Receipt in monies from various sources including the customers.
6. Balance tickets and cash drawer daily.
7. Answer customer questions in person and over the phone.
8. Print and file daily and weekly reports as required.
9. Maintain a clean work area including counter and windows.
10. Perform other duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Contact bad debt and collect before rendering new service.
2. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. High school diploma or GED is required. Prefer 1 year of customer service or cashier related experience.
2. Must possess a valid Arkansas Driver's License.
3. Effectively communicate with others orally and in writing.
4. Must be able to add, subtract, multiply and divide.
5. Must be proficient in the use of personal computer and other related software programs such as Microsoft Word or Excel.
6. Must be able to operate standard office equipment.
7. Bilingual (English and Spanish) preferred.
8. While performing the functions of this job, the employee is regularly required to talk and hear. The employee regularly is required to stand, walk, and sit; use hands to finger, handle, or feel. The employee must regularly lift up to 10 pounds and occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and ability to adjust focus.
9. While performing the functions of this job, the employee duties are done in the scale house but may be exposed to outdoor conditions. The noise level in the work environment is often loud.



GWYD D8P
CHEROKEE NATION™
P.O. Box 948 • Tahlequah, OK 74465-0948 • (918) 453-5000

O'Kee
Chad "Cornassel" Smith
Principal Chief
JLOD JGHD
Joe Grayson, Jr.
Deputy Principal Chief

August 31, 2009

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Attn: Don Marr, Chief of Staff

Reference: Operation of the Fayetteville Transfer Station

Dear Mr. Marr,

This letter is to advise you that the Cherokee Nation will be terminating the services provided by Cherokee Nation Waste Management, LLC ("CNWM") at the City of Fayetteville's Transfer Station effective October 1, 2009. CNWM's last day to provide these services will be Wednesday, September 30, 2009. Should you have any questions regarding this matter, please contact my office.

Very Truly Yours,

Melanie Knight
Secretary of State

Cc: Carrol Hill, Solid Waste & Recycling Division



THE CITY OF FAYETTEVILLE, ARKANSAS

C. 2
Solid Waste Transfer Station Employee
Page 9 of 12

COPY

September 3, 2009

Secretary of State Melanie Knight
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465-0948

RE: Contract with the City of Fayetteville

Dear Secretary Knight:

Thank you for your letter of August 31, 2009. We regret that you have decided to breach the Agreement To Transport And Dispose Of Municipal Solid Waste And For Operation Of Transfer Station that was agreed to by the City of Fayetteville and the Cherokee Nation on April 4, 2006. The term of the agreement began on September 26, 2006, and was for five years. Nothing within the Agreement gives either the Cherokee Nation or City of Fayetteville the right to unilaterally terminate its responsibilities under the agreement.

Your letter of August 31, 2009 to me in which you state "the Cherokee Nation will be terminating the services provided by the Cherokee Nation Waste Management, LLC ('CNWA') at the City of Fayetteville's Transfer Station effective October 1, 2009," constitutes a clear and irrevocable breach of our agreement. The City must immediately take measures in an attempt to reduce the amount of damages your breach of contract will cause our citizens and our City.

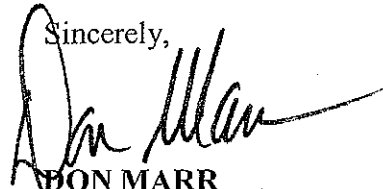
The City of Fayetteville has performed all of its responsibilities pursuant to our agreement for the last three years and stood ready and willing to continue to abide by our agreement with you for the remaining years of our agreement. The City does not consent or agree to your unilateral and unjustified termination and breach of our agreement. The City of Fayetteville will be left with no choice but to recover from you the full amount of damages our citizens and City have and will suffer from your breach of contract. The amount of these damages will be substantial, but will not be clear until the City is able to contract with responsible parties to provide the services you had promised to provide us for five years.

Because of your failure to pay the full amount of previously owed debt to the City of Fayetteville, we have had to withhold transmission of checks to you. Although we had prepared the checks and were ready to forward them to you once you paid your agreed overdue debt to us,

Secretary of State Melanie Knight
Cherokee Nation
Page 2

we cannot send these checks to you now, but must hold them as setoffs against the substantial damages we will suffer in the future because of your breach of contract. We will continue to fully account for all revenues and charges related to our agreement. The Cherokee Nation will receive full credit for these setoffs upon the determination of our damages.

The City of Fayetteville regrets that the Cherokee Nation has broken our long standing agreement. We hope we can amiably arrive at a fair settlement that fully compensates the City of Fayetteville's losses caused by your breach and enhances the prospect of mutually beneficial agreements between the City of Fayetteville and the Cherokee Nation in the future.

Sincerely,

BON MARR
Chief of Staff

DM/

cc: Principal Chief Chad Smith
Attorney General Diana Hammons
Mayor Lioneld Jordan, Fayetteville
Kit Williams, Fayetteville City Attorney
~~Paul Becker, Fayetteville Finance Director~~



THE CITY OF FAYETTEVILLE, ARKANSAS

9/04/2009

CHEROKEE NATION
PO BOX 490
FORT GIBSON, OK 74434

To Whom This May Concern,

Invoices due from Cherokee Nation per the attached statement are \$152,359.44,
less payments due Cherokee Nation as follows.

<u>Date</u>	<u>Invoice #</u>	<u>Amount</u>
6/30/2009	60312	\$ 99,878.02
4/30/2009	307	<u>\$107,185.08</u>

\$207,063.10

As of 9/4/2009, Cherokee Nation has a credit balance in the amount of \$ 54,703.66. This will be
applied against future breach of contract amounts due from Cherokee Nation.

Paul A Becker
Finance Director
City of Fayetteville

Nominating Committee Report
Meeting: Thursday, September 10, 2009
Room 111, City Hall 5:30 p.m.
Members Present – Kyle Cook, Adella Gray, and Shirley Lucas

The following candidates are being submitted to the entire City Council for consideration.

Fayetteville Arts Council

- *Jay Baker* – One unexpired citizen at large term ending 6/30/10
- *Betsy Gross* – One unexpired citizen at large term ending 6/30/12
- *Martin Miller* – One working artist term ending 6/30/12.

Historic District Commission

- *Mark Alt* – One unexpired term ending 6/30/12
- *Annie Dowling* – One unexpired term ending 6/30/12.