

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
February 18, 2014**

A meeting of the Fayetteville City Council will be held on February 18, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

1. **Amend §92.01 Definitions, §92.23 Impoundment and §92.24 Redemption of Animals:** An ordinance to Amend §92.01 **Definitions**, §92.23 **Impoundment** and §92.24 **Redemption of Animals** of the Fayetteville Code to authorize the Animal Shelter to accept livestock and set the redemption fee for their release.

LEFT ON THE FIRST READING

A. Consent:

1. Approval of the February 04, 2014 City Council meeting minutes. **APPROVED**

2. **McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and to approve a budget adjustment of \$36,050.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 33-14

3. **Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 34-14

4. **Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 35-14

5. **Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 36-14

6. **Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 37-14

7. **2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 38-14

8. **Rotochopper Go – Bagger:** A resolution approving a budget adjustment in the amount of \$18,500.00 to recognize revenue received from the auction and sale of Unit 479 - 2005 Rotochopper Go-Bagger 250.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 39-14

B. Unfinished Business:

1. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. ***This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting. This ordinance was left on the First Reading at the January 21, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.***

TABLED TO THE MARCH 18, 2014 CITY COUNCIL MEETING

2. **RZN 13-4538 (Razorback Road/Victory Commons):** An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. ***This ordinance was left on the First Reading at the December 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the January 7, 2014 City Council meeting and Tabled to the February 4, 2014 City Council meeting. This ordinance was left on the Second Reading at the February 5, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.***

TABLED INDEFINITELY

C. New Business:

1. **Mt. Kessler Acquisition:** A resolution to authorize Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation in the amount of \$1,500,000.00, to use this grant and \$1,600,000.00 out of reserves to purchase about 328 acres of Mt. Kessler from Chambers Bank and to build a trailhead, to approve a land swap with Chambers Bank, to support a parkland dedication of about 48 acres for future parkland credit and to approve the attached budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 40-14

2. **Karcher North America, Inc.:** A resolution to approve and certify the participation of Karcher North America, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Karcher North America, Inc.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 41-14

3. **ADM 13-4331 Amend Chapters 151, 162, 163 and 164:** An ordinance to amend §164.10 Garage and/or Agricultural and Produce Sales; §161.10 (X) Unit 24 Home Occupation; §163.08 Home Occupations and §164.04 Urban Agriculture (fowl, bees, and goats) of the Unified Development Code.

LEFT ON THE FIRST READING

4. **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5662

5. **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 42-14

6. **Reappropriating Bonded, On-Going Capital Projects and Containing Obligations:** A resolution to amend the 2014 adopted budget by reappropriating \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 43-14

7. **RZN 13-4536 (4310 Martin Luther King Blvd./Edwards):** An ordinance rezoning that property described in rezoning petition RZN 13-4536, for approximately 0.74 acres located on the north side of west Martin Luther King Boulevard near the border of Farmington from R-A, Residential Agricultural to CS, Community Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5663

8. **ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development):** An ordinance to amend Chapter 161 of the Unified Development Code to authorize Cottage Housing Development (UU-44) into zoning districts in which it was originally approved by Ordinance No. 5462.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5664

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment: 9:45 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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

Subject:	Roll				
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan	✓			

9-0

Redemption of Animals

Subject:	Add: 92:01 Definitions, 92.23 Impoundment, 92.24				
Motion To:		Add to the Agenda			
Motion By:		Long			
Seconded:		Adams			
Add to Agenda Left on the First Reading	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	Consent				
Motion To:		<i>Approve</i>			
Motion By:		<i>Marsh</i>			
Seconded:		<i>Long</i>			
<i>Minutes Approved</i> <i>passed</i> <i>33-K thru 39-14</i>	Schoppmeyer	<i>✓</i>			
	Adams	<i>✓</i>			
	Long	<i>✓</i>			
	Gray	<i>✓</i>			
	Marsh	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>✓</i>			
	Tennant	<i>✓</i>			
	Mayor Jordan				

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	Amend Chapter 178 <i>Table to:</i>				
Motion To:		<i>March 18, 2014</i>			
Motion By:		<i>Long</i>			
Seconded:		<i>Petty</i>			
B. 1 Unfinished Business <i>Tabled to March 18, 2014</i>	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	RZN 13-4538 (Razorback Road/Victory Commons)				
Motion To:		<i>Table Indefinitely</i>			
Motion By:		<i>Long</i>			
Seconded:		<i>Adams</i>			
B. 2 Unfinished Business <i>Tabled Indefinitely</i>	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	Mt. Kessler Acquisition				
Motion To:		<i>Approve</i>			
Motion By:		<i>Kinion</i>			
Seconded:		<i>Marsh</i>			
C. 1 New Business <i>passed</i> 40-14	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	Karcher North America, Inc.				
Motion To:		<i>Approve</i>			
Motion By:		<i>Long</i>			
Seconded:		<i>Gray</i>			
C. 2 New Business <i>passed</i> 41-14	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	ADM 13-4331 Amend Chapters 151, 162, 163 and 164				
Motion To:					
Motion By:					
Seconded:					
C. 3 New Business <i>Left on the First Reading</i>	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	Teeco Safety, Inc.				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Adams</i>	<i>Long</i>		
Seconded:		<i>Long</i>	<i>Tennant</i>		
C. 4 New Business <i>passed</i>	Schoppmeyer	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Adams	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Long	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Marsh	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>absent during vote</i>	<i>absent during vote</i>	<i>absent during vote</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				

7-0

7-0

7-0

Subject:	Kum & Go, L.C. Agreement				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Tennant			
C. 5 New Business <u>passed</u> 42-14	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:	Reappropriating Bonded, On-Going Capital Projects and Containing Obligations				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Adams			
C. 6 New Business <u>passed</u> 43-14	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

Subject:		RZN 13-4536 (4310 Martin Luther King Blvd./Edwards)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Long	Gray	
Seconded:			Schoppmeyer	Marsh	
C. 7 New Business <u>passed</u>	Schoppmeyer	✓	✓	✓	
	Adams	✓	✓	✓	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:		ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Gray	Gray	
Seconded:			Marsh	Marsh	
C. 8 New Business <u>passed</u>	Schoppmeyer	✓	✓	✓	
	Adams	✓	✓	✓	
	Long	✓	✓	✓	
	Gray	✓	✓	✓	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0



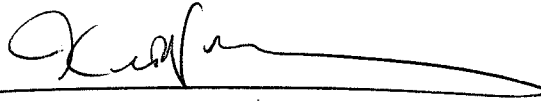
Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney



DATE: February 19, 2014

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of February 18, 2014

- 1. McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and to approve a budget adjustment of \$36,050.00.
- 2. Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.
- 3. Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.
- 4. Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.
- 5. Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.
- 6. 2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.

7. **Rotochopper Go – Bagger:** A resolution approving a budget adjustment in the amount of \$18,500.00 to recognize revenue received from the auction and sale of Unit 479 - 2005 Rotochopper Go-Bagger 250.
8. **Mt. Kessler Acquisition:** A resolution to authorize Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation in the amount of \$1,500,000.00, to use this grant and \$1,600,000.00 out of reserves to purchase about 328 acres of Mt. Kessler from Chambers Bank and to build a trailhead, to approve a land swap with Chambers Bank, to support a parkland dedication of about 48 acres for future parkland credit and to approve the attached budget adjustment.
9. **Karcher North America, Inc.:** A resolution to approve and certify the participation of Karcher North America, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Karcher North America, Inc.
10. **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.
11. **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.
12. **Reappropriating Bonded, On-Going Capital Projects and Containing Obligations:** A resolution to amend the 2014 adopted budget by reappropriating \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
February 18, 2014**

A meeting of the Fayetteville City Council will be held on February 18, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 04, 2014 City Council meeting minutes.
2. **McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and to approve a budget adjustment of \$36,050.00.

3. **Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.
4. **Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.
5. **Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.
6. **Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.
7. **2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.
8. **Rotochopper Go – Bagger:** A resolution approving a budget adjustment in the amount of \$18,500.00 to recognize revenue received from the auction and sale of Unit 479 - 2005 Rotochopper Go-Bagger 250.

B. Unfinished Business:

1. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. ***This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting. This ordinance was left on the First Reading at the January 21, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.***

Left on the First Reading.

2. **RZN 13-4538 (Razorback Road/Victory Commons):** An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. *This ordinance was left on the First Reading at the December 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the January 7, 2014 City Council meeting and Tabled to the February 4, 2014 City Council meeting. This ordinance was left on the Second Reading at the February 5, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.*

Left on the Second Reading.

C. New Business:

1. **Mt. Kessler Acquisition:** A resolution to authorize Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation in the amount of \$1,500,000.00, to use this grant and \$1,600,000.00 out of reserves to purchase about 328 acres of Mt. Kessler from Chambers Bank and to build a trailhead, to approve a land swap with Chambers Bank, to support a parkland dedication of about 48 acres for future parkland credit and to approve the attached budget adjustment.
2. **Karcher North America, Inc.:** A resolution to approve and certify the participation of Karcher North America, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Karcher North America, Inc.
3. **ADM 13-4331 Amend Chapters 151, 162, 163 and 164:** An ordinance to amend §164.10 Garage and/or Agricultural and Produce Sales; §161.10 (X) Unit 24 Home Occupation; §163.08 Home Occupations and §164.04 Urban Agriculture (fowl, bees, and goats) of the Unified Development Code.
4. **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.
5. **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.
6. **Reappropriating Bonded, On-Going Capital Projects and Containing Obligations:** A resolution to amend the 2014 adopted budget by reappropriating \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.
7. **RZN 13-4536 (4310 Martin Luther King Blvd./Edwards):** An ordinance rezoning that property described in rezoning petition RZN 13-4536, for approximately 0.74 acres located on the north side of west Martin Luther King Boulevard near the border of Farmington from R-A, Residential Agricultural to CS, Community Services.

- 8. ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development):** An ordinance to amend Chapter 161 of the Unified Development Code to authorize Cottage Housing Development (UU-44) into zoning districts in which it was originally approved by Ordinance No. 5462.

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

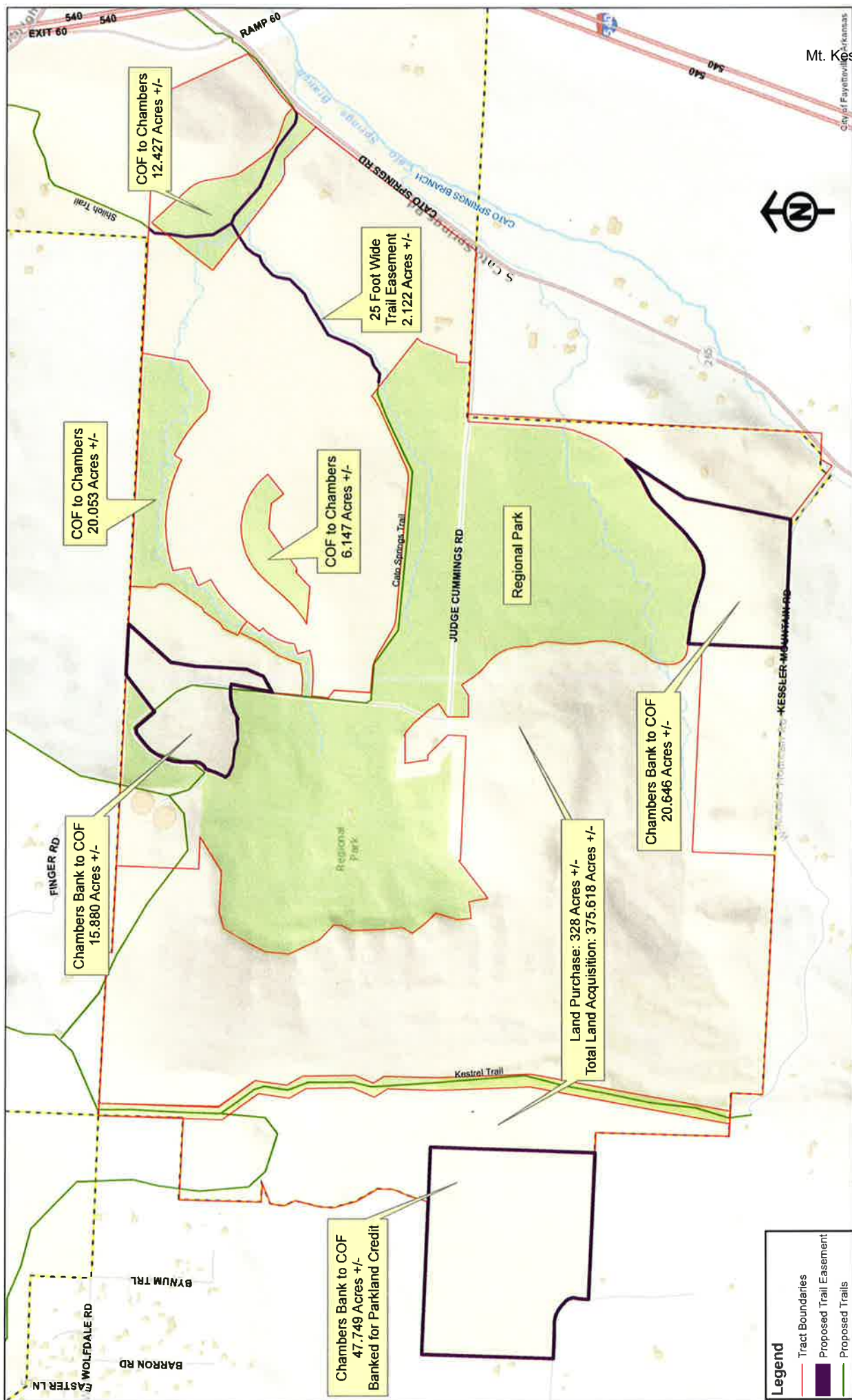
Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation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

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

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

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

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



RECEIVED

FEB 7 2014

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

KENNETH L. SMITH
459 WEST CLEBURN STREET
FAYETTEVILLE, ARKANSAS 72701

February 7, 2014

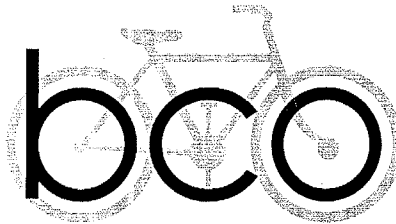
To the Mayor and City Council:

I can't imagine any thing other than your unanimous approval of purchasing the parkland on Mount Kessler. Your approval should be an act of celebration — what a wonderful step forward for Fayetteville!

My only regret is that I won't be able to attend your meeting on the 18th; I'll be with volunteers building a trail along the Buffalo River. But I did hike the trails on Mount Kessler, two weeks ago, and learned what a fine experience that can be — and saw that many, many hikers and bikers were there that day, enjoying themselves.

Thank you, each of you; for helping make the Mount Kessler park a reality.

Sincerely,
Ken Smith



Bicycle Coalition of the Ozarks
P.O. Box 4173
Fayetteville, AR 72702
bco@bconwa.com
479-200-1679

RECEIVED

C. 1
Mt. Kessler Acquisition
Page 3 of 6

FEB 10 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

February 10, 2014

City Council Members
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Dear City Council Members,

The Board of Directors for the Bicycle Coalition of the Ozarks (BCO) strongly supports the purchase of 328 acres and the acceptance of a donation of 48 acres on Mt. Kessler by the City of Fayetteville. This would add an additional 376 acres of parkland within Fayetteville, which would have a large impact on the number of cyclists in our community. The area has become a favorite of mountain bikers, and we would like to see the Mt. Kessler trail system preserved and enhanced. Its proximity to the forthcoming regional park makes it an integral part of creating a more livable and sustainable community through increased outdoor recreational opportunities.

The BCO is a 501(c)3 non-profit formed in 1999 with the mission of creating a more bicycle friendly community in Northwest Arkansas through education programs for all users of roads and trails and advocacy for an increase in bicycle friendly infrastructure. Increasing the quantity, quality, and access to mountain bike trails in Fayetteville will help to get more citizens of the community on bikes, which will raise awareness for all cyclists and make Fayetteville a more bike-friendly city.

Sincerely,

Quin Thompson
Chair

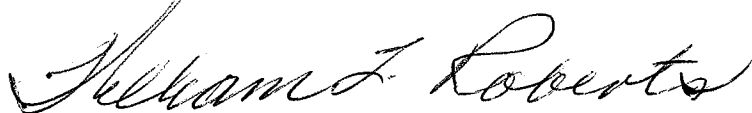
Paxton Roberts
Executive Director

To: Mayor Lioneld Jordan
Dr. M Schoppmeyer
Ms. Rhonda Adams
Mr. Alan Long
Mr. Justin Tennant
Mr. Matthew Petty
Mr. Mark Kinion
Ms. Sarah Marsh
Ms. Adella Gray

Subject: Vote to appropriate money for the purchase of
Kessler Mountain.

I urge council members to vote for the purchase this property
and make it a permanent part of Fayetteville's heritage and
uniqueness. I have over the past few years hiked Kesseler
many times with friends and family and often alone. It has
all the beauty of the Ozarks in all its seasons. I would be
pleased if it were a forever part of Fayetteville.

Thank you for your consideration.



William L. Roberts DDS (retired)

FEB 11 2014

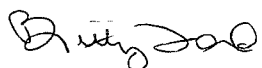
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

February 10, 2014

Mayor and City Council
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

I do not live in Fayetteville but do frequent the area often. I enjoy hiking in and around Fayetteville. One of my favorite places to hike is Mt. Kessler. The trails there are just awesome. I bring my Grandchildren with me and the whole family enjoys the outing. I hope that you will continue to preserve this area and these trails, for not only myself, but the future generations to come.

Sincerely,



Betty Ford
17700 Kimes Tower Road
Chester, Arkansas 72934

Dear Mayor Jordan and honorable City council members,

I am writing to express my support for the purchase of the Chamber's Bank parcel off of Cato Springs road. As a long time resident of Fayetteville and a lover of the outdoors, I was immediately enthused by this proposal. My personal exploration of the Kessler mountain trails has brought me a great deal of enjoyment and relaxation in a setting that is much more accessible than other outdoor destinations in our area. Aside from the enjoyment of such a close "green space" in my neighborhood, I have seen that it has brought together a community of like-minded outdoor enthusiasts and given them a means to put their energy toward creating a beautiful green space that not only provides opportunities for enthusiasts of outdoor pastimes but also protects natural resources in a way that will benefit all residents of Fayetteville.

Furthermore, I have personally spoken with several individuals from Benton and Madison Counties that have taken notice of this trail system and have made trips to Fayetteville specifically to hike or bike on these trails. As the trail system grows, I can't help but believe that this will continue to draw attention from non-residents and provide opportunities for them to come to Fayetteville and enjoy our green spaces and invariably feed money into the local economy.

Finally, as an educational tool, I believe that this green space will also contribute greatly toward the creation of future generations that value the great outdoors and recognize the importance of maintaining these green spaces in the setting of a growing urban center. As such, I urge you to consider this purchase. I can think of no better way to benefit the environment while also benefitting local residents; all in a way that contributes to the unique nature of Fayetteville, helping it continue to stand out amongst the other communities of Northwest Arkansas.

Thank you for your time and consideration.

Sincerely,



Ashley Totten

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
February 05, 2014**

Aldermen

Ward 1 Position 1 – Adella Gray

Ward 1 Position 2 – Sarah Marsh

Ward 2 Position 1 – Mark Kinion

Ward 2 Position 2 – Matthew Petty

Ward 3 Position 1 – Justin Tennant

Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.

Ward 4 Position 1 – Rhonda Adams

Ward 4 Position 2 – Alan T. Long

(This meeting was rescheduled from Tuesday, February 04, 2014 to a Special City Council meeting on Wednesday, February 5, 2014 due to inclement weather conditions)

A meeting of the Fayetteville City Council was held on February 05, 2014 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Adella Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan: We have a very exciting announcement. I want Chief Dayringer to share with the Council and citizens our ISO rating.

David Dayringer, Fire Chief: We are excited and in celebration of the ISO rating we got that jumped from a four to a two. We were rated back in the late 1990's and we have been a four since 1998. We have been recently rated, which turned into a two year process and we have been awarded a two. What that means to the property owners of Fayetteville is that their insurance premiums could be reduced by the insurance companies. The insurance services office is the leading source of information about insurance risk. It gauges fire protection capability of local fire departments, collects information on the community's public fire protection and analyses the

data using a fire suppression rating schedule. It assigns a rating from one to ten, class one being the best protection class and class ten being no protection.

To improve the ISO rating, the Fayetteville Fire Department worked with the Water, Telecommunications and Police Departments and upgraded the dispatch system, utilities and made many water supply improvements. The City of Fayetteville has built three fire stations since then and added fire fighters. We have increased the number of fire hydrants, instituted a fire hydrant inspection program, replaced water mains and added a water tower. We have added a Fire Marshal's office and three Fire Marshals who educate, conduct inspections, investigate arson and enforces the code that City Council adopts. The City of Fayetteville's public protection classification of two becomes effective June 1, 2014. The ISO is the leading supplier of data and analytics for the property casualty insurance industry. Most insurers use the public protection classifications for underwriting and calculating premiums for residential, commercial and industrial properties. The improved rating recognizes the City's effort to provide exceptional fire safety services and it is hopeful that the class two ISO rating will lower insurance premiums for its residents and businesses. This is a very exciting and tangible benefit for our citizens and community.

Mayor Jordan: Thank you Chief. That is a tremendous accomplishment. We have had a continued increase in our number of calls for fire service which amounts to a 54% increase from 2003 through 2013. The Fayetteville Fire Department is handling close to 3,000 more calls each year and they managed to cut our ISO rating in half.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions:

Alderman Adams moved to add the following item to the City Council agenda. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

David Clark McClinton Settlement Agreement: A resolution to approve a settlement agreement with David Clark McClinton concerning condemnation litigation filed as part of the Van Ashe Drive construction project in the total amount of \$1,420.00.

Chris Brown, City Engineer gave a brief description of the resolution. Staff is recommending approval.

City Attorney Kit Williams: I recommend approval. This would leave only a single condemnation still pending. I want to thank the Engineering staff because we only had to file two condemnations for the entire project. We also got some of the right-of-way dedicated without having payments.

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

Resolution 22-14 as recorded in the office of the City Clerk

Consent:

Approval of the January 21, 2014 City Council meeting minutes.

Approved

Bid #14-12 Hanson Pipe & Precast and Scurlock Industries: A resolution to award Bid #14-12 to Hanson Pipe & Precast and Scurlock Industries authorizing the purchase of drainage pipe for varying unit prices and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

Resolution 23-14 as recorded in the office of the City Clerk

George Nunnally Chevrolet of Bentonville: A resolution to authorize the purchase of one (1) Chevrolet Equinox at the same price as the state procurement contract, in the amount of \$21,699.00, from George Nunnally Chevrolet of Bentonville for use by the Wastewater Treatment Plant, and approving a budget adjustment in the amount of \$21,699.00.

Resolution 24-14 as recorded in the office of the City Clerk

Caldwell Toyota of Conway: A resolution to authorize the purchase of one (1) 2014 Toyota Camry Hybrid from Caldwell Toyota of Conway in the amount of \$25,498.00 for use by the Fayetteville Police Department, and approving a budget adjustment in the amount of \$25,498.00.

Resolution 25-14 as recorded in the office of the City Clerk

North Point Ford of North Little Rock: A resolution to authorize the purchase of two (2) Ford F-150 2x4 pickup trucks from North Point Ford of North Little Rock in the amount of \$34,128.00, pursuant to a state procurement contract, for use by the Solid Waste and Transportation Divisions.

Resolution 26-14 as recorded in the office of the City Clerk

Landers Toyota of Little Rock: A resolution to authorize the purchase of three (3) Toyota Tacoma pickup trucks from Landers Toyota of Little Rock in the amount of \$76,585.00, pursuant to a state procurement contract, for use by the Meter and Transportation Divisions.

Resolution 27-14 as recorded in the office of the City Clerk

Bid #13-55 S.M.I.L.E.S of Fort Smith: A resolution to award Section C and Section F of Bid #13-55 and authorizing the purchase of light bars and cameras from S.M.I.L.E.S. of Fort Smith in the amount of \$22,726.00 for the upfitting of Police Department vehicles.

Resolution 28-14 as recorded in the office of the City Clerk

Animal Services Donation Revenue: A resolution to approve a budget adjustment in the total amount of \$35,287.00 representing donation revenue to Animal Services for the third and fourth quarters of 2013.

Resolution 29-14 as recorded in the office of the City Clerk

Fayetteville District Court Technology Upgrades: A resolution approving a budget adjustment for the Fayetteville District Court in the amount of \$20,000.00 to recognize revenue from the Court Automation Fund for the purchase of technology upgrades including computer monitors, hard drives, printers and wireless components.

Resolution 30-14 as recorded in the office of the City Clerk

Bid #13-58 ARCO Excavation & Paving, Inc.: A resolution to award Bid #13-58 and authorizing a contract with ARCO Excavation & Paving, Inc. for the construction of the Town Branch Trail in the amount of \$779,645.25, and approving a contract contingency in the amount of \$93,557.43.

Resolution 31-14 as recorded in the office of the City Clerk

Gordon Long Park: A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the design of restrooms and expanded parking at Gordon Long Park, and to approve a budget adjustment in the amount of \$22,314.00.

Resolution 32-14 as recorded in the office of the City Clerk

Alderman Marsh moved to approve the Consent Agenda as read. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business:

RZN 13-4538 (Razorback Road/Victory Commons): An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. ***This ordinance was left on the First Reading at the December 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the January 7, 2014 City Council meeting and Tabled to the February 4, 2014 City Council meeting.***

Jeremy Pate, Director of Development Services: The applicant would like to table this for another two weeks.

Alderman Adams moved to table the ordinance to the February 18, 2014 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

This ordinance was left on the Second Reading at the February 5, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.

New Business:

New World Systems: An ordinance to waive competitive bidding and to approve a three year contract with New World Systems for Public Safety Software Maintenance in the total amount of \$341,760.00 payable over three years.

City Attorney Kit Williams read the ordinance.

Greg Tabor, Chief of Police gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5655 as Recorded in the office of the City Clerk

RZN 13-4571 (Northwest Corner of W. Wedington Drive and N. Golf Club Drive/Wedington): An ordinance rezoning that property described in rezoning petition RZN 13-4571, for approximately 11.30 acres, located at the northwest corner of West Wedington Drive and North Golf Club Drive from R-A, Residential Agricultural and RSF-1, Residential Single-Family, 1 unit per acre to UT, Urban Thoroughfare

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended approval 7-0. Staff is also recommending approval.

Alderman Adams: I get asked quite often as to where we are with the Wedington Master Plan. We don't just go out and rezone things along the Wedington Plan, but you are now bringing

some things to us that you and your staff feel are appropriate. It's not a mandated change, but just recommendations based on your findings?

Jeremy Pate: Right. Each Neighborhood Master Plan that we have conducted is a little bit different. Starting with the Downtown and Walker Park, both of those were both traditional neighborhoods developed around the heart of the city. Fayette Junction reached out to a little bit more historic neighborhoods, but also some areas that did not have a lot of development. This is probably the newest area that we have seen with any of our Master Plans. What we do with those is through a public process. We identify the policies and the form of development that the citizens would like to see in that area as it continues to grow. The city does not act as developer, we do develop some, but not a lot. Mostly it is the private development sector. In order for us to help implement that vision, rezoning is one of the tools that we have to enable us to do so.

When a developer comes to the table with a project, they can see what citizens in that area envisioned and our zoning districts then align with that. That is not the case currently. A lot of the zoning districts we have in west Fayetteville, Wedington in particular, do not align with the vision and so that's what we are going through step by step to identify those critical parcels. Not every parcel in the entire plan, but critical parcels we feel that will maintain the integrity and spirit of the plan to implement it.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: What are the Council members from Ward 4 thinking?

Alderman Long: I have had no citizen input on this. I don't think there is a lot of concern out there against it.

Alderman Adams: I have not heard anything negative. I think this is a good change that fits the plan very well.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5656 as Recorded in the office of the City Clerk

RZN 13-4572 (Northwest Corner of W. Wedington Drive and N. Ruppel Road/Wedington Neighborhood Plan Zone): An ordinance rezoning that property described in rezoning petition RZN 13-4572, for approximately 5.65 acres, located at the northwest corner of West Wedington Drive and North Ruppel Road from R-O, Residential-Office, C-1, Neighborhood Commercial, and C-2, Thoroughfare Commercial, to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended approval 7-0. Staff is also recommending approval.

Alderman Adams: Would you please talk a little bit about Community Services and how we got to that zoning.

Jeremy Pate: Community Services is one of our form based codes that we created a few years ago. Particularly at this site, if you look in your agenda it shows what the community envisioned. One of the options we had there at the corner is definitely more of an urban form. As one approaches an intersection they generally slow down and this becomes a much more pedestrian friendly area. As the heart of that neighborhood we felt Community Services would best fit in terms of the uses. I use the analogy of walking along a sidewalk beside a large parking lot, it is definitely not the same as walking along a sidewalk beside an urban building. It could be the exact same business, but an entirely different experience. The latter experience is what we are trying to accomplish with this plan.

Alderman Adams: Thank you. We did hear a lot of residents in the Wedington Corridor study talk about the fact that it is flat and a nice place to ride bikes and walk. It doesn't feel safe or comfortable because of the fast traffic and the vast waste lands between the sidewalk and the business you might be going to. I am happy to see you work this out and bring this forward.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5657 as Recorded in the office of the City Clerk

RZN 13-4573 (825 S. Stonebridge Road/Hammans): An ordinance rezoning that property described in rezoning petition RZN 13-4573, for approximately 0.84 acres, located at 825 South Stonebridge Road from R-A, Residential Agricultural, to NS, Neighborhood Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended approval 7-0. Staff is also recommending approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5658 as Recorded in the office of the City Clerk

RZN 13-4578 (6316 W. Wedington Drive/Morlan): An ordinance rezoning that property described in rezoning petition RZN 13-4578, for approximately 0.87 acres, located at 6316 West Wedington Drive from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended approval 7-0.

Alderman Adams: It is 0.87 acres and there is one home on it. If we rezone to four units per acre, they can put one more on it within the zoning, they can put two on the 0.87?

Jeremy Pate: You might get three, but it would depend on the frontage. I believe the intent is to split it one time and continue maintaining a house and some acreage and also to build another house adjacent to it.

City Attorney Kit Williams: Keep in mind that this was annexed in and the policy of the city is we always annex in property and zone it R-A originally. They had to come to us to get it

rezoned, but it hasn't been used as agricultural land for a very long time. It is single family type land and that is why I think the Planning Commission voted to recommend this approval.

Alderman Petty: I noticed in Mr. Morlan's letter he stated the reason for RSF-4 is because it was the only zoning that would allow him to split the lot. Wouldn't Neighborhood Conservation or Neighborhood Services allow that lot split?

Jeremy Pate: Either one of those would allow for the single family use and would bring it into compliance.

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

City Attorney Kit Williams read the ordinance.

Alderman Adams moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Tennant, Schoppmeyer, Adams, Long and Marsh voting yes. Alderman Petty voting no. Alderman Gray was absent. Alderman Kinion was absent during the vote.

Ordinance 5659 as Recorded in the office of the City Clerk

VAC 13-4567 (1851 E. Huntsville Road/Kum and Go): An ordinance approving VAC 13-4567 submitted by CEI Engineering for property located at 1851 East Huntsville Road to vacate water/sewer easement, a total of 7,193 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended in favor of the request and all utility companies have signed off.

Alderman Petty moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

Ordinance 5660 as Recorded in the office of the City Clerk

VAC 13-4587 (1285 E. Millsap Road/Christian Life Cathedral): An ordinance approving VAC 13-4587 submitted by Jorgensen and Associates for property located at 1285 East Millsap Road, to vacate unconstructed right-of-way for Millsap Road, a total of 1.58 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff is recommending approval. Planning Commission recommended in favor of the request 7-0.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Schoppmeyer seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Adams seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Tennant: I strongly encourage us to always look for ways to improve our east-west connectivity. This is something I hear constantly from the people on the east side of Fayetteville.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Gray was absent. Alderman Kinion was absent during the vote.

Ordinance 5661 as Recorded in the office of the City Clerk

City Council Agenda Session Presentations:

Spring Street Municipal Parking Deck discussion – Jeremy Pate

City Council Tour: None

Announcements:

Don Marr, Chief of Staff: There have been a lot of questions due to the weather that relates to trash service pickup. Service was unable to be done on Monday and Tuesday. We started back limited service today. We ask that trash and recycling be put at the curb and as we are able to service roads, we are picking it up. We did some limited services today. We did all commercial service today because our main roads are primarily clear. If we don't get to all the residential households by close of business time on Saturday, we will pick up any extra bag charges for those residents equivalent to the number of bags that could be held by the containers that they have.

We have had questions about city staff cleaning a trail. The answer given was that we had direction from the Council to make sure we clean our primary trails as a means of alternative transportation. The Equipment Committee authorized the purchase of trail cleaning equipment which we utilize. Our head count to working on streets versus our head count on trails is about 15 to 1. We have many more road mileage than we have trail mileage. We have much more staff assigned to our street cleaning than we do our trail cleaning. We do have citizens that utilize our trails for biking and walking to work in commercial centers.

We continue to be on a 24/7, three shifts working on our roads. We have been since this started. Prior to Sunday we did pre-treat about 200 miles of city streets which made a difference.

This is an unusual winter and we want to thank all of the citizens who have made very positive comments to our staff that have been working hard. We want to remind citizens that we always have essential staff working such as police, fire, roads and trail cleaning crews. We utilize all staff available where we have equipment that can be utilized at that time.

Alderman Marsh: I would like to encourage residents to shovel the sidewalks in front of their homes and businesses. This will help keep our community safe for all people who might be walking.

Don Marr: Thank you Alderman Marsh for that announcement. We do have an ordinance that homeowners are responsible for the sidewalks adjacent to their properties.

Adjournment: 6:55 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Added at the City Council Meeting
2-18-14

AGENDA REQUEST

FOR: COUNCIL MEETING OF February 18, 2014

FROM:

CITY COUNCIL MEMBER Alan Long

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND § 92.01 DEFINITIONS, § 92.23 IMPOUNDMENT AND § 92.24 REDEMPTION OF ANIMALS OF THE FAYETTEVILLE CODE TO AUTHORIZE THE ANIMAL SHELTER TO ACCEPT LIVESTOCK AND SET THE REDEMPTION FEE FOR THEIR RELEASE

APPROVED FOR AGENDA:



City Council Member Alan Long

02-18-14
Date



City Attorney Kit Williams
(as to form)

2-11-14
Date

Added on the 1st reading on the 2/18/14 City Council Meeting.

MEMO FEBRUARY 18th, 2014

TO: MAYOR, CITY COUNCIL MEMBERS & CITY CLERK

From: Alderman, Alan T. Long

RE: Amendment to Chapter 92 on animals to coincide with the new Urban Agriculture Ordinance.

After considering the impacts that the Urban Agriculture ordinance would have on the Animal Services Division, I feel that it is necessary to change language in Chapter 92.

I believe that the changes to chapter 92 should be considered at the same time that the Urban Agriculture Ordinance is being considered. This is why I am "walking" this ordinance on to our agenda.

I prefer for our ordinances to be consistent. Passing the Urban Agriculture ordinance without considering the implications that it could have on Animal Services would, in my opinion, be unwise.

Therefore, I have asked our city attorney to draft changes to chapter 92 so that we can maintain consistency in our code of ordinances by considering the Urban Agriculture ordinance in unison with the changes to chapter 92.

I have drafted this memo in accordance with our resolution that requests any alderman or staff member to give an explanation as to why they feel that it is necessary to "walk an item" on to the agenda.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Long", written in dark ink.

Alan T. Long

City of Fayetteville

Alderman, Ward 4, position 2

Williams, Kit

From: Alan Long <longward4@gmail.com>
Sent: Thursday, February 06, 2014 2:24 PM
To: Marr, Don
Cc: Williams, Kit; Nierengarten, Peter; Pate, Jeremy; Fields, Yolanda; Smith, Sondra
Subject: Re: Urban Agriculture and chapter 92 on Animal Services

These are the changes to chapter 92 that I would like to see added:

- **Add Definition of Livestock:** Any sheep, jenny, goat, hog or fowl.
- **Modify Section 92.23A to say:** The Fayetteville Animal Shelter is authorized to accept from the animal control officer or any private citizen, and to impound, any dog, or cat or livestock found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.
- **Add #4 under Section 92.23B: (4) Fees for Livestock.** An owner reclaiming livestock shall pay the cost for such impoundment. Said cost are hereby ascertained to be \$10.00 for the first impoundment and \$50.00 for any subsequent impoundments of that animal within a twelve (12) month period.

Any input would be appreciated.

Thank you,
Alan

On Thu, Feb 6, 2014 at 12:35 PM, Marr, Don <dmarr@fayetteville-ar.gov> wrote:

Kit - Per Alderman Long's request in the email below - Alderman Long is requesting a change to Chapter 92 as it relates to the newly proposed Urban Agriculture Ordinance. Will you please contact him or assign a staff member from the City Attorney's office to do so - so that an agenda item can be developed for him to introduce at agenda session.

Thanks
Don

Sent from my iPhone

On Feb 6, 2014, at 12:26 PM, "Longward4" <longward4@gmail.com> wrote:

After review the proposal and looking at the implications for compliance in animal services, I would like to see the changes to chapter 92 happen at the same time as the Urban Agriculture ordinance. I think that this will prevent challenges from becoming an issue if even one case of compliance is presented.

Can we have changes to chapter drafted to match the Urban Agriculture ordinance?

Thank you for all you do.

Sincerely,

Alan Long
City of Fayetteville, AR
City Council, Alderman- Ward 4



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Peter Nierengarten, Director of Sustainability & Resilience

FROM: Kit Williams, City Attorney



DATE: February 18, 2014

RE: Amendments to Chapter 92 Animals

Alderman Long desires to amend Chapter 92 **Animals** in conjunction with the Urban Agriculture Ordinance now being proposed. I have drafted an enacting ordinance pursuant to his directions.

This proposed ordinance amends § 92.23 **Impoundments** (A) to add "livestock" to the animals that can be impounded. It also amends "private citizen" to "private citizen of Fayetteville" from which animals may be accepted by the shelter to reflect that the Washington County Animal Shelter now handles animals from outside of Fayetteville which we used to accept.

The proposed ordinance further requires impoundment fees for livestock in a revised section (3). The old subsection (3) has been moved to (4) but remains "Boarding Fees." It has been amended to include "fowl" in the cat and dog boarding fee of \$10.00 per day and now includes a \$25.00 fee for "other livestock" which includes all livestock except "fowl".

Finally, I moved the possible fee for a necessary rabies vaccination out of "Boarding Fee," and into its own subsection (5). The rabies vaccination will be given at the Fayetteville Veterinarian's discretion depending upon proof (or lack of proof) of a prior, but not out of date, rabies vaccination.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 92.01 **DEFINITIONS**, § 92.23 **IMPOUNDMENT** AND § 92.24 **REDEMPTION OF ANIMALS** OF THE FAYETTEVILLE CODE TO AUTHORIZE THE ANIMAL SHELTER TO ACCEPT LIVESTOCK AND SET THE REDEMPTION FEE FOR THEIR RELEASE

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends § 92.01 **Definitions** of Chapter 92 Animals to add a definition of livestock as follows:

“Livestock *“Any sheep, jenny, goat, hog or fowl.”*

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends § 92.23 **Impoundment** by repealing (A) in its entirety and enacting a replacement (A) as shown below:

“The Fayetteville Animal Shelter is authorized to accept from the animal control officer or any private citizen of Fayetteville, and to impound, any dog, or cat or livestock found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request have confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.”

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends § 92.24 **Redemption of Animals** by repealing subsection (3) in its entirety and enacting a replacement (3) under (B) Redemption Fees as shown below:

“(3) Fees for Livestock. An owner reclaiming livestock shall pay the cost for such impoundment. Said cost are hereby ascertained to be \$10.00 for the first impoundment and \$50.00 for any subsequent impoundments of that animal within a twelve (12) month period.”

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby enacts a new subsection (4) to § 92.24 **Redemption of Animals** as shown below:

(4) Boarding Fees. In addition to the impoundment and sterilization fees as provided in subsections (B) (1), (2), and (3) of this section, a boarding fee of \$10.00 per day for cats, dogs, and fowl and \$25.00 per day for other livestock shall be charged for each day the animal is sheltered by the City.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby enacts a new subsection (5) to § 92.24 **Redemption of Animals** as shown below:

(5) Rabies vaccination. The City Veterinarian may determine that an animal needs to be vaccinated for rabies and vaccinate such animal. The cost of this vaccination must be paid by the owner as part of the Redemption Fee.

PASSED and **APPROVED** this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Add "Livestock" definition

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

CHAPTER 92 ANIMALS

ARTICLE I
GENERAL PROVISIONS

92.01 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandon. Any person who knowingly deserts an animal on public or private property.

Animal. Any living creature, domestic or wild.

Animal shelter. Any facility operated by a humane society, municipal agency or its authorized agent(s) for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

At large. Not under the physical control of the animal's owner or harbinger, or his authorized representative, either by leash, trolley system, or enclosure. An animal intruding upon or damaging the property of another person or upon public property, trespassing on school grounds, harassing passersby or passing vehicles, or interfering with refuse collection, harassing meter readers and not under the physical control referred to herein shall be deemed "running at large." An animal within an automobile or other vehicle shall not be deemed "running at large" if the animal is physically confined to the vehicle. An animal shall not be considered "at large" when on the premises of the owner or harbinger thereof and accompanied by the owner or harbinger.

Cat. A feline of either sex, including one neutered or sterilized.

City. City of Fayetteville, Arkansas.

Dangerous Animal. Any animal which, when unprovoked, approaches in a manner of attack any person or domestic animal upon the streets, sidewalks, or any other public ground or place.

Dog. A canine of either sex, including one neutered or sterilized.

Eartip. A mark identifying a feral cat as having been sterilized, specifically the removal of a quarter inch off the tip of the cat's left ear in a straight line cut while the cat is anesthetized.

Enclosure. A fence or pen, or structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent

the animal from escaping. Owners confining dogs or cats by means of an enclosure must provide a minimum space of 100 square feet (10x10) per dog or cat four (4) months of age or older.

Feral cat. A cat that is not socialized to humans and is not an owned cat.

Feral cat colony. A group of feral cats that congregate together as a unit and share a common food source.

Harbor. For a period of three days or more, to keep and care for an animal or provide a premises to which the animal returns.

Kennel means a structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility used for commercially boarding more than three dogs or cats or combination thereof at any time shall be considered a 'Kennel'.

Locked Enclosure. A fence or pen, or structure with all gates or entrances locked with a key or combination device. The structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping.

Microchip. An identifying integrated circuit placed under the skin of a dog or cat for purposes of identifying the owner of the animal.

Noisy Animals. Any domestic animal which barks, whines, or howls in an unwarranted, or continuous, or loud, or frequent fashion.

Pet Shop means a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and/or fish to the general public. Pet Shops are only allowed in C-1, C-2, C-3, Downtown Core, Mainstreet Center, Downtown General and by Conditional Use in R-O Districts

Restrained. Any animal secured by leash and under the control of owner or harbinger. At public events of 100 persons or more, leashes shall be a maximum length of 6 feet. The animal must be within 4 feet of the owner or harbinger.

Special Event. A specified or designated public occurrence, affair, or event at which more than three hundred (300) persons are reasonably expected by the organizer or sponsor thereof to be in attendance.

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

showing payment of said fee or receipt of such duplicate tag. No tag shall be transferable from one animal to another. No refunds shall be made on any fee from one animal to another. No refunds shall be made on any fee because of the death of the animal or because the owner leaves the city before the expiration of the license period.

(Ord. No. 3557, 7-16-91; Ord. No. 3588, §2, 1-21-92; Code 1991, §92.21; Ord. 5002, 4-17-07)

Cross reference(s)--Penalty, §92.99.

State law reference(s)--"Rabies Control Act", A.C.A. §20-19-301 et seq; Vaccination dogs & cats required, A.C.A. §20-19-305.

92.22 Running At Large Prohibited

- (A) It shall be unlawful for the owner or person in charge of any horse, mule, colt, sheep, cow, calf, bull, jack, jenny, goat, hog, or swine of any kind to permit or suffer the same to run at large within the corporate limits of the city at any time.
- (B) It shall be unlawful for any person owning or having control of any chickens, turkeys, or other fowl to permit the same to run at large within the city.
- (C) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to run at large within the corporate limits of the city at any time.
- (D) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to be without proper restraint at a public event.
- (E) The term "permit" shall include the failure of the owner or person having charge of said animal to physically restrain the animal. The animal control officer shall be authorized to enter onto private property for the purpose of impounding an animal found running at large.
- (F) Every female dog or cat in heat or estrous shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.22; Ord. 5002, 4-17-07)

Cross reference(s)--Penalty, §92.99.

92.23 Impoundment

- (A) The Fayetteville Animal Shelter is authorized to

accept from the animal control officer or any private citizen, and to impound, any dog or cat found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.

- (B) Whenever any animal in the animal shelter bears a city tag, it shall be the duty of the animal control officer to notify the owner or the person to whom the tag was issued, if such person or owner can be found, that the animal has been taken up and placed in the animal shelter and will be destroyed or placed for adoption within 10 days unless the fee hereinafter prescribed is paid. If the owner or person to whom the tag was issued cannot be found, the animal control officer shall, by registered mail sent to said person's last known address, notify said person that the animal has been impounded at the animal shelter, and will be destroyed or placed for adoption within 10 days if the fee hereinafter prescribed is not paid. For the purpose of this section, the first day of taking up shall be counted as the first day of the impoundment period provided herein.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.23; Ord. 5002, 4-17-07)

92.24 Redemption Of Animals

- (A) After the expiration of ten (10) days impoundment in the case of a microchipped animal, or the expiration of five (5) days impoundment in the case of a non-microchipped animal, said animal shall become the property of the City, and the City shall be empowered to place for adoption or to destroy and dispose of said animal as provided for in §92.23 (B) above. The animal control officer is hereby authorized to place for adoption or to destroy such animal and dispose of the carcass. For the purpose of this section, the day of taking up shall be counted as the first day of the impoundment.

- (B) Redemption Fees

- (1) Fees for Sterilized Animals. An owner reclaiming a sterilized impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$10.00 for the first impoundment if the animal is sterilized and has a microchip currently registered with up-to-date contact information on file with the City Animal Services Division; \$25.00 for the first

FAYETTEVILLE CODE OF ORDINANCES

TITLE IX GENERAL REGULATIONS

impoundment if the animal has no microchip or the animal's microchip is not registered with up-to-date contact information on file with the City Animal Services Division. The animal shall be microchipped at the time of redemption at the owner's expense. \$50.00 for the second impoundment of a sterilized and microchipped animal within a twelve (12) month period. \$100.00 for the third impoundment of a sterilized and microchipped animal within a twelve (12) month period. \$200.00 for the fourth impoundment of a sterilized and microchipped animal within a twelve (12) month period.

- (2) Fees for Unsterilized Animals. An owner reclaiming an unsterilized impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$100.00 for the first impoundment on an unsterilized animal with or without a microchip. The animal shall be microchipped at the time of redemption at the owner's expense. At the time of the first redemption the owner of an unsterilized animal shall be offered spay or neuter services at a reduced cost. If sterilization is performed, the impoundment fee will be reduced to \$10.00 for animals that are already microchipped and \$25.00 for animals that are not microchipped or animals whose microchips are not registered with up-to-date information on file with the City Animal Services Division. \$200.00 for the second impoundment within a twelve (12) month period. At such time the animal will be considered a public nuisance and shall be sterilized at the owner's expense. At such time that a third impoundment occurs, the owner shall be required to pay the fees as set forth for the third impoundment of a sterilized animal.

- (3) Boarding Fees. In addition to the impoundment fees as provided in subsections (B)(1) and (B)(2) of this section, a boarding fee of \$10.00 per day per animal shall be charged for each day such animal is impounded in the animal shelter, together with the cost of having an unvaccinated animal vaccinated for rabies.

- (C) The owner of an impounded animal who refuses to reclaim his animal may be proceeded against for abandonment under the provisions of §92.02.
- (D) No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized, and after the adoption fee has been paid. A voucher will be

issued to the adopter and said voucher may be used at the time the animal is sterilized. An adopter who fails to comply with the sterilization provision of the agreement shall be guilty of a misdemeanor.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.24; Ord. 5002, 4-17-07; Ord. 5466, 12-6-11)

92.25 Confinement When Person Bitten

Any animal suspected of biting a human shall be quarantined in accordance with the provisions of A.C.A. 20-19-301 (The Rabies Control Act).

(Ord. 5002, 4-17-07)

92.26 Vicious Animals Restricted

- (A) Once a citation has been issued by an Animal Services Officer or a complaint has been filed in the district court against the owner or harbinger of an animal for violation of this section, the animal shall be relinquished by the owner or harbinger to the animal services officer and kept at the animal shelter, the animal shall not be released except on order of the court, which order may also direct the owner or harbinger to pay a fine, all impoundment fees, and/or obtain liability insurance in amount to be determined. Upon a finding that such animal is a vicious animal, the court may order the animal to be euthanized in a humane manner. Surrender of an animal by the owner or harbinger thereof to the animal control officer shall not render the owner or harbinger immune from the fines and fees prescribed by this chapter.
- (B) Once a complaint has been filed in the Fayetteville District Court and the alleged vicious animal is impounded at the Animal Shelter, the arraignment shall be held within seven calendar days and the trial of the charges shall be held within two weeks of the arraignment date unless the defendant/owner of the impounded animal requests a continuance and pays a cash deposit into court in an amount equal to the impoundment and board fees through the requested court date.
- (C) It shall be unlawful for a vicious animal to be outside of a dwelling or locked enclosure unless it is necessary for the owner or harbinger thereof to obtain veterinary care for the vicious animal or to comply with commands or directions of an animal control officer with respect to the vicious animal; and, the owner or harbinger of an animal in violation of this section shall be subject to criminal prosecution. In such event, the vicious animal shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, shall be

McCoy, Dee

From: Tracy Hoskins <tkhoskins@paradigmnwa.com>
Sent: Tuesday, February 18, 2014 10:38 AM
To: City_Clerk
Subject: RZN 13-4538

Categories: Completed

Dear City Clerk –

Unfortunately, we STILL don't have our issue worked out and I must again request RZN 13-4538 (Razorback Road/Victory Commons) to be tabled until the next City Council meeting.

Please let me know if there is any problem with tabling the rezoning again.

Thanks!

Tracy K. Hoskins - president

Paradigm
COMPANIES

1907 Best Friend Lane, Fayetteville, Arkansas 72704
(479) 521-7007 office (479) 236-6636 cell



2/12/14

To: the Mayor - himself Jordan
of all the Council Members -

Please, please, please - support -
the funding for the Mt. Kesser
project. - It is everything -

and more and more

Thank you, -
Margaret Salossi - a.k.a -

(Boorij)
(Booji)
(Booly)
(Boogie)
(etc.)

312 E. Maple
Fayetteville, AR 72701

please do it



RECEIVED

FEB 18 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

4736 W Plymouth Rock Pl
Fayetteville, AR 72704

February 10, 2014

Dear City Council Members:

This letter is written to express strong support for the proposed purchase of the property on Kessler Mountain. As a city taxpayer I firmly believe that this is one of the best uses of our funds that can be made, and all the more so in view of the leverage by means of matching funds being made available.

Having that scenic plot of land will be a great asset for our way of life, and all the more so when it becomes integrated into our extensive bike trail system. Improvements such as these were just the kinds of things that contributed to my selection of Fayetteville for my retirement home. This is the kind of development that will undoubtedly be reflected in the appreciation of land values as the years go by.

Sincerely yours,

Frederick L. Paille

RECEIVED

FEB 13 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

To: Mayor Lioneld Jordan and City Council Members

Dr. M Schoppmeyer

Ms. Rhonda Adams

Mr. Alan Long

Mr. Justin Tennant

Mr. Matthew Petty

Mr. Mark Kinion

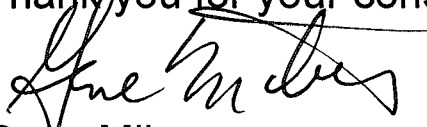
Ms. Sarah Marsh

Ms. Adella Gray

Subject: Purchase of Kessler Mountain parcel

I support the use of necessary reserve funds to purchase the parcel of land on Mt. Kessler as will be proposed at the February 18 City Council Meeting. I have hiked on the trails there and believe that acquisition of this unique property will have long-term benefits to Fayetteville residents and businesses. Please take advantage of this once-in-a-lifetime opportunity to make this area available to everyone forever at a bargain price.

Thank you for your consideration.



Gene Milus

6615 Huntsville Road

Fayetteville

RECEIVED

FEB 13 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Feb. 10, 2014

Fayetteville, AR

Mayor Jordan and the City Council,

We have always admired Fayetteville for its beauty and managed greenspaces. For years we lived in a beautiful spot deep in the country, overlooking the White River valley. However, we wanted to live in Fayetteville for the convenience. We were faced with the difficulty of leaving our beloved natural space. But then we discovered a magical place called Mount Kessler. We could have it all: the glory of nature and the convenience of a charming, progressive city. The Rock City Trail is one of our favorite features of Fayetteville and the addition of more wilderness trails is very exciting to us. We are very hopeful that the city will purchase this land for us all to have a shared piece of paradise.

George and Sherri Adams

George and Sherri Adams

2163 Smokehouse Tr.

Fayetteville, AR 72701

February 16, 2014

RECEIVED

FEB 18 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: Kessler Mountain

Dear Mayor Jordan and City Council members,

I am very much in favor of the City of Fayetteville purchasing land on Kessler Mountain. It is suitable for this unique urban mountain to be conserved for our whole community of people and as a natural habitat for wild life.

As an example of the strength of my favor, over half of my family's Johnson Pear Farm, along Cato Springs Road (from CR 201 to beyond CR 202), on the southeast corner of Kessler Mountain has already been donated to the Ozark Regional Land Trust for such conservation.

With admiration of your abilities to conserve Fayetteville land,

Anne Johnson Pritchard
3150 West Pear Lane
Fayetteville, AR 72701-8873
442-2439

RECEIVED

FEB 18 2014

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

February 13, 2014

Mayor Lloneld Jordan
and City Council.

I urge you to purchase the Mt Kessler Reserve.

Some will object that we shouldn't spend tax money on such a project. A few will hope they will be able to buy say 50 acres for their housing project development. Of course, some set of objections could become the "excuse" for not taking advantage of this opportunity.

But Walton Family Trust's willingness to pay half the cost clearly makes it a good deal for Fayetteville.

This won't do me much good because I have become so old and decrepit that I can't go hiking anymore.

Nevertheless, I believe a large multi-purpose park in southwest Fayetteville, even if it takes several years for full development, would become a wonderful facility for all of us.

This is a once in a generation opportunity to do something very special for Fayetteville.

Sincerely,

A handwritten signature in cursive script that reads "John W. King". The signature is written in dark ink and is positioned above the printed name.

John W. King

590 E Village Drive

Fayetteville, AR 72703

753 N. Wordsworth Ln.
Fayetteville, AR 72704

February 12, 2014

Mayor Jordan
Fayetteville City Hall
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
FEB 19 2014
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Dear Mayor Jordan and Fayetteville Council:

I am a current student at the University of Arkansas and a resident of Fayetteville. I have enjoyed Northwest Arkansas for its beauty and its people. I love adventuring on hikes and bike rides, camping, and moseying in and out of shops around the area. I feel like I have become an expert on Fayetteville and its surroundings over the past four years.

This month though, I was quickly reminded that Fayetteville still has many hidden treasures. I have just heard about Mount Kessler, right in the University's backyard. I quickly checked it out and cannot wait to do more on Mount Kessler in the future.

I am writing to let you know that I am in favor of increasing the acreage and creating the 387-acre Mount Kessler reserve. There is amazing potential Mount Kessler could offer our community – the students, the residents, and the town.

I am studying to be a teacher, and we teach our students to use and to take care of community resources. Mount Kessler is a Fayetteville resource that should be maximized and protected. I am most excited to use Mount Kessler educationally through the use of the outdoor classroom with my future students as well as recreationally enjoying the fresh air.

Thank you for your time and your assistance in this very important project for this city I have grown to love.

Sincerely,



Anna Bono
Fayetteville Resident

RECEIVED

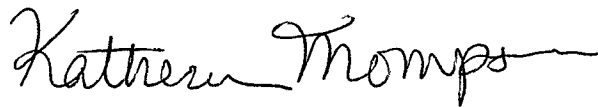
FEB 19 2014

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

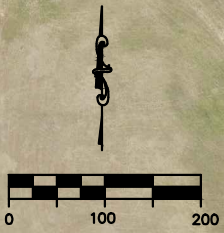
To whom it may concern:

I am a resident of Fayetteville and a student at the University of Arkansas. I personally enjoy all that Mount Kessler offers, and it is my understanding that they are hoping to expand the acreage to create a reserve. I would like to state that I am in favor of creating a reserve for Mount Kessler. I think voting in favor of the enlargement will create many opportunities that will benefit all the visitors as well as residents in that area.

Thank you for your consideration,

A handwritten signature in black ink that reads "Katherine Thompson". The signature is written in a cursive style with a long horizontal flourish at the end.

Katherine Thompson



SURVEYED BY:	DVD/JAP
DRAWN BY:	JTS
DESIGNED BY:	-
FILE NAME:	Revised Happy Hollow.dwg

**HAPPY HOLLOW RD AND HUNTSVILLE RD
INTERSECTION - OPTION 2**

TITLE:
REVISED

ENGINEERING DIVISION
113 W. MOUNTAIN STREET
PHONE NO: (479) 575-5200 FAX NO: (479) 575-5202



DATE:
February 18, 2014
SHEET:
1
PROJECT:
HAPPY HOLLOW RD

February 11, 2014

To Fayetteville Mayor and Councilmen/Councilwomen:

Mayor Lioneld Jordan, Adella Gray, Mark Kinion, Sarah Marsh, Matthew Petty, Justin Tennant, Martin W. Schoppmeyer Jr., Rhonda Adams, Alan Long

I wish to urge you all to vote "yes" on the funding for purchasing and preserving Kessler Mountain/Reserve. I have hiked the trails with friends several times at different seasons of the year, and it is absolutely beautiful whenever I go. The trees, the birds, the small animals, wildflowers, mushrooms, mosses on this land deserve to be saved for the future. It really is a treasure to have such a wonderful piece of property so natural and so close to the city. The awareness and foresight of the people who have rallied for buying this piece of property is truly commendable.

The acreage is not only beautiful, but is and will be educational for people of all ages, and can actually create happiness in anyone who ventures to walk a trail or two ("The Nature Principle" by Richard Louv, 2011). Kessler will definitely add to our great quality of life here in Fayetteville.

Thank you so much for reading my note.

Carol Daggett
Horticulturist
Fayetteville area resident since 1972

PO Box 3651, Fay AR 72702
carold1226@sbcglobal.net
479-521-1706

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 18, 2014**

A meeting of the Fayetteville City Council will be held on February 18, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 04, 2014 City Council meeting minutes.
2. **McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and to approve a budget adjustment of \$36,050.00.

3. **Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.
4. **Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.
5. **Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.
6. **Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.
7. **2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.
8. **Rotochopper Go – Bagger:** A resolution approving a budget adjustment in the amount of \$18,500.00 to recognize revenue received from the auction and sale of Unit 479 - 2005 Rotochopper Go-Bagger 250.
9. **Karcher North America, Inc.:** A resolution to approve and certify the participation of Karcher North America, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Karcher North America, Inc.

B. Unfinished Business:

1. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. ***This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting. This ordinance was left on the First Reading at the January 21, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.***

Left on the First Reading.

2. **RZN 13-4538 (Razorback Road/Victory Commons):** An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. *This ordinance was left on the First Reading at the December 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the January 7, 2014 City Council meeting and Tabled to the February 4, 2014 City Council meeting. This ordinance was left on the Second Reading at the February 5, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.*

Left on the Second Reading.

C. New Business:

1. **ADM 13-4331 Amend Chapters 151, 162, 163 and 164:** An ordinance to amend §164.10 Garage and/or Agricultural and Produce Sales; §161.10 (X) Unit 24 Home Occupation; §163.08 Home Occupations and §164.04 Urban Agriculture (fowl, bees, and goats) of the Unified Development Code.
2. **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.
3. **Mt. Kessler Acquisition:** A resolution to authorize Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation in the amount of \$1,500,000.00, to use this grant and \$1,600,000.00 out of reserves to purchase about 328 acres of Mt. Kessler from Chambers Bank and to build a trailhead, to approve a land swap with Chambers Bank, to support a parkland dedication of about 48 acres for future parkland credit and to approve the attached budget adjustment.
4. **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.
5. **Reappropriating Bonded, On-Going Capital Projects and Containing Obligations:** A resolution to amend the 2014 adopted budget by reappropriating \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.
6. **RZN 13-4536 (4310 Martin Luther King Blvd./Edwards):** An ordinance rezoning that property described in rezoning petition RZN 13-4536, for approximately 0.74 acres located on the north side of west Martin Luther King Boulevard near the border of Farmington from R-A, Residential Agricultural to CS, Community Services.
7. **ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development):** An ordinance to amend Chapter 161 of the Unified Development Code to authorize Cottage Housing Development (UU-44) into zoning districts in which it was originally approved by Ordinance No. 5462.

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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

City of Fayetteville Item Review Form

2014-0029

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Ray M Boudreaux

Submitted By

Transportation Services

Department

Action Required:

A Resolution to approve Task Order 10 to McClelland Consulting Engineers Inc., for project design and bidding services associated with the Terminal Apron Rehabilitation Project.

Does this item have a cost? ☒ Yes

\$36,050.00

Cost of this request

\$0.00

Category or Project Budget

Terminal Apron Rehabilitation

Program or Project Name

5550.3960.5314.00

Account Number

\$0.00

Funds Used to Date

Airport Capital

Program or Project Category

14013.1

Project Number

-\$36,050.00

Remaining Balance

Airport

Fund Name

Budgeted Item? ☐ No

Budget Adjustment Attached? ☒ Yes

V20130812

Previous Ordinance or Resolution # 101-09,62-12,21-13

Original Contract Number:

Comments:

02-05-14 A10:01 USK

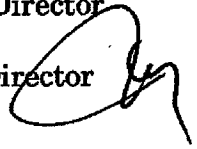


BP
Paul a. Beck
Don Man
Frank Jordan

City Council Meeting of: February 18, 2014
Agenda Item Number:



CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan
THRU: Chief of Staff
THRU: Staff/Contract Review Committee
THRU: Terry Gulley, Transportation Director
FROM: Ray M. Boudreaux, Aviation Director 
DATE: February 4, 2014

SUBJECT: Approval of Task Order No. 10 with McClelland Consulting Engineers for design of the Terminal Apron Rehabilitation Project. Signature of the Mayor.

RECOMMENDATION: Approval of Task Order N. 10 with McClelland Consulting Engineers for the design of the Terminal Apron Rehabilitation Project. Signature of the Mayor.

BACKGROUND: The FAA has recommended that we request a Design Only AIP project to design the Terminal Apron Rehabilitation. It is anticipated that the project will be funded 90 % by the FAA and 10% by the State of Arkansas Department of Aeronautics. This Design Only Grant will take the project through receipt of bids for the project construction. The construction project will be funded on the bids received when the FAA notifies us that the funds are available for the construction. We have two years of entitlement funds stored for this project which amounts to approximately \$350,503. Project construction will utilize the amount currently available plus the FY2015 entitlement (\$150,000) which will fully fund the total Apron Rehab at approximately \$450,000.

BUDGET IMPACT: Total project cost is \$36,050.00 for design and bidding services. Total is anticipated to be fully funded by FAA 90% and Arkansas Aeronautics 10%. We will not issue a notice to proceed with the design until funds are awarded for the project.

Attachments: Staff Review
Task Order #10

RESOLUTION NO. _____

A RESOLUTION TO APPROVE TASK ORDER NO. 10 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$36,050.00 FOR PROJECT DESIGN AND BIDDING SERVICES ASSOCIATED WITH THE TERMINAL APRON REHABILITATION PROJECT AND TO APPROVE A BUDGET ADJUSTMENT OF \$36,050.00

WHEREAS, the cost of the project design and bidding services associated with the Terminal Apron Rehabilitation Project, in the amount of \$36,050.00, is anticipated to be fully reimbursed through grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics;

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 Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and authorizes Mayor Jordan to sign Task Order No. 10.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$36,050.00, a copy of which is attached as Exhibit "A."

PASSED and APPROVED this 18th day of February 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

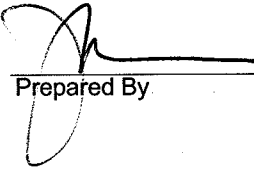
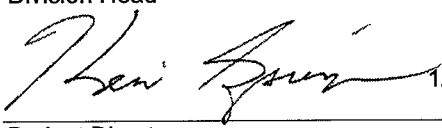
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 2
McClelland Consulting Engineers, Inc.
V13.1030
Task Order No. 10
Legistar Page 4 of 10

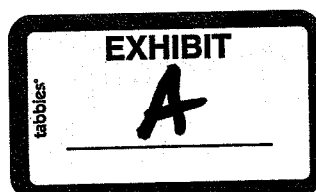
Budget Year BY 2014	Division: Aviation Department: Transportation Services	Request Date 2/4/2014	Adjustment Number
-------------------------------	---	---------------------------------	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

To provide for initial development costs, project design through bidding, for the Terminal Apron Rehabilitation project. These initial cost are reimbursable by FAA and Ar State Aeronautics grants. It is anticipated that the project will receive a 90% funding grant from the FAA and 10% matching grant from the Arkansas Department of Aeronautics. Project Bids are required prior to submitting grant funding applications to the agencies.

 Prepared By Division Head  CITYkspringer 1/21/2014 11:29 AM Budget Director	Legistar# / Date: 2014-0029 / 2/4/2014
	Legistar Title: Terminal_Apron_Rehabilitation
	Budget & Information Management Use Only
	Type: A B C D E P
	General Ledger Date: _____
Posted to General Ledger	Initial: _____ Date: _____
Checked / Verified	Initial: _____ Date: _____

TOTAL BUDGET ADJUSTMENT		36,050	36,050		
		Increase / (Decrease)		Project.Sub	
Account Name	Account Number	Expense	Revenue	Number	
Professional services	5550.3960.5314.00	36,050		14013	1
Use of fund balance	5550.0955.4999.99		36,050	.	
				.	
				.	



January 14, 2014

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

Re: Task Order No 10
Terminal Apron Rehabilitation
Fayetteville Executive Airport

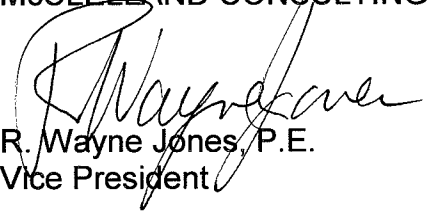
Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No 10 for the Terminal apron Rehabilitation Project at the Fayetteville Executive Airport.

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

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 10 (3 copies)



AVIATION DIVISION
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan

THRU: Chief of Staff

THRU: Staff/Contract Review Committee

THRU: Terry Gulley, Transportation Director

FROM: Ray M. Boudreaux, Aviation Director 

DATE: January 15, 2014

SUBJECT: Approval of Task Order No. 10 with McClelland Consulting Engineers for design of the Terminal Apron Rehabilitation Project. Signature of the Mayor.

RECOMMENDATION: Approval of Task Order N. 10 with McClelland Consulting Engineers for the design of the Terminal Apron Rehabilitation Project. Signature of the Mayor.

BACKGROUND: The FAA has recommended that we request a Design Only AIP project to design the Terminal Apron Rehabilitation. The project will be funded 90 % by the FAA and 10% by the State of Arkansas Department of Aeronautics. The construction project will be funded on the bids received for the project. Bids will be solicited when the FAA notifies us that the funds are available for the construction. We have two years of entitlement funds stored for this project which amounts to approximately \$350,503. Project construction will utilize the amount currently available plus the FY2015 entitlement (\$150,000) which will fully fund the total Apron Rehab at approximately \$450,000.

BUDGET IMPACT: Total project cost is \$36,050.00 for design and bidding services. Total is fully funded by FAA 90% and Arkansas Aeronautics 10%.

Attachments: Staff Review
Task Order #10

**TASK ORDER NO. 10
DESIGN & BIDDING SERVICES
For
TERMINAL APRON REHABILITATION IMPROVEMENTS**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on May 5, 2009, as amended. The referenced basic agreement pertains to proposed improvements to Fayetteville Executive Airport, Drake Field. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees for construction phase services related to the Terminal Apron Rehabilitation Improvements, Fayetteville Executive Airport, Drake Field.

SECTION I - PROJECT DESCRIPTION

The project is to consist of the rehabilitation of the Terminal Apron Concrete Pavement. The anticipated repairs to the aprons 20,100 square yards of 11" concrete and 7010 square yards of 6" concrete include total slab section replacements, concrete surface repairs, resealing of some joints, a new protective coating, and restriping. The services to be performed include: Topographic Survey; Preliminary Design; Detailed Design; Bidding Services; Cost Estimates; and review fees for State and/or Federal Agencies.

SECTION II - PROJECT SCHEDULE

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

<u>Task</u>	<u>Completion After NTP</u>
A. Apron Topographic Survey	20 calendar days
B. Preliminary Design Services:	45 calendar days
C. Final Design Services & Cost Estimates:	90 calendar days
D. Bid Phase Services: (After FAA Approval)	40 calendar days

SECTION III - SCOPE OF SERVICES

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

- A. Perform Topographic Survey of the Concrete Apron at the Terminal Building.
- B. Performing preliminary engineering design services, and meeting with the City to discuss the project.
- C. Performing the detailed design of the Improvements, formulating final construction cost estimates, and meeting with the City to discuss the project.
- D. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

SECTION IV - FEES AND PAYMENTS

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

A. Apron Topographic Survey	Estimated to be	\$5,500
B. Preliminary Engineering Design:	a lump sum of	\$ 14,750.
C. Detailed Plans & Specs:	a lump sum of	\$ 12,800.
D. Bidding Service:	Estimated to be	\$2,500.

E. Reimbursement Expenses:

Estimated to be \$ 500.

Total Not to Exceed \$36,050.

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

SECTION V - BASIC AGREEMENT IN EFFECT:

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

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

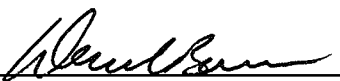
FOR THE CITY OF FAYETTEVILLE:

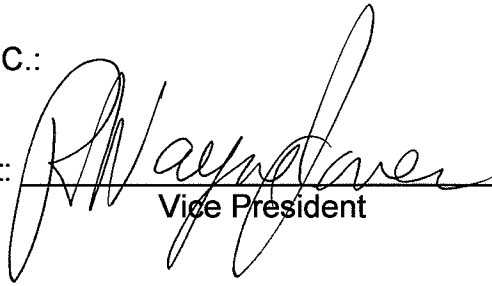
By: _____
Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: _____
President

Attest: _____
Vice President

Date: 1/14/14

APPENDIX A
TASK ORDER NO. 10
Hourly Rates for Personnel
Fayetteville Executive Airport

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE RANGE</u>
Principal Engineer	\$127 to \$175
Sr. Project Manager	\$127 to \$135
Project Manager	\$115 to \$135
Sr. Project Engineer	\$110 to \$130
Project Engineer	\$82 to \$128
Geotechnical Engineer	\$85 to \$110
Landscape Architect	\$60 to \$109
Environmental Scientist/Designer	\$93 to \$105
Senior Engineering Technician/Observer	\$85 to \$95
Engineering Technician/Observer	\$55 to \$85
Engineering Technician	\$45 to \$70
Registered Land Surveyor	\$100 to \$110
Survey Technician	\$75 to \$95
Survey (2 man/Robotic) Crew	\$107 to \$143
Survey (3 man) Crew	\$135 to \$175
Survey (1 man)	\$75 to \$80
Chief Draftsman	\$68 to \$97
Draftsman	\$50 to \$70
Soils Lab Supervisor	\$60 to \$127
Soils Technician II	\$45 to \$55
Soils Technician I	\$42 to \$45
Clerical Support	\$45 to \$65
Specification Writer	\$48 to \$62
Mileage	0.565/mi
Expenses	@ Cost

City of Fayetteville Item Review Form

2014-0051

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Chris Brown

Submitted By

Development Services

Department

Action Required:

A Resolution approving an Agreement with Garver, LLC for professional services for the design of Ruppel Road from Starry Night View to Mount Comfort Road in the amount of \$352,879.00 and approve a Budget Adjustment.

Does this item have a cost? ☒ Yes

\$352,879.00

Cost of this request

4520.9555.5314.00

Account Number

06035.3100

Project Number

Category or Project Budget

Funds Used to Date

-\$352,879.00

Remaining Balance

Transportation Bonds

Program or Project Name

Sales Tax Construction Bonds

Program or Project Category

Street Sales Tax 2013

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☒ Yes

V20130812

01-29-14 P03:50 RCVD

Previous Ordinance or Resolution #

Original Contract Number:

Comments:



[Signature]
Paul a. Beech
dms Man 2-1-14
Ronell J. [Signature]



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

Council Meeting of February 18, 2014

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: January 29, 2014

Subject: **A Resolution approving an Agreement with Garver, LLC for professional services for the design of Ruppel Road from Starry Night View to Mount Comfort Road in the amount of \$352,879.00 and approve a Budget Adjustment.**

BACKGROUND:

Federal Aid - Surface Transportation Program-Attributable (STP-A) funds are now available to Northwest Arkansas after the Census Bureau determined the urbanized population to be over 200,000 and the FHWA designated Northwest Arkansas as a Transportation Management Area (TMA). In becoming a TMA, the Northwest Arkansas Regional Planning Commission, of which Fayetteville is a member, will have STP-A discretionary funding available at approximately \$7M per year. Under current legislation, these STP-A funds can be utilized for all permitted transportation projects at the discretion of the TMA Policy Committee. Northwest Arkansas has been officially designated a TMA and approximately \$6.5M are available to the area for 2013.

An application for federal funding for Ruppel Road between Wedington Drive & Mount Comfort Road was submitted to and approved by the Northwest Arkansas Regional Planning Commission. However, the subject project should be considered Phase I of the overall project limits. The total project (Phase I) estimate is \$3,700,000. The design phase is estimated at \$400,000 which was submitted for FY 2013 funding. On January 23, the NWARPC approved funding of the design phase for \$320,000 (80%) from the Surface Transportation Program-Attributable (STP-A), but the City must provide a 20% match of \$80,000. The remainder of the project funding will be submitted for future year's available STP-A funding.

PROPOSAL:

Garver has provided a proposed scope and fee in the amount of \$352,879.00. This contract will be paid based on hourly rates for work completed, up to the total contract amount for professional engineering services for the reconstruction & relocation of Ruppel Road from Starry Night View to Mount Comfort Road, including a bridge over Hamestring Creek. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).

The consultant will provide environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway & bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary. All work and contract requirements shall conform to requirements of the Federal Highway Administration (FHWA), AHTD and the City.

This design agreement has allotted 16 (sixteen) months for completion, however, this time frame may be extended depending upon the review workload of the Arkansas State Highway and Transportation Department (AHTD). The consultant will prepare and submit final plans and specifications to the City and will assist the City in throughout the bidding process.

Once the construction contract is awarded, the City will have the opportunity to amend this agreement with Garver to add construction administration services, if needed, depending upon City staff availability. If this option is chosen, a supplemental agreement would be prepared and brought before City Council for approval.

RECOMMENDATION:

Staff recommends City Council approval of the agreement with Garver, LLC for providing the professional design services for the reconstruction and relocation of Ruppel Road from Starry Night View to Mount Comfort Road and authorization for the Mayor to execute said agreement. The executed agreements will then be sent back to AHTD for approval by FHWA and obligation of federal funds.

BUDGET IMPACT:

This project is based on an Agreement Of Understanding with AHTD in which Federal Aid money will pay 80% of the contract amount and the City will pay 20%. The Federal portion will be paid from the Surface Transportation Program-Attributable (STP-A) funds. City funds will be from the Transportation Bond Program or the CIP Fund. The cost of these services will not exceed \$352,879.00, with the City's share being 20% or \$70,575.80.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH GARVER ENGINEERS, LLC IN AN AMOUNT NOT TO EXCEED \$352,879.00 FOR THE DESIGN OF RUPPLE ROAD FROM STARRY NIGHT VIEW TO MOUNT COMFORT ROAD, AND TO APPROVE A BUDGET ADJUSTMENT OF \$352,879.00

WHEREAS, the City of Fayetteville understands that federal aid Surface Transportation Program-Attributable (STP-A) funds are available for certain city projects at a Federal participating ratio of 80% and City participating ratio of 20%; and

WHEREAS, the Northwest Arkansas Regional Planning Commission has approved the funding of professional design services in an amount not to exceed \$320,000.00, which requires the City to provide matching funds in an amount of up to \$80,000.00;

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 a Contract, a copy of which is attached as Exhibit "A", with Garver, LLC, in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road.

Section 2: That the City Council of the City of Fayetteville, Arkansas approves a budget adjustment, attached hereto as Exhibit "B," in the amount of \$352,879.00.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

AGREEMENT
FOR
ENGINEERING SERVICES
(LOCAL VERSION – COST PLUS FEE)

JOB NO. 040657
FEDERAL AID PROJECT ("FAP") NO. STPU-9142(36)
W. Starry Night View - W. Mount Comfort Rd.(N. Ruppel Road)(Fayetteville)(S)

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between the City of Fayetteville, in Washington County, Arkansas ("Owner"), and Garver, LLC, ("Consultant"), a corporation existing under the laws of the State of Arkansas, with principal offices at 2049 E. Joyce Boulevard, Fayetteville, Arkansas.

WITNESSETH:

WHEREAS, the City of Fayetteville is planning to reconstruct and relocate Ruppel Road from Starry Night View to Mount Comfort Road including a bridge over Hamestring Creek; and,

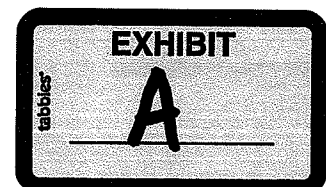
WHEREAS, the City of Fayetteville's forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and,

WHEREAS, Garver's staff is adequate and well qualified, and it has been determined that its current workload will permit completion of the project on schedule.

NOW THEREFORE, it is considered to be in the best public interest for the City of Fayetteville to obtain the assistance of Garver in connection with engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

1. PRELIMINARY MATTERS

- 1.1. "Consultant's Representative" shall be Ron Petrie, PE, until written notice is provided to the Owner designating a new representative.
- 1.2. "Contract Ceiling Price." The Contract Ceiling Price for this Agreement is **\$352,879**. The Contract Ceiling Price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement. In no event, unless modified in writing, shall total payments by the Owner under this Agreement exceed the Contract Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost, exceeding the Contract Ceiling Price.
- 1.3. "Contract Price" is aggregate amount of allowable costs and fees to be paid by the Owner under this Agreement.
- 1.4. "Default" means the failure of the Consultant to perform any of the provisions of this Agreement. *Default includes, but is not limited to, failure to complete phases of the work according to schedule or failure to make progress in the work so as to endanger timely performance of this Agreement, failure to pay subcontractors in a timely manner, failure to comply with federal and state laws, and failure to comply with certifications made in or pursuant to this Agreement.*



- 1.5. "Department" or "AHTD" means the Arkansas State Highway and Transportation Department.
- 1.6. "DOT" means the United States Department of Transportation.
- 1.7. "FAR" means the Federal Acquisition Regulations, codified in 48 C.F.R.
- 1.8. "Fee" whether fixed or otherwise is a dollar amount that includes the Consultant's profit on the job.
- 1.9. "FHWA" means the Federal Highway Administration.
- 1.10. "Indirect Cost Rate." The Indirect Cost Rate is defined in the provisions of 48 C.F.R. Part 31, and is also subject to any limitations contained herein. The Indirect Cost Rate for the Consultant under this Agreement shall be 187.57 percent. If applicable, the Indirect Cost Rate for each subcontractor shall be listed in Appendix B.
- 1.11. "Title I Services" are those services provided by the Consultant before the award of the contract for the construction of the Project, consisting primarily of engineering services for the planning or design of the Project.
- 1.12. "Title I Services Ceiling Price." The Title I Services Ceiling Price for this Agreement is **\$352,879**. The Title I Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title I Services. In no event, unless modified in writing, shall total payments by the Owner related to Title I Services exceed the Title I Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title I Services exceeding the Title I Services Ceiling Price.
- 1.13. "Title II Multiplier" (if applicable) is the mark-up by which the fee and indirect costs associated with Title II services are calculated. The Title II Multiplier, which accounts for the fee and indirect costs, is multiplied by the salary rate, as shown on the Schedule of Salary Ranges, of the particular individual(s) performing the Title II services. The Title II Multiplier for the term of this Agreement is 3.22.
- 1.14. "Title II Services" are those services provided by the Consultant after the award of the contract for the construction of the Project, consisting primarily of engineering services during the construction of the Project.
- 1.15. "Title II Services Ceiling Price". The Title II Services Ceiling Price for this Agreement will be added by amendment at a later date. The Title II Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title II Services. In no event, unless modified in writing, shall total payments by the Owner related to Title II Services exceed the Title II Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title II Services exceeding the Title II Services Ceiling Price.

2. TYPE OF AGREEMENT

- 2.1. This Agreement is a cost-plus-fixed-fee contract. The Consultant is being hired to perform professional engineering services in connection with the Project as set forth herein. In consideration for Title I services performed, the Owner will reimburse the Consultant for allowable direct and indirect costs, as defined herein, and pay the Consultant a fixed fee. If Title II services are to be performed, the Owner will reimburse the Consultant for allowable direct costs and also pay the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II services, as shown on the Schedule of Salary Ranges, by the Title II Multiplier.
- 2.2. The Project to be performed under this Agreement is a federally-assisted project and federal funds will be used, in part, to pay the Consultant. Therefore, notwithstanding any provision of this Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, and the Consultant shall certify the accuracy of all invoices and requests for payment, along with supporting documentation and any information provided in determining the Indirect Cost Rates.

3. COSTS, FEES, AND PAYMENT

3.1. Allowable costs.

3.1.1. Allowable costs are subject to the limitations, regulations, and cost principles and procedures in 48 C.F.R. Part 31, which are expressly incorporated into this Agreement by reference. For the purpose of reimbursing allowable costs (except as provided in subparagraph 2 below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term *costs* includes only—

3.1.1..1. Those recorded costs that, at the time of the request for reimbursement, the Consultant has paid by cash, check, or other form of actual payment for items or services purchased directly for the Agreement;

3.1.1..2. When the Consultant is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

- Materials issued from the Consultant's inventory and placed in the production process for use in its performance under this Agreement;
- Direct labor;
- Direct travel;
- Other direct in-house costs; and
- Properly allocable and allowable indirect costs, as shown in the records maintained by the Consultant for purposes of obtaining reimbursement under government contracts; and
- The amount of progress payments that have been paid to the Consultant's subcontractors under similar cost standards.

3.1.2. Consultant's contributions to any pension or other post-retirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided*, that the Consultant pays the contribution to the fund within 30 days after the close of the

period covered. Payments made 30 days or more after the close of a period shall not be included until the Consultant actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Consultant actually makes the payment.

3.1.3. Notwithstanding the audit and adjustment of invoices or vouchers, allowable indirect costs under this Agreement shall be obtained by applying Indirect Cost Rates established in accordance with Subsection 3.3 below.

3.1.4. Any statements in specifications or other documents incorporated in this Agreement by reference designating performance of services or furnishing of materials at the Consultant's expense or at no cost to the Owner shall be disregarded for purposes of cost-reimbursement.

3.2. *Salaries.* The following schedule covers the classification of personnel and the salary ranges for all personnel anticipated to be assigned to this project by the Consultant:

3.2.1. SCHEDULE OF SALARY RANGES

Description	Billing Class	Min. Hourly	Max. Hourly
Construction Observer	C-1	\$16.00	\$35.00
Construction Observer II	C-2	\$24.00	\$47.00
Sr. Construction Observer	C-3	\$32.00	\$59.00
Designer	D-1	\$18.00	\$36.00
Sr. Designer	D-2	\$26.00	\$48.00
Design Engineer	E-1	\$20.00	\$39.00
Sr. Design Engineer	E-2	\$25.00	\$44.00
Project Eng. / Resident Eng.	E-3	\$30.00	\$53.00
Sr. Proj. Eng. / Sr. Rsdnt. Eng.	E-4	\$38.00	\$60.00
Proj. Mngr. / Sr. Proj. Mngr.	E-5	\$40.00	\$74.00
Sr. Proj. Mngr.	E-6	\$45.00	\$110.00
Environmental Scientist or Specialist	P-1	\$18.00	\$36.00
Environmental Project Manager	P-2	\$36.00	\$53.00
Rodman	S-1	\$10.00	\$20.00
Instrument Man	S-2	\$12.00	\$25.00
Party Chief	S-3	\$15.00	\$30.00
Project Surveyor	S-4	\$22.00	\$44.00
Sr. Project Surveyor	S-5	\$30.00	\$55.00
Technician or Intern	T-1	\$9.00	\$32.00
Sr. Technician	T-2	\$20.00	\$41.00
Administrative Assistant	X-1	\$9.00	\$30.00
Sr. Administrative Asst.	X-2	\$15.00	\$39.00
Executive Assistant	X-3	\$20.00	\$55.00

3.2.2. The Owner shall reimburse the Consultant for overtime costs only when the overtime has been authorized in writing by the Owner. When authorized, overtime shall be reimbursed at the rate of time and one-half for all nonexempt employees. Notwithstanding this provision, the Consultant must comply with all federal and state wage and hour laws and regulations, regardless whether the overtime is considered reimbursable under this Agreement.

3.3. *Indirect Cost Rates.*

- 3.3.1. Allowable indirect costs incurred by the Consultant shall also be reimbursed by the Owner at the Indirect Cost Rate. The Indirect Cost Rate of the Consultant for this Agreement shall be the rate as set forth in subsection 1.10. If applicable, the Indirect Cost Rate for subcontractors shall be determined in the same manner and subject to the same limitations as the Consultant, and shall be listed for each subcontractor identified in Appendix B. The Indirect Cost Rate, or any adjustment thereto, shall not change any monetary ceiling, contract obligation, or specific cost allowance, or disallowance provided for in this Agreement except as provided for in sections 3.3.4. and 3.3.5. The Indirect Cost Rate must reflect the allowable indirect costs pursuant to 48 C.F.R. Part 31 ("FAR").
- 3.3.2. In establishing the Indirect Cost Rate or proposing any adjustment thereto, the Consultant shall, upon request, submit to the Owner, FHWA, or their representatives an audited indirect cost rate and supporting cost data in accordance with the requirements set forth in the current *Arkansas Highway & Transportation Department Indirect Cost Rate Audit Requirements*.
- 3.3.3. During the term of this Agreement, if an audit of a subsequent accounting period of the Consultant demonstrates that the Consultant has incurred allowable indirect costs at a different rate than the Indirect Cost Rate, the Indirect Cost Rate shall be adjusted. Any adjustment is subject to the audit and documentation requirements of the FAR and the current *Arkansas Highway & Transportation Department Indirect Cost Rate Audit Requirements*. Except in the case of a provisional Indirect Cost Rate, as provided in the following subparagraphs, or the disallowance of cost following a subsequent audit, any adjustment to the Indirect Cost Rate shall be effective only prospectively from the date that the adjustment is accepted.
- 3.3.4. In order to expedite some projects, when an audited indirect cost rate has not yet been submitted and approved, the Owner may extend a temporary waiver and accept a provisional indirect cost rate. This provisional rate must be reviewed by, and receive a positive recommendation from the Arkansas Highway and Transportation Department's Chief Auditor. The provisional cost proposal must be accompanied by written assurance from an independent CPA that he/she has been engaged to audit the costs in accordance with the above requirements. The anticipated audit must be based on costs incurred in the most recently completed fiscal year for which the cost data is available, with the audit scheduled to begin within a reasonable time frame. If the date of the initial cost proposal is within the last quarter of the current fiscal year, the audit may be delayed until the current fiscal year is closed and the final cost data is available. The written assurance from the CPA that he or she has been engaged to perform the audit at an appropriate time is still required.
- 3.3.5. Once an audited indirect cost rate is approved, the ceiling prices provided for in the initial agreement using the provisional indirect cost rate will be adjusted with a supplemental agreement to implement the resulting increase or decrease from revising the indirect cost rate, and all amounts paid the consultant prior to receipt and acceptance of an audited indirect cost rate will be retroactively adjusted for changes in the indirect cost rate. However, no changes in hours, fixed fees, or other costs will be allowed as a result of applying the audited indirect cost rate.
- 3.4. **Fees.** The justification for the fees and costs is contained in Appendix A. In addition to reimbursement of the allowable costs as set forth above, the Owner shall pay to the Consultant a fixed fee of **\$34,271** for Title I Services. For Title II Services, if applicable, the Owner shall reimburse the Consultant for allowable direct costs and also pay to the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II Services, as shown on the Schedule of Salary Ranges, by the

Title II Multiplier. The Title II Multiplier shall account for all fees and indirect costs associated with Title II services.

3.5. *Invoices, Reimbursement, and Partial Payments.* Submission of invoices and payment of the fees shall be made as follows, unless modified by the written agreement of both parties:

3.5.1. Not more often than once per month, the Consultant shall submit to the Owner, in such form and detail as the Owner may require, an invoice or voucher supported by a statement of the claimed allowable costs for performing this Agreement, and estimates of the amount and value of the work accomplished under this Agreement. The invoices for costs and estimates for fees shall be supported by any data requested by the Owner.

3.5.2. In making estimates for fee purposes, such estimates shall include only the amount and value of the work accomplished and performed by the Consultant under this Agreement which meets the standards of quality established under this Agreement. The Consultant shall submit with the estimates any supporting data required by the Owner. At a minimum, the supporting data shall include a progress report in the form and number required by the Owner.

3.5.3. Upon approval of the estimate by the Owner, payment upon properly executed vouchers shall be made to the Consultant, as soon as practicable, of 100 percent of the allowed costs, and of 90 percent of the approved amount of the estimated fee, less all previous payments. Notwithstanding any other provision of this Agreement, only costs and fees determined to be allowable by the Owner in accordance with subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect on the date of this Agreement and under the terms of this Agreement shall be reimbursed or paid.

3.5.4. Before final payment under the Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the Owner a release of all claims which are known or reasonably could have been known to exist against the Owner arising under or by virtue of this Agreement, other than any claims that are specifically excepted by the Consultant from the operation of the release in amounts stated in the release.

3.6. *Title I Services, Title II Services, and Contract Ceiling Prices.* The parties agree that aggregate payments under this Agreement, including all costs and fees, shall not exceed the Contract Ceiling Price. The parties further agree that aggregate payments for Title I services under this Agreement, including all costs and fees, shall not exceed the Title I Services Ceiling Price; and that aggregate payments for Title II services under this Agreement, including all costs and fees, shall not exceed the Title II Services Ceiling Price. No adjustment of the Indirect Cost Rate or the Title II Multiplier, claim, or dispute shall affect the limits imposed by these ceiling prices. No payment of costs or fees shall be made above these ceiling prices unless the Agreement is modified in writing.

3.7. *Final payment.*

3.7.1. The Consultant shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than forty-five (45) days (or longer, as the Owner may approve in writing) after the completion date. Upon approval of the completion invoice or voucher, and upon the Consultant's compliance with all terms of this Agreement, the Owner shall promptly pay any balance of allowable costs and any retainage owed to the Consultant. After the release of said retainage Consultant agrees that it will continue to provide consultation services to the Owner as needed through supplemental agreement(s)

with respect to the contracted services under this Agreement until all work is completed under both Title I and Title II.

3.7.2. The Consultant shall pay to the Owner any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Consultant or any assignee under this Agreement, to the extent that those amounts are properly allocable to costs for which the Consultant has been reimbursed by the Owner. Reasonable expenses incurred by the Consultant for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Owner. Before final payment under this Agreement, the Consultant and each assignee whose assignment is in effect at the time of final payment shall execute and deliver—

- An assignment to the Owner, in form and substance satisfactory to the Owner, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Consultant has been reimbursed by the Owner under this Agreement; and,
- A release discharging the Owner, its officers, agents, and employees from all liabilities, obligations, and claims which were known or could reasonably have been known to exist arising out of or under this Agreement.

3.8. *Owner's Right to Withhold Payment.* The Owner may withhold payment to such extent as it deems necessary as a result of: (1) third party claims arising out of the services of the Consultant and made against the Owner; (2) evidence of fraud, over-billing, or overpayment; (3) inclusion of non-allowable costs; (4) failure to make prompt payments to subcontractors in the time provided by this Agreement; (5) payment requests received including fees for unapproved subcontractors; and/or (6) the Consultant's default or unsatisfactory performance of services. The withholding of payment under this provision shall in no way relieve the Consultant of its obligation to continue to perform its services under this Agreement.

4. DISALLOWANCE OF COSTS

- 4.1. Notwithstanding any other clause of this Agreement, the Owner may at any time issue to the Consultant a written notice of intent to disallow specified costs incurred or planned for incurrence under this Agreement that have been determined not to be allowable under the contract terms.
- 4.2. Failure to issue a notice under this Section shall not affect the Owner's rights to take exception to incurred costs.
- 4.3. If a subsequent audit reveals that: (1) items not properly reimbursable have, in fact, been reimbursed as direct costs; or (2) that the Indirect Cost Rate contains items not properly reimbursable under the FAR; then, in the case of indirect costs, the Indirect Cost Rate shall be amended retroactively to reflect the actual allowable indirect costs incurred, and, in the case of both direct and indirect costs, the Owner may offset, or the Consultant shall repay to Owner, any overpayment.

5. RECORDS & AUDITS

- 5.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

- 5.2. *Examination.* The Consultant shall maintain, and the Owner, AHTD, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.
- 5.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, AHTD, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—
- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
 - Any proposal for the Agreement, subcontract, or modification;
 - Discussions conducted on the proposal(s), including those related to negotiating;
 - Fees or allowable costs under the Agreement, subcontract, or modification;
 - Performance of the Agreement, subcontract or modification; or,
 - The amount and basis of any claim or dispute.
- 5.4. *Audit.* The Owner, AHTD, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.
- 5.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, AHTD, FHWA, or their authorized representatives shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.
- 5.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 28, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—
- 5.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,
- 5.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

- 5.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

6. DESCRIPTION OF THE PROJECT

- 6.1. The City of Fayetteville has programmed a project for the reconstruction and relocation of N. Ruppel Road from W. Starry Night View to W. Mount Comfort Road, including a bridge over Hamestring Creek in Fayetteville, Washington County, Arkansas.
- 6.2. The project generally consists of providing environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway and bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary.
- 6.3. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).

7. INFORMATION AND TITLE I SERVICES TO BE PROVIDED BY THE CONSULTANT

7.1. Identification and Analysis of Traffic Demands

7.1.1. Identification of the Current Transportation Demands: In order to identify the current transportation demands within the study area, the following information will be collected.

- All prior studies conducted within the study area
- New traffic counts (peak hour turning movement and 24-hour machine counts) are expected at the intersection of N. Ruppel Road and W. Mount Comfort Road
- Previous traffic data compiled by AHTD or the City of Fayetteville in the study area

7.1.2. Forecast and Analysis of Future Transportation Demands: The Consultant will project the 2013 traffic volumes to a 20-year horizon to determine the future "no build" traffic conditions. The same analysis procedures performed for the 2013 "no build" will be used for the future "no build" analysis.

7.2. Analysis of Proposed Improvement

7.2.1. Geometric Analysis: The Consultant will evaluate the proposed improvement to ensure that the number of lanes provided and length of turn bays is adequate for the future needs.

7.2.2. Final Report: The Consultant will prepare a letter report containing the results and conclusions of the study and all necessary support documentation.

7.3. Environmental Documentation

7.3.1. Garver will prepare an Environmental Assessment (EA) document that will meet AHTD and FHWA standards in accordance with the National Environmental Policy Act (NEPA). Garver shall undertake the following:

- Attend the initial project kick-off meeting
- Attend monthly progress meetings and review monthly project management reports
- Submit monthly project management reports
- Develop Environmental Constraints Mapping and Data Collection for all reasonable and feasible alternatives (up to three alternative alignments and the no-build alternative are assumed for estimating purposes)
- Develop the purpose and need for the project
- Complete initial and on-going agency coordination
- Evaluate environmental impacts
- Perform specialist studies for the preferred alternative: Phase I Cultural Resources Survey, Wetland Delineation, Hazardous Materials database review, and Noise Analysis
- Organize and participate in one public involvement meeting and up to two public hearings
- Develop and coordinate approval of an EA and FONSI

7.3.2. *Environmental Data Collection* – Garver will develop an environmental study area and collect preliminary environmental data associated with the proposed project. All reasonable and feasible alternatives (up to three proposed alignment concepts (build alternatives) and the no-build are assumed for estimating purposes) will be assessed for the social, economic, and environmental impacts area, including:

- Air Quality
- Community
- Construction Impacts
- Cultural Resources
- Economic
- Endangered Species
- Energy
- Environmental Justice and Title VI
- Fish and Wildlife
- Floodplains
- Forest Service Property
- Hazardous Materials
- Land Use and Land Cover
- Migratory Birds
- Noise Quality
- Protected Waters
- Public Recreation Lands
- Public Drinking Supplies
- Relocates
- Secondary and Cumulative Impacts
- Section 4(f)/6(f)
- Social
- Terrestrial and Aquatic Communities
- Underground Storage Tanks
- Visual
- Streams

- Water Quality
- Wetlands

7.3.3. *Environmental Constraints Map* - All environmental data collected will be transferred to appropriately scaled aerial photographs to produce a map that indicates all known environmental sensitive areas and provided to Garver for avoidance and minimization of impacts. Environmentally sensitive areas should be provided to Garver for notation on the plans as a restraining condition on the Contractor, in accordance with Section 107.10 of the Standard Specifications for Highway Construction. Contract Special Provisions should be developed as necessary to provide protection for environmental sensitive areas or features and to provide guidance to the Contractor.

7.3.4. *Environmental Assessment* - The Engineer will perform social, economic, and environmental studies for inclusion in the environmental documentation. All reasonable and feasible alternatives will be analyzed. An alternative analysis will be completed for documenting environmental impacts associated with the proposed alternatives. The goal is to provide the documentation necessary to obtain FHWA approval of an Environmental Assessment (EA) document and Finding of No Significant Impact (FONSI). The work to be performed shall consist of preparing an EA document based on the NEPA process for the proposed project in accordance with AHTD and FHWA policies and procedures. It is anticipated that minimal additional right-of-way is required. The objectives of this task are: (1) to describe the existing social, economic and physical conditions within the corridor; (2) to identify and evaluate the short-term and long-term impacts of the proposed improvements; and (3) to identify and recommend minimization and/or mitigation measures to be incorporated in the design and/or operation plan for the project.

7.3.5. *Cultural Resources and Historic Properties* – Garver will perform a Phase I cultural resources survey based on state records research and an on-site survey. Develop a cultural resources report documenting the results of cultural resources survey for archaeological and historic properties within the project area. The survey will identify all resources aged 45 years of age or older and provide an evaluation of eligibility for inclusion to the NRHP. All work under this task shall be completed in accordance with the Arkansas State Plan and customary AHTD guidelines and format.

7.3.6. *Tribal Letters* - Coordinate with FHWA through AHTD for tribal consultation and correspondence. Garver will prepare tribal letters per the AHTD letter template for submittal to FHWA through AHTD.

7.3.7. *Field Surveys* - The surveys will provide sufficient information (i.e., a Phase I survey and report) to allow the SHPO to make a determination of effect regarding the project.

7.3.8. *Biological Investigations* Garver will conduct wetland surveys and delineations to determine the limits of all jurisdictional waters of the United States and potential jurisdictional wetlands within the project limits. The area of project impact to jurisdictional waters, including wetlands and streams, will be determined to permit the project under Section 404 of the Clean Water Act. Wetlands will be delineated using the Supplement to the Corps of Engineers Wetlands Delineation Manual: Eastern Mountains and Piedmont Region Version 2.0. Stream impacts should be determined by the Little Rock District USACE Stream Method. Garver will contact the U.S. Fish and Wildlife (USFWS) to ensure all state and federally listed threatened and endangered species of concern are identified, as well as their

habitat areas, to avoid/minimize impacts. This coordination will assist in providing guidelines from these agencies on existence, habitat and mitigation. If suitable habitat for any listed threatened or endangered species is encountered within potential location alternatives, it may be necessary to survey for the species. Presence and absence surveys for any listed threatened or endangered species are not included as a part of this scope.

7.3.9. Hazardous/Regulated Materials - Garver shall conduct a literature and database review and a visual survey to identify potential hazardous/regulated material sites in the vicinity of the proposed project. The results of this effort shall be documented in the EA. The work will include:

- Overview and Summary of Hazardous Materials Sites within Study Area- This initial screening will include a review and evaluation of applicable state and federal regulatory agency databases.
- Identification of Sites of Concern - A review and evaluation of the following list will be performed for the reasonable and feasible alternatives. CERCLA, NPL, RCRA, RST, LRST, State Superfund, city/county Solid Waste Landfills.
- Visual survey of study area.

7.3.10. Other Environmental Studies, Analyses and Investigations – Garver will ensure all environmental commitments and regulatory requirements are incorporated into project plans and contracts by use of plan sheet notes, general notes and special provisions. Garver shall conduct all other environmental studies, analyses and investigations in accordance with FHWA/AHTD requirements for a EA for a transportation improvement project. The other environmental studies, analyses, and investigations may include the following: Air quality, noise quality, hazardous materials, wetlands and stream impacts, water quality, including public drinking supplies, farmland impacts, land use and land cover, terrestrial and aquatic communities, endangered and threatened species, economic, community, environmental justice and Title VI, recreational areas, archeological and historic sites, visual, and Section 4(f) and 6(f) properties.

- **Section 4(f) De minimis Evaluation** – Garver will prepare a Section 4(f) *De minimis* determination for inclusion as an appendix to the EA.
- **Noise Analysis** – Garver will perform a noise study that will include up to three field measurements, identification of sensitive receptors, modeling of the preferred alternative, and report development. The Traffic Noise Model (TNM) 2.5 software will be used to model existing and future traffic noise levels for the preferred alternative. The noise analysis report will include noise levels, distances of receivers from the roadway, estimated noise impacts and recommendations for conducting a noise barrier analysis (if required). The noise analysis shall be conducted according to 23 CFR Part 771. A noise barrier analysis is not included in this scope of work.

7.3.11. Public Involvement Meeting - Garver will plan, coordinate, participate in, and assist the City of Fayetteville in conducting one Public Involvement Meeting near the project area. Garver will identify the logistics involved in selecting the meeting site with the City of Fayetteville. The City of Fayetteville will subsequently secure/reserve and pay any rental costs for such site and any necessary equipment. The work will include:

- Garver will prepare and submit notice of public involvement meeting to the City of Fayetteville and AHTD for review and approval. City of Fayetteville will place the approved notice in a local newspaper in accordance with AHTD

polices and requirements and will be responsible for payment of the publication of legal notices and ads.

- Garver will prepare public involvement displays, sign-in sheets, comment sheets, and other materials for the Public Involvement Meeting as necessary. Garver will provide adequate numbers of handouts and displays for the public involvement meeting and will provide four (4) personnel to support the Public Involvement Meeting by being prepared to answer questions and explain all concepts of the proposed project.
- As directed by the City of Fayetteville, Garver will compile a Project Mailing List database from the City of Fayetteville and update as necessary. Garver will develop and maintain the Project Mailing List database of names/addresses to be utilized in distributing the Public Meeting notice. Persons attending the Public Meeting will be added to the database when requested by the same.
- Garver will compile comments received at the Public Meeting and document the same in the form of a synopsis that will include comments cards, letters, attendance sheets, summary of input, etc. This will include photographs or copies of informational displays, handouts, etc.

7.3.12. *Public Hearing* – Garver will plan, coordinate, participate in, and assist the City of Fayetteville in conducting up to two Public Hearings near the project area. Garver shall identify the logistics involved in selecting the meeting site with the City and shall subsequently secure/reserve such site and any necessary equipment. The work will include:

- Submitting notice of public hearing to the City and AHTD for review and approval. City will place the approved notice in a local newspaper in accordance with AHTD policies and requirements and will be responsible for payment of the publication of legal notices and ads.
- Garver will prepare presentations, displays, sign-in sheets, comment sheets, and other materials for the Public Hearing as necessary. Garver will provide adequate numbers of handouts and displays for the Public Hearing and will provide four (4) personnel to support the meeting by being prepared to answer questions and explain all concepts of the proposed project.
- The City will provide a court reporter to transcribe oral comments.
- Garver will compile comments received at the Public Hearing and document the same in the form of a synopsis that will include the hearing transcript, comments cards, letters, attendance sheets, summary of input, response to public comments, etc. This will include photographs or copies of informational displays, handouts, etc.

7.3.13. *Prepare Environmental Assessment Document* - A draft EA will be prepared and submitted electronically to the City of Fayetteville and AHTD for review and comment. Any necessary revisions to the draft EA will be incorporated. Submit final draft to the City of Fayetteville and AHTD for FHWA approval. All work on the project shall conform to the applicable requirements of the AHTD/FHWA as defined at the time of the notice to proceed. Garver will provide designated number of copies of environmental document after FHWA approval and distribute as directed. An electronic copy of the approved environmental document in pdf format will be provided to the City of Fayetteville and AHTD. The approved EA will be made

available to the public and an opportunity for a public hearing will be posted in a legal ad by the City at a minimum.

7.3.14. *Finding of No Significant Impact (FONSI)* – After the required public comment period, Garver will work with the City to respond to any public comments and make any necessary changes to the project. Garver shall prepare a FONSI request that will designate the preferred alternative based on review of the public hearing synopsis and information documented in the EA. After internal review and approval, the FONSI will be submitted to AHTD for review and approval before being submitted by AHTD to FHWA for signature. Garver will address comments received from the City, AHTD, and FHWA on the FONSI request and submit the designated number of copies of the final document, appendices and electronic copies of all information.

7.3.15. *Environmental Permitting* – Garver shall coordinate with the Arkansas Department of Environmental Quality (ADEQ) for development of a Storm Water Pollution Prevention Plan (SWPPP) that incorporates required measures that may be specified by the USFWS and/or ADEQ.

Garver will obtain the issuance of a Short Term Activity Authorization (STAA) from ADEQ.

Garver will prepare a Section 404 permitting package and coordinate authorization under Nationwide Permits (NWP) as administered by the US Army Corps of Engineers (USACE).

7.3.16. *Environmental Services Exclusions* - This Scope of Services does not include the preparation of an individual or programmatic Section 4(f) Evaluation (required for impacts to parkland, recreation land, historic sites), right-of-entries, formal or informal Section 7 consultation with the USFWS biological assessment/biological evaluation (associated with endangered species/habitat impacts), USACE Section 10 permit, USACE Section 404 Individual Permit, USACE field verification, adjustment of staked boundaries subsequent of a USACE field verification visit, Arkansas Department of Environmental Quality (ADEQ) Section 401 Tier II permitting, any mitigation designs or plans associated with Section 404 permitting. If any of these services are necessary, a supplemental agreement establishing the scope and fee for services will be developed.

7.4. *Topographic and Utility Surveys* – Garver will perform topographical and utility surveys to identify all existing features along the preferred alignment. Garver will subcontract with ARKUPS for marking underground utilities and will pass the direct cost from ARKUPS to the City of Fayetteville. Garver will survey the locations marked by ARKUPS and the utility owners. Garver will not be responsible for the completeness or accuracy of the markings made by ARKUPS or utility owners, nor will Garver be liable for costs incurred by the City of Fayetteville due to incomplete or inaccurate utility markings. AHTD Surveying procedures will not be required. The services performed shall be consistent with the Arkansas minimum standards and in compliance with Arkansas laws and regulations governing the practice of Land Surveyors and with all Federal, State and Local laws, regulations and ordinance applicable to the work.

7.5. *Property Surveys* – Garver will perform property surveys along the preferred alignment. Garver will subcontract with an abstractor to provide property record research along the alignment, including copies of recorded plats, legal descriptions for unplatted tracts, easements and right of way information, and will pass the direct cost from the abstractor to the City of Fayetteville. Garver will perform field surveys to determine existing monumentation and establish land lines, ownership lines, rights of

way, and easements. Garver will stake proposed right of way and easements at intervals which will provide intervisible points for appraisal and acquisition purposes. Larger tracts will be staked at property lines and at intervisible points. Garver will monument right of way for construction purposes after the Right-of-Way Plans have been approved by the AHTD. Garver will prepare and file final survey plats for the acquired properties. Property surveys and related work shall conform to the current Arkansas Minimum Standards for Property Boundary Surveys and Plats and be under the direct supervision of a registered Professional Surveyor (PS) licensed in the State of Arkansas. AHTD Surveying procedures will not be required.

- 7.6. *Geotechnical* - Provide geotechnical investigations for analysis and design of bridge foundations, embankments, retaining walls, roadway subgrade, and pavement structure. A detailed description of this scope of services is provided in the subconsultant contract with Grubbs, Hoskyn, Barton & Wyatt.

- 7.7. *Design Criteria* - The design criteria to be used in the design of the project will be prepared and submitted to the City of Fayetteville and AHTD. Garver will develop design criteria that include AHTD Plan Development Guidelines, AHTD Interoffice Memorandums, AASHTO requirements, and the City of Fayetteville Master Street Plan components. Specific criteria for horizontal curvature will be tailored to the requirements of the design speed. After submittal and approval by the City and AHTD, the design criteria will be distributed to all team members for inclusion in the project quality control plan to ensure that all project requirements are met

7.8. Roadway Design and Plans

- 7.8.1. Garver will provide roadway design services for the realignment of Ruppel Road. The roadway man-hour estimate is based upon a 13 point review by AHTD.

- 7.8.2. *Conceptual Design*: Conceptual alternatives will be developed for improvements of the road along the existing alignment and one alternative realignment option for inclusion in the environmental documentation. Basic plan view graphics with approximate impacts will be developed for each alternative.

- 7.8.3. *30% Plans*: Conceptual plans and an opinion of probable costs shall be submitted at the 30% level for city approval of the geometric design, grades with vertical curve data, outline of proposed bridge showing length and width, limits of construction, existing property lines and right of way, floodway and floodplain limits, and topographical survey. The plans will incorporate the city standards and guidelines where appropriate.

- 7.8.4. *50% Plans*: Garver will provide an opinion of probable costs, roadway plan sheets for 50% review to the City of Fayetteville and AHTD and attend the preliminary field inspection. The roadway plans shall include the following:

- Title sheet
- Typical sections of improvement as defined in Appendix I of the AHTD Roadway Design Plan Development Guidelines
- Special details as needed
- Roadway plan sheets showing:
 - Roadway grades for main lanes, crossing roads, and driveways
 - Alignment data for main lanes and crossing roads
 - Tentative construction limits
 - Right of way, permanent and temporary construction easements
 - All roadway/roadside features within the right of way

Drainage structures
Bridge layout with end stationing
Soil boring station and locations

- Maintenance of traffic conceptual plans with a sequence of construction to complete major phases of the project. It will clearly identify barricades to be placed, striping to be removed and placed prior to diversion of traffic, possible detour routes and the stages required to maintain traffic during construction. These details will supplement AHTD standard drawings TC-1, TC-2, TC-3, TC-4, and TC-5.
- Cross sections at a 1:1 scale as defined in the AHTD Roadway Design Plan Development Guidelines including sections at bridge ends, tapers, nose points, auxiliary lanes and pipes/culverts.
- Water and Sewer facilities relocations based on findings from the 30% design phase.
- Survey control detail sheets of the survey baseline and design centerline with control point data in accordance with the standards used by the Roadway Design Division of AHTD
- Signing and Permanent Pavement Marking Details in accordance with the MUTCD, AHTD and federal regulations, laws and policies. These details will supplement AHTD standard drawings PM-1 and PM-2.
- Culvert Diagrams
- Erosion Control Plans showing temporary and permanent measures.
- Location of any retaining walls as required
- Perform alterations necessary to respond to comments from the preliminary field inspection

7.8.5. Pavement Design: The pavement design alternatives for the proposed pavement will be prepared according to the requirements of the AHTD Roadway Design Plan Development Guidelines using AASHTO design procedures. The recommended pavement design will be submitted to the City and AHTD for approval.

7.8.6. Public Meeting: Garver shall prepare all design related displays to be used at the public meeting when needed. This would include, but not be limited to plans of the proposed route illustrating the proposed horizontal and vertical alignments complete with all bridge structure. All proposed and existing right of way requirements, including easements, shall be included on this display. Garver shall assist the City of Fayetteville at the meeting by being prepared to answer and explain all concepts of the proposed design. Garver shall also be responsible for developing a written transcript of the public comments and provide written responses to each comment. This written transcript shall be furnished to the City of Fayetteville for the completion of the project certification.

7.8.7. 90% Plans: Garver will provide 90% roadway plan sheets for review and final field inspection. All roadway design shall be complete, and all drawings shall be thoroughly checked by Garver prior to submittal. Garver will provide the construction plans for the project for one construction contract. The 90% plans shall include everything included in the 50% submittal, along with the following items of work:

- Provide quantities
- Project Manual including front-end documents, supplemental specifications, and special provisions.
- Transportation Management Plan

- Provide a construction cost estimate
- Attend final field inspection
- Make plan changes resulting from the 50% review and final field inspection

7.8.8.100% Plans: Garver will provide final signed and sealed plans after all revisions have been incorporated into the 90% plans.

7.9. Bridge Design and Plans

7.9.1. *Hydrology & Hydraulics*: Provide "Certification of No Rise" for the proposed bridge crossing to the City of Fayetteville for review and approval by the City Flood Plain Administer. An existing flood study in HEC-RAS format will be provided by the City of Fayetteville which will be updated by Garver to include the proposed bridge and roadway.

7.9.2. *30% Submittal*: Based on the required clear span length of the proposed bridge, and considering cost & long term maintenance of this structure, Garver shall compare at least two different bridge design alternatives and make a recommendation to the City of Fayetteville.

7.9.3. *50% Submittal*: Garver will provide an opinion of probable costs, bridge layout sheets for 50% review to the City of Fayetteville and AHTD after 30% roadway plans have been reviewed and approved by the City of Fayetteville and AHTD. The bridge plans shall include the following:

- Topography
- Scour Assessment
- Hydraulic Data at stream crossings shown in table form. The effects of the design flood, 100 and 500 year floods, and overtopping floods shall be included in the table. If the overtopping flood is less than the design flood, the effects of the future roadway embankments will also be determined and included in the table. Scour countermeasures will be shown.
- Bridge type, length, width, and span lengths
- Design, construction, and material specifications
- Bridge foundation type including estimated number and size of columns, pile sizes and lengths
- Schematic cross-section sketches of superstructure, showing deck thickness, girder type, size, and spacing, and stage construction sequencing

7.9.4. *90% Submittal*: Garver will perform bridge design calculations based on the approved layout with any staged construction sequence including:

- Seismic analysis, if necessary
- Foundations and pile lengths
- Substructure
- Superstructure
- Elastomeric bearings
- Bridge expansion joints

Garver will provide complete bridge detail drawings to include end bents, intermediate bents, piles, bearings, superstructure, expansion joints, parapets, retaining walls, approach slabs, approach gutters, bridge quantity sheets, and special provisions. Each detail drawing will be fully checked and signed by a checking engineer. When different detail checking engineers are used for the

same bridge or for different bridges, compatibility of details between bridge components and consistency between different bridges shall be carefully checked and confirmed by Garver prior to submittal to the City of Fayetteville and AHTD.

Garver will provide calculated bridge quantities and grouped by bridge component and item number. The quantities will be calculated in accordance with the current edition of the AHTD "Standard Specifications for Highway Construction" and reported to the accuracy indicated on the January 19, 1997 memorandum entitled "Limits to Show on Bridge Quantity Sheets".

7.9.5.100% Submittal: Garver will provide final signed and sealed plans after all revisions have been incorporated into the 90% plans. Garver will provide hydraulic certification.

7.10. Permit Submittals – Garver will prepare a SWPPP containing all the necessary data required to obtain a SWPPP permit for the project, including the AHTD, ADEQ and City of Fayetteville typical details. A Short Term Activity Authorization (STAA) will be submitted to ADEQ for approval and a Section 404 Nationwide Permit will be submitted to the USACE.

7.11. Utility Company Coordination – Garver will coordinate the project design with franchise utility companies' relocations and/or new locations to assure adequate space for all facilities and timely relocations.

7.12. Bidding Phase Services

7.12.1. During the bidding phase of the project, Garver will:

- Prepare Advertisement for Bids and submit to the City of Fayetteville for issuance to newspaper(s). City of Fayetteville to pay advertising costs outside of this agreement.
- Dispense construction contract documents to prospective bidders at the approximate cost of reproduction and handling.
- Answer questions from contractors during bid phase
- Issue addenda
- Attend pre-bid meeting, if necessary
- Attend Bid Opening
- Review and certify bids for construction
- Prepare Bid Tabulations
- Prepare Construction Contract
- Issue letter of recommendation for acceptance of bid

8. SERVICES TO BE PROVIDED BY THE CITY OF FAYETTEVILLE AND AHTD

8.1. City of Fayetteville

- 8.1.1. Coordinate review of construction plans and specifications, award of construction contract, and construction contract change orders with AHTD.
- 8.1.2. Right-of-way and easement acquisition
- 8.1.3. Conduct the necessary public involvement meeting and public hearings
- 8.1.4. Available aerial and mapping data
- 8.1.5. Advertisements for public meetings and construction bidding

8.2. AHTD

- 8.2.1. Provide sample environmental clearance documents
- 8.2.2. Review draft Categorical Exclusion (CE) document

- 8.2.3. Coordinate with FHWA for tribal correspondence and document approvals
- 8.2.4. Review final environmental documentation prepared by Garver
- 8.2.5. Review plans and specifications

9. TITLE II SERVICES TO BE PROVIDED BY THE CONSULTANT

Title II Services will be added by supplemental agreement at a later date. At a minimum, the following services will be provided:

- 9.1. Provide review and approval of shop drawings and any other supplementary plans or similar data submitted by the Contractor and requiring approval.
- 9.2. When requested, provide design related solutions to construction problems and issues that may arise.

10. COORDINATION WITH OWNER

- 10.1. Throughout the Project, the Consultant shall hold monthly conferences in Fayetteville, Arkansas, or such other location as designated by the City, with representatives of the City and when necessary, representatives from the AHTD and the FHWA so that as the Project progresses, the Consultant shall have full benefit of the Owner's knowledge of existing needs and facilities and be consistent with the Owner's current policies and practices. The extent and character of the work to be done by the Consultant shall be subject to the general oversight and approval of the Owner.

11. OFFICE LOCATION FOR REVIEW OF WORK

- 11.1. Review of the work as it progresses and all files and documents produced under this Agreement may be made by representatives of the City, the AHTD, and the FHWA at the project office of the Consultant located at 2049 E. Joyce Boulevard, Fayetteville, Arkansas.

12. ACCESS TO PROPERTY

- 12.1. Garver's services to the City of Fayetteville may require entry upon private property. The Owner will present or mail to private landowners a letter of introduction and explanation, describing the work, which shall be drafted by the Consultant. The Consultant will make reasonable attempts to notify resident landowners who are obvious and present when the Consultant is in the field. The Consultant is not expected to provide detailed contact with individual landowners. The Consultant is not expected to obtain entry by means other than the consent of the landowner. If the Consultant is denied entry to private property by the landowner, the Consultant will not enter the property. If denied entry to the property, the Consultant shall notify the Owner and advise the Owner of an alternate evaluation method if one is feasible. The Owner shall decide on the course of action to obtain access to the property.

13. DELIVERABLES

- 13.1. Environmental
 - 13.1.1. SHPO approved Cultural Resources Report prior to EA (4 copies)

- 13.1.2. Newspaper advertisements and/or Legal Notices in English and Spanish
- 13.1.3. Public Meeting announcement
- 13.1.4. Project Mailing List database, updated as necessary in Microsoft Excel
- 13.1.5. Technical handouts for the Public Meetings(up to 100 hard copies)
- 13.1.6. Comment forms for the Public Meetings(up to 100 hard copies)
- 13.1.7. Sign-in Sheets for the Public Meetings(up to 10 hard copies)
- 13.1.8. Exhibits/displays for the Public Meetings (up to 10 exclusive displays)
- 13.1.9. Synopsis of Public Hearing(2 copies)
- 13.1.10. Draft EA submittal to City of Fayetteville in MS Word format for text and pdf format for figures and attachments(up to 10 copies)
- 13.1.11. Final EA submittal to City of Fayetteville, the AHTD and the FHWA
- 13.1.12. FONSI request to City of Fayetteville, the AHTD and the FHWA
- 13.1.13. Section 404 Nationwide permit application and attachments
- 13.1.14. SWPPP and permit application
- 13.1.15. STAA permit application
- 13.2. Conceptual Design Phase (30%)
 - 13.2.1. Roadway and Bridge Design Criteria
 - 13.2.2. Geotechnical Report for Bridges – Preliminary version
 - 13.2.3. Hydraulic Analysis Report with HEC-RAS model
 - 13.2.4. 30% Complete Roadway Plans(4 copies of half-size plans)
 - 13.2.5. Conceptual Bridge Layout(4 copies of half-size plans)
 - 13.2.6. Opinion of Probable Costs
 - 13.2.7. Electronic files as requested including Adobe Acrobat pdf format of plans and reports and Excel spreadsheets of Opinion of Probable Costs
- 13.3. Preliminary Design Phase (50%)
 - 13.3.1. Geotechnical Report for Pavement Design
 - 13.3.2. Geotechnical Report for Bridges – Final Design
 - 13.3.3. Hydraulic and Scour Analysis Report
 - 13.3.4. Preliminary Bridge Layout Drawings(4 copies of half-size plans)
 - 13.3.5. 50% Complete Roadway Plans(4 copies of half-size plans)
 - 13.3.6. 60% Right of Way Strip Map
 - 13.3.7. 90% Right of Way Plans
 - 13.3.8. Warranty deed descriptions
 - 13.3.9. Final Right of Way Plans
 - 13.3.10. Opinion of Probable Costs
 - 13.3.11. Meeting minutes from Coordination Meetings
 - 13.3.12. Electronic files as requested including Adobe Acrobat pdf format of plans and reports and Excel spreadsheets of Opinion of Probable Costs
- 13.4. Final Design Phase (90%/100%)
 - 13.4.1. 90% Complete Roadway Design Plans(4 copies of half-size plans)
 - 13.4.2. 90% Complete Bridge Design Drawings(4 copies of half-size plans)
 - 13.4.3. Final half-size Roadway Design Plans signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.4. Final half-size Bridge Design Drawings signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.5. Final full-size Bridge Design Drawings printed in black ink on quality bond paper and signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.6. Provide Special Provisions and complete Project Manual for bidding
 - 13.4.7. Provide Transportation Management Plan, if required
 - 13.4.8. Provide Construction cost estimate
 - 13.4.9. Bridge Design and Quantity Computations(1 copy)
 - 13.4.10. Meeting minutes from Coordination Meetings

- 13.4.11. Electronic files of the project design and plans on a compact disc in AutoCad/Civil 3D format that is fully indexed (all reference files attached and set to load automatically). This includes the electronic copies of Roadway and Bridge submittals. Electronic files of the Project Manual, Special Provisions, design calculations, drainage report, geotechnical report, cost estimates on a compact disc in Adobe Acrobat PDF format and in Word and Excel format, as applicable.

14. SUBCONTRACTING

- 14.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.
- 14.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.
- 14.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.
- 14.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.
- 14.5. *Prompt Payment.* The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:
- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
 - notify any sureties; and/or,
 - withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.
- 14.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

15. RESPONSIBILITY OF THE CONSULTANT

- 15.1. Notwithstanding any review, approval, acceptance, or payment by the Owner, the Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.
- 15.2. The Consultant shall demonstrate to the Owner the presence and implementation of quality assurance in the performance of the Consultant's work. The Consultant shall identify individual(s) responsible, as well as methods used to determine the completeness and accuracy of drawings, specifications, and cost estimates.
- 15.3. The Consultant further agrees that in its performance of work under this Agreement, it shall adhere to the requirements in the Design Standards of the AHTD and FHWA, which shall be incorporated herein by reference.
- 15.4. The Owner shall have the right at any time and in its sole discretion to submit for review all or any portion of the Consultant's work to consulting engineers engaged by the Owner for that purpose. The Consultant shall fully cooperate with any such review.
- 15.5. The Consultant and any subcontractor shall employ qualified and competent personnel to perform the work under this Agreement.
- 15.6. Neither the Owner's review, approval, or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, or of any cause of action arising out of the performance of this Agreement. The Consultant shall be and remain liable to the Owner for all damages to the Owner caused by the Consultant's negligent performance of any of the services furnished under this Agreement.
- 15.7. The rights and remedies of the Owner provided under this Agreement are in addition to any other rights and remedies provided by law.
- 15.8. If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

16. WARRANTY OF SERVICES

- 16.1. *Definitions. Acceptance*, as used in this Agreement, means the act of an authorized representative of the Owner by which the Owner approves specific services, as partial or complete performance of the Agreement. *Correction*, as used in this Agreement, means the elimination of a defect.
- 16.2. Notwithstanding inspection and acceptance by the Owner or any provision concerning the conclusiveness thereof, the Consultant warrants that all services performed and work product under this Agreement will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Agreement.
- 16.3. If the Consultant is required to correct or re-perform, it shall be at no cost to the Owner, and any services corrected or re-performed by the Consultant shall be subject to this Section to the same extent as work initially performed. If the Consultant fails or refuses to correct or re-perform, the Owner may, by contract or otherwise, correct or

replace with similar services and charge to the Consultant the cost occasioned to the Owner thereby, or make an equitable adjustment in the Contract Price.

16.4. If the Owner does not require correction or re-performance, the Owner shall make an equitable adjustment in the Contract Price.

16.5. Nothing within this Section shall constitute a waiver or exclusion of any other right or remedy that the Owner may possess at law or under this Agreement.

17. TERM, COMMENCEMENT, AND COMPLETION

17.1. This Agreement shall commence on the effective date set forth above and remain in effect until the completion of the Consultant's Scope of Services, as defined herein, to be completed ***within a period of 16 months not including bidding***, unless agency review times exceed the projected time periods or unless the time is extended or terminated by the Owner in accordance with this Agreement.

17.2. The Consultant shall begin work under the terms of this Agreement within ten (10) days of receiving written notice to proceed. [If services are to be performed in subsequent phases, then each phase shall be commenced upon the Owner's approval of the previous phase. The Consultant shall not be entitled to any compensation or reimbursement for services performed in a phase unless and until it has received approval from the Owner to proceed with such services.]

17.3. It is further agreed that time is of the essence in performance of this Agreement. The Consultant shall complete the work, or each phase, as scheduled, and the Owner shall provide any required approval of the work or phase meeting the requirements contained herein in a reasonable and timely manner. The project schedule for this project has been included in Appendix D.

18. TERMINATION

18.1. The Owner may terminate this Agreement in whole or, from time to time, in part, for the Owner's convenience or because of the Default of the Consultant.

18.2. The Owner shall terminate this Agreement by delivering to the Consultant written notice of the termination.

18.3. Upon receipt of the notice, the Consultant shall:

- Immediately discontinue all services affected (unless the notice directs otherwise).
- Deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.
- Terminate all subcontracts to the extent they relate to the work terminated.
- In the sole discretion and option of the Owner, and if and only if requested to do so, assign to the Owner all right, title, and interest of the Consultant under the subcontracts terminated, in which case the Owner shall have the right to settle any claim or dispute arising out of those subcontracts without waiver of any right or claim the Owner may possess against the Consultant.

- With approval or ratification by the Owner, settle all outstanding liabilities arising from the termination of subcontracts, the cost of which would be allowable in whole or in part, under this Agreement.
 - Complete performance of any work not terminated.
 - Take any action that may be necessary, or that the Owner may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Consultant and in which the Owner has or may acquire an interest.
- 18.4. If the termination is for the convenience of the Owner, the Owner shall make an equitable adjustment in the Contract Price, subject to the Ceiling Prices and Funding Limitations provisions, *but shall allow no anticipated fee or profit on unperformed services.*
- 18.5. If the termination is for the Consultant's Default, the Owner may complete the work by contract or otherwise and the Consultant shall be liable for any reasonable and necessary additional cost incurred by the Owner to the extent caused by Consultant's default.
- 18.6. Disputes and claims arising from termination of this Agreement shall be governed by Section 28, Disputes and Claims (48 CFR 31.205-42(e)(2)).
- 18.7. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy.

19. STOP WORK ORDERS

- 19.1. The Owner may, at any time, by written order to the Consultant, require the Consultant to stop all, or any part, of the work called for by this Agreement for a period of up to 90 days after the order is delivered to the Consultant, and for any further period to which the parties may agree. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Consultant, or within any extension of that period to which the parties shall have agreed, the Owner shall either—
- 19.1.1. Cancel the stop work order; or
- 19.1.2. Terminate the work pursuant to Section 18, Termination.
- 19.2. If a stop work order issued under this Section is canceled or the period of the order or any extension thereof expires, the Consultant shall resume work. The Owner shall make an equitable adjustment in the delivery schedule or Contract Price, or both, and the Agreement shall be modified in writing accordingly, if—
- The stop work order was not issued because of Consultant's Default in its performance of its obligations under any part of this Agreement; and,
 - The stop work order results in an increase in the time required for, or in the Consultant's cost properly allocable to, the performance of any part of this Agreement; and,

- The Consultant provides Notice of Potential Claim pursuant to Section 28, Disputes and Claims.

20. CHANGES

- 20.1. The Owner may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Agreement, including but not limited to: (1) drawings, designs, or specifications; (2) time of performance (i.e., hours of the day, days of the week, etc.); and (3) places of inspection, delivery, or acceptance.
- 20.2. If any such change causes an increase *or decrease* in the cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, the Owner shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fee; and (3) other affected terms.
- 20.3. All claims and disputes shall be governed by the Section 28, Claims and Disputes. As provided in Section 28, the Consultant must provide written notice of its intention to make a claim for additional compensation before beginning the work on which the claim is based. If such notice is not given, the Consultant hereby agrees to waive any claim for such additional compensation.
- 20.4. Failure to agree to any adjustment shall be a dispute under Section 28, Disputes and Claims. *However, nothing in this Section or any other provision of this Agreement shall excuse the Consultant from proceeding with the Agreement as changed.*

21. OWNERSHIP OF DOCUMENTS & DATA

- 21.1. All project documents and data, regardless of form and including but not limited to original drawings, disks of CADD drawings, cross-sections, estimates, files, field notes, and data, shall be the property of the Owner. The Consultant shall further provide all documents and data to the Owner upon the Owner's request. The Consultant may retain reproduced copies of drawings and other documents. In the event that any patent rights or copyrights are created in any of the documents, data compilations, or any other work product, the Owner shall have an irrevocable license to use such documents, or data compilations, or work product.

22. PATENT AND COPYRIGHT INFRINGEMENT

- 22.1. The Consultant shall report to the Owner, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Consultant has knowledge.
- 22.2. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Consultant shall furnish to the Owner, when requested by the Owner, all evidence and information in possession of the Consultant pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Consultant.
- 22.3. The Consultant agrees to include, and require inclusion of, the provisions of this Section in all subcontracts at any tier for supplies or services.

22.4. The Consultant shall indemnify the Owner and its officers, agents, and employees against liability, including costs and attorneys' fees, for infringement of any United States patent or copyright arising from the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Agreement, or out of the use or disposal by or for the account of the Owner of such supplies or construction work.

22.5. This indemnity shall not apply unless the Consultant shall have been informed within ten (10) business days following the Owner's receipt of legal notice of any suit alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Owner directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by the Consultant, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Consultant, unless required by final decree of a court of competent jurisdiction.

23. BANKRUPTCY

23.1. In the event the Consultant enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Consultant agrees to furnish, by certified mail, written notice of the bankruptcy to the Owner. This notice shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of AHTD job numbers and FAP numbers for all contracts with Owner against which final payment has not been made. This obligation remains in effect until final payment under this Agreement.

24. FUNDING LIMITATIONS

24.1. The Owner's obligations under this Agreement are contingent upon the availability of appropriated funds from which payments under the terms of this Agreement can be made in this and each subsequent fiscal year for the duration of the Agreement. No legal liability on the part of the Owner of any kind whatsoever under this Agreement shall arise until funds are made available to the Owner for performance of this Agreement, including those to be appropriated and provided by the State of Arkansas and those to be provided by the United States.

25. SUCCESSORS AND ASSIGNS

25.1. This Agreement shall be binding upon the parties and their successors and assigns, and except as expressly set forth herein, neither the Owner nor the Consultant may assign, delegate, or transfer any benefit or obligation under this Agreement without the express written consent of the other party. Nothing herein shall be construed as a waiver of any immunity or as creating any personal liability on the part of any officer or agent of the Owner or any other governmental entity either made a party to, or having any interest in, this Agreement.

26. INDEMNITY AND RESPONSIBILITY FOR CLAIMS AND LIABILITY

- 26.1. *Indemnity.* The Consultant shall hold harmless and indemnify the City of Fayetteville and the AHTD, their officers, employees, and agents, from and for all claims and liabilities stemming from any wrongful (whether negligent, reckless, or intentional) acts or omissions on the part of the Consultant and its subcontractors, and their agents and employees.
- 26.2. *No Personal Liability.* No director, officer, manager, employee, agent, assign, or representative of the Owner or the AHTD shall be liable to the Consultant in a personal or individual capacity under any term of this Agreement, because of any breach thereof, or for any act or omission in its execution or performance.
- 26.3. *Independent Contractor Relationship.* The parties intend that the Consultant shall be an independent contractor of the Owner and that the Consultant shall be liable for any act or omission of the Consultant or its agents, employees, or subcontractors arising under or occurring during the performance of this Agreement. No act or direction of the Owner shall be deemed to be an exercise of supervision or control of the Consultant's performance.

27. INSURANCE

- 27.1. *Professional Liability Insurance Coverage.* The Consultant shall maintain at all times during the performance of services under this Agreement professional liability insurance coverage for errors, omissions, and negligent acts arising out of the performance of this Agreement in an amount per claim of not less than five (5) times the original Contract Ceiling Price or \$1,000,000, whichever is less. Such insurance shall extend to the Consultant and to its legal representatives in the event of death, dissolution, or bankruptcy, and shall cover the errors, omissions, or negligent acts of the Consultant's subcontractors, agents, and employees. Such insurance shall extend to any errors, omissions, and negligent acts in the performance of services under this Agreement committed by the Consultant or alleged to have been committed by the Consultant or any person for whom the Consultant is legally responsible.
- 27.2. *Deductible.* The Consultant may maintain a professional liability insurance policy with a deductible clause in an amount approved by the Owner if, in the judgment and opinion of the Owner, the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible. The Consultant shall submit promptly to the Owner, upon request as often as quarterly, detailed financial statements and any other information requested by the Owner to reasonably determine whether or not the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible.
- 27.3. *Worker's Compensation Insurance.* The Consultant shall at all times during the Term of this Agreement maintain Worker's Compensation and Employers Liability Insurance as required under Arkansas law.
- 27.4. *General Liability Insurance.* The Consultant shall at all times during the term of this Agreement maintain comprehensive general liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, and comprehensive automobile liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, which shall cover all owned, hired, and non-owned vehicles. The Consultant's insurance coverage shall also cover restoration of plans, drawings, field notes, and other documents in the event of their loss or destruction while in the custody of the Consultant.

- 27.5. *Insurance Policies and Certificates.* The Consultant shall provide the Owner upon request copies of its insurance policies and evidence satisfactory to the Owner concerning the effectiveness and the specific terms of the insurance. Prior to the execution of this Agreement, the Consultant shall furnish to the Owner certificates of insurance reflecting policies in force, and it shall also provide certificates evidencing all renewals of any expiring insurance policy required hereunder within thirty (30) days of the expiration thereof. The Consultant's failure to provide and continue in force and effect any insurance required under this Article shall be deemed a Default for which Owner, in its sole discretion, may terminate this Agreement immediately or on such other terms as it sees fit.
- 27.6. *Additional Insurance Requirements.* All insurance maintained by the Consultant pursuant to this Section shall be written by insurance companies licensed to do business in Arkansas, in form and substance satisfactory to the Owner, and shall provide that the insurance will not be subject to cancellation, termination, or change during its term except upon thirty (30) days prior written notice to the Owner.
- 27.7. *Duration of Insurance Obligations.* The Consultant shall maintain its professional insurance coverage required under this Agreement in force and effect for a period not less than five years after the final acceptance of the project or the completion of the Consultant's services under this Agreement, whichever comes later. Comprehensive General Liability Insurance Coverage required under this Agreement shall be in full force and effect until the final acceptance or the completion of the Consultant's services, whichever comes later. All other insurance shall be maintained in full force and effect until final acceptance of the project or completion of the Consultant's services, whichever comes first.
- 27.8. *Consultant's Insurance Primary.* All insurance policies maintained by the Consultant pursuant to this Agreement shall provide that the consultant's insurance shall be primary and the Owner's own insurance shall be non-contributing.
- 27.9. *Additional Insured.* All liability insurance policies, except the professional liability policy, maintained by the Consultant pursuant to this Agreement shall be endorsed to include the Owner, its officers, directors, managers, employees, agents, assigns and representatives, individually and collectively, as additional insured, and all property damage insurance shall be endorsed with a waiver of subrogation by the insurer as to the Owner.

28. DISPUTES AND CLAIMS

- 28.1. *Notice of Potential Claim.* Whenever a Consultant deems that any additional compensation is due, the Consultant shall notify the Owner in writing of its intention to make a claim for additional compensation ("Notice of Potential Claim") **before beginning the work that gives rise to the claim.**
- 28.2. *Time & Manner for Submitting Claim.* All disputes and claims shall first be submitted in writing to the Owner within 45 calendar days after the completion or termination date. **The Consultant hereby agrees that the failure to submit the dispute or claim to the Owner prior to 45 calendar days after the completion or termination date shall constitute a waiver of the dispute or claim.**
- 28.3. *Form.* All disputes and claims must be submitted in writing and in sufficient detail to permit the Owner to determine the basis for entitlement and the actual allowable costs incurred. Each claim must contain:

- A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected by the claim;
- The date the actions resulting in the claim occurred or conditions resulting in the claim became evident;
- A copy of the "Notice of Potential Claim";
- The name, title, and activity of each Owner's employee knowledgeable about facts that gave rise to such claim;
- The name, title, and activity of each Consultant, Subcontractor, or employee knowledgeable about the facts that gave rise to the claim;
- The specific provisions of the Agreement that support the claim and a statement why such provisions support the claim;
- The identification and substance of any relevant documents, things, or oral communications related to the claim;
- A statement whether the claim is based on provisions of the Agreement or an alleged breach of the Agreement;
- If an extension of time is sought, the specific number of days sought and the basis for the extension;
- The amount of additional compensation sought and a specific cost breakdown of the amount claimed; and,
- Any other information or documents that are relevant to the claim.

28.4. *Decision and Appeal.* The decision of the Owner shall be final and conclusive.

28.5. *Continued Performance.* Pending final resolution of a dispute or claim, unless the Owner has terminated this Agreement pursuant to Section 18 or issued a stop work order pursuant to Section 19, the Consultant shall proceed diligently with the performance of this Agreement in accordance with the Owner's decisions.

28.6. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy. If the Owner decides the facts justify the action, the Owner may, at its sole option and discretion, receive and act upon a proposal, dispute, or claim submitted at any time before final payment under this Agreement.

29. COVENANT AGAINST CONTINGENCY FEES

29.1. The Consultant warrants that no person or agency has been employed or retained to solicit or obtain this Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Owner shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.

- 29.2. *Bona fide agency*, as used in this Section, means an established commercial or selling agency, maintained by the Consultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 29.3. *Bona fide employee*, as used in this Section, means a person, employed by the Consultant and subject to the Consultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 29.4. *Contingent fee*, as used in this Section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 29.5. *Improper influence*, as used in this Section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

30. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Agreement, the Consultant, for itself, its successors, and its assigns, certifies and agrees as follows:

- 30.1. *Compliance with Regulations*. The Consultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.
- 30.2. *Nondiscrimination*. The Consultant, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the USDOT Regulations.
- 30.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment*. In all solicitations, either by competitive bidding or negotiation, made by the Consultant or for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 30.4. *Information and Reports*. The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit

access to its books, records, accounts, other sources of information, and its facilities by the Owner, the AHTD, or the USDOT and its Affiliated Modes to be pertinent to ascertain compliance with such regulations or directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Owner, the AHTD or the USDOT and its Affiliated Modes, as appropriate, and shall set forth what efforts it has made to obtain the information.

30.5. *Sanctions for Noncompliance.* In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the USDOT and its Affiliated Modes may determine to be appropriate, including but not limited to, withholding of payments to the Consultant under the Agreement until the Consultant complies with the provisions and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

30.6. *Incorporation of Provisions.* The Consultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or USDOT and its Affiliated Modes may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Consultant may request the Owner or the AHTD to enter into such litigation to protect the interests of the State, and, litigation to protect the interest of the United States.

31. DBE CLAUSE

31.1. The Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Agreement. The Consultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration of DOT-assisted contracts. Failure by the Consultant to comply with or perform these requirements is a material breach of this Agreement, which may result in the cancellation, termination, or suspension of this Agreement in whole or in part, or such other remedy that the Owner may determine appropriate.

31.2. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

32. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

32.1 The Consultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.

32.2 The Consultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.

32.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

33. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

33.1. The Consultant certifies, to the best of its knowledge and belief, that—

33.1.1. The Consultant and any of its Principals—

33.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;

33.1.1.2. Have not, within a 3-year period preceding this offer, 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) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

33.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subsection 33.1.1.2; and,

33.1.1.4. The Consultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.

33.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code, as well as any other applicable federal and state laws.

33.3. The Consultant shall provide immediate written notice to the Owner if, at any time prior to contract award, the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

33.4. The certification in Subsection 33.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Consultant knowingly rendered an erroneous certification, the Owner may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the Owner.

34. MISCELLANEOUS

34.1. *General Compliance with Laws.* The Consultant shall comply with all Federal, State, and local laws, regulations, and ordinances applicable to the work, including but not limited to, the Americans with Disabilities Act and Occupational Safety and Health Act as amended.

- 34.2. *Registered Professional Engineer's Endorsement.* All plans, specifications, estimates, and engineering data provided by the Consultant shall be endorsed and recommended by an authorized representative of the Consultant, who shall be a registered Professional Engineer licensed in the State of Arkansas.
- 34.3. *Choice of Law.* This Agreement shall be governed by the laws of the State of Arkansas without consideration of its choice of law provisions.
- 34.4. *Choice of Forum.* The Consultant agrees that any cause of action stemming from or related to this Agreement, including but not limited to disputes or claims arising under this Agreement, for acts or omissions in the performance, suspension, or termination of this Agreement, whether sounding in contract or tort, equity or law, may only be brought in the appropriate forum within State of Arkansas.
- 34.5. *No Waiver of Immunity.* The Owner expressly does not waive any defense of immunity that it may possess under either federal or state law, and no provision in this Agreement shall be construed to constitute such a waiver in whole or in part.
- 34.6. *Conflicts Between Laws, Regulations, and Provisions.* In the event of conflicting provisions of law, the interpretation shall be governed by the following in this order, from most controlling to least: Federal law and regulations, State law and regulations, Department and FHWA Design Standards, and this Agreement.
- 34.7. *Severability.* If any term or condition of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, all remaining terms of this Agreement shall remain valid and enforceable unless one or both of the parties would be materially prejudiced.
- 34.8. *No-Waiver.* The failure of the Owner to strictly enforce any term of this Agreement shall not be construed as a waiver of the Owner's right to require the Consultant's subsequent performance of the same or similar obligation or duty.
- 34.9. *Modification and Merger.* This written Agreement and any provisions incorporated by reference reflect the entire agreement of the parties and may be modified only by the express written agreement of both parties.

35. CERTIFICATION OF AUTHORIZED REPRESENTATIVES

- 35.1. This Agreement and the certifications contained herein or attached hereto constitute the whole Agreement of the parties, and each party certifies that this Agreement and any attached certification have been executed by their duly authorized representatives.

36. NOTICE

- 36.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be addressed to either the Owner's Representative or the Consultant's Representative, and mailed or hand-delivered to:

36.1.1. To the Owner's Representative:

Chris Brown, PE
City of Fayetteville
113 W. Mountain Street

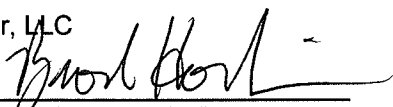
Fayetteville, AR 72701

36.1.2. To the Consultant:

Ron Petrie, PE
Garver, LLC
2049 E. Joyce Boulevard
Fayetteville, AR 72703

IN WITNESS WHEREOF, the parties execute this Agreement, to be effective upon the date set out above.

Garver, LLC

BY: 

Brock Hoskins, P.E.
Executive Vice President

1-27-14

Date

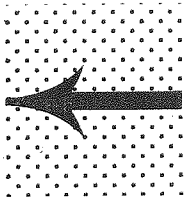
City of Fayetteville

BY: 

Mayor Lionel Jordan

2/3/14

Date



APPENDICES

APPENDIX A	JUSTIFICATION OF FEES AND COSTS
APPENDIX B	SUBCONTRACTS
APPENDIX C	STANDARD CERTIFICATIONS/ TITLE VI ASSURANCES
APPENDIX D	PROJECT SCHEDULE

Appendix A - Justification of Costs and Fees
January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657
SUMMARY

PROJECT ADMINISTRATION	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	91	\$6,263	\$752	\$644	\$7,659
SURVEYS	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	256	\$16,981	\$2,038	\$2,763	\$21,782
TRAFFIC STUDY	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	40	\$5,424	\$651	\$31	\$6,106
ENVIRONMENTAL	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	594	\$59,797	\$7,176	\$1,978	\$68,951
GEOTECHNICAL INVESTIGATION	HOURS	SALARY	FEE	EXPENSES	TOTAL
GHBW	258	\$20,631	\$2,476	\$3,509	\$26,615
BRIDGE	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	910	\$95,856	\$11,503	\$600	\$107,959
ROADWAY DESIGN, PLANS, AND SPECS	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	977	\$86,386	\$10,366	\$306	\$97,058
ROW	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	124	\$10,522	\$1,263	\$30	\$11,815
BIDDING	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	37	\$4,348	\$522	\$64	\$4,934
PROJECT TOTALS	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	3,029	\$285,577	\$34,271	\$6,416	\$326,264
GHBW	258	\$20,631	\$2,476	\$3,509	\$26,615
Totals	3,287	\$306,208	\$36,747	\$9,925	\$352,879

Appendix A - Justification of Costs and Fees
January 23, 2014

A. 3
Garver Engineers, LLC
Page 41 of 68

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

PROJECT ADMINISTRATION

MANHOURS							
TASK	SPM	PM	ADMIN4	ADMIN3	ADMIN2	ADMIN1	TOTAL
Project Management	6	6					12
Meetings	6	36					42
Invoice Processor	12				15	8	35
Administrative Support						2	2
Total MH - Project Administration	24	42	0	0	15	10	91
LABOR COSTS							
Description (Billing Class)	Rate	MH	Amount				
SPM - Project Manager (E-6/E-5)	\$68.10	24	\$1,634				
PM - Project Manager (E-3/E-4)	\$44.20	42					
ADMIN2 - Sr. Admin. Assistant (X-2)	\$23.60	15	\$354				
ADMIN1 - Admin. Assistant (X-1)	\$19.00	10	\$190				
		Subtotal	\$2,178				
		Overhead	187.57%		\$4,085		
		Subtotal	\$6,263				
		Fee	\$752				
		Subtotal Labor Costs	\$7,015				
EXPENSES							
ITEM	Quantity	Unit	Rate	Amount			
Printing (8 1/2 x 11 B&W)	400	each	\$0.10	\$40			
Printing (11 x 17 Color)	400	each	\$1.30	\$520			
Mileage	150	mile	\$0.56	\$84			
		Subtotal Direct Costs	\$644				
		TOTAL COSTS - PROJECT ADMINISTRATION					\$7,659
BASIS OF ESTIMATE - PROJECT ADMINISTRATION							
Description							
Includes 18 progress meetings and 18 invoices							

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Rurple Rd.)(Fayetteville) (S)
Job 040657

SURVEYS

MANHOURS							
TASK	SPS	PS	ST	PC	IM	TOTAL	
Property Survey							
Partial Section Breakdown - (1) NE 1/4, (6) NW 1/4				10	10	20	
Recon Parcels & parcel ties (10 (+/-) parcels)				8	8	16	
Process Raw Data	2	4				6	
Calculations and final Drawings	4	8	2			14	
Design Survey							
Horizontal and Vertical Control	2	4		22	22	50	
Topographic Survey	1	2		20	20	43	
Drainage Survey	1			10	10	21	
Locate Utility	1	2		6	6	15	
Process Raw Data	1	4				5	
Process Drawing and DTM	2	12				14	
Final Drawings - Control Sheets	2	4	8			14	
Stake Proposed Right of way and Easements	1	2		4	4	11	
Monument Right of Way	1	2		12	12	27	
Total MH - Surveys	18	44	10	92	92	256	
LABOR COSTS							
Description (Billing Class)				Rate	MH	Amount	
SPS - Senior Project Surveyor (S-5)				\$45.83	18	\$825	
PS - Project Surveyor (S4)				\$31.35	44	\$1,379	
TECH - Technician (T-1)				\$21.33	10	\$213	
PC - Survey Party Chief (S-3)				\$21.23	92	\$1,953	
IM - Instrument Man (S-2)				\$16.68	92	\$1,535	
					Subtotal	\$5,905	
					Overhead	187.57%	\$11,076
					Subtotal	\$16,981	
					Fee	\$2,038	
					Subtotal Labor Costs	\$19,019	
EXPENSES							
ITEM	Quantity	Unit	Rate	Amount			
Printing (8 1/2 x 11 B&W)	40	copy	\$0.10	\$4			
Mileage	240	mile	\$0.56	\$134			
Hotel Lodging	0	night	\$84.70	\$0			
Arkups Utility Markings	1	LS	\$625.00	\$625			
Title Work	10	Cert.	\$200.00	\$2,000			
Utility Survey Support	1	LS	\$0.00	\$0			
Meals	0	day	\$0.00	\$0			
					Subtotal Direct Costs	\$2,763	
					TOTAL COSTS - SURVEYS	\$21,782	
BASIS OF ESTIMATE - SURVEYS							
Project							
Number of Anticipated Parcels						10	
Hamestring Creek Sections outside roadway						5	
Length of Topographic Survey						0.41 Mile	

Appendix A - Justification of Costs and Fees
January 23, 2014

A. 3
Garver Engineers, LLC
Page 43 of 68

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

TRAFFIC STUDY

MANHOURS						
TASK	PM	PE	DE	DSR	ADMIN	TOTAL
Traffic Forecast for EASL Calculation						
Gather Historical Data (ADT)	1	4				5
Gather NWARPC Travel Demand Data	1	8				9
Review Previous Studies	2	8				10
Project Traffic along Ruppel Road (ADT)	2	8				10
Document the Findings	2	4				6
Total MH - Traffic	8	32	0	0	0	40
LABOR COSTS						
Description (Billing Class)				Rate	MH	Amount
PM - Project Manager (E-5/E-6)				\$68.10	8	\$545
PE - Project Engineer (E-3)				\$41.90	32	\$1,341
DE - Design Engineer (E-1)				\$28.00	0	\$0
DSR - Sr. Designer (D-2)				\$33.00	0	\$0
ADMIN - Administrative Assistant (X-1)				\$19.00	0	\$0
					Subtotal	\$1,886
					Overhead	187.57%
						\$3,538
					Subtotal	\$5,424
					Fee	\$651
					Subtotal Labor Costs	\$6,075
EXPENSES						
ITEM			Quantity	Unit	Rate	Amount
Printing (11x17 B&W)			100	each	\$0.20	\$20
Mileage			20	miles	\$0.56	\$11
Miscellaneous (Courier)			0	each	\$0.00	\$0
Lodging			0	each	\$84.70	\$0
					Subtotal Direct Costs	\$31
TOTAL COSTS - TRAFFIC STUDY						\$6,106

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657A. 3
Garver Engineers, LLC
Page 44 of 68**ENVIRONMENTAL**

MANHOURS								
TASK	SPM	PM	PE	SES	TECH	ARCH	ADMIN	TOTAL
ENVIRONMENTAL								
Constraints Mapping and Data Collection				6	12			18
Coordination with Roadway and Bridge Design	1	1	4	4	1			11
Alternatives Review and Evaluation of Anticipated Impacts			6	8	12			26
Alternatives Analysis		1	1	8	2			
Develop and Coordinate Purpose and Need		2		2				4
Agency Coordination Letters (USACE, USFWS, SHPO, NRCS)				6	6		1	13
Obtain Project Mailing List Database				1				1
Prepare Public Notice Notification for Client and AHTD Approval		1		2				3
Public Involvement - Stakeholder and Property Owner Notifications			1	4			2	7
Public Meeting Attendance, Handouts, Exhibits, Site Selection	4	4	1	12	22			43
Environmental Data Collection (air, land use, economic, socioeconomic, etc...)				24	8			32
Noise Study		1	2	32	4			39
Phase I Cultural Resources Survey and Prepare Tribal Letters		1		6	4	50		61
Phase I Cultural Resources Survey Review and Coordination		1		2		2		5
Jurisdictional Waters Mapping and Report		1		16	5			22
Section 404 Nationwide Permit Preparation		1		4	4			9
SWPPP Preparation and Coordination with ADEQ			1	16	8			
Initial Site Assessment for Hazardous Waste			1	8	1			10
Public Hearing Attendance, Handouts, Exhibits, Site Selection	8	8	8	28	50			
Public Hearing Response to Comments and Synopsis			8	16				
Prepare Draft EA Document			2	38	22			62
Review Draft EA Document	2	2		2				6
Revisions to Draft EA Document Per City and AHTD Comments		1		6	4			11
Final EA and FONSI Document Preparation			2	20	4		2	28
Final EA and FONSI Review and Submittal	1	4		6				11
Distribute Final FHWA-Approved EA		1		2			6	9
Total MH - Environmental	16	30	37	279	169	52	11	594
LABOR COSTS								
Description (Billing Class)					Rate		MH	Amount
SPM - Project Manager (E-5/E-6)					\$68.10		16	\$1,090
PM - Project Manager (E-3/E-4)					\$44.20		30	\$1,326
PE - Project Engineer (E-2)					\$36.00		37	\$1,332
SES - Sr. Environmental Scientist (P-1)					\$35.00		279	\$9,765
ST - Sr. Technician (T-2)					\$28.00		169	\$4,732
ARCH - Registered Archaeologist (P-2)					\$45.00		52	\$2,340
ADMIN - Administrative Assistant (X-1)					\$19.00		11	\$209
							Subtotal	\$20,794
					Overhead		187.57%	\$39,003
							Subtotal	\$59,797
							Fee	\$7,176
							Subtotal Labor Costs	\$66,973

ENVIRONMENTAL

MANHOURS											
TASK				SPM	PM	PE	SES	TECH	ARCH	ADMIN	TOTAL
EXPENSES											
ITEM							Quantity	Unit		Rate	Amount
Printing B&W							1,500	each		\$0.10	\$150
Printing Color							300	each		\$0.65	\$195
Environmental Database							1	each		\$250.00	\$250
Public Meeting Displays							14	each		\$50.00	\$700
Mileage							320	miles		\$0.56	\$179
Miscellaneous (Courier)							42	each		\$12.00	\$504
										Subtotal Direct Costs	\$1,978
TOTAL COSTS - ENVIRONMENTAL											\$68,951
BASIS OF ESTIMATE - ENVIRONMENTAL											
Up to Two public hearings											
Specialist Studies include Noise, Cultural Resources, Wetlands and Hazardous Waste											

Appendix A - Justification of Costs and Fees
January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

BRIDGE

MANHOURS							
TASK	SPM	PM	PE	DE	TECH	ADMIN	TOTAL
Conceptual Bridge Design							
30% Plan Submittal							
Develop Preliminary Layout	8	16	24	24	24		96
Typical Sections And Details	8	8		16	24		56
H&H Study of Hamestring Creek and Report	2	8	30	12	4		56
Plan Submittal	2	4		4			10
QA/QC Review	4	8			4		16
Preliminary Design							
50% Plan Submittal							
Incorporate Review Comments	2	4	4		4		14
Typical Sections		8	16	16	16		56
Develop Final Layout	4	8	8		16		36
Preliminary Structural Design	4	16	24	24	48		116
Bridge Scour Assessment		2	8				10
QA/QC Review	8	8	4				20
Final Design							
90% Plan Submittal							
Final Superstructure Design and Plans	8	16	40	24	48		136
Final Substructure Design And Plans	8	16	24	40	48		136
Special Provisions	4	8	8		4		24
Quantity Calculations	4	8		16			28
QA/QC Review	4	16	8				28
100% Plan Submittal							
Incorporate Review Comments	4	16	8		8		36
Final Plan Submittal	4	16	8		8		36
Total MH - Design, Plans, and Specs	78	186	214	176	256	0	910

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)

Job 040657

BRIDGE

MANHOURS							
TASK	SPM	PM	PE	DE	TECH	ADMIN	TOTAL
LABOR COSTS							
Description (Billling Class)	Rate				MH	Amount	
SPM - Project Manager (E-5/E-6)	\$68.10				78	\$5,312	
PM - Project Manager (E-3/E-4)	\$44.20				186	\$8,221	
PE - Project Engineer (E-2)	\$36.00				214	\$7,704	
DE - Design Engineer (E-1)	\$28.00				176	\$4,928	
ST - Senior Technician (T-2)	\$28.00				256	\$7,168	
					Subtotal	\$33,333	
					Overhead	187.57%	\$62,523
					Subtotal	\$95,856	
					Fee	\$11,503	
					Subtotal Labor Costs	\$107,359	
EXPENSES							
ITEM	Quantity			Unit	Rate	Amount	
Printing (11x17 B&W)				each	\$0.20	\$400	
Miscellaneous (Courier)				each	\$12.00	\$200	
					Subtotal Direct Costs	\$600	
					TOTAL COSTS - BRIDGE		
					\$107,959		
BASIS OF ESTIMATE - BRIDGE							

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

DESIGN, PLANS, AND SPECIFICATIONS

TASK	MANHOURS						TOTAL
	SPM	PM	PE	DE	TECH	ADMIN	
Roadway Front End Tasks							
Design Criteria		1	3				4
Conceptual Design							
Typical Sections			2	8	10		20
Conceptual Geometric Design	2		4	6	12		24
Prepare Graphics for Environmental Documentation		2		6	8		16
Revisions			2		8		10
Preliminary Design							
30% Plan Submittal							
Title Sheet				1	4		5
Typical Sections			1	2	6		9
Ruppel Road Plan and Profile	4	8		45	60		117
Bridge Team Coordination		4					4
Water/Sewer Relocation Plan		2	8	12			22
Opinion of Probable Costs	1	4		10			15
QA/QC	4	4					8
City Street Committee Meeting	3	4			4		11
Plan Submittal and Address AHTD/City Comments		2	10	10	12	2	36
50% Plan Submittal							
Drainage Design and Drainage Area Map	1	2	20	34	8		65
Typical Sections			2	2	4		8
Pavement Design			4				4
Striping and Signing Plans			1	1	8		10
Soil Boring Logs				2	6		8
Ruppel Road Plan and Profile	4	4	10	40	60		118
Channelization Plan and Profile	1	4	8	24	12		49
Water/Sewer Relocation Plan & Details		4		18			22
Driveways (Up to 4 Anticipated)			4	10	12		26
Cross Sections	1	4	16	8	4		33
Set ROW			2	4	4		10
Survey Control Details				2	4		6
Special Details		4		10	8		22
Maintenance of Traffic Plan and Details		1		10	8		19
Erosion Control Plans			6		8		14
Opinion of Probable Costs	1	2	2	8			13
Franchise Utility Coordination			4	4			8
QA/QC	4	4					8
Design Public Meeting	4	4	6		6		20
Plan Submittal/Address AHTD/City Comments	2	4	8	8	12	2	36

Appendix A - Justification of Costs and Fees
January 23, 2014

A. 3
Garver Engineers, LLC
Page 49 of 68

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

DESIGN, PLANS, AND SPECIFICATIONS

MANHOURS							
TASK	SPM	PM	PE	DE	TECH	ADMIN	TOTAL
Final Design							
90% Plan Submittal							
Quantity Calculations(Quantity Sheets Excluded)		2	12	16			30
Quantity Calculations Check	4	4					8
Transportation Management Plan		1	3				4
Update Plan and Profile Sheets	1	2	4	10	12		29
Update Cross Sections		2		8	4		14
Project Manual		2	12	4			18
Special Provisions		2	8				10
Franchise Utility Coordination			4	4			8
QA/QC	4	4					8
Plan Submittal/Address AHTD/City Comments	1	4	6	6	8	2	27
100% Plan Submittal							
Plan Check	4	4					8
Final Plans Submittal (Signed and Sealed)	1	2	4		4	2	13
Total MH - Design, Plans, and Specs	47	97	176	333	316	8	977
LABOR COSTS							
Description (Billing Class)					Rate	MH	Amount
SPM - Project Manager (E-5/E-6)					\$68.10	47	\$3,201
PM - Project Manager (E-3/E-4)					\$44.20	97	\$4,287
PE - Project Engineer (E-2)					\$36.00	176	\$6,336
DE - Design Engineer (E-1)					\$28.00	333	\$9,324
TECH - Technician (T-1)					\$21.33	316	\$6,740
ADMIN - Administrative Assistant (X-1)					\$19.00	8	\$152
						Subtotal	\$30,040
						Overhead	187.57%
							\$56,346
						Subtotal	\$86,386
						Fee	\$10,366
						Subtotal Labor Costs	\$96,752
EXPENSES							
ITEM	Quantity	Unit	Rate	Amount			
Printing (11x17 B&W)	600	each	\$0.20	\$120			
Printing (8.5x11)	500	each	\$0.10	\$50			
Mileage	200	miles	\$0.56	\$112			
Miscellaneous (Courier)	2	each	\$12.00	\$24			
						Subtotal Direct Costs	\$306
						TOTAL COSTS - DESIGN, PLANS, AND SPECIFICATIONS	
						\$97,058	
BASIS OF ESTIMATE - DESIGN, PLANS, AND SPECIFICATIONS							
Roadway	Quantity						
Roadway Improvements (Miles)	0.41						
Intersections to be Improved	1 - Partial						
Bridge	1						
Number of Anticipated Residential Driveways Impacted	4						
Note: The manhour estimate is based on a 13 point review by AHTD.							

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)

Job 040657

RIGHT OF WAY

MANHOURS					
TASK	SPS	PS	ST	ADMIN	TOTAL
ROW					
Stage 1					
Plot and verify Certificates against Parcel Surveys	2	20			22
Create R01 and set ROW points from Construction Plans and PSUR		2			2
Submit Strip Map (Omit due to length)					0
Stage 2					
Field Inspection					0
Revise ROW based on AHTD comments		2			2
Prepare title sheet		2	4		6
Prepare layout sheets (estimated 1 sheets)		2	4		6
Prepare Right-of-Way plan sheets (estimated 4 sheets)	1	8	32		41
Calculate tract areas (total, to acquire & residuals)	1	8	2		11
Draw total parcel insets (if necessary)					0
Prepare Legal Descriptions	6	12			18
Stage 3					
In-House Plan Check	1	1			2
Stage 4					0
Submit 90% plans to AHTD		2			2
(Electronics - Plans.dgn, Legals.doc, Certificates & Deeds.pdf)		2			2
Corrections from Review Comments (Non Chargeable Expense)					0
Revisions from Review Comments		2			2
Final Review with Construction Plans	1	2			3
Stage 5					
Submit Final Plans to AHTD (Electronic Files only)			1		1
Revisions requested during ROW Acquisition	1	2			3
UTILITY COORDINATION					
Utility Coordination (City to Perform Utility Coordination)	1				1
Total MH -Right of Way	14	67	43	0	124
LABOR COSTS					
Description (Billing Class)	Rate		MH	Amount	
SPS - Senior Project Surveyor (S-5)	\$45.83		14	\$642	
PS - Project Surveyor (S4)	\$31.35		67	\$2,100	
TECH - Technician (T-1)	\$21.33		43	\$917	
Subtotal				\$3,659	
Overhead			187.57%	\$6,863	
Subtotal				\$10,522	
Fee				\$1,263	
Subtotal Labor Costs				\$11,785	
EXPENSES					
ITEM	Quantity	Unit	Rate	Amount	
Printing (11x17 B&W)	30	each	\$0.20	\$6	
Miscellaneous (Courier)	2	each	\$12.00	\$24	
Subtotal Direct Costs				\$30	
TOTAL COSTS - RIGHT OF WAY				\$11,815	
BASIS OF ESTIMATE - RIGHT OF WAY					
Right of Way	Quantity				
Estimated Number of Parcels and Legal	10 Parcels with 6 Legals				
Estimated Number of Sheets	4 Right of Way				

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)

Job 040657

BIDDING

MANHOURS							
TASK	SPM	PM	PE	DE	DSR	ADMIN	TOTAL
Bidding							
Dispense plans and specs to prospective bidders						4	4
Addendums/Inquiries		6	2			0	8
Pre-Bid Meeting	2	4				0	6
Bid Opening	2	2	2			0	6
Prepare bid tabulation		1				4	5
Evaluate bids and recommend award	1	2	2			0	5
Prepare construction contracts	1					0	1
Notice to Proceed			2			0	2
Total MH - Design, Plans, and Specs	6	15	8	0	0	8	37
LABOR COSTS							
Description (Billing Class)					Rate	MH	Amount
SPM - Project Manager (E-5/E-6)					\$68.10	6	\$409
PM - Project Manager (E-3/E-4)					\$44.20	15	\$663
PE - Project Engineer (E-2)					\$36.00	8	\$288
DE - Design Engineer (E-1)					\$28.00	0	\$0
DSR - Sr. Designer (D-2)					\$33.00	0	\$0
ADMIN - Administrative Assistant (X-1)					\$19.00	8	\$152
						Subtotal	\$1,512
						Overhead	187.57%
							\$2,836
						Subtotal	\$4,348
						Fee	\$522
						Subtotal Labor Costs	\$4,870
EXPENSES							
ITEM	Quantity	Unit	Rate	Amount			
Printing (11x17 B&W)	200	each	\$0.20	\$40			
Miscellaneous (Courier)	2	each	\$12.00	\$24			
						Subtotal Direct Costs	\$64
						TOTAL COSTS - BIDDING	\$4,934
BASIS OF ESTIMATE - BIDDING							

APPENDIX B1

SUBCONSULTANT AGREEMENT

JOB NO. 040657

FEDERAL AID PROJECT ("FAP") NO. STPU-9142(36)

W. Starry Night View – W. Mount Comfort Rd. (N. Ruppel Road)(Fayetteville) (S)

1. SUBCONSULTANT AGREEMENT

- 1.1. The services to be performed under this Subconsultant Agreement will be performed in connection with the Agreement for Engineering Services ("Prime Agreement") between the Consultant and the City of Fayetteville ("Owner") for Job No. 040657, dated _____, _____. Garver, LLC ("Consultant") and Grubbs, Hoskyn, Barton & Wyatt, Inc. ("Subconsultant") hereby agree that the Subconsultant shall perform the professional and related services as described herein. In consideration for the performance of the professional services the Consultant agrees to compensate (and reimburse, if applicable) the Subconsultant in the manner and at the rate(s) provided herein.
- 1.2. The definitions of the Prime Agreement, and its provisions relating to the obligations, duties, and rights of subcontractors, *or which are otherwise required to be inserted into any subcontracting agreements*, are deemed to be part of, and are hereby incorporated by reference into, this Subconsultant Agreement and made binding upon the Subconsultant.

2. DESCRIPTION OF PROJECT AND SERVICES TO BE PROVIDED

- 2.1. The City of Fayetteville has programmed a project for the reconstruction and relocation of N. Ruppel Road from W. Starry Night View to W. Mount Comfort Road, including a bridge over Hamstring Creek in Fayetteville, Washington County, Arkansas.
- 2.2. The project generally consists of providing environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway and bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary.
- 2.3. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).
- 2.4. "Services to be Provided by Subconsultant." Grubbs, Hoskyn, Barton and Wyatt, Inc. will perform the following tasks to prepare the geotechnical investigation for the project:
 - 2.4.1. Grubbs, Hoskyn, Barton & Wyatt will visit the project alignment to observe site conditions. Published information on site geology and available information from prior geotechnical studies in the area will be reviewed.
 - 2.4.2. Grubbs, Hoskyn, Barton & Wyatt will contact landowners to secure right of access in the project alignment prior to accessing boring locations. Underground utility locations will be cleared prior to beginning drilling. It is expected that Garver or the City of Fayetteville will provide property owner contact information, if needed. It is

assumed that Garver will provide all right of access information and available maps and aerial photographs. This information will be required prior to contacting property owners and beginning work.

2.4.3. Access to boring locations will be provided by Grubbs, Hoskyn, Barton & Wyatt as dictated by site conditions and permitted by property owners. Applicable permits will be obtained and traffic control will be provided by Grubbs, Hoskyn, Barton & Wyatt. Truck-mounted drilling equipment will be utilized.

2.4.4. Sample borings will be advanced using dry-auger and rotary-wash drilling techniques. The existing pavement section components will be measured. Undisturbed soil samples or Standard Penetration Values will typically be obtained in borings at 2-ft to 5-ft intervals. Groundwater measurements will be obtained during and at the completion of drilling operations. Boreholes will be backfilled after obtaining final groundwater measurements. Boreholes in existing pavement areas will be patched with asphalt concrete cold patch or a concrete mix.

2.4.5. The subsurface exploration program will consist of two (2) sample borings drilled to approximately 15-ft depth or auger refusal in the new embankment area in the Hamstring floodplain area, three (3) sample borings drilled to approximately 10-ft depth or auger refusal along the remainder of the alignment, and up to two (2) borings at bridge bent locations to approximately 50 ft-depth with rock cores.

2.4.6. An adequate laboratory testing program will be planned and performed after the borings are completed. The purpose of the laboratory testing program will be to evaluate pertinent physical properties and engineering characteristics of the subgrade soils. These data will be used in developing geotechnical recommendations for subgrade support design parameters, subgrade preparation, and site grading. The testing program is expected to consist of classification tests, strength tests, measurements of compressibility, swell potential, and subgrade support properties.

2.4.7. An engineering report will be developed which will include the results of the field and laboratory studies, information on site conditions and geology, and recommendations for subgrade preparation, site grading, pavement subgrade support parameters, pavement section, bridge foundation, embankment, and retaining walls.

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

3.1. For the work described herein, except as otherwise agreed to in writing by the Engineer and the Subconsultant, the Engineer will pay the Subconsultant on a cost plus fixed fee basis. The total not-to-exceed cost for the geotechnical investigation will be **\$26,615** with a fixed fee of **\$2,476**. The justification for the fees and costs is contained in Attachment B1-1. The Subconsultant will submit monthly invoice indicating the amount complete. Engineer will not be required to pay Subconsultant for work represented by invoices received more than 60 days after the billing period when the work occurred.

3.2. The Engineer will bill the Owner monthly. All Subconsultant bills must be received 10 calendar days prior to the last Friday of the month in order to be included in the Engineer's invoice to the Owner for that month. Payment to the Subconsultant will be made within 10 days of the Engineer receiving payment from the Owner for the Subconsultant work included in each invoice.

- 3.3. **Salaries.** The following schedule covers the classification of personnel and the salary ranges for all personnel anticipated to be assigned to this project by the Subconsultant:

3.3.1.SCHEDULE OF SALARY RANGES

Description	Min. Hourly	Max. Hourly
Principal	\$42.50	\$69.71
Project Manager	\$31.25	\$61.05
Project Engineer	\$27.93	\$47.60
Staff Engineer/Geologist	\$23.25	\$42.31
Geologist	\$20.50	\$38.46
Drilling Supervisor	\$18.25	\$28.45
Laboratory Supervisor	\$18.25	\$28.45
Driller/Senior Technician	\$12.00	\$24.50
Technician/Helper	\$9.50	\$15.50
Engineering Aide/Clerical	\$12.00	\$20.50

4. COMPENSATION SUBJECT TO LIMITATIONS OF FEDERAL AND STATE LAW

- 4.1. The Project (as defined in the Prime Agreement), part of which is to be performed under this Subconsultant Agreement, is a federally-assisted project and federal funds will be used, in part, to pay the Consultant and Subconsultant. Therefore, notwithstanding any provision of this Subconsultant Agreement or the Prime Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, including those relating to determination of indirect cost rates, if applicable. The Subconsultant shall certify the accuracy of all invoices, requests for payment, and cost rates (if applicable), along with supporting documentation and any supporting information or records provided prior to, during, or after the term of this Subconsultant Agreement.

5. COMMISSION, AHTD, AND FHWA AS THIRD PARTY BENEFICIARIES

- 5.1. This Subconsultant Agreement is between and binding upon only the Consultant and Subconsultant. The Commission, AHTD, and FHWA are not parties to this Subconsultant Agreement, but are expressly made third-party beneficiaries of this Subconsultant Agreement and shall be entitled to enforce any obligation of the Subconsultant owed to the Consultant. No provision of this Subconsultant Agreement or the Prime Agreement, nor the exercise of any right thereunder, shall be construed as creating any obligation or any liability on the part of, or operating as a waiver of any immunity of, the Commission, the AHTD, the FHWA, or any of their employees, officers, or agents.
- 5.2. The Subconsultant's sole recourse, if any, for any injury arising under or related to this Subconsultant Agreement, the performance of services hereunder, or compensation or claims hereunder, shall be against the Consultant.
- 5.3. The Disputes and Claims provisions of the Prime Agreement shall not apply to this Subconsultant Agreement.

6. COVENANT AGAINST CONTINGENCY FEES

- 6.1. The Subconsultant warrants that no person or agency has been employed or retained to solicit or obtain this Subconsultant Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the AHTD and Consultant shall have the right to annul this Subconsultant Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.
- 6.2. *Bona fide agency*, as used in this section, means an established commercial or selling agency, maintained by the Subconsultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 6.3. *Bona fide employee*, as used in this section, means a person, employed by the Subconsultant and subject to the Subconsultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 6.4. *Contingent fee*, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 6.5. *Improper influence*, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

7. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Subconsultant Agreement, the Subconsultant, for itself, successors, and assigns, certifies and agrees as follows:

- 7.1. *Compliance with Regulations.* The Subconsultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Subconsultant Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.
- 7.2. *Nondiscrimination.* The Subconsultant, with regard to the work performed by it during the term of this Subconsultant Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

- 7.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment.* In all solicitations, either by competitive bidding or negotiation, made by the Subconsultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subconsultant of the Subconsultant's obligations under this Subconsultant Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 7.4. *Information and Reports.* The Subconsultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the AHTD or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the AHTD, or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 7.5. *Sanctions for Noncompliance.* In the event of the Subconsultant's noncompliance with the nondiscrimination provisions of this Subconsultant Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the Federal Highway Administration may determine to be appropriate, including but not limited to, withholding of payments to the Consultant or Subconsultant under the Agreement until the Subconsultant complies with the provisions and cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 7.1. *Incorporation of Provisions.* The Subconsultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Subconsultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or FHWA may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Subconsultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subconsultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

8. DBE CLAUSE

- 8.1. The Subconsultant shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Subconsultant Agreement. The Subconsultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration of DOT-assisted contracts. Failure by the Subconsultant to comply with or perform these requirements is a material breach of this Subconsultant Agreement, which may result in the cancellation, termination, or suspension of this Subconsultant Agreement in whole or in part, or such other remedy that the AHTD may determine appropriate.
- 8.2. *Prompt Payment.* The Subconsultant shall pay its subcontractors, if any, for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the AHTD to the Subconsultant. Any retainage payments held by the Subconsultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Subconsultant. If the Subconsultant fails to comply with this provision, in addition to any

other rights or remedies provided under this Subconsultant Agreement, the AHTD, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the AHTD, against reimbursements or payments otherwise due the Subconsultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Subconsultant until the Subconsultant ensures that the subcontractors have been and will be promptly paid for work performed.

8.3. The Subconsultant shall insert a clause containing all the terms of this section in all subcontracts under this Subconsultant Agreement.

9. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

9.1 The Subconsultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.

9.2 The Subconsultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.

9.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

10.1. The Subconsultant certifies, to the best of its knowledge and belief, that—

10.1.1. The Subconsultant and any of its Principals—

10.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;

10.1.1.2. Have not, within a 3-year period preceding this offer, 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) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

10.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subsection 10.1.1.2; and,

10.1.1.4. The Subconsultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.

10.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code, as well as any other applicable federal and state laws.

10.3. The Subconsultant shall provide immediate written notice to the AHTD if, at any time prior to contract award, the Subconsultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

10.4. The certification in subsection 10.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Subconsultant knowingly rendered an erroneous certification, the AHTD may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the AHTD.

11. NOTICE

11.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

11.1.1. To the Subconsultant:

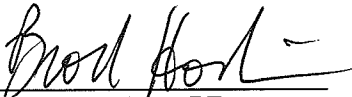
Subra T. Bhat, Ph.D., P.E.
Grubbs, Hoskyn, Barton & Wyatt, Inc.
P.O. Box 1248
Springdale, AR 72764

11.1.2. To the Consultant:

Ron Petrie, PE
Garver, LLC
2049 E. Joyce Boulevard, Suite 400
Fayetteville, AR 72703

IN WITNESS WHEREOF, the parties execute this Subconsultant Agreement, to be effective _____.

Garver, LLC.

BY: 
Brock Hoskins, PE
Executive Vice President
1-27-14
Date

Grubbs, Hoskyn, Barton & Wyatt, Inc.

BY: 
Subra Bhat, Ph.D., PE
Principal/Office Manager
1/24/14
Date

Attachment B1-1 - Justification of Costs and Fees
October 25, 2013
Ripple Road
Job 040657

A. 3
Garver Engineers, LLC
Page 60 of 68

GEOTECHNICAL

MANHOURS								
TASK	PR	PE	SE/G	D/LS	DT	HT	EA/C	TOTAL
Drilling Program								
Coordination	4	4						8
Drilling and sampling roadway				12	50	40		102
Access								0
Travel				2	4			6
Laboratory Testing and Analysis								
Laboratory Testing - Roadway				16	26			42
Engineering Analyses	20	26	16					62
Report Draft							15	15
Report Preparation and Administration								
Final Report	8	10					5	23
Report Preparation								0
								0
TOTAL MH - GEOTECHNICAL	32	40	16	30	80	40	20	258
LABOR COSTS								
Category - Description	Rate		MH	Amount				
PR - Principal	\$59.48		32	\$1,903				
PE - Project Engineer	\$38.00		40	\$1,520				
SE/G - Staff Engineer or Geologist	\$27.00		16	\$432				
D/LS - Drilling or Lab Supervisor	\$25.20		30	\$756				
DT - Driller or Sr. Technician	\$21.00		80	\$1,680				
HT - Helper or Technician	\$15.50		40	\$620				
EA/C - Engineering Aide or Clerical	\$19.50		20	\$390				
			Subtotal	\$7,301				
	Overhead		182.56%	\$13,329				
			Subtotal	\$20,630				
			Fee	\$2,476				
	FCCM		0.00%	\$0				
			Subtotal Labor Costs	\$23,106				

Attachment B1-1 - Justification of Costs and Fees
 October 25, 2013
 Ruppel Road
 Job 040657

A. 3
 Garver Engineers, LLC
 Page 61 of 68

GEOTECHNICAL

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Mob/demob (truck)	40	mile	\$3.30	\$132
In yard mobilization (truck)	1	each	\$140.00	\$140
Drilling equipment (truck)	32	hour	\$31.75	\$1,016
Water truck	20	hour	\$22.00	\$440
Crew truck	50	hour	\$5.65	\$283
Vehicle mileage	40	mile	\$0.55	\$22
Travel expenses	0	day	\$95.00	\$0
Dozer rental	0	day	\$1,250.00	\$0
Equipment set up & Access (truck)	15	hour	\$31.75	\$476
Coring - third party equipment	0	core	\$225.00	\$0
Traffic control - lane closures (4-hr maximum)		hour	\$100.00	\$0
Traffic control - signage and escort	8	hour	\$125.00	\$1,000
		Subtotal Expenses		\$3,509
TOTAL COSTS - GEOTECHNICAL				\$26,615

APPENDIX C
C-1

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

CERTIFICATION OF CONSULTANT

I hereby certify that I, Brock Hoskins, am Executive Vice President and duly authorized representative of the firm of Garver, LLC whose headquarters address is 4701 Northshore Drive, North Little Rock, AR, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

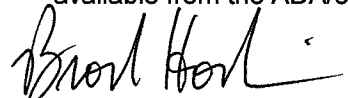
except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Garver, LLC ("Consultant") complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Tatiana Herrington (ADA/504/Title VI Coordinator), 4701 Northshore Dr., North Little Rock, AR, (501-376-3633), or, the following email address: tbherrington@GarverUSA.com. This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.


Authorized Firm Representative

1-27-14
Date

APPENDIX C
C-2

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

CERTIFICATION OF CONSULTANT

I hereby certify that I, Subra Bhat, am a Principle and duly authorized representative of the firm of Grubbs, Hoskyn, Barton, and Wyatt, Inc. whose headquarters address is No. 1 Trigon Plaza, Little Rock, AR, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

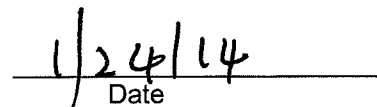
Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Grubbs, Hoskyn, Barton & Wyatt ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Kay Keller (ADA/504/Title VI Coordinator), 8114 Cantrell Road, Suite 350, Little Rock, AR 72227, (501.663.8800), or the following email address: kkellergrubbsengineers.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.


Authorized Firm Representative


Date

APPENDIX C
C-3

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

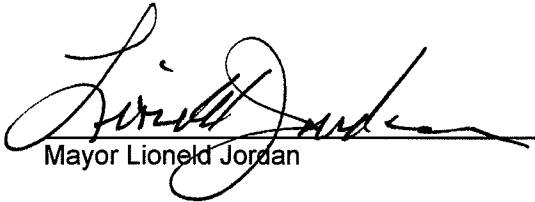
CERTIFICATION OF CITY OF FAYETTEVILLE

I hereby certify that I am the Mayor of Fayetteville and that the aforementioned consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

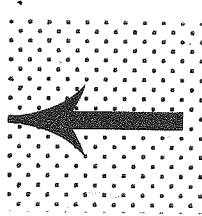
- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contributions donation, or consideration of any kind:

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.


Mayor Lioneld Jordan

2/3/14
Date



Rupple Road Improvements - AHTD PROJECT NO. 040657
PROJECT TIMELINE with Environmental Assessment

APPENDIX D

Description	Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Kickoff Meeting																	
Design and Parcel Surveys																	
Identification and Analysis of Transportation Demands																	
Alternatives Preparation (Up to 3 Build Alts)																	
Data Collection, SOVs, Constraints Mapping																	
AHTD Review of Public Involvement Announcement																	
Public Involvement - 1 Public Meeting (Alternatives)																	
Analysis of Impacts and Preferred Alternative Selection																	
Environmental Specialist Surveys																	
Noise Analysis (contingent on 30% plans)																	
Draft EA Development																	
City, AHTD, FHWA Review of Draft EA																	
Location Public Hearing (if necessary)																	
Final EA Development and Draft FONSI																	
City, AHTD and FHWA Review																	
Environmental Clearance, FONSI																	
Section 404, 401 SWPPP, STRA																	
H&H Study of Hamesting Creek																	
30% Roadway Plans																	
City Review																	
60% Roadway & Bridge Plans																	
City and AHTD Review																	
Right-of-Way Plans																	
City and AHTD Review																	
90% Roadway and Bridge																	
City and AHTD Review																	
Final Plans, Cost Estimate, and Specs																	
Final Approval																	

NOTE: (1) This schedule includes estimated agency review times for all submittals and additional review time may extend the schedule.

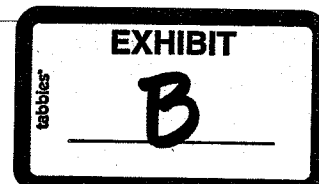
V11.0425
A. 3

~~Carver Engineers, LLC~~
tment Number of 68

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

Garver Engineers and the City have negotiated a contract for the design of Ruppel Road (BF Lane to Mt. Comfort). The cost of the contract is \$352,879.00. This project is a grant and the split with AHTD is 80/20. The City's portion (paid with 2013 Street Bond funds) is \$70,576. The grant portion (reimbursed by AHTD) will be \$282,303.

Prepared By:						
	<i>#NAME?</i>					
Reference:						
Budget & Research Use Only						
Type:	A	B	C	D	E	P
General Ledger Date						
Posted to General Ledger						
	Initial		Date			
Checked / Verified						
	Initial		Date			

[illegible]

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Vendor #: 52650						Vendor Name: Garver Engineers		Requisition No.:		Date: 1/28/2014 Garver Engineers, LLC Page 67 of 68	
Address: 1088 E. Milsap Road						Fob Point:		P.O Number:		Expected Delivery Date:	
City: Fayetteville				State: AR		Zip Code: 72703		Ship to code:		Taxable Yes: ☐ No: ☒	
Requester: Chris Brown						Requester's Employee #: 2695		Extension: 8207		Quotes Attached Yes: ☐ No: ☒	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers		Project/Subproject #	Inventory #	Fixed Asset #	
1	Professional Services	1		70,576.00	\$70,576.00	4520.9555.5314.00		06035.3100			
2	Professional Services	1		282,303.00	\$282,303.00	4470.9470.5809.00 5314		06035.3100			
3	The line above (4470) is a GRANT				\$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: \$352,879.00			
								Tax: _____			
								Total: \$352,879.00			
Approvals:											
Mayor: _____				Department Director: _____				Purchasing Manager: _____			
Finance & Internal Services Director: _____				Budget Manager: _____				IT Manager: _____			
Dispatch Manager: _____				Utilities Manager: _____				Other: _____			

City of Fayetteville Item Review Form

20140055

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Yolanda Fields

Submitted By

Development Services

Department

Action Required:

Approval of the 2014 Action Plan and the Mayor's authority to execute the 2014 Community Development Block Grant (CDBG) Agreement upon receipt.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐ Yes

Budget Adjustment Attached? ☐

V20130812

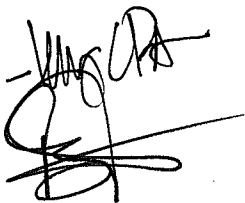
01-30-14 A08:18 RCVD

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

Staff recommends approval of the 2014 Action Plan and the Mayor's authority to execute the 2014 CDBG Agreement upon receipt.



Paul A. Behn
Jim Allen





CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Jeremy Pate, Dir. Community Development 

From: Yolanda Fields, Dir. Community Resources 

Date: January 29, 2014

Subject: 2014 Community Development Block Grant (CDBG)

PROPOSAL:

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement City since 1975. Funding is based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons and the number of housing units. This formula allocation process awards CDBG funding to the City of Fayetteville. Each year the Community Resources Division submits an Action Plan to the U.S. Department and Urban Development (HUD) outlining the proposed uses of CDBG funding. If HUD approves the Action Plan a CDBG Agreement for that year is received. This Agreement must be executed, returned to the HUD Field Office in Little Rock and then sent to HUD in Washington D.C. for the release of funds.

Grant amounts vary each year dependent upon the funding levels authorized by Congress through the annual federal budget process. The estimated award for 2014 is \$540,700. The grant funding detail submitted to HUD in the 2014 Action Plan is:

Administration	\$107,700
Housing Rehabilitation	\$263,070
Redevelopment	\$ 46,300
LifeSource International	\$ 20,000
Prism Education Center	\$ 20,000
Transportation	\$ 21,500
LifeSource International	\$ 35,000
NWA Free Health Center	\$ 3,630
Prism Education Center	<u>\$ 23,500</u>
	\$540,700

Approving the 2014 Action Plan and the Mayor's authority to execute the 2014 CDBG Agreement upon receipt will reduce the waiting time for HUD to release the funds. This will allow for quicker start up of both internal and external programs to assist low and moderate income residents in Fayetteville. Any change in the awarded funding amount will be presented to the Council.

RECOMMENDATION:

Staff recommends that the 2014 Action Plan be approved and that authority be given to the Mayor to execute the 2014 Community Development Block Grant (CDBG) Agreement upon receipt.

BUDGET IMPACT:

2014 estimated CDBG grant revenue - \$540,700.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR 2014 WHEN RECEIVED IN THE ESTIMATED AMOUNT OF \$540,700.00 AND APPROVING THE 2014 ACTION PLAN

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 Mayor to execute the Community Development Block Grant (CDBG) Agreement in the estimated amount of \$540,700.00 for 2014 when received, and approves the 2014 Action Plan proposed as follows:

➤	Administration	\$107,700
➤	Housing Rehabilitation	\$263,070
➤	Redevelopment	\$46,300
➤	LifeSource (Services)	\$20,000
➤	Prism (Services)	\$20,000
➤	Transportation	\$21,500
➤	LifeSource (Facilities)	\$35,000
➤	NWA Free Health Center	\$3,630
➤	Prism (Facilities)	\$23,500

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Community Development Block Grant 2014 Action Plan

Community Services Division
Helping to Build a Better Community

Community Services Division

communityservices@fayetteville.ar.us

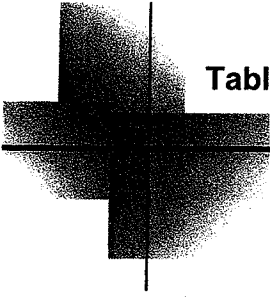


Table of Contents

Form 424	i
Introduction	1
Consolidated Action Plan	2
Institutional Structure and Coordination.....	4
Community Profile.....	5
Housing Community Development Needs	6
Available Resources	11
Public Access Participation	11
Analysis of Impediments to Fair Housing	12
Section 3	12
One-Year Action Plan	13
Administration	14
Housing Services	14
Redevelopment Program	14
Public Services	15
Public Facilities	16
Monitoring	17
Appendices	
A: Certifications	
B: Published Notices	
C: Citizen Participation Plan	
D: Project Listing	
E: Map	
F: Comments	
G: Tables	

Application for Federal Assistance SF-424

*** 1. Type of Submission:**

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

*** 2. Type of Application:**

- ☒ New
☐ Continuation
☐ Revision

*** If Revision, select appropriate letter(s):**

*** Other (Specify):**

*** 3. Date Received:**

4. Applicant Identifier:

B-14-MC-05-0001

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

*** a. Legal Name:**

City of Fayetteville

*** b. Employer/Taxpayer Identification Number (EIN/TIN):**

71-6018462

*** c. Organizational DUNS:**

141-310518

d. Address:

*** Street1:**

113 W Mountain

Street2:

*** City:**

Fayetteville

County/Parish:

Washington

*** State:**

AR: Arkansas

Province:

*** Country:**

USA: UNITED STATES

*** Zip / Postal Code:**

72701-6083

e. Organizational Unit:

Department Name:

Development Services

Division Name:

Community Services

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Ms.

*** First Name:**

Yolanda

Middle Name:

*** Last Name:**

Fields

Suffix:

Title: Community Services Director

Organizational Affiliation:

*** Telephone Number:**

479-575-8290

Fax Number:

479-444-3445

*** Email:**

yfields@ci.fayetteville.ar.us

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*** Other (specify):**

*** 10. Name of Federal Agency:**

U.S. Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.218

CFDA Title:

Community Development Block Grants/Entitlement Grants

*** 12. Funding Opportunity Number:**

*** Title:**

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Community Development Block Grant/Entitlement City

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant

* b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:

* a. Start Date:

* b. End Date:

18. Estimated Funding (\$):

* a. Federal	540,700.00
* b. Applicant	
* c. State	
* d. Local	
* e. Other	
* f. Program Income	
* g. TOTAL	540,700.00

* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☒ c. Program is not covered by E.O. 12372.

* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:

Middle Name:

* Last Name:

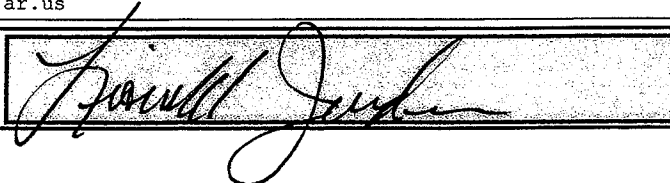
Suffix:

* Title:

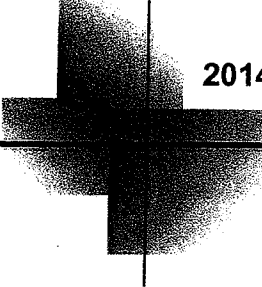
* Telephone Number: Fax Number:

* Email:

* Signature of Authorized Representative:



* Date Signed:



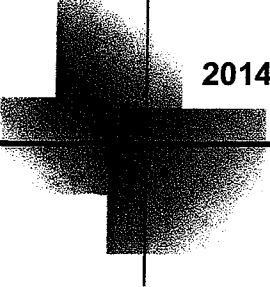
2014 Action Plan | Introduction

This document serves as the City of Fayetteville's One-Year Consolidated Action Plan Submission for the use of 2014 Community Development Block Grant (CDBG) Program funds. The Action Plan describes how the City will address the priority needs and specific objectives identified in the five-year strategy outlined in the City of Fayetteville's 2011-2015 Five-Year Consolidated Plan. The One-Year Action Plan is a component of the Five-Year Consolidated Plan that is updated annually to reflect resource allocation changes.

The planning process for the development of this One-Year Action Plan began on July 25 and 28, 2013 with published notices that the City was holding a mandatory subrecipient grant application workshop and accepting applications for GY2014 CDBG program funding. This notice of funding, in combination with the public hearing held on October 3, 2013, allowed agencies and interested citizens the opportunity to express concerns and share community needs. The public hearing announcement is included in Appendix B of this document.

Following the application submission period, 12 funding requests were received and reviewed by staff and the members of the grant prioritization committee. Applications were reviewed for compliance with application requirements. Proposed projects were also evaluated for fit with City Council adopted local community development objectives and consistency with the priorities and objectives contained in the 2011-2015 Consolidated Plan. CDBG funded activities must qualify by meeting at least one of the three national objectives: benefit low- and moderate-income individuals, prevent or eliminate blight and slums or meet urgent community development needs that pose a serious and immediate threat to the health or welfare of the community. In addition, each application was assessed for project readiness, financial leverage and other relevant concerns.

A summary of the proposed uses of CDBG funds recommended by staff was published in The Northwest Arkansas Times on September 25 and 29, 2013. It was also published in the weekly papers The Fayetteville Free Weekly and La Prensa Libre (in Spanish) with the September 26, 2013 publication date. These public notices provided the start and end dates of the 30-day public comment period; as well as the date, time and location for the public hearing. In addition, the public notices advised the general public of two locations that the proposed 2014 One-Year Action Plan was available for their review and comments. In addition to the public notices, Community Services published an announcement on the City's website (www.accessfayetteville.org). The draft One-Year Action Plan was then discussed at a public hearing held on October 3, 2013.



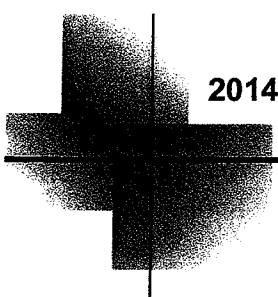
2014 Action Plan

In order to receive its annual CDBG funding, the City of Fayetteville must develop and submit to the Department of Housing and Urban Development (HUD) its Consolidated Action Plan. This plan is the City's comprehensive planning document and application.

In the Consolidated Action Plan, the City identifies its goals for CDBG programs, which also serve as the criteria against which HUD will evaluate the City's performance in carrying out its goals. The Consolidated Plan promotes a comprehensive approach to local decisions by requiring cities to include all local residents interested in community development to help identify the needs of the community and formulate strategies for addressing those needs.

The concept behind the Consolidated Action Plan is to:

- Enable a community to view HUD programs not as isolated tools to solve narrow functional problems, but rather as an invitation to embrace a comprehensive vision of housing and community development;
- Create a comprehensive vision which includes affordable housing, fair housing, transportation, economic development and community rehabilitation;
- Enable communities to apply this comprehensive approach in helping the homeless in a continuum of care, a comprehensive system for moving individuals and families from homelessness to permanent housing;
- Improve program accountability and support results oriented management by establishing clear priority needs and goals; providing more timely and readable information on needs, goals and proposed projects to citizens; providing measurable indicators of progress; and reporting on progress against these measures;
- Facilitate citizen involvement and commitment in the planning process by increased community outreach;
- Partner with the local Public Housing Authority in comprehensive planning efforts to revitalize distressed neighborhoods and help low-income residents;
- Integrate efforts to identify and take measures to overcome impediments to fair housing, which is an integral part of comprehensive planning efforts. The programs covered by the Consolidated Plan all have in common the characteristic that expenditures must primarily benefit extremely low (0 to 30 percent of median income), very low (31 percent to 50 percent of median income), and low (51 percent to 80 percent of median income) income persons and households.



2014 Action Plan

In addition, the goals are intended to meet the following three federal statutory objectives:

PROVIDE DECENT HOUSING | which includes:

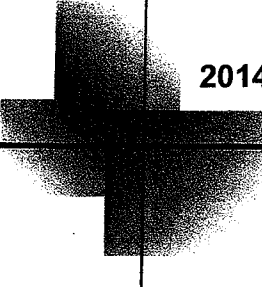
assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low income and moderate income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

PROVIDE A SUITABLE LIVING ENVIRONMENT | which includes:

improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial de-concentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural or aesthetic value; and conservation of energy resources.

EXPAND ECONOMIC OPPORTUNITIES | which includes:

job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long term economic and social viability of the community; and empowerment and self sufficiency for low income persons to reduce generational poverty in federally assisted housing and public housing.



2014 Action Plan Institutional Structure & Coordination

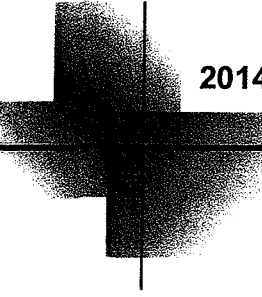
INSTITUTIONAL STRUCTURE and COORDINATION

Federal regulations require CDBG recipients to establish a common program year and identify a single lead agency to prepare and submit the Consolidated Action Plan. The task of preparing this Plan is assigned to the City of Fayetteville's Community Services Division. Annually, Community Services prepares the One-Year Action Plan as an update to the Five-Year Consolidated Plan. The Division addresses the various housing needs and strategies of the City of Fayetteville and administers the City's CDBG Program. It also functions as a program and services delivery unit to help address the community's needs for decent housing, a suitable living environment, and sustained economic health.

The Community Services Division has been in contact with an extensive network of governmental and non-profit agencies in developing this plan. Notices of funding availability were published in the local newspaper.

The delivery and financing of affordable/attainable housing involves organizations and participants from public agencies, businesses and private institutions, non-profits and community based organizations. The roles and responsibilities of the participants will vary depending on the project, required resources, leadership, levels of commitment, capacity, productivity and understanding of the issue. The Community Services Division will continue working with the various organizations as it implements the provisions of the 2014 One-Year Action Plan.

Staff also maintains relationships with state and federal partners and agencies to better link services to our targeted population. Community Services staff has assumed leadership and support roles with the Northwest Arkansas Housing Coalition and the Hispanic Women's Organization. Community Services has also developed strong ties with the University of Arkansas including the following departments: Off Campus Connections and the office of International Students and Scholars.



2014 Action Plan Community Profile

COMMUNITY PROFILE

The City of Fayetteville is the county seat of Washington County and is located in the northwestern part of Arkansas. Washington County is the third most populous county in Arkansas and one of the fastest growing. Fayetteville is situated at the foothills of the Ozark Mountains. Fayetteville is the southernmost city in metropolitan Northwest Arkansas and is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma; 350 miles northeast of Dallas, Texas and 210 miles south of Kansas City, Missouri. Fayetteville and the Northwest Arkansas region have gained a national reputation as one of the best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 73,580 according to the 2010 census. The city is the third most populous in Arkansas and currently encompasses 35,454 acres (55.39 square miles).

The 2010 census found that there were 73,580 people, 30,726 households and 7,076 families with children residing within the city. The 2010 census numbers reflect increases from the 2000 census. They show a 21% increase in the number of people, 23% increase in households and a 8% increase in the number of families with children. There are 36,188 housing units; this is an increase in housing units of 30% between the 2000 census and the 2010 census. The racial makeup of the city is 83.8% White, 6% African American, 1.1% American Indian/Alaska Native, 3.1% Asian, 0.2% Native Hawaiian/Pacific Islander, 2.8% Other, 3% Identified by two or more races. The 2010 census showed that 6.4% of the community was Hispanic or Latino.

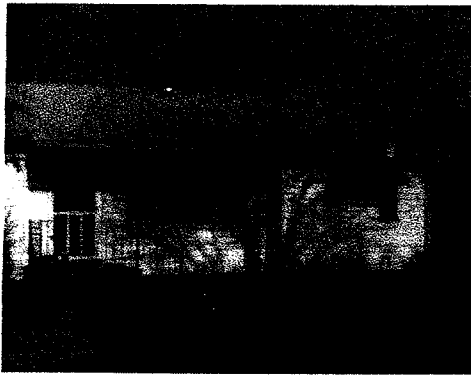
The age distribution in the City was 18.5% under the age of 18, 26.1% from 18 to 24, 34.6% from 25 to 49, 12.8% from 50 to 64, and 8% were 65 years of age or older. The 2010 census did not update the median income information therefore the following is utilizing information from the 2010 American Community Survey 1-Year Estimates. The median income for a household in the city is \$32,908, and the median income for a family was \$52,158. The per capita income for the city was \$22,501. 28.6% of the population and 14.4% of families were below the poverty line.

2014 Action Plan Housing & Community Development Needs

HOUSING & COMMUNITY DEVELOPMENT NEEDS

HOUSING

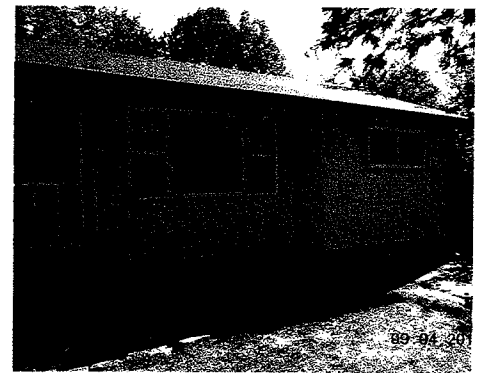
The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2011, the City has focused on developing community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the attainable housing effort in the City of Fayetteville. Attainable housing continues to be a topic of great concern for this division. According to the 2007-2011 ACS 5-year estimates the cost of the median mortgage payment in the City of Fayetteville remains one of the highest in Northwest Arkansas at \$1,358. It is 26 percent higher than the state median of \$1,004.



BEFORE



Two 2013 Housing
Rehabilitation Projects



AFTER

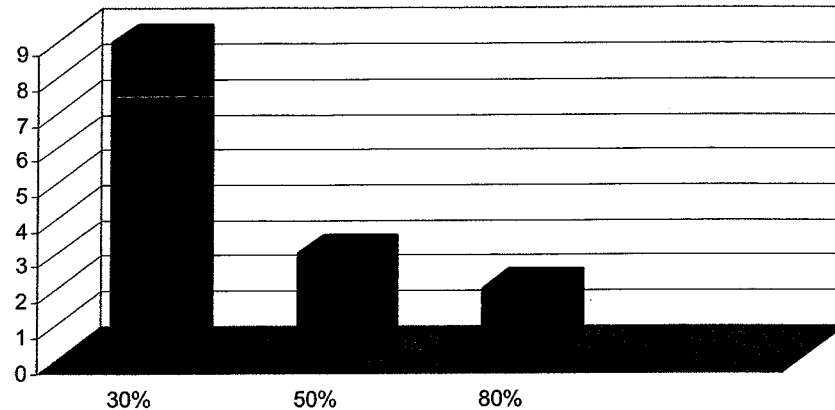


REHABILITATION

The City of Fayetteville has been helping homeowners with rehabilitation of their homes for approximately 34 years. The funding has allowed homeowners to stay in their homes and the improvements to their homes have acted as a catalyst for other, high quality renovations and new construction of housing in the project area. The majority of recipients have been very low income and/or elderly households. These owners have little or no funds available to repay a loan and typically have the greatest amount of deferred maintenance. The chart on the following page reflects the income levels of the 14 program participants from January 2013 - September 2013.

2014 Action Plan Housing & Community Development Needs

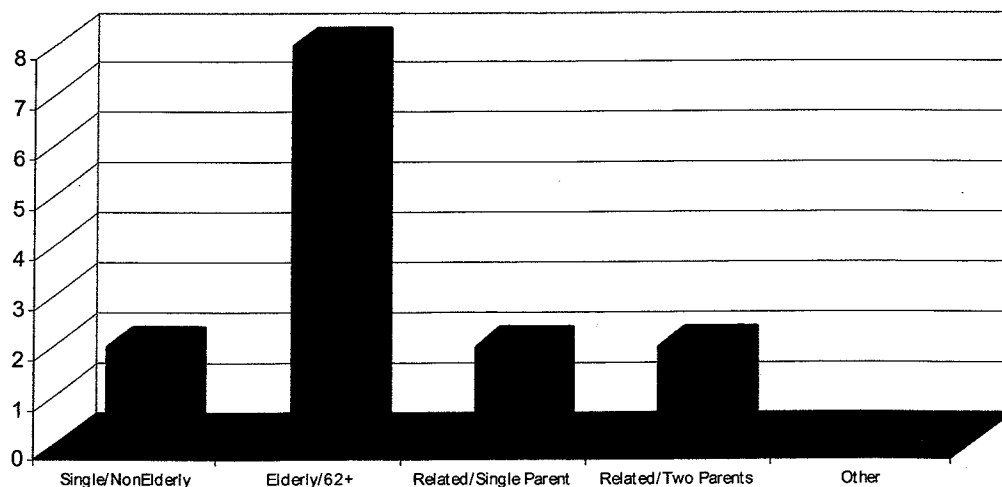
Housing Projects Completed | Income Limits



According to the U.S. Census Bureau approximately 7,722 homes were built prior to 1978 in the City of Fayetteville. Any rehabilitation activities of more than \$5,000 on homes constructed prior to 1978 will have Lead-Based Paint (LBP) testing done and actions taken to remove any identified hazards. Lead-based paint hazards consist of any condition that causes exposure to lead. To date in 2013, the program identified 1 home in the housing rehabilitation program with LBP concerns and the identified concerns were abated. Anytime that homes are identified as having LBP issues those hazards are corrected.

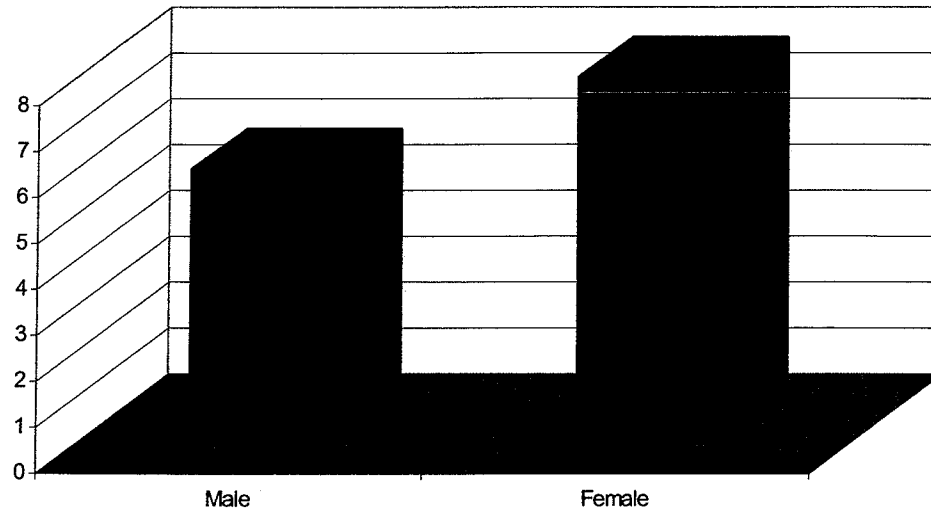
The 2010 Census reported 5,752 residents over the age of 65 in the City of Fayetteville. Homeowners in this age group are generally on a fixed income and often cannot afford to make any repairs on their homes or address making their homes energy efficient. The housing rehab program addresses both Lead-Based Paint issues and making the home energy efficient which can allow the homeowners to remain in the home longer than expected. The races of the households are 13 (93%) White and 1 (7%) African American. None (0%) were Hispanic. The following charts reflect the statistics on the participants that have been assisted in the first nine months of 2013. We have provided rehabilitation to 14 homes from January - September 2013.

Housing Projects Completed | Head of Household



2014 Action Plan Housing & Community Development Needs

Housing Projects Completed | Sex of Household



PUBLIC SERVICES

Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been and continues to be a focus of the Community Development Program. The Transportation Program has two components and provides assistance to LMI, disabled and/or elderly members of our community. The Transit Program provides qualifying LMI residents with bus passes through a partnership with Ozark Regional Transit to supplement their ability to get to appointments, jobs, etc. The Taxi Program provides supplemental transportation for elderly and/or disabled residents of Fayetteville in hopes of allowing them greater self-sufficiency. The Public Services component also includes the CDBG Subrecipient Grant Program which allows local nonprofits to apply for funding through a competitive grant application process.

PUBLIC FACILITIES

CDBG has historically supported Community Services Public Facilities projects in Fayetteville. CDBG dollars have assisted with construction, renovation and development of facilities for local non-profit organizations such as Life Styles, LifeSource International, NWA Free Health Center and the Yvonne Richardson Community Center

2014 Action Plan Housing & Community Development Needs

REDEVELOPMENT

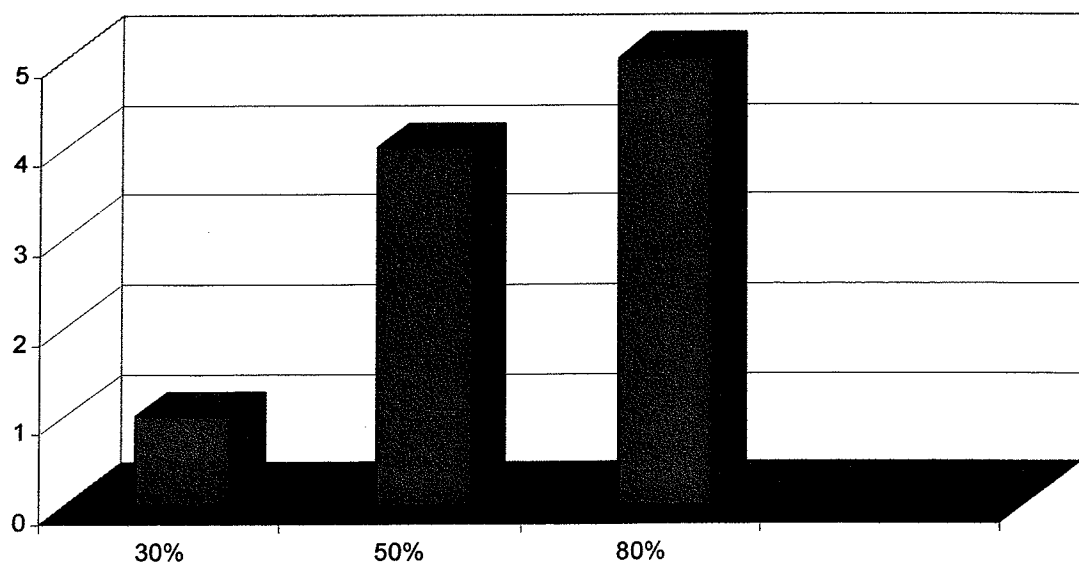
In 1992, a neighborhood within a low-to-moderate-income area of Fayetteville was designated as the Target Area. Prior to the creation of the program, Code Compliance efforts were placing an additional economic strain on the low- and moderate-income homeowners in the Target Area who are physically or financially unable to correct code violations. Thus, in 2004, the Redevelopment Program was established for the Target Area to assist in cleaning and revitalizing the deteriorating neighborhood.

According to the 2010 American Community Survey 1-Year Estimates, 15.4% of the population makes less than \$10,000; 9.1% make \$10,000 to \$14,999; 17.4% make \$15,000 to \$24,999; 11.2% make \$25,000 to \$34,999; 11% make \$35,000 to \$49,999; 13.4% make \$50,000 to \$74,999; 8% make \$75,000 to \$99,999; 8.6% make \$100,000 to \$149,999; 3.4% make \$150,000 to \$199,999 and 2.4% make \$200,000 or more. The Target Area is located in southeast Fayetteville which continues to be comprised of mainly low- and moderate-income residents.

With a high percentage making less than \$25,000 a year, it is evident that residents will often not have the resources to correct code violations on their property. Currently there are 31 active cases in the Target Area. The Redevelopment Program assists residents with correcting code violations without creating additional economic strain.

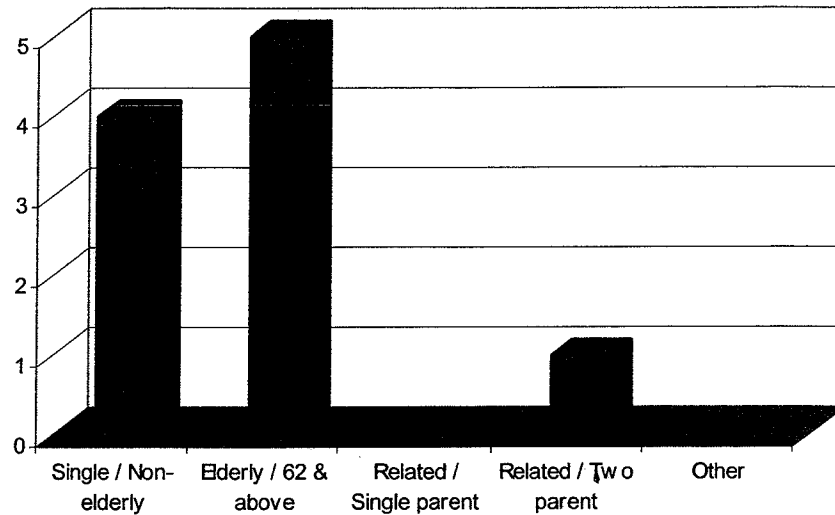
From January 2013 - September 2013, we have successfully assisted 10 households. The following charts provide statistics on the participants that were assisted.

Redevelopment Projects Completed | Income Limits

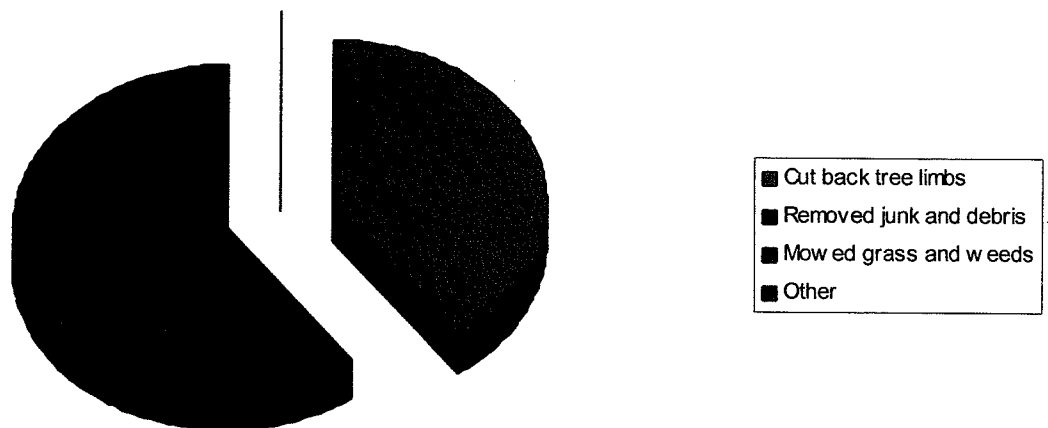


2014 Action Plan Housing & Community Development Needs

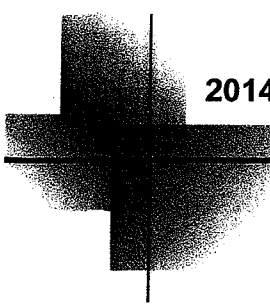
Redevelopment Projects Completed | Head of Household



Redevelopment Projects Completed | Work Performed



In addition to identifying code violations in the Target Area, the Redevelopment Officer seeks opportunities to educate residents and local organizations in the Target Area on city ordinances and the Redevelopment Program. The goal of education is not just to educate the public but also to develop and maintain relationships.



2014 Action Plan Available Resources & Public Access | Participation

AVAILABLE RESOURCES

FEDERAL | STATE The City of Fayetteville is an entitlement community and therefore receives a formula grant through the Department of Housing and Urban Development Community Development Block Grant Program. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2014 will be approximately \$540,700.

MUNICIPAL GOVERNMENT The City's Street Division has estimated \$ 73,525 for street overlay and repair of streets located in the designated Community Development Target Area.

PUBLIC ACCESS & PARTICIPATION

CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff and special purpose committees; input from community stakeholders and resource holders is sought and integrated into designating action priorities.

One formal public hearing was held to present and discuss proposed CDBG activities for fiscal year 2014. Community Development staff were active in the presentation of program information.

In addition, a quarterly Community Services outreach publication serves to inform the community of current and future program projects and activities. Program literature in Spanish is also available in the office and at locations in the community. Staff is active in the Northwest Arkansas Housing Coalition and with the NWA Livability Partners.

In accordance with Fayetteville's Citizen Participation Plan, the 2014 Consolidated Action Plan was made available for a 30 day citizen review period.

2014 Action Plan Analysis of Impediments to Further Fair Housing & Section 3 Compliance

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

The *Analysis of Impediments to Fair Housing* (AI) was completed in November 2010. CDBG Program regulations require recipient jurisdictions to "affirmatively further fair housing" as required by Section 808 of the Fair Housing Act.

The AI is part of the Community Services effort to affirmatively further fair housing choice by identifying impediments to fair housing which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit and private sectors; thereby promoting relationship-building and consensus on fair housing issues. The AI process helps describe a clearer picture of housing conditions for LMI households in Fayetteville and aids in defining current and future housing directions.

The current AI identified four areas of action:

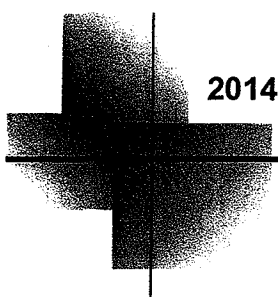
- Consider initiating a Fair Housing Committee within the Arkansas Community Development Association.
- Increase knowledge and understanding of fair housing and affirmatively furthering fair housing through utilization of education programs and materials provided by the Arkansas Fair Housing Commission (AFHC).
- Encourage AFHC to establish baseline and actual level and types of discrimination occurring in the community through audit testing activities.
- Continue to support and make referrals to local organizations that provide approved homebuyer education programs.

The Community Services CDBG administration program has responsibility for the efforts to affirmatively further fair housing. Community Services has established a Fair Housing Evaluation Committee that meets quarterly to monitor progress on fair housing goals.

SECTION 3

A condition of receiving HUD Community Planning and Development assistance is compliance with the requirements of Section 3. The Section 3 regulation is a directive for providing preference to low- and very low-income residents and businesses that substantially employ these persons for new employment, training and contracting opportunities resulting from HUD-funded projects that trigger Section 3.

The City of Fayetteville stays current on the Section 3 requirements and annually submits a Section 3 compliance report to HUD.



2014 Action Plan One-Year Action Plan

ONE-YEAR ACTION PLAN 2014

SUMMARY | USE OF FUNDS

The One-Year Action Plan for the 2014 program year illustrates the various programs, listings of projects and descriptions that will be implemented and funded under the CDBG federal program.

Comments regarding the 2014 Action Plan can be sent to:

City of Fayetteville
Attention: Yolanda Fields
Community Services Division
113 W Mountain Street
Fayetteville AR 72701

Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) created the CDBG Program. Re-authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act, local communities can use the resources of the CDBG Program to develop flexible, locally designed community development strategies to address the program's national objectives of:

1. Providing benefits to low and moderate income persons;
2. Eliminating slums and blight; and
3. Meeting an urgent community need.

Within the framework of these national objectives, the City of Fayetteville has also established the following local community development objectives:

1. Housing and neighborhood preservation;
2. Economic development through job enhancement;
3. Public facilities and improvements limited to the support of objectives 1 and 2;
4. Elimination of blight and blighting elements limited to the support of objectives 1 and 2; and
5. Special programs offering significant community benefit and in direct support of objectives 1 and 2.

2014 Action Plan Administration | Housing | Redevelopment

ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Services Director, administrative staff, office supplies, travel and training costs, some Fair Housing activities and other costs associated with administration of community development activities. CDBG funds allocated - \$107,700. Location: Development Services Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.

HOUSING SERVICES

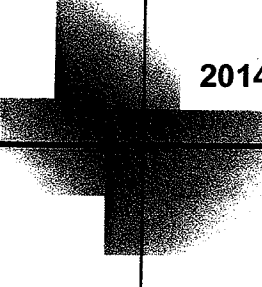
This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The rehabilitation services are offered up to \$25,000.

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, alleviate deferred maintenance conditions, provide safety devices and/or replace principal fixtures and components. CDBG funds allocated - \$263,070 which includes salary and program delivery costs for management and oversight of all housing programs. Ten households to be served.

Location: Citywide, when there is a waiting list applicants are prioritized according to established criteria to give highest priority to those most in need of services. Priority criteria include: very low income, elderly, disabled, single-parent household, lead-based paint hazards in home and homes located in the Target Area.

REDEVELOPMENT PROGRAM

Program activities conducted in the Target Area include code compliance, clearance and demolition, and land acquisition for attainable housing. Ten households to be served. CDBG funds allocated - \$46,300. Location: The identified Target Area in southeast Fayetteville.



2014 Action Plan Public Services

PUBLIC SERVICES

LifeSource International | \$20,000

Kid's Life Summer Camp A portion of the costs associated with implementing the eight week day camp for at-risk youth. Emphasis is placed on education, health and nutrition and physical activity.

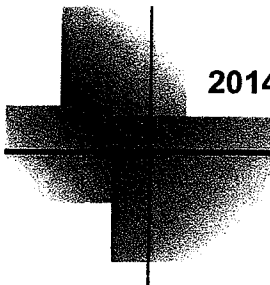
Prism Education Center | \$20,000

Willow Heights Preschool Program A portion of the costs associated with supporting low to moderate income families through educational programs and accessibility to resources frequently unavailable to these families. This program will provide preschool programs, parent outreach and therapeutic programs.

Transportation Program | \$21,500

Taxi Program Supplemental transportation for disabled and/or elderly residents to assist in creating greater self-sufficiency for program participants.

Transit Program Supplemental transportation assistance for qualifying low- and moderate-income residents.



2014 Action Plan Public Facilities

PUBLIC FACILITIES

LifeSource International | \$35,000

Full Security System (Cameras, Monitoring and Recording) Alarm System and Exterior Lighting

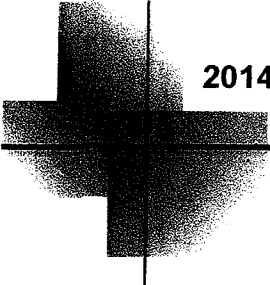
LifeSource provides a food pantry, clothing closet, children's programming, senior life programming, and community meal outreach. Funds will allow them to install a full security system in hopes of deterring abuse, theft, break-ins and vandalism.

Northwest Arkansas Free Health Center | \$3,630

Clinic Equipment Improvements Funding will be used to install blinds on all clinic windows to ensure patient privacy and control utility costs. It will also install a permanent projection screen in the education room to provide diabetes education, nutrition education and smoking cessation classes to patients.

Prism Education Center | \$23,500

Razorback Road Renovations Prism Education Center will use funds to put an oven and hood vent in the kitchen, repair a retaining wall in the playground area and fill in a large pothole in the entry drive.



2014 Action Plan Monitoring

MONITORING

COMMUNITY DEVELOPMENT PROGRAMS will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

HOUSING PROGRAMS will be monitored by the CDBG Housing Program staff and State HUD staff. When needed the City of Fayetteville Building Safety Division will provide monitoring for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow-up visits will be made to all housing rehabilitation project sites.

PUBLIC SERVICE ACTIVITIES will be monitored by Community Services staff. Subrecipient agreements will be required for all public service activities. Monitoring includes assessment of program performance, financial performance and regulatory compliance. Subrecipient agreements will require documentation of activities and results. The subrecipient agreement will outline procedures to be followed in case a non-compliance situation may occur.

REDEVELOPMENT PROGRAMS will be monitored by Community Services staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guidelines. Land acquired will be utilized for attainable housing in the Target Area. Program efforts will serve to advance the revitalization of the Target Area.

LEAD BASED PAINT hazard reduction will be monitored by CDBG Housing Program staff. Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

GRANTEE MONITORING Division staff continue to take all necessary steps to ensure compliance with program requirements. All activities are looked at on an individual basis to determine what regulations are applicable and how they should be met. Division staff receive on-going training to develop the knowledge and skills to operate and comply with program requirements.

City of Fayetteville Item Review Form

2014-0053

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Terry Gulley

Submitted By

Transportation Services

Department

Action Required:

A resolution amending Res 07-14 to approve a change in the award of Bid 14-04 from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up and Les Rogers, Inc. for materials delivered, for variable unit prices, and authorizing the use of other bidders based on price and availability, as needed through the end of calendar year 2014.

Does this item have a cost? ☒ Yes

Cost of this request

Category or Project Budget

Various Capital Projects

Program or Project Name

Account Number

Funds Used to Date

Transportation Improvements

Program or Project Category

\$0.00

Sales Tax Capital Improvements

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution #

07-14

Original Contract Number:

Comments:


Paul A. Besh

Jim Mann


Leonard Darden

02-05-14 P01:58 RCVD





THE CITY OF FAYETTEVILLE, ARKANSAS

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Services Director

Date: January 29, 2014

Subject: Amend Resolution 07-14 to change the award of Bid 14-04 Hillside Gravel to Les Rogers, Inc.

PROPOSAL:

A resolution amending Res 07-14 to authorize the purchase of hillside gravel and approve a change in the award of Bid 14-04 from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up and Les Rogers, Inc. for materials delivered, for variable unit prices, and authorizing the use of other bidders based on price and availability, as needed through the end of calendar year 2014.

RECOMMENDATION:

Bid 14-04, Hillside Gravel was originally awarded to the low bidder for materials picked up, which was Leming & Sons Trucking, Inc. Distance of travel and transportation costs were considered and based on the location included on the vendor's bid submittal, which was 1749 E North St, Lincoln, AR 72744. This location is an estimated 18 miles or 27 minutes from the City of Fayetteville Transportation Division. However, it was later determined that the pick-up location for hillside gravel is not 1749 E North St in Lincoln, but rather 22815 S Salem Springs Rd in Lincoln, which is much further away and drastically impacts the length of travel and transportation costs associated with picking up materials from this location.

The following in-house hauling costs have been considered in order to analyze the cost of picking up material based on vendor location, in order to fairly evaluate the bids submitted by each potential supplier.

City Costs:

- i. City Staff – Maintenance Worker III (Truck Driver) = \$14.28 / hour
- ii. 10-Wheel Dump Truck (15 ton capacity) = \$10.36 / hour
- iii. Tri-Axle Dump Truck (18 ton capacity) = \$10.89 / hour
- iv. 10-Wheel Dump Truck (15 tons) + Truck Driver = \$24.64 / hour
- v. Tri-Axle Dump Truck (18 tons) + Truck Driver = \$25.17 / hour

The following mileages were calculated based on the distance from each supplier's location to the City of Fayetteville Transportation Division, utilizing Google Maps:

- Leming & Son Trucking, Inc. – 30.64 miles, 48 minutes
- Les Rogers, Inc. – 11.0 miles, 20 minutes
- Sweetser Construction, Inc. – 9.3 miles, 17 minutes

The following City hauling costs were calculated based on the information shown above and added to the unit price per ton. The calculation method consisted of converting the mileage and drive time to a percentage of an hour. The resulting percentages were multiplied by the 10-wheel dump truck + truck driver cost and divided the dump truck capacity to arrive at the cost per ton added to the original unit price in each bid. Based on the aforementioned method of calculation, the following unit costs were added to the unit bid prices for each potential supplier:

- Leming & Son Trucking, Inc. - \$1.31 per ton
- Les Rogers, Inc. - \$0.54 per ton
- Sweetser Construction, Inc. - \$0.46 per ton

The results of this analysis clearly change the results of Bid 14-04, Hillside Gravel. The adjusted bid prices, revised to include City transportation costs, are as follows:

- Leming & Son Trucking, Inc. - \$1.25 (bid price) + \$1.31 (transportation cost) = \$2.56 per cubic yard
- Les Rogers, Inc. - \$1.49 (bid price) + \$0.54 (transportation cost) = \$2.03 per cubic yard
- Sweetser Construction - \$2.00 (bid price) + \$0.46 (transportation cost) = \$2.46 per cubic yard

Staff recommends a resolution amending Res 07-14 to change the award of Bid 14-04, Hillside Gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up by City staff.

BUDGET IMPACT:

Funds for the acquisition of materials and services have been budgeted in various capital projects within the Sales Tax Capital Improvements Fund and Street Fund operating programs.

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 07-14 TO CHANGE THE AWARDING OF BID #14-04 FOR THE PURCHASE OF HILLSIDE GRAVEL FROM LEMING & SON TRUCKING, INC. TO LES ROGERS, INC. FOR MATERIALS PICKED UP IN THE AMOUNT OF \$1.49 PER TON AND AUTHORIZING THE USE OF OTHER BIDDERS BASED ON PRICE AND AVAILABILITY AS NEEDED THROUGH THE END OF CALENDAR YEAR 2014

WHEREAS, after Bid #14-04 was awarded to Leming & Son Trucking, Inc. for materials picked up, the Transportation Division determined that the materials pick-up location was much further than the office location included in the vendor's bid submittal and drastically increased both travel time and transportation costs to the City.

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 Resolution No. 07-14 and changes the award of Bid #14-04 from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up as specified in the attached Exhibit "A" and authorizes the use of other bidders based on price and availability as needed through the end of calendar year 2014.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 14-04
DATE: 12/11/13
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 14-04, Hillside Gravel

	BIDDER	Red Hillside Gravel (Pickup & Loaded on City Truck - Material Cost Only)		Total	Red Hillside Gravel (Delivery Price Only - To be Added to the Cost of Material)		Total	TOTAL BID BASED ON ESTIMATES
		Est. Quantity	Price/Cubic Yd.		Est. Quantity	Price/Cubic Yd.		
1	General Trucking Solutions LLC	15,000	\$ -	\$ -	10,000	\$ 6.00	\$ 60,000.00	\$ 60,000.00
2	Leming & Son Trucking Inc	15,000	\$ 1.25	\$ 18,750.00	10,000	\$ 6.00	\$ 60,000.00	\$ 78,750.00
3	Les Rogers Inc	15,000	\$ 1.49	\$ 22,350.00	10,000	\$ 3.49	\$ 34,900.00	\$ 57,250.00
4	Sweetser Construction, Inc.	15,000	\$ 2.00	\$ 30,000.00	10,000	\$ 4.25	\$ 42,500.00	\$ 72,500.00

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

CERTIFIED:

P. VICE, PURCHASING MANAGER

WITNESS

DATE

EXHIBIT

A

City of Fayetteville Item Review Form

2014-0049

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Alison Jumper

Submitted By

Parks and Recreation

Department

Action Required:

Approval of a Budget Adjustment to recognize funds from miscellaneous escrow. See attached memo.

Does this item have a cost? ☒ Yes

\$4,250.00

Cost of this request

\$4,250.00

Category or Project Budget

Other Park and Safety Improvements

Program or Project Name

2250.9255.5220.00

Account Number

\$0.00

Funds Used to Date

Nock Broyles Land Dev. Tree Mit.

Program or Project Category

02014.1401

Project Number

\$0.00

Remaining Balance

Parks Development

Fund Name

Budgeted Item? ☐ No

Budget Adjustment Attached? ☒ Yes

V20130812

Previous Ordinance or Resolution #

02-05-14 A11:55 RCVD

Original Contract Number:

Comments:

Funds were deposited into the miscellaneous escrow account for tree mitigation Combs park due to a utility being constructed through the park for private development.



Paul a. Behn
Jim Mann
Samuel D. ...



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan, City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director

From: Alison Jumper, Park Planning Superintendent

Date: January 29, 2014

Subject: Approval of a Budget Adjustment to recognize various miscellaneous funds

PROPOSAL:

A utility easement through Combs Park for private development was granted in 2006. In 2008 additional easement was requested that affected trees in the park. At that time \$4,250 was collected to mitigate for the tree removal. A budget adjustment is needed to recognize the revenue for the planting project.

RECOMMENDATION:

Staff recommends approval of the budget adjustment.

BUDGET IMPACT:

A \$4,250 increase in project 02014.1401 for tree planting in Combs Park. Funds will be spent to plant mitigation trees in Combs Park.

Attachments:
Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$4,250.00 TO TRANSFER A TREE ESCROW BALANCE FOR THE PLANTING OF MITIGATION TREES IN COMBS PARK

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the total amount of \$4,250.00 to transfer a balance of funds held in the tree escrow account for the planting of mitigation trees in Combs Park.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

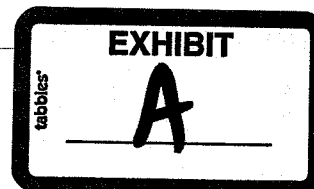
By: _____
LIONELD JORDAN, Mayor

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

V12.0724 A. 6
Combs Park Tree Mitigation
Page 4 of 4

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
1	2
3	4
5	6
7	8
9	10
11	12
13	14
15	16
17	18
19	20
21	22
23	24
25	26
27	28
29	30
31	32
33	34
35	36
37	38
39	40
41	42
43	44
45	46
47	48
49	50
51	52
53	54
55	56
57	58
59	60
61	62
63	64
65	66
67	68
69	70
71	72
73	74
75	76
77	78
79	80
81	82
83	84
85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

<u>Alvin Luper</u>	<u>1/29/14</u>	<u>Alan E. Bearden, Jr.</u>
Division Head	Date	Prepared By:
<u>Barbara Feele</u>	<u>1/29/14</u>	Reference: _____
Budget Director	Date	Budget & Research Use Only
<u>Bonnie Edmonston</u>	<u>1/29/14</u>	Type: A B C D E P
Department Director	Date	General Ledger Date _____
Finance Director _____	Date _____	Posted to General Ledger _____
Chief of Staff _____	Date _____	Checked / Verified _____
<u>David J. ...</u>	<u>2/6/14</u>	Initial _____ Date _____
Mayor	Date	Initial _____ Date _____

[illegible]

City of Fayetteville Item Review Form

2014-0058

Legistar File Number

February 18th, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Brian Pugh

Submitted By

Recycling and Trash

Department

Action Required:

Resolution authorizing application for a 2014 Keep America Beautiful - Dr. Pepper Snapple Grant

Does this item have a cost?

☐

Cost of this request

Category or Project Budget

Program or Project Name

Solid Waste Improvements

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Solid Waste

Project Number

Remaining Balance

Fund Name

Budgeted Item?

☐

Budget Adjustment Attached?

☐

01-31-14P02:59 RCVD

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

Grant would receive recycling containers and no revenue. Not a matching grant.



Paul a. Bech

Handwritten signatures at the bottom of the page.

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
Terry Gulley, Transportation Director *TJ*

From: Brian Pugh, Waste Reduction Coordinator *BP*

Date: January 30, 2014

Subject: Resolution Authorizing Application for a 2014 Keep America Beautiful – Dr. Pepper Snapple Grant.

RECOMMENDATION

Fayetteville City Administration recommends authorizing application for a 2014 Keep America Beautiful – Dr. Pepper Snapple Grant for outdoor recycling containers.

BACKGROUND

Council authorized creation of a City Committee through resolution 179-12 for Keep Fayetteville Beautiful which is an affiliate of Keep Arkansas Beautiful and Keep America Beautiful. The affiliation allows grants to be applied for through Keep America Beautiful. A Keep America Beautiful / Dr. Pepper Snapple Grant for outdoor recycling containers is being sought for Walker Park, Gary Hampton Park and Lake Fayetteville trailhead by the Botanical Gardens.

DISCUSSION

The goal of this project is to place recycling containers for the collection of bottles and cans at Walker Park, Gary Hampton Park and the Lake Fayetteville trailhead by the Botanical Gardens. Walker Park and Gary Hampton Park were chosen due to the high volume of people during warmer months participating in the baseball and softball programs. There would be a request for 17 recycling containers for the three sites with an estimated value of \$6,800. Partial grant awards are also possible. The application process is an online application and therefore nothing is attached with this memo.

BUDGET IMPACT

None. The grant would receive recycling containers and no money would be received. This is a not a matching grant.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING APPLICATION FOR A 2014 KEEP
AMERICA BEAUTIFUL/DR. PEPPER SNAPPLE GROUP GRANT IN THE
AMOUNT OF \$6,800.00**

**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 application for a 2013 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Item Review Form

2014-0063

Legistar File Number

February 18th, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Brian Pugh

Submitted By

Recycling and Trash

Department

Action Required:

Resolution approving a budget adjustment in the amount of \$18,500 to recognize revenue received from the auction and sales of Unit 479 - 2005 Rotochopper Go - Bagger 250

Does this item have a cost? ☒ No

\$0.00

Cost of this request

\$0.00

Category or Project Budget

ADEQ Grant Purchase

Program or Project Name

5500.5080.5227.00

Account Number

Funds Used to Date

Solid Waste Improvements

Program or Project Category

09019/1401

Project Number

\$0.00

Remaining Balance

Solid Waste

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☒ Yes

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:



Paul A. B...

Don Ma...

Frank J...

01-31-14 P02:59 RCVD

ENTERED
2/5/14
BEP

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
Terry Gulley, Transportation Director *TG*
Jeff Coles, Assistant Transportation Director *JC*

From: Brian Pugh, Waste Reduction Coordinator *BP*

Date: January 30th, 2014

Subject: A resolution approving a budget adjustment in the amount of \$18,500 to recognize revenue received from the auction and sale of Unit 479 – 2005 Rotochopper Go-Bagger 250

RECOMMENDATION

The staff and administration recommends a resolution approving a budget adjustment in the amount of \$18,500 to recognize revenue received from the auction and sale of Unit 479 – 2005 Rotochopper Go-Bagger 250.

BACKGROUND

The Solid Waste and Recycling Division sells compost in bulk and bags for residential use. The vast majority of sales are in the bulk variety utilizing the Division's loader for loading pick up trucks or trailers for the public. Very few customers purchase the compost in bags.

Unit 479 was received through a ADEQ Recycling grant approved in 2004. Bagging of compost utilizing the bagging equipment was to make it more convenient to sell compost to residents without access to pick up trucks or trailers. Bagging and storing the compost had issues with molding inside the bags and was only completed when a customer requested bags.

DISCUSSION

Per Regulation 11 of the Arkansas Pollution Control and Ecology Commission, the assets received from the sale of recycling equipment purchased with ADEQ recycling grant funds is required to be distributed back into the recycling program that was awarded the grant. The sale of the bagger through Gov Deals was \$20,000 with 7.5% of the sale revenue going to Gov Deals for the administration of the transaction and a grand total of \$18,500 received. The money now needs to be transferred back into the recycling program to be used to further recycling programs.

The \$18,500 will be used to help further expansion of the apartment recycling program through expanded recycling container purchases as the apartment program grows. Currently grant money has been used in past years to purchase recycling containers for on site collection of materials at the participating complexes and also for the purchase of indoor recycling bins and bags currently in the process of being purchased and distributed. Project 09019 has been used for these grants.

BUDGET IMPACT

Approval of this budget adjustment will recognize the \$18,500 revenue from the sale of the bagger to increase Project 09019 / 1401 Recycling Containers ADEQ Grant Purchase.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$18,500.00 TO RECOGNIZE REVENUE FROM THE AUCTION AND SALE OF UNIT 479 – 2005 ROTOCHOPPER GO-BAGGER 250

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit “A”, in the amount of \$18,500.00 to recognize revenue from the auction and sale of Unit 479 – 2005 Rotochopper Go-Bagger 250.

Section 2: That the City Council of the City of Fayetteville, Arkansas approves the distribution of these funds to the recycling program pursuant to Regulation 11 of the Arkansas Pollution Control and Ecology Commission.

PASSED and **APPROVED** this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

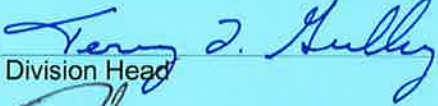
**City of Fayetteville, Arkansas
Budget Adjustment Form**

V12.072A. 8
Rotochopper Go – Bagger
Page 4 of 20

Budget Year 2014	Division: Solid Waste & Recycling Department: Transportation Services	Request Date 1/30/2014	Adjustment Number
----------------------------	--	----------------------------------	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Recognizing revenue received from auction and placing into recycling program per state regulations

 Division Head	1-31-14 Date	Prepared By: Brian Pugh Reference: <i>Pugh, Brian</i>
 Budget Director	2-5-14 Date	Budget & Research Use Only
 Department Director	1-31-14 Date	Type: A B C D E P
Finance Director	Date	General Ledger Date
Chief of Staff	Date	Posted to General Ledger Initial Date
Mayor	Date	Checked / Verified Initial Date

TOTAL BUDGET ADJUSTMENT

18,500 18,500

Increase / (Decrease)

Expense

Revenue

Project.Sub
Number

Account Name
Use of fund balance
Containers

Account Number
5500.0950.4999.99
5500.5080.5227.00

RI
EX

18,500

18,500

09019 . 1401



FIXED ASSET TRANSFER FORM

FIXED ASSET NUMBER _____	SERIAL NUMBER _____
DESCRIPTION: _____	ORIGINAL COST _____
ORIGINAL LOCATION _____	ACCUMULATED DEPR _____
RECEIVING LOCATION _____	
TRANSFER DATE _____	
Transferring Division _____	Division Head Signature _____
Receiving Division _____	Division Head Signature _____

FIXED ASSET DELETION FORM

(Sold, trade-in, auctioned, etc.)

FIXED ASSET NUMBER _____	SERIAL NUMBER <u>05-5064</u>
DESCRIPTION <u>Go Bagger Bag</u>	DELETION DATE <u>10/30/13</u> <u>SOLD</u>
<u>filler</u>	
REASON FOR DELETION:	
<u>Sold on gov deals</u>	
<u>Sale 13.315</u>	

Cost \$ _____	<u>Bolser</u>
	Division Head Signature
Depreciation _____	<u>Wia</u>
	Purchasing Manager Signature
Net Book _____	
Return Form to the Accounting Division	Contract and Grant Accountant Signature



THE CITY OF FAYETTEVILLE, ARKANSAS

City of Fayetteville - Purchasing Division
113 W. Mountain - Room 306
Fayetteville, AR 72701
Phone: 479.575.8256
E-Mail: purchasing@ci.fayetteville.ar.us

BILL OF SALE

Bill of Sale Date: 11/25/2013 Bill of Sale Number: 10302013
Asset ID: 315 Inventory ID: 13-315, Unit 0479

Description of Property

Sale 13-315, 2005 Rotochopper Go-Bagger 250

Award Amount
\$20,000.00

Asset Information



Year: 2005 Make/Brand: Rotochopper

Model: Go-Bagger 250

VIN/Serial: 05-5064

Meter: Title Restriction: N

Sale Information

Actual Sold Amount: \$20,000.00 *

Other Amount: \$0.00

Buyer's Premium: \$1,000.00

Tax Amount: \$0.00

Total Amount: \$21,000.00

Paid On: 11/13/13 by Wire Transfer

Other Amount Description:

Tax Rate: 0.0000%

* Taxable Items

Buyer Information

Growers Market Inc
4015 S Highway 92

Sierra Vista, AZ 85650-9501 USA
abehear@growersmarketinc.com
Phone: 4802994977

Asset is sold as is, where is and without warranty. Once the asset is removed from the seller's premises there is no refund of monies previously paid.

Buyer/Agent Signature:

Print Name: Adam Behar

Date: 11/25/13

SELLER INFORMATION: City of Fayetteville, AR

Seller Signature (Bill of Sale Confirmation):
Purchasing Representative

DATE: 11-25-13

Seller Signature (Asset Pick Up Confirmation): _____
City Representative

DATE: _____

Main, Joanna

From: CustomerService@govdeals.com
Sent: Wednesday, November 13, 2013 11:50 AM
To: Main, Joanna
Cc: Purchasing
Subject: GovDeals.com Payment Received

Payment has been received for the following asset. The buyer has been notified that the payment has been received. They have been instructed to contact you concerning pickup of the asset. The buyer should present you with the buyer certificate at pickup.

Thank you for using GovDeals.

Buyer: Adam Behar (username: abehar@growersmarketinc.com) abehar@growersmarketinc.com

The following asset is ready for pickup:

Certificate ID: 315-1030132005-3249

Asset ID: 315

Inventory ID: 13-315, Unit 0479

Description: Sale 13-315, 2005 Rotochopper Go-Bagger 250

If you have any questions, please contact your Client Service Rep, Buck Pelfrey at 423-260-7428. Thank you for using GovDeals!



www.accessfayetteville.org

Auction Release Form

THE CITY OF FAYETTEVILLE, ARKANSAS

Reference: Sale 13-315, 2005 Rotochopper Go-Bagger 250
Buyer Name: Adam Behar
Company: Growers Market Inc
Address: 4015 S Hwy 92, Sierra Vista, AZ 85650-9501

Please complete the following information and sign the bottom of the form:

☐ I will be picking up the item(s) in person from the City of Fayetteville. (Note: A photo ID will be required)

☒ Someone other than me will be picking up the item(s).

I, Adam Behar, authorize the following agent/transport company to pick up the item(s) from the referenced sale.

Agent/Transport Company Name:

Stacy Lang LNV HAULIN lnhauling@yahoo.com

Phone Number: 620-200-5672 or

If someone other than the buyer will be picking up the item(s), the City of Fayetteville will fax/email you a copy of the Bill of Sale for each auction. The authorized agent will also sign the Bill of Sale at the time of pick up. **We must have this form and the Bill of Sale completed and returned before the City of Fayetteville will release the item(s).** Sorry, no exceptions will be made. The title (if applicable) will be mailed to the address indicated on the Seller's Certificate we receive from GovDeals.

The terms and conditions of the sale are listed in correspondence from GovDeals. However, if you have any questions please let me know.

Thank you,
Joanna Main
Purchasing Technician
City of Fayetteville
479-575-8256

Buyer Signature:

[Signature]

Date: 11/25/13

Please return the completed form either by fax or email.

Email: purchasing@ci.fayetteville.ar.us

Fax: 479-575-8257



THE CITY OF FAYETTEVILLE, ARKANSAS

BILL OF SALE

City of Fayetteville - Purchasing Division
113 W. Mountain - Room 306
Fayetteville, AR 72701
Phone: 479 575.8256
E-Mail: purchasing@ci.fayetteville.ar.us

Bill of Sale Date: 11/25/2013 Bill of Sale Number: 10302013
Asset ID: 315 Inventory ID: 13-315, Unit 0479

Description of Property

Sale 13-315, 2005 Rotochopper Go-Bagger 250

Award Amount
\$20,000.00

Asset Information



Year: 2005 Make/Brand: Rotochopper

Model: Go-Bagger 250

VIN/Serial: 05-5064

Meter: Title Restriction: N

Sale Information

Actual Sold Amount: \$20,000.00 *

Other Amount: \$0.00

Buyer's Premium: \$1,000.00

Tax Amount: \$0.00

Total Amount: \$21,000.00

Paid On: 11/13/13 by Wire Transfer

Other Amount Description:

Tax Rate: 0.0000%

* Taxable items

Dennis Fany

Buyer Information

Growers Market Inc
4015 S Highway 92

Sierra Vista, AZ 85650-9501 USA
abehar@growersmarketinc.com
Phone: 4802994977

Asset is sold as is, where is and without warranty. Once the asset is removed from the seller's premises there is no refund of monies previously paid.

Buyer/Agent Signature: *Adam Behar*

Print Name: *Adam Behar*

Date: *11/25/13*

SELLER INFORMATION: City of Fayetteville, AR

Seller Signature (Bill of Sale Confirmation): *P. Clino*

Purchasing Representative

DATE: *11-25-13*

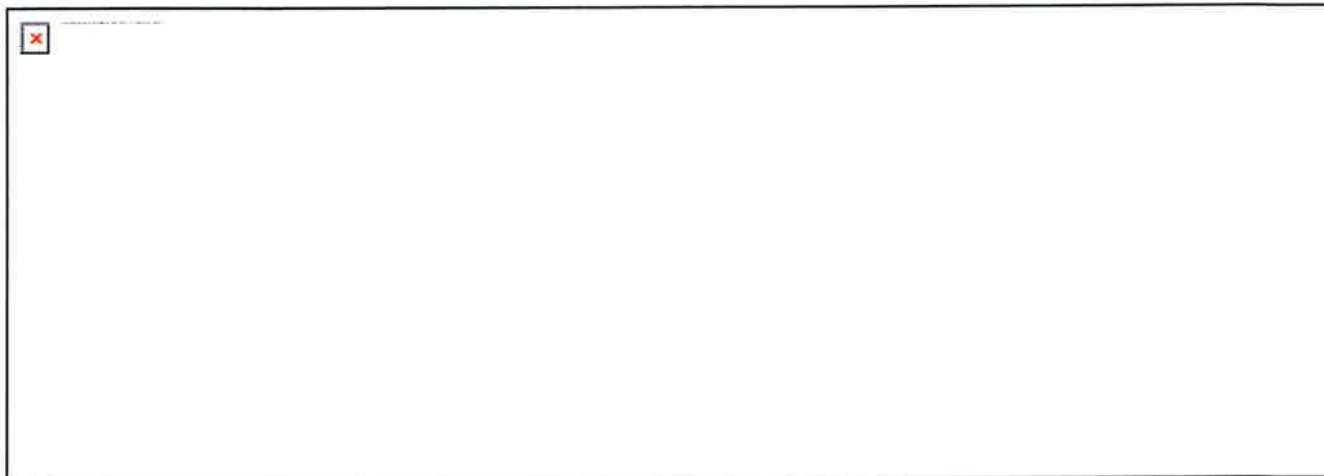
Seller Signature (Asset Pick Up Confirmation): *Dennis Fany*

City Representative

DATE: *11/25/13*

Main, Joanna

From: AccessFayetteville <accessfayetteville@public.govdelivery.com>
Sent: Friday, October 18, 2013 4:37 PM
To: Main, Joanna
Subject: SURPLUS SALE: Various Equipment & Vehicles For Sale (Sale 13-315, 13-319 to 13-322)



SURPLUS SALE - Various Equipment & Vehicles:

13-315, 2005 Rotochopper Go-Bagger - Unit 479
13-319, Five Star Brand Cook Stove - Parts/Scrap
13-320, 2000 Ford Crown Vic - Unit 1058
13-321, 2009 Dodge Charger - Unit 1207
13-322, 2002 Ford F-250 - Unit 2051

REFERENCE: Sale 13-315, 13-319 thru Sale 13-322

DEADLINE: Various dates and times, beginning Wednesday, October 30, 2013 at 7:05 PM local time to Fayetteville, AR, see website for details

You have received this e-mail in conjunction with signing up on the City of Fayetteville's Purchasing website mailing list. This e-mail is to inform you that the City has posted the items listed above for sale via online auction. All of these items have been regularly maintained by the City and are available for inspection to any interested parties.

Click below (or copy and paste) for a direct link to the auction website:

http://www.accessfayetteville.org/government/purchasing/Items_for_Sale/index.cfm

If you have any questions regarding the website please bring them to our attention so we can work together to make this process as beneficial as possible.

Also, please feel free to contact us with any questions, problems or concerns that you have. We will work our hardest to get any questions you have answered as quickly as possible. Thank you for subscribing to our mailing list. We appreciate you giving us the opportunity to keep you informed.

Thank You,

Joanna Main, CPPB
City of Fayetteville, Purchasing Technician
Phone: (479) 575-8256
TDD (Telecommunications Device for the Deaf) 479-521-1316
E-MAIL: jmain@fayetteville-ar.gov
City of Fayetteville Purchasing Division



Questions for AccessFayetteville?
[Contact us](#)

STAY CONNECTED:



SUBSCRIBER SERVICES:

[Manage Preferences](#) | [Unsubscribe](#) | [Help](#)

This email was sent to jmain@ci.fayetteville.ar.us using GovDelivery, on behalf of: AccessFayetteville • 113 West Mountain Street • Fayetteville, AR 72701 • 479-718-7600



Main, Joanna

From: ClientServices@govdeals.com
Sent: Wednesday, October 30, 2013 7:06 PM
To: Main, Joanna
Subject: GovDeals Seller's Certificate: 315-1030132005-3249

Congratulations, City of Fayetteville, AR has sold another item on the GovDeals Auction Services.

BUYER (#663301)		SELLER (#3249)	
Name:	Adam Behar	Agency:	City of Fayetteville, AR
Company:	Growers Market Inc	Contact:	Joanna Main
Title To:	Growers Market Inc	Phone:	479-575-8256
Phone:	480-299-4977	Email:	jmain@fayetteville-ar.gov
Fax:	602-305-9428	Address:	113 W Mountain St. Room 306 Fayetteville, AR 72701
Email:	abehar@growersmarketinc.com		
Address:	4015 S Highway 92 Sierra Vista, AZ 85650-9501		

ITEM INFORMATION FOR ASSET ID: 315			
Item:	Sale 13-315, 2005 Rotochopper Go-Bagger 250		
Pick Up Location:	113 W Mountain St, Fayetteville, AR 72701		
Inventory ID:	13-315, Unit 0479	Account ID:	3249
Condition:	See Description	Quantity:	1 each
Make/Brand:	Rotochopper	Model:	Go-Bagger 250
VIN/Serial:	05-5064	Model Year:	2005
Meter:	0 (Accurate?:)	Title Restrictions:	No

Date	Item	Amount
------	------	--------

10/30/2013 8:05 PM	Sale 13-315, 2005 Rotochopper Go-Bagger 250		\$20,000.00
	Tax	None	\$0.00
	Buyer's Premium	5.00%	\$1,000.00
		Total	\$21,000.00

Payment Instructions:

All payments will be made between the Buyer and GovDeals, Inc. Payment in full is due no later than 5 business days from the time and date of the Buyer's Certificate.

NO CASH, CHECKS OR MONEY ORDERS WILL BE ACCEPTED! Purchases will be released only upon notification from GovDeals of receipt of full payment.

See Terms and Conditions for additional payment instructions.

Removal Instructions:

WE WILL NOT SHIP ANY ITEMS! Property may be removed by appointment only.

All items must be removed within 10 business days from the time and date of the Buyer's Certificate. The Buyer will make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Property may be removed between the hours of 9:00AM to 12:00PM and 1:00PM to 4:00PM, Monday thru Friday, excluding legal holidays. Prior to removal, the buyer or buyer's authorized representative must sign a Bill of Sale. The buyer is to complete the Auction Release Form provided by the Seller if he/she authorizes someone else to remove the property.

A daily storage fee of \$10.00 may be charged for any item no removed withing the 10 business days allowed and stated on the Buyer's Certificate.

Prior to picking up a vehicle the bidder or his approved representative must obtain the vehicle title and/or bill of sale from the City of Fayetteville Purchasing Division, Room 306, 113 W. Mountain St., Fayetteville, AR. No vehicles will be released without the Buyer providing the signed vehicle title and bill of sale to designated City Fleet Department staff.

ONCE THE ITEM HAS BEEN REMOVED FROM THE SELLER'S LOCATION ALL SALES ARE FINAL!

Special Instructions:

If you are the winning bidder and default by failing to adhere to this sellers terms and conditions your account with GovDeals WILL BE LOCKED.

Guaranty Waiver: All property is offered for sale "AS IS, WHERE IS." City of Fayetteville, AR (Seller) makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect, or consequential.

For any questions regarding the City's processes for removal, payment, or pick up, contact Joanna Main at 479-575-8256.

Description:

2005 Rotochopper Go-Bagger 250 Bag Filler

This unit starts and runs. The unit has an onboard 20 HP 10,500 watt North Star gas powered generator and foot pedal control. The unit was removed from service on August 5, 2013.

Red exterior with minor dents, scratches and dings. Decals have been removed, impressions and residue may remain. The tires on the trailer are holding air.

See pictures for details.

This unit is located at our Fleet Operations at 1525 S Happy Hollow Rd, Fayetteville, AR 72701.

Only the item described herein is included in the sale regardless of what else is pictured.

All items are sold "AS IS, WHERE IS", with no warranty expressed, written or implied. Bidders are strongly encouraged to inspect the item before bidding. Major or minor defects may or may not be noted. Other defects may exist and it is YOUR responsibility to verify the functional ability of each item listed. All sales are final.

Please contact Winston McGowan at 479-444-3496 for viewing or with questions about this unit. This item can be inspected by appointment only Mon-Fri 9am-4pm. No warranties; sales are final and items are purchased "AS IS". We will not ship this item. All aspects of the removal of the property is the sole responsibility of the buyer. You must be able to pick up within 10 days of winning bid.

NOTE: A Buyers fee of 5% applies to this auction. The five percent (5%) will be added to the ending auction sale price.

A bill of sale and title (if applicable) will be issued in accordance with winning bidder's GovDeals account information valid at the close of auction.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

Reference: Sale 13-315, 2005 Rotochopper Go-Bagger 250

Buyer Name: Adam Behar

Company: Growers Market Inc

Address: 4015 S Hwy 92, Sierra Vista, AZ 85650-9501

Please complete the following information and sign the bottom of the form:

☐ I will be picking up the item(s) in person from the City of Fayetteville. *(Note: A photo ID will be required)*

☐ Someone other than me will be picking up the item(s).

I, _____, authorize the following agent/transport company to pick up the item(s) from the referenced sale.

Agent/Transport Company Name:

Phone Number: _____

If someone other than the buyer will be picking up the item(s), the City of Fayetteville will fax/email you a copy of the Bill of Sale for each auction. The authorized agent will also sign the Bill of Sale at the time of pick up. We must have this form and the Bill of Sale completed and returned before the City of Fayetteville will release the item(s). *Sorry, no exceptions will be made.* The title (if applicable) will be mailed to the address indicated on the Seller's Certificate we receive from GovDeals.

The terms and conditions of the sale are listed in correspondence from GovDeals. However, if you have any questions please let me know.

Thank you,
Joanna Main
Purchasing Technician
City of Fayetteville
479-575-8256

Buyer Signature:

Date _____

Please return the completed form either by fax or email.

Email: purchasing@ci.fayetteville.ar.us

Fax: 479-575-8257



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

BILL OF SALE

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8256
E-Mail: purchasing@ci.fayetteville.ar.us

Bill of Sale Date: 11/25/2013 Bill of Sale Number: 10302013
Asset ID: 315 Inventory ID: 13-315, Unit 0479

Description of Property	Award Amount
Sale 13-315, 2005 Rotochopper Go-Bagger 250	\$20,000.00

Asset Information



Year: 2005 Make/Brand: Rotochopper Model: Go-Bagger 250 VIN/Serial: 05-5064
Meter: Title Restriction: N

Sale Information

Actual Sold Amount: \$20,000.00 *
Other Amount: \$0.00
Buyer's Premium: \$1,000.00
Tax Amount: \$0.00
Total Amount: \$21,000.00

Paid On: 11/13/13 by Wire Transfer
Other Amount Description:
Tax Rate: 0.0000%
* Taxable items

Buyer Information

Growers Market Inc
4015 S Highway 92

Sierra Vista, AZ 85650-9501 USA
abehear@growersmarketinc.com
Phone: 4802994977

Asset is sold as is, where is and without warranty. Once the asset is removed from the seller's premises there is no refund of monies previously paid.

Buyer/Agent Signature: _____
Print Name: _____
Date: _____

SELLER INFORMATION: City of Fayetteville, AR

Seller Signature (Bill of Sale Confirmation): P. Clivio DATE: 11-25-13
Purchasing Representative

Seller Signature (Asset Pick Up Confirmation): _____ DATE: _____
City Representative

[Searches](#)[FAQ](#)[Contact Us](#)[About Us](#)[Search](#)[Home](#)[Log In](#)[Register](#)[View Auctions](#)

October 17, 2013, 11:45 AM ET P22

[Like](#) 0

Sale 13-315, 2005 Rotochopper Go-Bagger 250



Year	Make/Brand	Model	VIN/Serial	Title Restriction
2005	Rotochopper	Go-Bagger 250	05-5064	No

Condition	Category	Inventory ID
See Description	Equipment, Heavy	13-315, Unit 0479

Auction Ends:	10/30/13 8:05 PM ET
Remaining:	13 Days 8 Hrs
Refresh Bid & Time	
Buyer's Premium:	5.00%
Starting Bid:	\$250.00
Bid Increment:	\$10.00
Minimum Bid:	\$250.00
Terms and Conditions	

3 visitors

2005 Rotochopper Go-Bagger 250 Bag Filler

This unit starts and runs. The unit has an onboard 20 HP 10,500 watt North Star gas powered generator and foot pedal control. The unit was removed from service on August 5, 2013.

Red exterior with minor dents, scratches and dings. Decals have been removed, impressions and residue may remain. The tires on the trailer are holding air.

See pictures for details.

This unit is located at our Fleet Operations at 1525 S Happy Hollow Rd, Fayetteville, AR 72701.

Only the item described herein is included in the sale regardless of what else is pictured.

All items are sold "AS IS, WHERE IS", with no warranty expressed, written or implied. Bidders are strongly encouraged to inspect the item before bidding. Major or minor defects may or may not be noted. Other defects may exist and it is YOUR responsibility to verify the functional ability of each item listed. All sales are final.

Please contact Winston McGowan at 479-444-3496 for viewing or with questions about this unit. This item can be inspected by appointment only Mon-Fri 9am-4pm. No warranties; sales are final and items are purchased "AS IS". We will not ship this item. All aspects of the removal of the property is the sole responsibility of the buyer. You must be able to pick up within 10 days of winning bid.

NOTE: A Buyers fee of 5% applies to this auction. The five percent (5%) will be added to the ending auction sale price.

A bill of sale and title (if applicable) will be issued in accordance with winning bidder's GovDeals account information valid at the close of auction.

»Seller Information

[Ask a question](#)

Seller Name: City of Fayetteville, AR [view seller's other assets](#)

Asset Contact: [Joanna Main](#) (Phone: 479-575-8256)

Asset Location: 113 W Mountain St
Fayetteville, Arkansas 72701
[Map to this location](#)

Q Inspection

Most items offered for sale are used and may contain defects not immediately detectable. Bidders are strongly urged to inspect prior to bidding. Bidders must adhere to the inspection dates and times indicated in the item description.

Please contact Fleet Operations at 479-444-3496 to schedule an inspection.

\$ Payment



Payment methods for this item are Wire Transfer, PayPal, or credit cards (Visa, Mastercard, American Express*, Discover) only. *American Express is not available for buyers on probation. PayPal and credit card purchases are limited to below \$5,000.00 and Bidders residing in the United States, Canada and Mexico Only. If the winning bid plus applicable taxes, if any indicated, and the buyer's premium, equals more than \$4,999.99, Wire Transfer must be used. If Wire Transfer is chosen, a Wire Transfer Transaction Summary page will provide payment and account information. The Wire Transfer must be completed within 5 days.

All payments will be made between the Buyer and GovDeals, Inc. Payment in full is due no later than 5 business days from the time and date of the Buyer's Certificate.

NO CASH, CHECKS OR MONEY ORDERS WILL BE ACCEPTED! Purchses will be released only upon notification from GovDeals of receipt of full payment.

See Terms and Conditions for additional payment instructions.

Removal

WE WILL NOT SHIP ANY ITEMS! Property may be removed by appointment only.

All items must be removed within 10 business days from the time and date of the Buyer's Certificate. The Buyer will make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Property may be removed between the hours of 9:00AM to 12:00PM and 1:00PM to 4:00PM, Monday thru Friday, excluding legal holidays. Prior to removal, the buyer or buyer's authorized representative must sign a Bill of Sale. The buyer is to complete the Auction Release Form provided by the Seller if he/she authorizes someone else to remove the property.

A daily storage fee of \$10.00 may be charged for any item no removed withing the 10 business days allowed and stated on the Buyer's Certificate.

Prior to picking up a vehicle the bidder or his approved representative must obtain the vehicle title and/or bill of sale from the City of Fayetteville Purchasing Division, Room 306, 113 W. Mountain St., Fayetteville, AR. No vehicles will be released without the Buyer providing the signed vehicle title and bill of sale to designated City Fleet Department staff.

ONCE THE ITEM HAS BEEN REMOVED FROM THE SELLER'S LOCATION ALL SALES ARE FINAL!

Special Instructions

If you are the winning bidder and default by failing to adhere to this sellers terms and conditions your account with GovDeals WILL BE LOCKED.

Guaranty Waiver: All property is offered for sale "AS IS, WHERE IS." City of Fayetteville, AR (Seller) makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect, or consequential.

For any questions regarding the City's processes for removal, payment, or pick up, contact Joanna Main at 479-575-8256.

? Questions and Answers

[Ask a question](#)

There are currently no questions posted for this asset.

Help Desk Hours: Monday - Friday, 8 am - 7 pm ET.
[Contact us](#) with any questions, comments or concerns.
Copyright © 2013, GovDeals, Inc. All Rights Reserved. [Site Map](#)

**Government
Liquidation**
LIQUIDITY SERVICES MARKETPLACE

Liquidation.com
LIQUIDITY SERVICES MARKETPLACE

**Network
INTERNATIONAL**
LIQUIDITY SERVICES MARKETPLACE

TruckCenter.com
LIQUIDITY SERVICES MARKETPLACE

**Liquidity
Services Inc.**
**GoIndustry
DoveBid**
LIQUIDITY SERVICES MARKETPLACE



City of Fayetteville Item Review Form

2014-0060

Legistar File Number

02/18/2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jeremy Pate

Submitted By

Development Services

Department

Action Required:

Resolution of the City of Fayetteville certifying local government endorsement of Karcher North America, Inc. to participate in State of Arkansas Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) and authorizing the Department of Finance and Administration to refund local sales and use taxes to Karcher North America, Inc.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

01-31-14 A08:59 RCVD



[Handwritten signatures]
Paul a. Seal
[Signature]



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Director of Development Services 

Date: January 30, 2014

Subject: Karcher North America, Inc. Tax Back Program

RECOMMENDATION: The City Staff and Administration recommend on behalf of the Mayor's office that the City Council of the City of Fayetteville pass a resolution in support of Karcher North America, Inc. to participate in the State of Arkansas Tax Back Program. The Arkansas Economic Development Commission seeks local support for the Tax Back Program, and the City Council's action to support this application will result in their approval.

BACKGROUND: The City of Fayetteville was contacted by Steve Clark, President and CEO of the Fayetteville Chamber of Commerce, Chung Tan, the City of Fayetteville's Economic Development Representative and Karcher NA, Inc, seeking endorsement of Karcher NA, Inc. to participate in the State of Arkansas Tax Back Program of the Consolidated Incentive Act of 2003.

Karcher NA, Inc. is a US company owned by Karcher of Germany, with its US corporate office located in Englewood, Colorado. The company is known for its high-pressure cleaners and window vacuum cleaners. During an expansion phase, Karcher carefully considered many sites and chose to purchase its first facility in the United States when it acquired the 661,500 SF building from Hanna's Candles on Armstrong Road in May of 2012. The business is currently utilizing 300,000 SF of the building as a warehousing/distribution center for Karcher products, investing more than \$10 million in the facility. With this proposal, Karcher is committed to creating 9 new jobs paying an average hourly wage of \$11.15 for a total annual payroll of \$208,228. In addition, they will be investing \$280,000 on renovating the existing building and another \$200,000 on equipment. Karcher's plans are to continue to grow the company in the future, including the use of the entire facility after 6 years and the creation of a training facility in Fayetteville for Karcher's staff from other locations in the US.

Support of this resolution will allow Karcher to carry out its expansion plan and generate additional economic activity for the City of Fayetteville. As a global company, Karcher has the capability and resources to successfully grow and expand the company, with Fayetteville a potential target for that growth.

BUDGET IMPACT: We believe the budget impact will be neutral. The job growth, while currently projected to be small, will spur new sales tax growth from new employees but most importantly may lead to further expansion in this area supporting Karcher's US needs. One of the City's economic development goals is to retain our current employers in our area, and passing this resolution allows for one such employer to do so.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AND CERTIFY THE PARTICIPATION OF KARCHER NORTH AMERICA, INC. IN THE ARKANSAS TAX BACK PROGRAM AND TO AGREE TO AUTHORIZE DF&A TO REFUND CITY SALES TAX BACK TO KARCHER NORTH AMERICA, INC.

WHEREAS, Karcher North America, Inc. has committed to renovating its plant in Fayetteville at a cost of \$280,000.00, investing an additional \$200,000.00 in new equipment and creating 9 new jobs paying an average hourly wage of \$11.15 for a total annual payroll of \$208,228.00; and

WHEREAS, in order to certify Karcher North America, Inc. to participate in the sales and use tax refund program, either Washington County or the City of Fayetteville, or both, must “(s)pecify that the Department of Finance and Administration is authorized to refund local sales taxes to the qualified business.” {A.C.A. §15-4-2706 (d)(B)(ii)}; and

WHEREAS, the City of Fayetteville or Washington County must also endorse Karcher North America, Inc.’s participation in this state and local sales and use tax refund program; and

WHEREAS, bond indentures prevent diversion of sales tax proceeds from the city’s bonded penny sales and use tax.

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 endorses Karcher North America, Inc.’s participation in the sales and use tax refund program authorized by A.C.A. §15-4-2706(d) in relation to its renovation, equipping and hiring at its facility in Fayetteville, Arkansas.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby specifies that the Department of Finance and Administration is authorized to refund the non-bonded penny city sales tax to Karcher North America, Inc. for qualified construction and manufacturing equipment purchased for its facility in Fayetteville, Arkansas.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



January 8th, 2014

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

Dear Mayor Jordan:

I write to express my strong support for the application submitted by Karcher North America, Inc. to participate in the State of Arkansas Tax Back Program. Karcher NA, Inc. is a US company owned by Karcher of Germany. Its US corporate office is located in Englewood, Colorado. The company is known for its high-pressure cleaners and window vacuum cleaners.

Because of expansion, Karcher NA, Inc. looked at many sites and after careful consideration, it chose to buy its first facility in the US when it bought the 661,500 SF building from Hanna's Candles located at 2700 S. Armstrong in May, 2012. The business is now using 300,000 SF of the building as a warehousing/distribution center for Karcher products. Karcher has already invested more than \$10 million in the purchase of the building and in getting the facility ready for use.

Currently, Karcher is committed to creating 9 new jobs paying an average hourly wage of \$11.15 for a total annual payroll of \$208,228. In addition, they will be investing \$280,000 on renovating the existing building and another \$200,000 on equipment. Karcher's plans are to continue to grow the company in the future and that includes using the entire facility after 6 years and the setting up of a training facility in Fayetteville for Karcher's staff from other locations in the US.

An approval to pass the resolution to refund sales and use taxes to Karcher for its purchases by the Fayetteville City Council will allow Karcher to carry out its expansion program and to spur economic development in Fayetteville. Karcher meets the City of Fayetteville's goal of attracting clean and good paying jobs to the city. It is progressive and has intention to make Fayetteville and Washington County its home. As a global company, Karcher has the capabilities and resources to successfully grow and expand the company.



This project and Karcher are valuable to the City's economic development as they contribute to improving lives for residents through access to jobs and they contribute toward the tax base in Fayetteville and Washington County. As Fayetteville's economic developer, the Chamber leverages its presence to attract new and similar companies to our city and county.

Thank you for your consideration and I look forward to working with you on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Clark", written over a faint horizontal line.

Steve Clark
President & CEO

City of Fayetteville Item Review Form

2013-0153
Legistar File Number

11/19/13

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Peter Nierengarten

Submitted By

Sustainability and Strategic Planning

Department

Action Required:

Staff recommends approval of an ordinance amending the Unified Development Code Chapter 178: Outdoor Vendors to clarify existing regulations, create a short and long term permit process and to allow for mobile food trucks to operate daily on private property.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution # 5498

Original Contract Number: _____

Comments:

11-01-13A 11:42 RCVD



Paul a. Becher 11-3-2013

Don Man 11-4-13

Donald Jordan 11/4/13

Tabled to the February 18, 2014 City Council meeting at the January 21, 2014 City Council meeting.

This ordinance was tabled to the January 21, 2014 City Council meeting at the 12/17/13 City Council meeting.

This ordinance was left on the first reading and tabled to the December 17, 2013 City Council meeting at the November 19, 2013 City Council meeting.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

CC: Jeremy Pate, Development Services Director

From: Peter Nierengarten, Sustainability & Strategic Planning Director *PN*

Date: October 30, 2013

Subject: ADM 13-4486 Outdoor Mobile Vendor Ordinance Amendments

RECOMMENDATION:

Staff recommends approval of an ordinance amending the Unified Development Code Chapter 178: Outdoor Vendors to clarify existing regulations, create a short and long term permit process and to allow for mobile food trucks to operate daily on private property.

BACKGROUND:

The City Council adopted the Outdoor Vendor Chapter in the Unified Development Code in 2008. Previously, the City administered vendor licensing through a Transient Merchant License. Since 2008 the section of this code that deals with outdoor mobile vendors operating on private property has been amended twice in order to expedite the process and to allow vendors to locate in the same place for time periods longer than the original 90 day limitation.

Recently Planning Staff and Alderman Petty have discussed a number of amendments to this code. The first would be to create an extended permitting process that would allow vendors to get a permit to set up and operate in the same location for a calendar year. Additionally, staff has extended the temporary permit from 90 days to 6 months. And finally, staff is proposing to rename the sidewalk vendor section and add a new section that would permit mobile food trucks to operate on private property on a daily basis. The following bullet points highlight the proposed amendments to the existing Outdoor Mobile Vendor code:

- Mobile vendors shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed mobile vendor location.
- All permits would be granted to the property owner and the outdoor mobile vendor operator jointly. This will place the responsibility of compliance with the ordinance on both the mobile vendor operator and the property owner.
- A temporary permit would be extended from the current 90 days to six months. This will allow for a longer "season" for seasonal operators such as snow cone businesses which typically operate for five months. Staff also feels that six months allows a vendor to adequately test and evaluate their business model at a specific location.
- The temporary permit requirement to move locations after six months would allow for relocation within ¼ mile instead of the current ½ mile.

- The “Variance” section has been renamed as an “Annual Permit” and shall be limited to one year. Annual permits will be granted by the Planning Commission which may impose conditions and restrictions on the mobile vendor business or the property owner such as landscape improvements, parking lot improvements or permanent restroom facilities, etc. The mobile vendor may continue to request extended permits for the same location year after year. Mobile vendor courts will be able to form through the use of the annual permit process.
- Mobile vendors seeking a temporary (6 month) permit are approved administratively after meeting the requirements of the ordinance. Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- A number of existing business operations that are regulated by other codes would be exempted from this chapter including; special events, fireworks sales, etc.
- A list of prohibited conduct is included and a section outlining the process for suspending or revoking the permit is added.
- Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.

The following bullet points highlight the proposed amendments to the existing sidewalk vendor ordinance adding a new section regulating food trucks located on private property:

- A food truck is a motorized and operational self contained vehicle equipped with facilities for cooking and selling food that is removed daily from the property on which it vends food. Food trucks may be permitted to locate on private property on an annual basis through and administrative process when all conditions of the ordinance have been met.
- Food truck permits would be granted to the property owner and the outdoor mobile vendor operator jointly.
- The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location.
- Food truck permits are good for only one location, but food trucks may hold permits for multiple locations.

DISCUSSION

The Planning Commission heard this item at their October 15, 2013 meeting and proposed minor changes to the code. The Planning Commission forwarded this item to the City Council with a recommendation of approval for the amended version with a 7-2-0 vote. Staff supports Planning Commission’s amendments and has included their recommended language in the ordinance.

BUDGET IMPACT:

None

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL § 178.03 SIDEWALK VENDORS AND ENACT A REPLACEMENT § 178.03 SIDEWALK VENDORS AND FOOD TRUCKS AND TO REPEAL § 178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY AND ENACT A REPLACEMENT § 178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 178.03 **Sidewalk Vendors** and enacts a replacement § 178.03 **Sidewalk Vendors and Food Trucks** as shown on Exhibit A attached hereto.

Section 2. That the City Council of the City of Fayetteville, Arkansas repeals § 178.04 **Outdoor Mobile Vendors Located on Private Property** and enacts § 178.04 **Outdoor Mobile Vendors Located on Private Property** as shown on Exhibit B attached hereto.

PASSED and APPROVED this 19th day of November, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

- (1) *Sidewalk Vendors.* Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to regulate open air vending of goods on public rights-of-way.
- (2) *Food Trucks.* The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) *Sidewalk Vendor and Food Truck Authorization.* The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, plaza location or private property for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

- (1) The applicant has obtained all necessary permits from State or County authorities.
- (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.
- (3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.

- (4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) *Permit Application.* Each application for a sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit.

(1) Application for a sidewalk vendor or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.
- (b) Type of items sold or services rendered.
- (c) A valid copy of all necessary permits required by State and County health authorities.
- (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
- (e) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.
- (f) A site plan indicating the location and dimensions of the proposed vehicle or pushcart.
- (g) A detailed scale drawing, picture or diagram and material specifications of the vehicle or pushcart to be used.

(2) The permit issued shall not be transferable in any manner.

(3) The sidewalk vending or food truck permit is good for one location only.

Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) *Sidewalk Vendors.* The City of Fayetteville permits the following types of goods for sidewalk vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by sidewalk vendors.

- (2) *Food Trucks.* The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors and food trucks shall:

- (a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.
- (b) Not lead to or cause congestion or blocking of pedestrian or vehicular traffic on the sidewalk or street.
- (c) Involve a short transaction period to complete the sale or render the service.
- (d) Not cause undue noise or offensive odors.
- (e) Be easily carried by pedestrians.

(E) *Sidewalk Vendor Location Requirements.*

Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where sidewalk vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center

- (2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

- (F) *Sidewalk Vendor Conditional Use Permit.* If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for sidewalk vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

- (1) The application meets all other criteria established herein for a sidewalk vendor, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the sidewalk vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.

(G) *Sidewalk Vendor Operation Requirements.*

Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

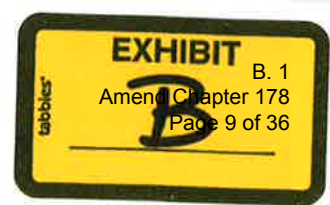
- (1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.
- (2) The length of the mobile device or cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the cart's wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- (4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.
- (5) Mobile generators are prohibited.
- (6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.
 - (b) Within 10 feet of any handicapped parking space, or access ramp.
 - (c) Within 15 feet of a fire hydrant.
 - (d) Within 15 ft. of an entrance to a building.
- (7) Sidewalk vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall

be removed from the public right-of-way during non-operational hours.

- (8) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
 - (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
 - (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
 - (11) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.
 - (12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.
- (H) *Food Truck Location and Operation Requirements.* Food trucks may be permitted administratively on an annual basis for multiple locations subject to the

following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.
- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
- (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) *Signage Requirements.* Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.
- (J) *Revocation of the Sidewalk Vendor or Food Truck Permit.* The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.



TITLE XV UNIFIED DEVELOPMENT CODE

178.04 Outdoor Mobile Vendors Located On Private Property

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

(B) *Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis for a maximum of six months in one location during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to relocate to a different site at least one quarter mile (1,320 feet) from the original location after this six month period has expired. However, a new outdoor mobile vendor application shall be reviewed and approved by the Planning Division for every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent business.

(C) *Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors

may request an annual permit from the Planning Commission to operate for a one year time period in the same location subject to the following standards:

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

(4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.

(5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.

(D) *Permit Requirements.* All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:

(1) *Permit Application Fee.* Each application to conduct an outdoor mobile vendor business shall be accompanied by a \$100 permit review and processing fee. Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.

(2) *Temporary and Annual Permit Application Requirements.* Application for a permit to conduct an outdoor mobile vendor business shall include the

TITLE XV UNIFIED DEVELOPMENT CODE

following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
 - (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
 - (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
 - (d) A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
 - (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
 - (f) Written authorization, signed by the property owner or legal representative of record, stating that the outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
 - (4) The permit shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district.
 - (6) Outdoor mobile vendors shall maintain compliance with parking lot requirements for the existing business and the proposed outdoor mobile

vendor business. The number of required parking spaces is determined by the use and size of the proposed outdoor mobile vendor business and by the use and size of the existing business. The property where the outdoor mobile vendor is located should be paved in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
- (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(E) *Exemptions.* The provisions of the ordinance do not apply to:

- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
- (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
- (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
- (4) Fireworks sales.
- (5) Children's lemonade stands.
- (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

TITLE XV UNIFIED DEVELOPMENT CODE

- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.
 - (8) Non-profit organizations that prepare and donate or give away food for free.
- (F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.
 - (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.
- (G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.
 - (2) Conducting the business of vending in a manner contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.
- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
 - (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.
- (H) *Notification of Suspension or Revocation.* The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

(1) **Sidewalk Vendors.** Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(2) **Food Trucks.** The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) **Sidewalk Vendor and Food Truck Authorization.** The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, or plaza location or private property for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

- (1) The applicant has obtained all necessary permits from State or County authorities. ~~including any Transient Merchant permit requirements.~~
- (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.

(3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.

(4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) **Permit Application.** Each application for a ~~permit to conduct business on a~~ sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. **Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All** ~~Permits~~ permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit.

(1) Application for a sidewalk vendor or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

(a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.

(b) Type of items sold or services rendered.

(c) A valid copy of all necessary permits required by State and County health authorities.

(d) Proof of application for remittance of HMR tax to the City of Fayetteville.

(e) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.

(f) A site plan indicating the location and dimensions of the proposed ~~use and device or pushcart.~~ vehicle or pushcart.

(g) A detailed scale drawing, picture or diagram and material specifications of the ~~device~~ vehicle or pushcart to be used.

- (2) The permit issued shall not be transferable in any manner.

~~(3) The permit is valid for one sidewalk vending location only.~~

(3) The sidewalk vending or food truck permit is good for one location only. Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) **Sidewalk Vendors.** The City of Fayetteville permits the following types of goods for **street-sidewalk** vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by **street sidewalk** vendors.

(2) Food Trucks. The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors **and food trucks** shall:

- (a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.
- (b) Not lead to or cause congestion or blocking of pedestrian **or vehicular** traffic on the sidewalk **or street**.
- (c) Involve a short transaction period to complete the sale or render the service.
- (d) Not cause undue noise or offensive odors.
- (e) Be easily carried by pedestrians.

(E) **Sidewalk Vendor Location Requirements.**

Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not

permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where **street sidewalk** vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center
- (2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

(F) **Sidewalk Vendor Conditional Use Permit.** If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for **street sidewalk** vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

- (1) The application meets all other criteria established herein for a sidewalk vendor, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the **street sidewalk** vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and

location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.

(G) Sidewalk Vendor Operation Requirements.

Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

- (1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.
- (2) The length of the mobile device or cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- (4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.
- (5) Mobile generators are prohibited.
- (6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.
 - (b) Within 10 feet of any handicapped parking space, or access ramp.
 - (c) Within 15 feet of a fire hydrant.
 - (d) Within 15 ft. of an entrance to a building.
- (7) **Street Sidewalk** vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall be removed from the public right-of-way during non-operational hours.
- (8) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
- (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
- (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
- (11) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.
- (12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the

purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.

(H) Food Truck Location and Operation Requirements. Food trucks may be permitted administratively on an annual basis for multiple locations subject to the following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of

Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.

- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) **Signage Requirements.** Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.
- (J) **Revocation of the Sidewalk Vendor or Food Truck Permit.** The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

TITLE XV UNIFIED DEVELOPMENT CODE

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

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

(B) *Requirements. Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis (90 days) for a maximum of six months by nature of their temporary occupancy in one location over a one-year (twelve-month) timeframe during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to move relocate to a different location site at least one half quarter mile (1,320 feet) from the original location after this 90- six month day period has expired. However, a new outdoor mobile vendor application will have to shall be reviewed and approved by the Planning Division for a every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed

outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(C) *Variances. Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors may request a variance an annual permit from the Planning Commission to operate for a one year time period for an extended period of time, not to exceed twelve consecutive months in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(3) A variance may be granted by the Planning Commission if the following findings have been met:

a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses will foster an aesthetically appealing streetscape.

b) That the outdoor mobile vendor's presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting the variance an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

TITLE XV UNIFIED DEVELOPMENT CODE

- (4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.
 - (5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- (D) **Permit Requirements.** All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) **Permit Application Fee.** Each application for a permit to conduct an outdoor mobile vendor business shall be accompanied by a \$50 \$100 permit review and processing fee. **Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.**
 - (2) **Temporary and Annual Permit Application Requirements.** Application for a permit to conduct an outdoor mobile vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
 - (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
 - (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
- (d) Means A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location, including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
 - (e) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
 - (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
 - (f) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
 - (4) The permit is valid for one mobile vendor location only shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district, in order to be permitted.
 - (6) Outdoor mobile vendors be in shall maintain compliance with parking lot requirements for any the existing business and the proposed outdoor mobile vendor business. The number of required parking spaces is determined by the use and size of the proposed transient merchant outdoor mobile vendor business and by the use and size of the existing business. Parking spaces on The property where

TITLE XV UNIFIED DEVELOPMENT CODE

the outdoor mobile vendor is located shall ~~should~~ be paved and striped in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces necessary below the minimum required for other uses occurring on the property. ~~An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite.~~ The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
 - (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.
- (F) *Exemptions.* The provisions of the ordinance do not apply to:
- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
 - (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
 - (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
 - (4) Fireworks sales.
 - (5) Children's lemonade stands.
 - (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.
 - (8) Non-profit organizations that prepare and donate or give away food for free.
- (F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.
 - (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.
- (G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.
 - (2) Conducting the business of vending in a manner contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or

TITLE XV UNIFIED DEVELOPMENT CODE

interfere with the rights of abutting property owners.

- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
- (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.

(H) *Notification of Suspension or Revocation.*
The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.05 Transient Merchants

~~All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services~~

(Ord. 5185, 10-7-08)

Amend Chapter 151: Definitions by adding the following definitions.

***Food Truck.* A motorized and operational self contained vehicle equipped with facilities for cooking and selling food that is removed daily from the property on which it vends food.**

***Mobile Vending Unit.* A commercial establishment designed to be readily moveable.**

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

(1) *Sidewalk Vendors.* Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(2) *Food Trucks.* The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) *Sidewalk Vendor and Food Truck Authorization.* The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, plaza location or private property for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

- (1) The applicant has obtained all necessary permits from State or County authorities.
- (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.
- (3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.

(4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) *Permit Application.* Each application for a sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit.

(1) Application for a sidewalk vendor or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.
- (b) Type of items sold or services rendered.
- (c) A valid copy of all necessary permits required by State and County health authorities.
- (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
- (e) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.
- (f) A site plan indicating the location and dimensions of the proposed vehicle or pushcart.
- (g) A detailed scale drawing, picture or diagram and material specifications of the vehicle or pushcart to be used.

(2) The permit issued shall not be transferable in any manner.

(3) The sidewalk vending or food truck permit is good for one location only.

Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) *Sidewalk Vendors.* The City of Fayetteville permits the following types of goods for sidewalk vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by sidewalk vendors.

- (2) *Food Trucks.* The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors and food trucks shall:

- (a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.
- (b) Not lead to or cause congestion or blocking of pedestrian or vehicular traffic on the sidewalk or street.
- (c) Involve a short transaction period to complete the sale or render the service.
- (d) Not cause undue noise or offensive odors.
- (e) Be easily carried by pedestrians.

- (E) *Sidewalk Vendor Location Requirements.* Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where sidewalk vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center

- (2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

- (F) *Sidewalk Vendor Conditional Use Permit.* If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for sidewalk vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

- (1) The application meets all other criteria established herein for a sidewalk vendor, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the sidewalk vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.

(G) *Sidewalk Vendor Operation Requirements.* Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

- (1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.
- (2) The length of the mobile device or cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- (4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.
- (5) Mobile generators are prohibited.
- (6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.
 - (b) Within 10 feet of any handicapped parking space, or access ramp.
 - (c) Within 15 feet of a fire hydrant.
 - (d) Within 15 ft. of an entrance to a building.
- (7) Sidewalk vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall

be removed from the public right-of-way during non-operational hours.

- (8) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
 - (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
 - (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
 - (11) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.
 - (12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.
- (H) *Food Truck Location and Operation Requirements.* Food trucks may be permitted administratively on an annual basis for multiple locations subject to the

following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and

approved by the Washington County Health Department, shall be supplied annually upon permit renewal.

- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
- (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) *Signage Requirements.* Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.
- (J) *Revocation of the Sidewalk Vendor or Food Truck Permit.* The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

TITLE XV UNIFIED DEVELOPMENT CODE

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

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

(B) *Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis for a maximum of six months in one location during a calendar year. Outdoor mobile vendors utilizing a temporary permit may request to relocate to a different site at least one quarter mile (1,320 feet) from the original location after this six month period has expired. However, a new outdoor mobile vendor application shall be reviewed and approved by the Planning Division for every new location. All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.

(1) A temporary permit for an outdoor mobile vendor business in a single location may be approved and issued administratively by the Planning Division after making the following determinations:

- (a) All of the requirements of 178.04(D) have been met.
- (b) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
- (c) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent business.

(C) *Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors

may request an annual permit from the Planning Commission to operate for a one year time period in the same location subject to the following standards:

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(2) All of the requirements of 178.04(D) have been met.

(3) In granting an annual permit, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.

(4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.

(5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.

(D) *Permit Requirements.* All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:

(1) *Permit Application Fee.* Each application to conduct an outdoor mobile vendor business shall be accompanied by a \$100 permit review and processing fee. Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.

(2) *Temporary and Annual Permit Application Requirements.* Application for a permit to conduct an outdoor mobile vendor business shall include the

TITLE XV UNIFIED DEVELOPMENT CODE

following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address, contact information and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.
 - (b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.
 - (c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.
 - (d) A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
 - (e) A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.
 - (f) Written authorization, signed by the property owner or legal representative of record, stating that the outdoor mobile vendor is permitted to operate on the subject property for a specified period of time.
- (3) The permit issued shall not be transferable in any manner.
 - (4) The permit shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district.
 - (6) Outdoor mobile vendors shall maintain compliance with parking lot requirements for the existing business and the proposed outdoor mobile

vendor business. The number of required parking spaces is determined by the use and size of the proposed outdoor mobile vendor business and by the use and size of the existing business. The property where the outdoor mobile vendor is located should be paved in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.
 - (8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.
- (E) *Exemptions.* The provisions of the ordinance do not apply to:
- (1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.
 - (2) The distribution of free samples of goods, wares and merchandise by any individual from his person.
 - (3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.
 - (4) Fireworks sales.
 - (5) Children's lemonade stands.
 - (6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

TITLE XV UNIFIED DEVELOPMENT CODE

- (7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.
 - (8) Non-profit organizations that prepare and donate or give away food for free.
- (F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:
- (1) Obstruct pedestrian or vehicular traffic flow.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.
 - (7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.
- (G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:
- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.
 - (2) Conducting the business of vending in a manner contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.
- (4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;
 - (5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.
- (H) *Notification of Suspension or Revocation.* The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.03 Sidewalk Vendors and Food Trucks

(A) *Purpose.*

(1) **Sidewalk Vendors.** Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(2) **Food Trucks.** The City of Fayetteville encourages a diversity of business opportunities and support entrepreneurship by establishing ordinances designed to allow mobile food trucks to flourish in the city. Food trucks may be permitted to locate on private property on an annual basis through an administrative approval process. Food trucks may also be permitted to operate on public property temporarily if approved through a special event permit process administered by the City. In all cases, food trucks shall be removed daily from the property on which they were vending.

(B) **Sidewalk Vendor and Food Truck Authorization.** The Zoning and Development Administrator may issue a permit for a sidewalk vendor or food truck to use a specific sidewalk, or plaza location or private property for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

- (1) The applicant has obtained all necessary permits from State or County authorities, including any Transient Merchant permit requirements.
- (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.

(3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.

(4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) **Permit Application.** Each application for a ~~permit to conduct business on a~~ sidewalk vendor or food truck permit shall be accompanied by a \$100 application and permit fee. Food truck permits shall be accompanied by the \$100 permit fee for each location requested for approval. All permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit.

(1) Application for a sidewalk vendor or food truck permit shall include the following items in a format acceptable to the Zoning and Development Administrator:

- (a) Name, address and contact information of the owner and operator of the mobile device as well as the contact information of the property owner if applicable.
- (b) Type of items sold or services rendered.
- (c) A valid copy of all necessary permits required by State and County health authorities.
- (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
- (e) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.
- (f) A site plan indicating the location and dimensions of the proposed use and device or pushcart, vehicle or pushcart.
- (g) A detailed scale drawing, picture or diagram and material specifications of the device vehicle or pushcart to be used.

- (2) The permit issued shall not be transferable in any manner.

~~(3) The permit is valid for one sidewalk vending location only.~~

(3) The sidewalk vending or food truck permit is good for one location only. Sidewalk vendors and food trucks may hold permits for multiple locations.

(D) *Permitted Vending Products and Goods.*

- (1) **Sidewalk Vendors.** The City of Fayetteville permits the following types of goods for **street sidewalk** vending in approved locations:

- (a) Cut Flowers
- (b) Food and Beverage
- (c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by **street sidewalk** vendors.

(2) Food Trucks. The City of Fayetteville permits only food and/or beverage items to be sold from food trucks.

- (3) All goods being sold from sidewalk vendors **and food trucks** shall:

- (a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.
- (b) Not lead to or cause congestion or blocking of pedestrian **or vehicular** traffic on the sidewalk **or street**.
- (c) Involve a short transaction period to complete the sale or render the service.
- (d) Not cause undue noise or offensive odors.
- (e) Be easily carried by pedestrians.

- (E) **Sidewalk Vendor Location Requirements.** Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not

permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where **street sidewalk** vending is allowed as a permitted use are:

- (1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center
- (2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

(F) **Sidewalk Vendor Conditional Use Permit.** If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for **street sidewalk** vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

- (1) The application meets all other criteria established herein for a sidewalk vendor, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).
- (2) The number of permits issued for the **street sidewalk** vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and

location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.

(G) Sidewalk Vendor Operation Requirements.

Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

- (1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.
- (2) The length of the mobile device or cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.
- (3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- (4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.
- (5) Mobile generators are prohibited.
- (6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.
 - (b) Within 10 feet of any handicapped parking space, or access ramp.
 - (c) Within 15 feet of a fire hydrant.

- (d) Within 15 ft. of an entrance to a building.

- (7) **Street Sidewalk** vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall be removed from the public right-of-way during non-operational hours.
- (8) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
- (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
- (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
- (11) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.
- (12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the

purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.

(H) Food Truck Location and Operation Requirements. Food trucks may be permitted administratively on an annual basis for multiple locations subject to the following determinations made by the Zoning and Development Administrator:

- (1) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant for each proposed site upon which the food truck would like to temporarily locate.
- (2) The food truck shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street of the proposed food truck location, unless the food truck predates the aforementioned permanent businesses.
- (3) The parking requirement for the food truck and any operating businesses on the property is met.
- (4) The applicant has provided the City with documentation of approval from the Arkansas Department of

Health and Human Services for food related establishments. A copy of this permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied annually upon permit renewal.

- (5) Food trucks may operate between the hours of 5 a.m. and 3 a.m. Food trucks shall be removed daily from the property on which they were vending and the applicant shall demonstrate that they have a permanent location to appropriately store their food truck when it is not in operation.
 - (6) Food trucks are required to provide a trash receptacle for public use located adjacent to their operation.
- (I) **Signage Requirements.** Sidewalk vendors and food trucks shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors and food trucks are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these types of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.
- (J) **Revocation of the Sidewalk Vendor or Food Truck Permit.** The Zoning and Development Administrator is authorized to revoke a sidewalk vendor or food truck permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

TITLE XV UNIFIED DEVELOPMENT CODE

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

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

(B) *Requirements. Outdoor Mobile Vendor Temporary Permit for a Single Location.* Outdoor mobile vendors are allowed on a temporary basis ~~(90 days)~~ **for a maximum of six months** by nature of their temporary occupancy in one location ~~over a one-year (twelve-month) timeframe during a calendar year.~~ Outdoor mobile vendors **utilizing a temporary permit** may request to move **relocate** to a different location site at least one **half quarter mile (1,320 feet)** from the original location after this **90- six month day** period has expired. However, a new outdoor mobile vendor application ~~will have to~~ **shall** be reviewed and approved by the Planning Division for a **every** new location. **All temporary permits shall expire a maximum of six months from the date issued and the mobile vending unit shall be removed from the property.**

(1) A **temporary permit for an** outdoor mobile vendor business **in a single location** may be approved and issued **administratively** by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor ~~will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses,~~ will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) **The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed**

outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(C) *Variances. Outdoor Mobile Vendor Annual Permit for a Single Location.* Outdoor mobile vendors may request ~~a variance an annual permit~~ from the Planning Commission to operate **for a one year time period for an extended period of time, not to exceed twelve consecutive months** in the same location subject to the following standards:

~~(1) A vendor may request a variance from the 90-day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.~~

(1) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

~~(3) A variance may be granted by the Planning Commission if the following findings have been met:~~

~~a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape.~~

~~b) That the outdoor mobile vendor's presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.~~

(2) **All of the requirements of 178.04(D) have been met.**

(3) In granting ~~the variance an annual permit,~~ the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance, **such as; restroom facilities or shared use agreements, landscaping improvements, parking lot improvements, sidewalk improvements, etc.**

TITLE XV UNIFIED DEVELOPMENT CODE

- (4) Annual permits shall expire on December 31st. A new permit request shall be submitted to the Planning Commission for each subsequent year that an outdoor mobile vendor wishes to locate on the same property.
- (5) The applicant has established that the operation of the outdoor mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
- (6) Outdoor mobile vendors seeking an annual permit shall provide a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location.
- (D) **Permit Requirements.** All outdoor mobile vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) **Permit Application Fee.** Each application for a permit to conduct an outdoor mobile vendor business shall be accompanied by a \$50 \$100 permit review and processing fee. **Outdoor mobile vendor permits shall be issued to the property owner and the outdoor mobile vendor operator jointly.**
- (2) **Temporary and Annual Permit Application Requirements.** Application for a permit to conduct an outdoor mobile vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
- (a) Name, address, contact information **and signature of both the property owner and the outdoor mobile vendor requesting to locate on private property.**
- (b) A valid copy of all necessary permits required by State and County health authorities **which shall be conspicuously displayed at all times during the operation of the business.**
- (c) Proof of application for remittance of HMR tax to the City of Fayetteville, **when applicable.**
- (d) ~~Means~~ **A written description of the vehicle or structure to be used in conducting business and a list of nearby similar businesses that includes the name, products sold or services rendered and the distance from the proposed mobile vendor location. including but not limited to a description of any mobile device to be used for transport or to display approved items or services.**
- (e) ~~A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.~~
- (e) **A detailed site plan drawn to scale showing the location of the property lines, each outdoor mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed outdoor dining or sitting areas.**
- (f) Written authorization, signed by the property owner or legal representative of record, stating that the ~~transient merchant business~~ **outdoor mobile vendor** is permitted to operate on the subject property **for a specified period of time.**
- (3) The permit issued shall not be transferable in any manner.
- (4) The permit ~~is valid for one mobile vendor location only~~ **shall be conspicuously displayed at all times during the operation of the outdoor mobile vending business.**
- (5) The proposed use must be a permitted use-by-right within the underlying zoning district. ~~in order to be permitted.~~
- (6) Outdoor mobile vendors ~~be in~~ **shall maintain** compliance with parking lot requirements for **any the existing business and the proposed outdoor mobile vendor business.** The number of required parking spaces is determined by the use and size of the proposed ~~transient merchant~~ **outdoor mobile vendor business** and by the use and size of the existing business. ~~Parking spaces on~~ The property where

TITLE XV UNIFIED DEVELOPMENT CODE

the outdoor mobile vendor is located shall ~~should~~ be paved and striped in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces necessary below the minimum required for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

(7) Outdoor mobile vendors shall comply with the Federal Americans with Disability Act (ADA) requirements if the public has access to the interior of any mobile vending unit.

(8) The outdoor mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed outdoor mobile vendor, unless the outdoor mobile vendor predates the aforementioned permanent businesses.

(F) *Exemptions.* The provisions of the ordinance do not apply to:

(1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.

(2) The distribution of free samples of goods, wares and merchandise by any individual from his person.

(3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.

(4) Fireworks sales.

(5) Children's lemonade stands.

(6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

(7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.

(8) Non-profit organizations that prepare and donate or give away food for free.

(F) *Prohibited Conduct.* The following conduct is prohibited for outdoor mobile vendors:

(1) Obstruct pedestrian or vehicular traffic flow.

(2) Obstruct traffic signals or regulatory signs.

(3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.

(7) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(8) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.

(G) *Suspension and Revocation of Permit.* Any permit issued under these regulations may be suspended or revoked by the Development Services Director for any of the following reasons:

(1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.

(2) Conducting the business of vending in a manner contrary to the conditions of the permit.

(3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or

TITLE XV UNIFIED DEVELOPMENT CODE

interfere with the rights of abutting property owners.

(4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;

(5) Failure of the property owner to implement improvements required by the Planning Commission as conditions of an annual permit approval.

(H) Notification of Suspension or Revocation.

The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor of his/her right to appeal. Such notice shall be personally delivered, posted upon the outdoor mobile vendors' premises or mailed to both the address of the property owner and the address of the outdoor mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

178.05 Transient Merchants

~~All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services~~

(Ord. 5185, 10-7-08)

City of Fayetteville Item Review Form

2013-0197

Legistar File Number

12-17-2013

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Quin Thompson

Submitted By

Development Services

Department

Action Required:

RZN 13-4538: Rezone (RAZORBACK ROAD/VICTORY COMMONS, 560): Submitted by PARADIGM DEVELOPMENT for property located at 731 RAZORBACK ROAD. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 5.09 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Comments:

11-27-13 ADD:18 RCVD

[Signature] Nov 27, 2013

[Signature]
Paul A. Buh
[Signature]
[Signature]

This ordinance was left on the 2nd reading and tabled to the Feb. 18, 2014 City Council mtg at the Feb 4, 2014 CC mtg. This ordinance was left on the 2nd reading tabled to the Feb. 4, 2014 City Council mtg at the January 7, 2014 City Council mtg. This ordinance was left on the first reading at the December 17, 2013 City Council Meeting.



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Quin Thompson, Current Planner

Date: November 25, 2013

Subject: RZN 13-4538: Rezone (731 S Razorback Road/Victory Commons)

RECOMMENDATION: The Planning Commission and Staff recommend approval of an ordinance to rezone the property to UT, Urban Thoroughfare.

BACKGROUND: The subject property is located at 731 S Razorback Road. The property is within the I-1, Heavy Commercial and Light Industrial zoning district and contains multiple lots totaling approximately 5.09 acres. The property contains an existing warehouse building of approximately 12,500 square feet, built in 1972.

CITY PLAN 2030 FUTURE LAND USE MAP: *City Plan 2030 Future Land Use Plan designates this site as Urban Center Area.*

Urban Center Areas contain the most intense and dense development patterns within the City, as well as the tallest and greatest variety of buildings. They accommodate rowhouses, apartments, local and regional retail, including large-scale stores, hotels, clean tech industry and entertainment uses. These areas are typified by their location adjacent to major thoroughfares with high visibility, usually automobile-dependent customers and large areas dedicated to parking. It is expected that vacant properties will be developed into traditional mixed-use centers, allowing people to live, work and shop in the same areas. Additionally, infill of existing development centers should be strongly encouraged, since there is greater return for properties already served by public infrastructure.

COMPATIBILITY: This property is currently in various uses typical of light industry, such as warehousing and industrial use. The neighborhood has, however, been developing recently with multi-family housing and a variety of commercial and office buildings. The proposal to rezone the property to UT, Urban Thoroughfare, will allow the property to be used for commercial or residential opportunities that are consistent with surrounding land uses and the City Plan 2030 designation as an *Urban Area*.

The UT zoning district is a significant downzone from I-1, and will provide opportunity for re-development that is more compatible with recent residential and commercial development than the current zoning allows. As discussed, with the recent rezoning and re-development of the adjacent properties to the west from I-1 to CS, Community Services, the rail line spur in this immediate vicinity

has not been used for many years and market demand for industrial use in this neighborhood is not anticipated.

DISCUSSION: On November 25, 2013, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-0-0.

BUDGET IMPACT: None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 13-4538, FOR APPROXIMATELY 5.09 ACRES, LOCATED AT 731 S RAZORBACK ROAD FROM I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL, TO UT, URBAN THOROUGHFARE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from I-1, Heavy Commercial and Light Industrial to UT, Urban Thoroughfare, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

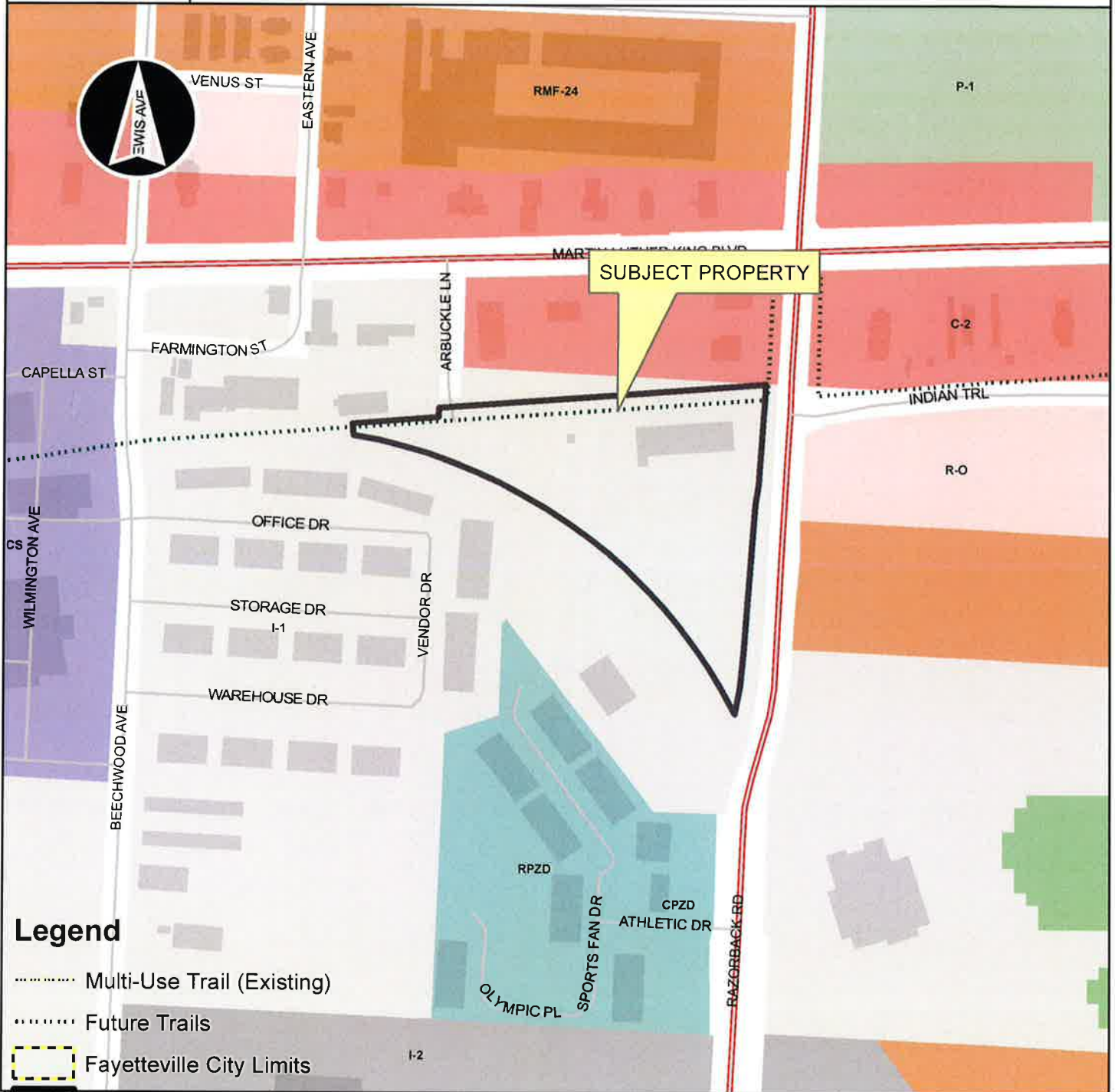
EXHIBIT "A"

B. 2
RZN 13-4538 (Razorback
Road/Victory Commons)
Page 5 of 24

RZN13-4538

VICTORY COMMONS

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN13-4538

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

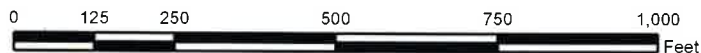


EXHIBIT "B"
RZN 13-4538

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE SOUTH 40.12', THENCE S87°02'22"W 68.57' TO THE RIGHT-OF-WAY OF RAZORBACK ROAD (ARKANSAS STATE HIGHWAY #112) SAID POINT BEING 15' SOUTH OF AND PERPENDICULAR TO THE CENTERLINE OF THE BURLINGTON NORTHERN RAILROAD COMPANY'S FAYETTEVILLE, ARKANSAS TO MUSKOGEE, OKLAHOMA BRANCH LINE MAIN TRACK AND THE POINT OF BEGINNING, THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING: S02°31'07"W 160.59', S06°55'32"W 43.15', S02°47'03"W 304.09', S04°08'22"W 68.30', S09°46'05"W 56.53' TO THE INTERSECTION WITH SAID RIGHT-OF-WAY AND A POINT THAT IS 15' NORTH AND EAST OF AND PARALLEL AND OR CONCENTRIC TO THE CENTERLINE OF THE SOUTH LEG OF THE WYE CONNECTING TRACK OF SAID RAILROAD COMPANY'S FORT SMITH, ARKANSAS TO MUSKOGEE, OKLAHOMA BRANCH LINE, THENCE LEAVING SAID RIGHT-OF-WAY ALONG SAID CONNECTING TRACK ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1057.14' FOR A CHORD BEARING AND DISTANCE OF N55°34'56"W 959.98' TO A FOUND IRON PIN WITH CAP WHICH IS 15' SOUTH OF AND PERPENDICULAR TO THE CENTERLINE OF THE BURLINGTON NORTHERN RAILROAD COMPANY'S FAYETTEVILLE, ARKANSAS TO MUSKOGEE, OKLAHOMA BRANCH LINE MAIN TRACK, THENCE N06°03'38"W 23.64', THENCE N83°27'03"E 176.43' TO AN EXISTING REBAR, THENCE N00°24'08"E 18.62', THENCE N84°00'06"E 666.13' TO THE RIGHT-OF-WAY OF SAID RAZORBACK ROAD, THENCE S02°31'07"W 43.67' ALONG SAID RIGHT-OF-WAY TO THE POINT OF BEGINNING, CONTAINING 5.09 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS, RIGHT-OF-WAY AND OTHER RESTRICTIONS OF RECORD OR NOT.



PC Meeting of November 25, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Quin Thompson, Current Planner
THRU: Andrew Garner, Planning Director
DATE: ~~November 18, 2013~~ UPDATED 11-26-2013

RZN 13-4538: Rezone (RAZORBACK RD./VICTORY COMMONS, 560): Submitted by PARADIGM DEVELOPMENT for property located at RAZORBACK ROAD. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 5.17 acres. The request is to rezone the property to UT, Urban Thoroughfare.

Planner: Quin Thompson

BACKGROUND:

Property and Background: The subject property is located west of Razorback Road near Martin Luther King Boulevard. The property is within the I-1 zoning district and contains multiple lots totaling approximately 5.17 acres. The property contains an existing warehouse building of approximately 12,500 square feet, built in 1972.

The north edge of the property shows a multi-use trail according to the Fayetteville Alternative Transportation and Trails (FATT) plan. On the south property line there is an existing rail corridor. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Filling Station, Franchise Restaurants	C-2, Thoroughfare Commercial
South	State of Arkansas(DMV), Rail corridor	I-1, Heavy Commercial and Light Industrial
East	Undeveloped	R-O, Residential Office/RMF-24, Residential Multi-family 24 units per acre
West	Commercial Warehouse	I-1, Heavy Commercial and Light Industrial(to be rezoned CS)

Request: The request is to rezone the property from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding RZN 13-4538 to the City Council with a recommendation for **approval** based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>		
Date: <u>November 25, 2013</u>	☐ Tabled	☒ Forwarded ☐ Denied
Motion: CHESSER Second: WINSTON Vote: 8-0-0		
Notes: HOSKINS RECUSED		
CITY COUNCIL ACTION:		
	☐ Approved	Required <u>YES</u> ☐ Denied
Date:		

INFRASTRUCTURE:

- Streets:** The site has access to Razorback Road, a fully improved five lane city street in this location. Street improvements will be evaluated at the time of redevelopment.
- Water:** Public water is available to the property. There is both an 8" main along Razorback Road and a 12" water main within the property boundary.
- Sewer:** Sanitary sewer is available to the site. There is an 8" sewer main along Razorback Road which joins a 24" sewer main along the subject frontage.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.
- Fire:** This development will be protected by Engine 6 located at 900 S. Hollywood Dr. It is 2 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.
- Police:** The Police Department made no comment.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Urban Center Area**.*

Urban Center Areas contain the most intense and dense development patterns within the City, as well as the tallest and greatest variety of buildings. They accommodate rowhouses, apartments, local and regional retail, including large-scale stores, hotels, clean tech industry and entertainment uses. These areas are typified by their location adjacent to major thoroughfares with high visibility, usually automobile-dependent customers and large areas dedicated to parking. Although **Urban Center Areas** recognize the conventional big-box and strip retail centers developed along major arterials, it is expected that vacant properties will be developed into traditional mixed-use centers, allowing people to live, work and shop in the same areas. Additionally, infill of existing development centers should be strongly encouraged, since there is greater return for properties already served by public infrastructure.

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: This property is currently partly developed with a warehouse built in 1972. The proposal to rezone the property to UT, Urban Thoroughfare, will allow the property to be developed with commercial and/or residential uses that are consistent with City policies and goals for the neighborhood. The City Plan 2030 Future Land Use Map designates this area as Urban Center. This designation encourages height, density, and variety of use in order to create compact urban neighborhoods.

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

Finding: The proposed rezoning is justified due to the fact that the area's current industrial zoning designation is becoming incompatible with surrounding properties as redevelopment occurs. The proposed zoning will allow the owner to utilize the property for residential and commercial uses, which are compatible with the City Plan 2030 Future Land Use Map.

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

Finding: The site access has access to Razorback Road, a fully improved five lane street. The proposed zoning would allow uses likely to increase traffic, but it is unlikely that traffic danger or congestion would be appreciably increased. Street improvements will be evaluated at the time of development.

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: **Rezoning the property from industrial to mixed use will allow for the development of residential and commercial uses, however development should not undesirably increase the load on public services. The Police and Fire Departments have expressed no objections to the proposal.**

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

161.27 District I-1, Heavy Commercial and Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 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 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5353, 9-7-10; Ord. 5472; 12-20-11)

161.21 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(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 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory 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 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication 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.*

(1) Lot width minimum

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

(2) Lot area minimum. None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building height regulations.*

Building Height Maximum	56/84 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 10 and 15 ft. from the front property line or any master street plan right-of-way line shall have a maximum height of 56 feet. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of 84 feet.

Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.

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

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5353, 9-7-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

A written description of this request addressing the following items:

- a. Current ownership information and any proposed or pending property sales.

The Property to be rezoned is currently owned by Tracy Hoskins, Victory Commons, LLC, and Allied Bank. No sales are pending.

- b. Reason (need) for requesting the zoning change.

Changes due to market conditions and the property is currently zoned I-1 Industrial. The property is better suited for mixed-use commercial/residential – as designated in our CityPlan 2030.

- c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

Proposed Zoning will be very compatible to the existing zoning of the surrounding neighborhood in terms of intensity and uses. The immediate area is a redeveloping area of student housing and commercial. The property is located just off of MLK and along the recently widened blvd Razorback Road – two major arterial roads. The requested zoning should not negatively impact existing traffic conditions. This is currently a brown field site. With the appropriate UT zoning, the property can be redeveloped into an attractive and useful enhancement to the community. Signage will be as allowed within the UT regulations.

- d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

The property is currently served by a 12" water main along the street frontage (Razorback Road) and 8" and 24" sewer main also along the street frontage (Razorback Road)

- e. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

The property will be rezoned from Industrial to formed-based zoning Urban Thoroughfare – consistent with the 2030 Future Land Use designation of Urban Center Area

- f. Whether the proposed zoning is justified and/or needed at the time of the request.

The Proposed Zoning is justified and needed as the property is currently zoned for Industrial use which is not a desirable or practical zoning for the property, nor is it the highest and best use of the property.

- g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

The property is located just off of MLK and along the recently widened blvd Razorback Road. The requested zoning should not negatively impact existing traffic conditions.

- h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

We expect that the property will eventually somewhat increase the population density in the immediate area. However, this is the type of land use and density we as a city are trying to promote.

- i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

Currently, there are no uses permitted other than those relative and permitted un Industrial zoning. While industrial zoning does include some permitted uses such as limited multifamily, eateries, etc.; the zoning also permits undesirable uses as well – by right.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

FIRE DEPARTMENT
303 West Center Street
Fayetteville, AR 72701
P (479) 575-8365 F (479) 575-0471

Zoning Review

To: Quin Thompson
From: Harley Hunt
Date: October 30, 2013
Re: RZN 13-4538

This development will be protected by Engine 6 located at 900 S. Hollywood Dr.
It is 2 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.
The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

Battalion Chief H. Hunt
Fire Marshal
Fayetteville Fire Department

VICTORY COMMONS

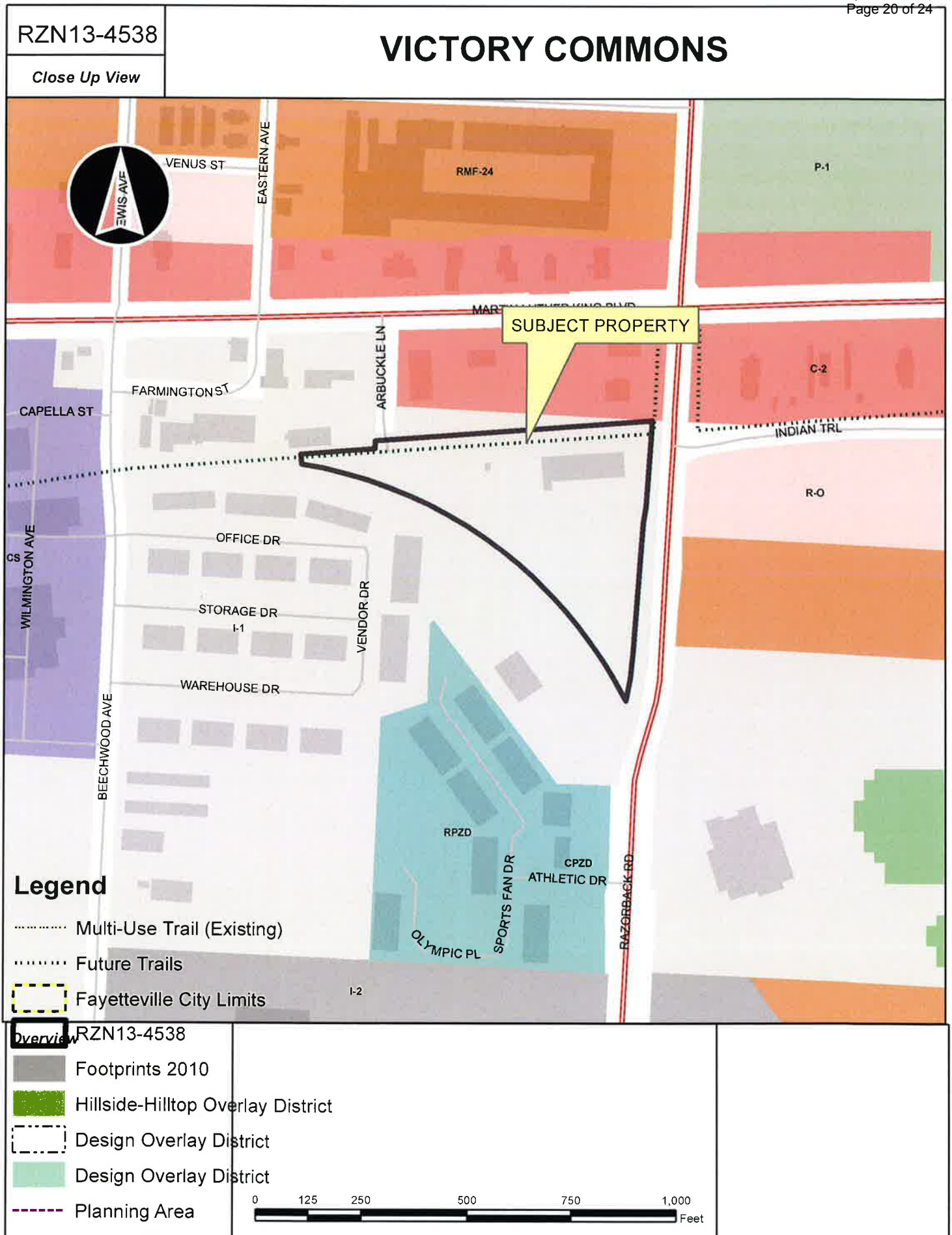
The map displays the Hillside-Hilltop Overlay District with various zoning districts color-coded: Residential Medium Density (RMD-24, orange), Residential Single-Family (RSF-4, green), Commercial (C-2, red), Industrial (I-1, blue), and Public (P-1, purple). Major streets include Sang Ave, Main St, Stone St, and 15th St. A yellow callout box labeled 'SUBJECT PROPERTY' points to a parcel on Carlson Dr. A legend in the bottom right corner defines symbols for Multi-Use Trail (Existing), Future Trails, and Multi-Use Trail (Existing). A north arrow is located in the top left corner.

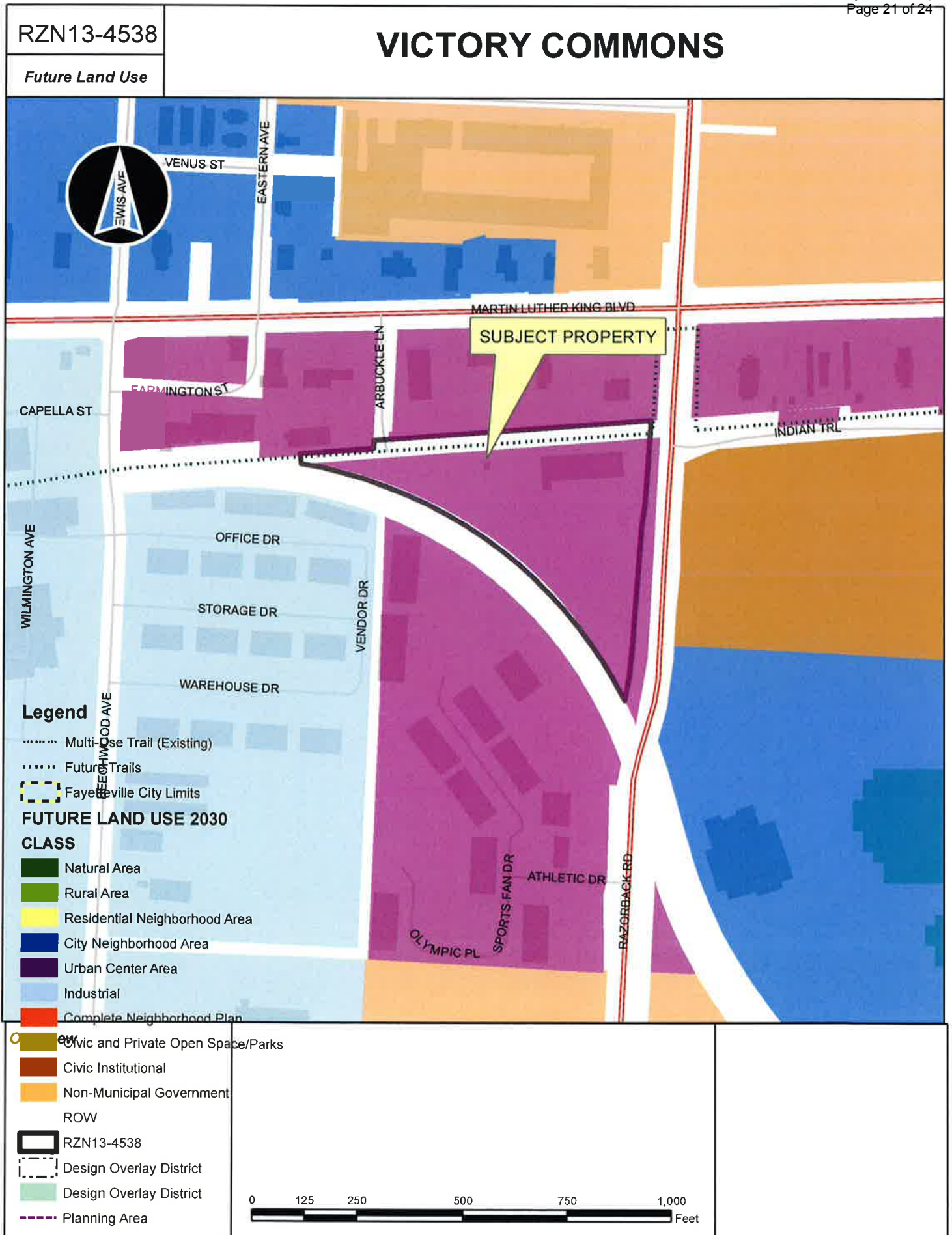
Subject Property
☐ RZN13-4538

0 0.25 0.5

 RZN13-4538
 Design Overlay District
 Planning Area
 Fayetteville

Miles





RZN13-4538

VICTORY COMMONS

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 175 350 700 1,050 1,400 Feet

McCoy, Dee

From: City_Clerk
Sent: Tuesday, January 07, 2014 4:33 PM
To: Adams, Rhonda; Branson, Lisa; Broyles, Lana; Eads, Gail; Gray, Adella; Johnson, Kimberly; Mayor; Kinion, Mark; Long, Alan; Marr, Don; Marsh, Sarah; McCoy, Dee; Mulford, Patti; Petty, Matthew; Roberts, Gina; Schoppmeyer, Martin; Smith, Lindsley; Smith, Sondra; Tennant, Justin; Williams, Kit
Subject: FW: RZN 13-4538 (Razorback Road/Victory Commons)

Dear City Clerk -

Due to circumstances beyond my control, I will not be able to attend tonight's City Council meeting. Due to this and other issues, I respectfully request that my application for rezoning, RZN - 4538 for Razorback Road/Victory Commons, be tabled for three weeks, or the closest City Council meeting a minimum of three weeks away.

Thanks!

Tracy K. Hoskins - president

Paradigm
COMPANIES

1907 Best Friend Lane, Fayetteville, Arkansas 72704
(479) 521-7007 office (479) 235-6636 cell



City of Fayetteville Item Review Form

2014-0032

Legistar File Number

02/18/14

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

Submitted By

Sustainability & Resilience

Department

Action Required:

Staff recommends approval of ADM 13-4331 to amend Unified Development Code Chapters 151, 162, 163 and 164 to create greater citizen access to Onsite Produce Sales and Urban Agriculture.

Does this item have a cost?

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

ADM 13-4331

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item?

Budget Adjustment Attached?

V20130812

Previous Ordinance or Resolution # 60-13

Original Contract Number:

Comments:



[Signature] 1-27-14

01-24-14 A11:15 RCVD *[Signature]*

Paul a. Behn

Don Mann

[Signature]



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Peter Nierengarten, Sustainability & Strategic Planning Director

From: Peter Nierengarten, Sustainability & Resilience Director *PW*

Date: January 17, 2014

Subject: ADM 13-4331 Urban Agriculture Code Amendments

RECOMMENDATION

Staff recommends approval of ADM 13-4331 to amend Unified Development Code Chapters 151, 162, 163 and 164 to create greater citizen access to Onsite Produce Sales and Urban Agriculture.

BACKGROUND

Fayetteville has seen a growing interest in local food and food security issues over the last several years. The national organization concerned about access to healthful foods, Feeding America has determined that 15% of Washington County's residents are food insecure. According to the Arkansas Department of Human Services, Washington County also has the second highest SNAP (food stamp) enrollment rate in Arkansas. These statistics, combined with an interest in preserving and celebrating local food culture have given rise to the formation of a number of local food related non-profits, as well as the increased support and popularity of local food entities, such as the Fayetteville Farmers' Market.

In response to these pressing issues, Feed Fayetteville a local non-profit dedicated to community food security, solicited a community food survey in October 2012 which included questions asking how to improve Fayetteville's community food system, urban agriculture, and access to fresh food. In a second survey, the Fayetteville Forward Local Foods group ranked these priorities, with the top three being:

- 1) Review the Unified Development Code (UDC) and recommend changes that would ease/increase citizens' ability to produce food;
- 2) Explore the possibilities for expanded opportunities to sell food onsite where grown; and
- 3) Review of the Animals and Fowl ordinance for possible increases in the type and number of animals permitted.

In March 2013, the City Council requested that staff assemble a group of stakeholders to review these priorities and recommend amendments to the Unified Development Code that would allow residents to raise more farm animals and sell more crops and animal products on non-agriculturally zoned lands in order to provide greater food security for Fayetteville residents. Staff met with a group of urban farmers, agricultural law experts, farmer's market representatives, and food security professionals to review Fayetteville's Unified Development Code food related policies, as well as other cities' policies, and has proposed revisions to the UDC based on their research and discussions. These recommendations fall into two categories: on-site sales and animals.

Onsite Sales:

Stakeholders and survey respondents expressed the desire to create more and easier ways to sell and purchase local produce and homemade food products onsite at a small and medium scale. Staff is addressing these needs by proposing changes to:

- Chapter 164.10: Garage Sales - Adding agricultural and produce sales as an allowed use;
- Chapter 162:01 Use Units - Including the sales of home produced agricultural products as an allowable home occupation. This use unit is a conditional use in all residential zoning districts; and
- Chapter 163.08: Home Occupation Use Conditions - Allow sales to take place in accessory structures and regulate signage in residential zoning districts.

Animals:

During discussions about increases in the type and number of animals permitted within the City, stakeholders felt strongly that larger properties that could sustain more animals should be allowed to have a larger number of animals. Therefore, recommendations for greater numbers of fowl, bees and goats are all based on increasing lot sizes, meaning that as lots get larger, more animals are allowed. Staff and stakeholders spent considerable time reviewing ordinances related to farm animals in many other cities and feel that the proposed ordinance changes provide reasonable allowances for numbers of animals while still providing protection for the peace and tranquility of Fayetteville neighborhoods. The proposed ordinance changes include property line and residence setbacks and require that all animals be kept in a neat and sanitary condition. The proposed ordinance changes also include registration requirements for bees and goats.

Many newer subdivisions in Fayetteville have covenants that prohibit animals other than dogs and cats. The proposed ordinance changes do not overrule or supersede any subdivision covenants.

Staff has attached the following background information for this project:

- A summary of the proposed code changes
- A clean revised copy of the proposed code language
- A copy of the existing code language with the proposed changes shown in highlight and strikeout
- Peer cities animals allowance comparison
- City Council Resolution and agenda packet from March 19, 2013

DISCUSSION

On December 9, 2013 the Planning Commission discussed changes to the above referenced UDC Chapters. After a 4 – 4 vote on the proposed changes, the Commission voted to table discussion to the January 13, 2014 Planning Commission Meeting. Based on comments received during the December 9th meeting and subsequent conversations with Commissioners, the following changes were included in the revised ordinance:

- Requirement for manure disposal in Section 164.B8 and 164.D9
- Clarification on the requirement for signage for beehives in Section 164.C6
- Restriction of goats to the back and side yard in Section 164.D8

At their January 13, 2014 meeting, the Planning Commission voted 7 – 0 in favor of forwarding the revised ordinance changes to the City Council.

Additionally, the proposed increase in allowed numbers of fowl and goats may require small changes to City Code Chapters 92.23 and 92.24 to all for the impoundment and redemption of livestock by the Animal Services Program.

BUDGET IMPACT

The proposed increase in allowed numbers of fowl and goats could potentially increase the animal transport and containment needs of the Fayetteville Animal Service Program in the future. A current estimate of \$22,000 would allow for the purchase of a livestock transport trailer and construction of a livestock containment area at the Fayetteville Animal Shelter. The livestock trailer and containment area would also help address pre-existing needs that Animal Service currently has in dealing with at-large livestock in Fayetteville. This capital improvement has not been identified as a high priority due to relatively low call numbers related to livestock transport, but may have to be revisited if there is impact to the program from the proposed ordinance such that the improvements are deemed necessary.

SUMMARY

Below is a summary of the Proposed Urban Agriculture Changes for Unified Development Code:

Chapter 164.10: Garage Sales (Exhibit A)

- Amended to Add Agricultural & Produce Sales
- Allows home sales of agricultural products 4 times per year (duration not to exceed 3 days) by right

Chapter 162: Use Units (Exhibit B)

- Amend Use Unit 24 – Home Occupations
- Includes Sales of Home Produced Ag Products as an allowable Home Occupation
- *Home Occupations are already a Conditional Uses in all Residential Zoning Districts*

Chapter 163.08: Home Occupation - Use Conditions (Exhibit C)

- Allow sales to take place in accessory structures (garage, barn, ADU, etc.)
- Allow signage in residential zoning districts

Chapter 164.04: Animals and Fowl (Exhibit D)

- Rename to *Urban Agriculture (Fowl, Bees & Goats)*

FOWL

- Defines allowed Fowl as Female Chicken and Ducks. **NO ROOSTERS!**
- Fowl allowed on single family residential (no change) and educational properties
- 4 fowl allowed on any lot (no change)
- For lots larger than 5000 sq ft, 1 additional fowl is permitted for each 1250 sq ft of lot area up to a maximum of 20 fowl
- Each fowl requires a minimum of 3 sq ft of coop space and access to outside
- Coops must be kept 25 feet from a neighboring residence (no change)
- Coops must be kept in side or back yard (no change)
- Coops must be kept in a sanitary condition (no change) and manure must be properly stored or disposed of

Fowl Examples:

Lot Size	Current Max	Proposed Max
RSF 4 zoning (minimum 8000 ft ² lot)	4	6
10,900 ft ² lot (~1/4 acre)	4	8
14,500 ft ² lot (~1/3 acre)	4	11
21,800 ft ² lot (~1/2 acre)	4	17
25,000 ft ² lot and larger	4	20

BEES

- Bees allowed on single family residential and educational properties
- 2 hives allowed on any lot
- For lots larger than 5000 sq ft, 1 additional hive is permitted for each 2500 sq ft of lot area up to a maximum of 4 hives
- Hives not closer than 20 ft to property line (if fenced)
- Hives not closer than 100 ft to property line (without a fence)
- Hives must be kept in side or back yard
- Beekeeper must provide fresh water
- Beekeeper must obey by all Arkansas Apiary Laws
- Hive ownership details must be displayed with hive
- No Africanized bees
- Bees that create a public hazard must be removed or re-queened

Bee Examples:

Lot Size	Current Max	Proposed Max
RSF 4 zoning (minimum 8000 ft ² lot)	0	3
10,900 ft ² lot (~1/4 acre)	0	4
14,500 ft ² lot (~1/3 acre)	0	4
21,800 ft ² lot (~1/2 acre)	0	4

GOATS

- Only female dwarf or pygmy goats allowed (85lb and 22.5" tall max.) NO BUCKS!
- Goats have RFID microchips
- Goats allowed on single family residential and educational properties
- Goats only allowed on lots 10,000 sq ft and larger (2 goats allowed)
- Lots 15,000 sq ft and larger are allowed up to a maximum of 3 goats
- Each goat requires minimum of 200 sq ft of secure fenced yard
- Stable or shelter is not allowed closer than 50 ft to a neighboring residence
- Stable or shelter and fenced yard must be kept in side or back yard
- Yard must be kept in a sanitary condition and manure must be properly stored or disposed of

Goat Examples:

Lot Size	Current Max	Proposed Max
RSF 4 zoning (minimum 8000 ft ² lot)	0	0
10,900 ft ² lot (~1/4 acre)	0	2
14,500 ft ² lot (~1/3 acre)	0	2
21,800 ft ² lot (~1/2 acre)	0	3

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 164.10 **GARAGE AND/OR AGRICULTURAL AND PRODUCE SALES**; § 161.10 (X) *UNIT 24. HOME OCCUPATION*; § 163.08 **HOME OCCUPATIONS** AND § 164.04 **URBAN AGRICULTURE (FOWL, BEES, AND GOATS)** OF THE UNIFIED DEVELOPMENT CODE

WHEREAS, the City Council wishes to permit owners of property in single family residential and educational zoned districts to keep and sell ducks, female chickens, bees and certain goats under certain conditions to promote urban agriculture and access to locally grown food.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 164.01 **Garage Sales** and enacts a new § 164.01 **Garage and/or Agricultural and Produce Sales** as shown on Exhibit "A" attached hereto.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 162.01 (X) *Unit 24. Home occupation* and enacts a replacement § 162.01 (X) *Unit 24. Home occupation* as shown on Exhibit "B" attached hereto.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 163.08 **Home Occupations** by repealing it in its entirety and enacting a replacement § 163.08 **Home Occupations** as shown on Exhibit "C".

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 164.04 **Animals and Fowl** and enacts a replacement § 164.04 **Urban Agriculture (Fowl, Bees and Goats)** as shown on Exhibit "D".

Ordinance No.
Page 2

PASSED and APPROVED this 4th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Exhibit "A"

Amend Chapter 164:10

164.10 Garage and/or Agricultural & Produce Sales

Garage and/or agricultural & produce sales are permitted in any zoning district subject to the following conditions:

- (A) *Frequency.* Garage and/or agricultural & produce sales shall not locate in one (1) location more than four (4) times per year.
- (B) *Term.* Garage and/or agricultural & produce sales may be held for a duration not to exceed three (3) consecutive days.
- (C) *Signs.* One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two (2) days before the sale begins. Signs are not to be located on public rights-of-way. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and for any such sign removed a collection fee shall be imposed.

Exhibit "B"

Amend Ch. 162

(X) *Unit 24. Home occupation.*

(1) *Description.* Unit 24 consists of businesses for which financial compensation is received, conducted on a residential property, and which generates motor vehicle traffic to the residential property. Only those residing on the property may be employed by the home occupation.

(2) *Included uses.*

Home child care, no more than six children	
Instructional services:	Art Crafts Dance Music Tutoring
Professional services:	Architects Insurance agents Lawyers Real estate agents Accountants Editors Publishers Graphic designers Travel agents
Repair services:	Clocks and watches Computers Electronic devices Lawnmowers Small appliances Small engines
Sales of - home produced agriculture products:	Produce Eggs Honey or beeswax products Jams or jellies Milk and milk products Other products that may be home grown or home made on this property

Exhibit "C"

Amend Ch. 163.08

163.08 Home Occupations

In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of the primary dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater. For Building Regulations purposes, any non-residential use that exceeds 30% of the gross floor area of one floor of the primary dwelling unit or more than 300 square feet of the gross floor area of the structure shall meet all applicable building and Unified Development Code regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/evidence of business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical equipment.* No mechanical equipment may be used which creates a disturbance such as noise, dust, odor, or electrical disturbance.

(E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.

(F) *Additional regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:

- (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the Zoning and Development Administrator shall have the authority to renew a conditional use permit for the same period as originally authorized, if the Zoning and Development Administrator has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The Zoning and Development Administrator may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
- (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 5:30 p.m.; provided, the Planning Commission may vary the restrictions imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.
- (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

Exhibit "D"

Amend Ch. 164.04 Animals and Fowl Supplementary District Regulations

164.04 Urban Agriculture (Fowl, Bees & Goats)

(A) General Provisions

- (1) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (2) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows, bees and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right, unless otherwise stated herein.
- (3) *Separation of use.* Unless otherwise stated herein, the following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

25 FEET
Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

50 FEET
Animal hospital; serving household pets and similar small animals
Commercial breeding, raising
Boarding: breeding, raising, or boarding of household pets or similar small animals for commercial purposes
Kennel
Egg farm

100 FEET
Animal hospital: serving livestock and similar animals
Boarding or training of horses
Dairy farm
Poultry farm
Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

200 FEET
Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

- (4) This section shall not supersede or invalidate any sections within Fayetteville City Code, Chapter 92 – Animals. Chapter 92 shall take precedence over any conflicting provisions of this section.
- (B) *Fowl.* It shall be lawful to keep fowl within the corporate limits of the city under the following terms and conditions:
 - (1) Allowed fowl shall include ducks and/or female chickens only. No roosters shall be allowed. All fowl shall be a breed that cannot fly or must be wing-clipped to prevent flight.
 - (2) The principal use of the property shall be educational or single family residential.
 - (3) A maximum of four (4) fowl shall be allowed on lots five thousand (5,000) square feet and smaller. For lots larger than five thousand (5,000) square feet, one (1) additional fowl shall be allowed for every additional one thousand two hundred and fifty (1,250) square feet, up to a maximum number of twenty (20) fowl.
 - (4) There shall be no outside slaughtering of fowl.
 - (5) Fowl shall be provided with sufficient good and wholesome food and water.
 - (6) All fowl shall have a coop/roost that is constructed with a minimum area of three (3) square feet per fowl and during daylight hours fowl shall have access to a secure enclosure/yard that is adequately fenced to protect them from predators. The coop/roost shall be kept in the side or rear yard, and is not permitted in the front yard area.
 - (7) The coop/roost structure shall not be located closer than twenty-five (25) feet

to any residential structure on an adjacent lot, and shall meet the building setbacks of the underlying zoning district.

- (8) The coop/roost structure shall be well ventilated and provide protection from the weather and predators. The coop/roost area must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons. The owner shall provide for the storage and removal of manure. Stored manure to be used for composting shall be fully covered or placed in an enclosure. All manure not used for composting or fertilizing shall be removed and properly disposed.
 - (9) Illegal fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.
 - (10) The City may further restrict or prohibit the keeping of fowl within residential districts, within a neighborhood or on a particular property if the City Council determines that fowl have created a public nuisance or public health issue.
 - (11) Nothing in this section shall be deemed or construed to prohibit the keeping of fowl within a school property or community garden for the purposes of study or education.
- (C) *Bees.* It shall be lawful to establish or maintain any hive where bee colonies are kept, or keep any bees in or upon any premises within the corporate limits of the city under the following terms and conditions:
- (1) The principal use of the property shall be educational or single family residential.
 - (2) A maximum of two (2) hives shall be allowed on lots five thousand (5,000) square feet and smaller. For lots larger than five thousand (5,000) square feet, one (1) additional hive shall be allowed for every additional two thousand five-hundred (2,500) square feet up to a maximum of four (4) hives.
- (3) All hives shall be located at least twenty (20) feet from a securely fenced property line. Hives shall be located a minimum of one hundred (100) feet from an unfenced property line. Hives shall be kept in the side or rear yard, and are not permitted in the front yard area.
- (4) Fresh clean watering facilities for the bees shall be provided within twenty (20) feet of the hive(s) at all times.
- (5) All hives shall be registered through the Arkansas State Plant Board and all hives and equipment kept in accordance with the Arkansas Apiary Law and Regulations.
- (6) Each beehive shall be identified by displaying the name, telephone number, address and state registry number of the beekeeper on the structure of the hive or on a sign within ten (10) feet of the hive. Identification shall be placed in a manner to make it conspicuous to anyone approaching the hive(s). This information shall also be made available to any city official upon request.
- (7) Nothing in this section shall be deemed or construed to prohibit the keeping of bees at a school property or community garden for the purposes of study or education.
- (8) Africanized honey bees are prohibited.
- (9) In instances where bees create a public hazard with unprovoked aggressive behavior, it shall be the responsibility of the beekeeper to re-queen or remove the colony. The Northwest Arkansas Beekeepers Association should be contacted to handle the removal or re-queening of beehives.
- (10) The City may further restrict or prohibit the keeping of bees within residential districts, within a neighborhood or on a particular property if the City Council determines that bees have created a public nuisance or public health issue.
- (D) *Goats.* It shall be lawful to keep goats within the corporate limits of the city under the following terms and conditions:
- (1) Allowed goats shall be female dwarf or pygmy goats not weighing more than

eighty-five (85) lbs and no taller than twenty-two and a half (22.5) inches at the withers (ridge between the shoulder blades). Bucks are not allowed.

- (2) All goats shall have RFID microchips and be registered with the Fayetteville Animal Services Program.
- (3) The principal use of the property shall be educational or single family residential.
- (4) Goats shall not be permitted on lots smaller than ten thousand (10,000) square feet. The minimum number of goats kept on a lot that is ten thousand (10,000) square feet and larger shall be two (2). Lots fifteen thousand (15,000) square feet and larger shall be allowed up to a maximum number of three (3) goats. Nursing off-spring may be kept on the property until the age of twelve (12) weeks and shall not be included in the number of goats allowed.
- (5) There shall be no onsite slaughter of goats.
- (6) Goats shall be provided with sufficient good and wholesome food and water.
- (7) All goats shall have a secure, fenced yard constructed with a minimum area of two hundred (200) square feet per goat and a shelter that is minimum five (5) square foot per goat. Shelters shall be well ventilated and provide protection from the weather including four sides with opening, roof and floor.
- (8) The shelter shall not be located closer than fifty (50) feet to any residential structure on an adjacent lot, and shall meet the building setbacks of the underlying zoning district. The shelter and fenced yard shall be in the side or rear yard, and are not permitted in the front yard area.
- (9) The yard must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons. The owner shall provide for the storage

and removal of manure. Stored manure to be used for composting shall be fully covered or placed in an enclosure. All manure not used for composting or fertilizing shall be removed and properly disposed.

- (10) Nothing in this section shall be deemed or construed to prohibit the keeping of goats within a school property or community garden for the purposes of study or education. Additionally, land owners are permitted to keep goats in one location for a maximum of two (2) weeks for the purpose of land clearing and the removal of vegetation.
 - (11) The City may further restrict or prohibit the keeping of goats within residential districts, within a neighborhood or on a particular property if the City Council determines that goat(s) have created a public nuisance or public health issue.
- (E) *Exemptions.* The above sections are not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl, bees or goats kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.

Exhibit "A"

Amend Chapter 164:10 Garage Sales Supplementary District Regulations by removing the language show in ~~strikeout type~~ and inserting the language shown in **bold type**.

164.10 Garage and/or Agricultural & Produce Sales

Garage **and/or agricultural & produce** sales are permitted in any zoning district subject to the following conditions:

- (A) *Frequency.* Garage **and/or agricultural & produce** sales shall not locate in one (1) location more than four (4) times per year.
- (B) *Term.* Garage **and/or agricultural & produce** sales may be held for a duration not to exceed three (3) consecutive days.
- (C) *Signs.* One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two (2) days before the sale begins. Signs are not to be located on public rights-of-way. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and for any such sign removed a collection fee shall be imposed.

Exhibit “B”

Amend Ch. 162 Use Units by removing the language shown in ~~strikeout type~~ and inserting the language shown in **bold type**.

(X) Unit 24. *Home occupation.*

- (1) *Description.* Unit 24 consists of businesses for which financial compensation is received, conducted ~~in a dwelling unit~~ **on a residential property**, and **which** generates motor vehicle traffic to the ~~dwelling unit~~ **residential property**. Only those residing ~~in the dwelling unit~~ **are on the property may be** employed by the home occupation.

(2) *Included uses.*

Home child care, no more than six children	
Instructional services:	Art Crafts Dance Music Tutoring
Professional services:	Architects Insurance agents Lawyers Real estate agents Accountants Editors Publishers Graphic designers Travel agents
Repair services:	Clocks and watches Computers Electronic devices Lawnmowers Small appliances Small engines
Sales of home produced agriculture products:	Produce Eggs Honey or beeswax products Jams or jellies Milk and milk products Other products that may be home grown or home made on this property

Exhibit "C"

Amend Ch. 163.08 Home Occupation Use Conditions by removing the language shown in strikeout type and inserting the language shown in bold type.

163.08 Home Occupations

~~In any dwelling unit~~ In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of ~~the primary-said~~ dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater. For Building Regulations purposes, any non-residential use that exceeds 30% of the gross floor area of one floor of ~~said the primary~~ dwelling unit or more than 300 square feet of the gross floor area of the structure shall meet all applicable building and Unified Development Code regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/evidence of business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. ~~Provided, no wall sign shall be permitted in an RSF District, except in the case of a home occupation, where it is required by the applicable licensing board, subject to proof of said requirement and the criteria above.~~ No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical equipment.* No mechanical equipment may be used which creates a

disturbance such as noise, dust, odor, or electrical disturbance.

- (E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.
- (F) *Additional regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:
 - (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the Zoning and Development Administrator shall have the authority to renew a conditional use permit for the same period as originally authorized, if the Zoning and Development Administrator has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The Zoning and Development Administrator may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
 - (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 5:30 p.m.; provided, the Planning Commission may vary the restrictions imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.
 - (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

Exhibit "D"

Amend Ch. 164.04 Animals and Fowl Supplementary District Regulations by removing the language shown in strikeout type and inserting the language shown in bold type.

164.04 Animals, And Fowl Urban Agriculture (Fowl, Bees & Goats)

(A) General Provisions

~~(A)(1)~~ It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.

~~(B)(2)~~ Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows, **bees** and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right, unless otherwise stated herein.

(3) Separation of use. Unless otherwise stated herein, The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

25 FEET
Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

50 FEET
Animal hospital; serving household pets and similar small animals
Commercial breeding, raising
Boarding: breeding, raising, or boarding of household pets or similar small animals for commercial purposes
Kennel
Egg farm

100 FEET
Animal hospital: serving livestock and similar animals
Boarding or training of horses
Dairy farm
Poultry farm
Farm: for raising cattle, goats, horses, sheep, rabbits

and poultry

200 FEET
Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

(4) This section shall not supersede or invalidate any sections within Fayetteville City Code, Chapter 92 – Animals. Chapter 92 shall take precedence over any conflicting provisions of this section. All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.

~~(CB)~~ **Fowl.** It shall be lawful for any person to keep ~~, permit or allow any~~ fowl within the corporate limits of the city in all Residential zones zoning districts under the following terms and conditions:

(31) Allowed fowl shall include ducks and/or female chickens only. No roosters shall be allowed. All fowl shall be a breed that cannot fly or must be wing-clipped to prevent flight.

(42) The principal use of the property shall be educational or a single family residential dwelling. No fowl chickens or ducks shall be allowed in multi-family complexes, including two-family and three-family dwellings.

~~(23) No more than four (4) hens shall be allowed for each single family dwelling. A maximum of four (4) fowl shall be allowed on lots five thousand (5,000) square feet and smaller. For lots larger than five thousand (5,000) square feet, one (1) additional fowl shall be allowed for every additional one thousand two hundred and fifty (1,250) square feet, up to a maximum number of twenty (20) fowl.~~

(4) There shall be no outside slaughtering of ~~hens~~ fowl.

(5) Fowl shall be provided with sufficient good and wholesome food and water.

(56) All hens fowl shall must be kept in have a coop/roost that is constructed with a minimum area of three (3) square feet per fowl and during daylight hours fowl shall have access to in a secure, fenced enclosure/yard that is adequately fenced to protect them from predators constructed with a minimum area of 100 square feet. The coop/roost shall be kept in the side or rear yard, and may is not be permitted in the front yard area.

(67) A chicken The coop/roost area structure shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot, and shall meet the building setbacks of the underlying zoning district. All hens

(78) Enclosures The coop/roost structure shall be well ventilated and provide protection from the weather and predators. The coop/roost area must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons. The owner shall provide for the storage and removal of manure. Stored manure to be used for composting shall be fully covered or placed in an enclosure. All manure not used for composting or fertilizing shall be removed and properly disposed.

(89) Illegal Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.

(910) The City may further restrict or prohibit the use keeping of fowl within residential districts, within a neighborhood or on a particular property if the City Council determines that fowl have created it causes a public nuisance or public health issue, as defined in City Codes.

(10) All regulations administered by the Animal Services Division shall be enforceable by law, and this ordinance shall not supersede or replace any regulation thereof.

(11) Nothing in this section shall be deemed or construed to prohibit the keeping of fowl within a school property or community garden for the purposes of study or education.

(EF) Separation of use. The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R-District, or to a dwelling on the same premises.

(C) Bees. It shall be lawful to establish or maintain any hive where bee colonies are kept, or keep any bees in or upon any premises within the corporate limits of the city under the following terms and conditions:

(1) The principal use of the property shall be educational or single family residential.

(2) A maximum of two (2) hives shall be allowed on lots five thousand (5,000) square feet and smaller. For lots larger than five thousand (5,000) square feet, one (1) additional hive shall be allowed for every additional two thousand five-hundred (2,500) square feet up to a maximum of four (4) hives.

(3) All hives shall be located at least twenty (20) feet from a securely fenced property line. Hives shall be located a minimum of one hundred (100) feet from an unfenced property line. Hives shall be kept in the side or rear yard, and may are not be permitted in the front yard area.

(4) Fresh clean watering facilities for the bees shall be provided within twenty (20) feet of the hive(s) at all times.

(5) All hives shall be registered through the Arkansas State Plant Board and all hives and equipment kept in accordance with the Arkansas Apiary Law and Regulations.

(6) Each beehive shall be identified by displaying the name, telephone number, address and state registry number of the beekeeper on the

structure of the hive or on a sign within ten (10) feet of the hive. Identification shall be placed in a manner to make it conspicuous to anyone approaching the hive(s). ~~shall be displayed on the structure of each hive.~~ This information shall also be ~~and~~ made available to any city official upon request.

- (7) Nothing in this section shall be deemed or construed to prohibit the keeping of bees at a school property or community garden for the purposes of study or education.

- (8) Africanized honey bees are prohibited.

- (9) In instances where bees create a public hazard with unprovoked aggressive behavior, it shall be the responsibility of the beekeeper to re-queen or remove the colony. The Northwest Arkansas Beekeepers Association should be contacted to handle the removal or re-queening of beehives.

- (10) The City may further restrict or prohibit the keeping of bees within residential districts, within a neighborhood or on a particular property if the City Council determines that bees have created a public nuisance or public health issue.

- (D) Goats. It shall be lawful to keep goats within the corporate limits of the city under the following terms and conditions:

- (1) Allowed goats shall be female dwarf or pygmy goats not weighing more than eighty-five (85) lbs and no taller than twenty-two and a half (22.5) inches at the withers (ridge between the shoulder blades). Bucks shall be not be allowed.

- (2) All goats shall have RFID microchips and be registered with the Fayetteville Animal Services Program.

- (3) The principal use of the property shall be educational or single family residential.

- (4) Goats shall not be permitted on lots smaller than ten thousand (10,000)

square feet. The minimum number of goats kept on a lot that is ten thousand (10,000) square feet and larger shall be two (2). Lots fifteen thousand (15,000) square feet and larger ~~For every additional five thousand (5,000) square feet of lot area, one additional goat shall be~~ allowed up to a maximum number of three (3) goats. Nursing off-spring may be kept on the property until the age of twelve (12) weeks and shall not be included in the number of goats allowed.

- (5) There shall be no onsite slaughter of goats.

- (6) Goats shall be provided with sufficient good and wholesome food and water.

- (7) All goats shall have a secure, fenced yard constructed with a minimum area of two hundred (200) square feet per goat and a shelter that is minimum five (5) square foot per goat. Shelters shall be well ventilated and provide protection from the weather including four sides with opening, roof and floor.

- (8) The shelter shall not be located closer than fifty (50) feet to any residential structure on an adjacent lot, and shall meet the building setbacks of the underlying zoning district. The shelter and fenced yard shall be kept in the side or rear yard, and may are not be permitted in the front yard area.

- (9) The yard must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons. The owner shall provide for the storage and removal of manure. Stored manure to be used for composting shall be fully covered or placed in an enclosure. All manure not used for composting or fertilizing shall be removed and properly disposed.

- (10) Nothing in this section shall be deemed or construed to prohibit the keeping of goats within a school property or community garden for the purposes of study or education.

Additionally, land owners are permitted to keep goats in one location for a maximum of two (2) weeks for the purpose of land clearing and the removal of vegetation.

- (11) The City may further restrict or prohibit the keeping of goats within residential districts, within a neighborhood or on a particular property if the City Council determines that goat(s) have created it causes a public nuisance or public health issue as defined in City Codes.

~~(D)~~(E)Exemptions. The above ~~S~~sections ~~C~~ is are not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl, **bees or goats** kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.

Fowl - Below is a summary of where Fayetteville compares to other cities on allowed numbers of fowl:

- Lawrence, KS - 1 fowl per 500 sq ft (20 max)
- Cleveland, OH - 1 fowl per 800 sq ft (no max)
- Des Moines, IA - 1 fowl per 900 sq ft (30 max)
- **Fayetteville (proposed): 1 fowl per 1250 sq ft (20 max)**
- Ft. Collins, CO - 1 fowl per 3000 sq ft (no max)
- Atlanta, GA - 25 max
- Chapel Hill, NC - 10 fowl max
- Denton, TX - 8 fowl max
- Denver, CO - 8 fowl max
- Columbia, MO - 6 fowl max
- Tulsa, OK - 6 fowl max
- Stillwater, OK - 5 fowl max
- Iowa City, IA - 4 fowl max
- **Fayetteville (current) - 4 fowl max**
- Bentonville, AR - 4 fowl max
- Rogers, AR - 4 fowl max
- Little Rock, AR - 4 fowl max
- Springdale, AR - 0 fowl

Bees - Below is a summary of where Fayetteville compares to other cities on allowed numbers of beehives:

- Cleveland, OH - 1 hive per 2500 sq ft (no max)
- Tulsa, OK - 1 hive per 2500 sq ft (no max)
- Broken Arrow, OK - 1 hive per 2500 sq ft (no max)
- **Fayetteville (proposed) - 1 hive per 2500 sq ft (4 hive max)**
- Little Rock, AR - 1 hive per 5000 sq ft (unclear if there is a max #)
- Ft. Collins, CO - 1 hive per 5000 sq ft (no max)
- Spokane, WA - 1 hive per 5000 sq ft (8 hive max)
- Bentonville, AR – 1 hive per 10,000 sq ft (no max)
- Stillwater, OK - 5 hive max

Note that if a City was listed as allowing fowl but not listed here then it is assumed that they do not allow beekeeping.

Goats - Below is a summary of where Fayetteville compares to other cities on allowed number of goats:

- Cleveland, OH - 1 goat per 2400 sq ft (no max)
- Seattle, WA - 1 goat per 5000 sq ft (no max)
- Ft. Worth, TX - 1 goat per 5000 sq ft (no max)
- Charlottesville, VA - 3 goat max on any lot
- **Fayetteville (proposed) - 1 goat per 5000 sq ft (3 goat max) - must have a minimum of 10,000 sq ft lot**
- Denver, CO - 2 goats max on any lot
- Ft. Collins, CO - 2 goats max on any lot

Note that if a City was listed as allowing fowl but not listed here then it is assumed that they do not allow goats

RESOLUTION NO. 60-13

A RESOLUTION TO REQUEST CITY STAFF REVIEW THE UNIFIED DEVELOPMENT CODE AND PREPARE AMENDMENTS TO ALLOW RESIDENTS TO RAISE FARM ANIMALS AND SELL CROPS, ANIMALS AND ANIMAL PRODUCTS IN NON-AGRICULTURALLY ZONED AREAS TO PROVIDE GREATER FOOD SECURITY FOR FAYETTEVILLE RESIDENTS

WHEREAS, 15% of Washington County's population is food insecure, which means lacking consistent access to enough food for active healthy living, and Arkansas ranks number nine in the nation in child food insecurity at 28%, while only 0.1% of Arkansas's food is sold in state directly to consumers; and

WHEREAS, expanding access to healthy food, reducing hunger, and encouraging healthier diets are of critical importance to our community's health and the reduction of our food insecurity rate; and

WHEREAS, a sustainable local food system requires community support for buying local and promoting sustainable agriculture, and working together through partnerships is important and necessary to reach the goal of a strong and sustainable local food system; and

WHEREAS, the many recent community programs and initiatives including Fayetteville Public Schools Farm to School program, the Fayetteville Community Garden Coalition, the creation of the Nation's first SNAP garden and the success of and demand for more Fayetteville Farmers' Market locations from citizens and farmers alike, all illustrate Fayetteville's support for local agriculture; and

WHEREAS, the Fayetteville Forward Local Food Group and Feed Fayetteville conducted community surveys gathering information on food priorities for Fayetteville; and

WHEREAS, the Unified Development Code should be studied to possibly authorize residents to practice animal husbandry and to sell crops, animals and animal products in non-agriculturally zoned areas.

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 recognizes that a robust local food system will provide accessible, affordable nutrition for our citizens and economic stability for our community, and hereby requests the Sustainability and Strategic Planning Division work with local stakeholders to study Fayetteville's Unified Development Code and recommend changes that will promote citizens' ability to raise farm animals and sell crops, animals and animal products in non-agriculturally zoned areas to provide greater food security for Fayetteville residents.

Page 2
Resolution No. 60-13

PASSED and APPROVED this 19th day of March, 2013.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



City of Fayetteville Staff Review Form

C. 1
ADM 13-4331 Amend Chapters
151, 162, 163 and 164
Page 25 of 30

City Council Agenda Items
and
Contracts, Leases or Agreements

~~3/1/2013~~ 3-19-13
City Council Meeting Date
Agenda Items Only

Kristina Jones Sustainability & Strategic Planning
Submitted By Division Department

Action Required:

A resolution requesting staff to examine Fayetteville's Unified Development Code and recommend amendments that will promote residents' ability to grow and sell plant and animal based food products and provide greater food security.

<u>N/A</u> Cost of this request	<u>N/A</u> Category / Project Budget	<u>N/A</u> Program Category / Project Name
<u>N/A</u> Account Number	<u>N/A</u> Funds Used to Date	<u>N/A</u> Program / Project Category Name
<u>N/A</u> Project Number	<u>N/A</u> Remaining Balance	<u>N/A</u> Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 3/1/13
Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 3/1/13
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul a. Bullock 3-1-2013
Finance and Internal Services Director Date

Received in City Clerk's Office [Signature]

[Signature] 3-1-13
Chief of Staff Date

Received in Mayor's Office ENTERED 3/1/13

[Signature] 3/4/13
Mayor Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Peter Nierengarten, Sustainability & Strategic Planning Director

PW

From: Kristina Jones, Sustainability & Strategic Planning Project Designer and Coordinator

KJ

Date: March 1, 2013

Subject: ADM 13-4331 Local Foods Ordinance Review

PURPOSE

Mayor Lioneld Jordan is sponsoring a resolution requesting City Council support for his request to have city staff examine the Unified Development Code and recommend amendments for City Council consideration that will make it easier for residents to grow and sell plant and animal based food products. This item has Alderman Matthew Petty's endorsement.

BACKGROUND

Along with timber resources and wild game, the grasslands of this region initially attracted settlers to Washington County who grew wheat, oats, corn, hay, strawberries, beans, tomatoes, tobacco, and eventually apples and other fruit crops, as well as chickens, pigs, oxen and dairy cattle. This began to change however, starting with Great Depression of the 1930s and the subsequent decline in rural population, coupled with the advent of modern-day conveniences and rising land costs. Today much of the agricultural tradition that sustained families in this area in the past has disappeared.

However, the last few decades have seen a rebirth of interest in locally produced foods and products. A local foods movement strives to build a locally based, sustainable food economy where production, processing and distribution are integrated with an emphasis on social health benefits and environmentally sustainable local food crops and products. Additionally, supporting a strong local foods system is essential to addressing the issues of hunger and nutrition. When an individual or family can easily grow food, more residents have access to affordable, high-quality nutrition. Nationally, one in six Americans is fighting hunger; in Fayetteville, the statistic is one in four, and Arkansas leads the nation with 19% of our population who are "food insecure," lacking consistent access to enough food for active healthy living. Feeding America has determined that 15% of Washington County's residents are food insecure, and according to the Arkansas Department of Human Services, Washington County also has the second highest SNAP (food stamp) enrollment rate in Arkansas. And these problems appear to be increasing. A 2009 study by the Arkansas Hunger Relief Alliance shows that the number of people in Northwest Arkansas served weekly by the Northwest Arkansas Food Bank rose from 6,200 in 2005 to 25,900 in 2009 - - a 318% increase in families receiving food assistance in only four years.

Recent activity and interest in the realm of local foods has been demonstrated by local organizations, programs, and initiatives including the following:

THE CITY OF FAYETTEVILLE, ARKANSAS

- Apple Seeds Inc., established in 2007, provides outreach and programs that help students and their families establish sustainable, lifelong, healthy eating habits.
- SNAP-Ed, a program administered through the Washington County Extension Service in partnership with Arkansas DHS and the U of A, is focused on educating food stamp recipients and low income families about healthy diet and exercise choices.
- The Fayetteville Community Garden Coalition was founded in 2009. Fayetteville currently boasts 20 community and school gardens and urban farms.
- Fayetteville Public Schools (FPS) educational gardens at ten schools demonstrate a local commitment to food and agriculture knowledge from the ground up. FPS is also currently introducing students to local foods and agriculture through their newly formed Farm to School program, with emphasis on local food procurement and healthy food education.
- Feed Fayetteville, formed in 2011, is an organization committed to alleviating hunger and cultivating a sustainable food network through strategic partnerships and making connections between organizations working on opposite ends of food issues to extend their reach and amplify their effectiveness.
- University of Arkansas Community Design Center was awarded \$15,000 in seed money in 2012 from the American Institute of Arkansas to begin developing "Fayetteville: 2030 Food City Scenario," a plan for "healthy and safe food systems at a local scale...to build agrarian urbanism, where everything is designed around food production and how people live." The plan is one response to Fayetteville's increasing population, subsequent sprawl and the strain it places on the land, as well as a disconnect from food sources and a need for access to nutritious, sustainable food.

In the fall of 2009 Alderman Matthew Petty requested that the City begin looking at Fayetteville's capacity for growing food in publicly owned open space. He met with the Sustainability Department in the spring of 2011, and staff began researching local foods movements in other cities and how city governments can have effective involvement. In October 2012, Feed Fayetteville solicited a community food survey including a question soliciting suggestions for Mayor Jordan about how to improve Fayetteville's community food system, urban agriculture, and access to fresh food. The following are the most frequent comments that the Sustainability and Strategic Planning Department felt could be evaluated through City policy:

- use leftover space, such as in parks and excess rights-of-way, to plant food bearing vegetation;
- establish more community gardens and expand the animals and fowl ordinance;
- modify the zoning code to ease restrictions on farming and selling produce in town;
- provide and/or expand food composting services; and
- secure more partnerships with and support for local organizations and non-profits.

Through a second survey, the Fayetteville Forward Local Foods group ranked these priorities, the top three being: 1) Unified Development Code review and modification; 2) expanded ability to sell food onsite where grown; and 3) review of the Animals and Fowl ordinance for possible expansion.

Mayor Jordan has requested that staff assemble a group of stakeholders to review these priorities. Staff will meet with a small group consisting of farmers, agricultural law students, and food security professionals to study Fayetteville's Unified Development Code and recommend amendments that will promote residents' ability to grow and sell locally produced plant and animal based food products.

BUDGET IMPACT

None.

Fayetteville Community Food Survey:

What suggestions do you have for Mayor Jordan about how to improve our community food system, urban agriculture, and access to fresh food?

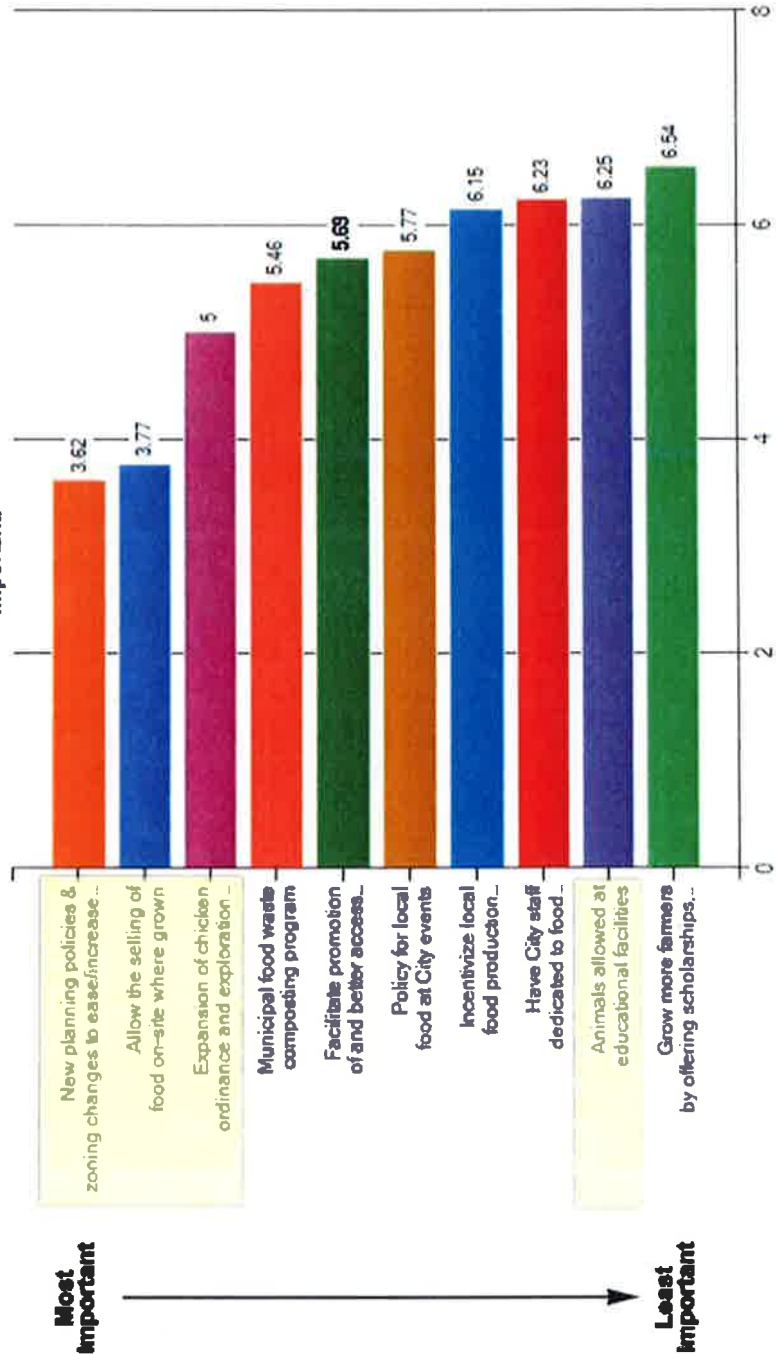
Gardens/Public Space	
Use leftover space (City Lands/ Parks/ROW/Schools/POA properties) to plant food bearing vegetation in, accessible to all.	14
More Community Gardens and promotion of	8
City encourage/require planting food bearing landscape plants & trees as part of landscape reqs/mitigation	3
City position dedicated to Community Gardens	2
Make community gardens easier to establish and access.	1
Offer SNAP in all community gardens	1
City Ordinances/Policies/Programs	
Amend chicken ordinance to allow for more and expand to goats and other animals.	9
Create/modify zoning for Urban Agriculture/Conservation- make it easier to farm in town	5
Tax incentives for donated garden land/ sustainable garden set ups	2
City Composting	1
Overturn POA rules stating that residents cannot grow vegetables in front flower beds	1
Research and implement a more wholistic local food shed scenario.	1
Carbon tax on non local foods	1
Encourage and make rooftop gardens the norm	1
Farmers' Market	
More, easily accessible (pedestrians and outskirts of town), and larger Farmers' Markets, at different times of day	8
Support Local: Local Farmers and local food in restaurants/grocery stores	7
Support/Promote Farmers' Market	3
More evening markets	2
More education on SNAP Benefits at Market and follow through on program	2
Market at U of A	1
Farmers' market vouchers for City employees	1
More value added products at Farmers' Market	1
Create opportunities for selling of food outside of Farmers' Market- difficult to get in	1
Support partnerships btwn Farmer's market and local stores	1
Education	
Campaign/educate promoting the benefits of local foods/gardening- make it popular	8
Local food & gardening education in school	4
Food Preservation Classes/Canning programs	3
Encourage healthy good food in schools	2
Seed saving /food growing classes	2
Gardening assistance/ garden planning education	1
Organizations & Partnerships	
Partnerships- University, Fayetteville Schools, Surrounding area	5
Support local food non profits	1
Support/Promote Botanical Garden	1
Online Resources	
Website with local foods resources	1
Create a space to advertise available gardening land	1
Provide links to gardening resources and provide garden related donations	1
Community exchange program for goods- produce,compost etc.	1
Food & Local Food- General	
More local/health foods stores- need lower prices	4
Encourage City facilities and businesses to source food locally	2
Push for accurate food labeling	1
Encourage local restaurants to donate leftover foods	1
Facilitate food donations and distribution	1
Other	
Community building - neighborhood community kitchens/block parties	2
Create a place that houses emergency food stores for those in need.	1
Hire a group to conduct a regional local food assessment	1
Open a food preservation center	1

	Short Term, City of Fayetteville Sustainability & Strategic Planning Department
	LongTerm, Other City of Fayetteville Departments



FAYETTEVILLE FORWARD LOCAL FOOD GROUP FOOD POLICY SURVEY

Based upon Community Food Survey results and Local Foods Action Group replies, the following preferences have been chosen to represent citizens' input. Please rank these priorities with 1 being most important to you in the City's commitment to local foods and community food security and 10 being least important.



CITY OF FAYETTEVILLE
 SHORT TERM ACTION

Handed out at the 3/19/13 City Council meeting.

March 19, 2013

Dear Fayetteville City Council,

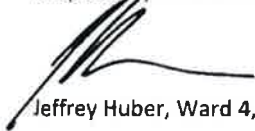
I would like to offer my support to the Local Foods Ordinance Review or *The Development of an Agrarian Urbanism Code and Framework*.

Consider this; fifty percent of Fayetteville's built environment projected to exist by 2030 has not yet been built. Fayetteville will essentially reproduce another Fayetteville—approximately 100 million square feet including 28,000 housing units (currently Fayetteville has an estimated 32,000 housing units)—within its boundaries over the next 20 years. What if we envisioned a Fayetteville Food City that is based on food security, linking local food production to urban development?

There was once a strong relationship between cities and their surrounding agricultural lands; many preindustrial cities even had developed agricultural landscapes within their urban cores (e.g., Mormon, New England, and Mediterranean cities). Local land once reserved for agriculture has been replaced with suburban development while food products produced by a global industrialized system now travel more than an average 1,500 miles to local markets and can lose up to 80% of their nutritional value. Michael Pollan notes that before 1920 one calorie of energy expended by agricultural production generated two calories of food energy. Today, chemical-dependent industrial agriculture uses more than 10 calories of fossil fuel energy to produce just one calorie of food. Industrial agriculture has diminished access to locally-available food and generated a host of unintended environmental problems, while erasing local agricultural heritages. We have forgotten from where food comes, how to grow it, when to harvest it, and how to preserve it. Compared to our parents and grandparents we are agriculturally illiterate. Most cities generally have a three-day supply of food sourced from a global supply chain, what they call the "nine meals from anarchy" dilemma. The replacement of locally based food chains by global and centralized systems dependent on intensive transportation and energy inputs creates vulnerability to supply disruptions.

If Fayetteville provides public services through potable water, police and fire protection, sewage treatment, waste management, and transportation infrastructure, how might a sustainable "food utility" become an ecological amenity scaled to the community rather than to an industrial economy? While pragmatic reasoning favors location of agriculture outside of the city, there are compelling economic, environmental, and social reasons to integrate agriculture within the city. First, the convenience provided by proximity to growing systems demystifies farming and positions it to be a tool for local economic development and jobs creation. Second, urban land costs promote development of high-quality, intensive farming economy with higher yields per acre (in both volume and nutritional content) that makes farming feasible at a small scale once again. Third, well-designed agricultural systems can be used to advance delivery of community-wide ecosystem services, including conservation of urban ecosystems like riparian corridors, legacy prairies or meadows, and urban tree canopies. Fourth, productive landscapes contribute to cities' open space systems requirements, enhancing livability and access to outdoor activities otherwise unavailable. Keep in mind, when the bike trails were originally proposed they were not popular, now it seems we cannot live without them. Code retooling approaches should consider more than shifting from "four hens to six" they should change the development game. I am hopeful that the city could reassert its design role of traditional urban services offered by street networks, urban fabrics, open space systems, neighborhoods, and buildings around the production of food. A city designed like that would be unlike any other and I am intrigued.

Respectfully Submitted,



Jeffrey Huber, Ward 4, 3691 Tower Circle

City of Fayetteville Item Review Form

C. 2
Teeco Safety, Inc.
Page 1 of 8

2014-0061

Legistar File Number

02/18/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Greg Tabor

Submitted By

Police

Department

Action Required:

Approval of a bid waiver authorizing the replacement of Police Department's Taser products to Teeco Safety, Inc in the amount of \$192,344.50.

Does this item have a cost? ☒ Yes

\$192,344.50

Cost of this request

\$192,344.50

Category or Project Budget

Specialized Police Equipment

Program or Project Name

4470.9470.5210.00/1010.2920.5210.00

Account Number

Capital Improvements

Program or Project Category

02062-1 / 39024-2009

Project Number

\$0.00

Remaining Balance

Sales Tax Capital Improvements

Fund Name

Budgeted Item? ☒ Yes

Budget Adjustment Attached? ☐

01-31-14 P03:12 RCVD

V20130812

Previous Ordinance or Resolution # 85-04 / 5282

Original Contract Number:

Comments:



Paul a. Beal

Mr. Ma

Leona J. Jara

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Mike Reynolds, Deputy Chief of Police 

Date: January 31, 2014

Subject: Approve Bid Waiver for Replacement of Taser Products from Teeco Safety, Inc.

PROPOSAL:

The Taser is a conductive energy weapon (CEW) which uses electrical impulses to temporarily overwhelm the neural communications required for a person to perform coordinated actions. The Fayetteville Police Department has used, and trained with, Tasers since 2004, and found them effective in preventing injury to both officers and suspects who need to be taken into custody. We maintain certified Taser Instructors for training purposes, and our officers have years of experience in handling X-26 Tasers. We have performed periodic evaluations on other types of CEWs to confirm Taser as our preferred less than lethal weapon. Teeco Safety is the sole authorized regional supplier for the company who manufactures the X-26, Taser International. Teeco Safety has been supplying the Fayetteville Police Department with Taser products since the project's inception in 2004.

Our existing Taser X-26 products have been discontinued and have exceeded their five year warranty. The replacement of our Tasers, with the new X-26P model, has been planned for through our Capital Improvements Program funding. We plan to sell our old Taser products on GovDeals.com with the intent to replenish our project with their proceeds.

RECOMMENDATION:

Staff recommends approval of a bid waiver authorizing the replacement of our Taser products to Teeco Safety, Inc. in the amount of \$192,344.50. If you have any questions, please contact me at extension 500.

BUDGET IMPACT:

Budgeted funds of \$158,497 in Specialized Police Equipment (project #02062-1) and \$33,847.50 in IRS/Treasury Forfeitures (project #39024-2009) for total replacement costs of \$192,344.50.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT WITH TEECO SAFETY, INC. IN THE AMOUNT OF \$192,344.50 FOR THE PURCHASE OF TASER PRODUCTS

WHEREAS, the Fayetteville Police Department has used and trained with Tasers since 2004, and found them effective in preventing injury to both officers and suspects who need to be taken into custody, and

WHEREAS, the Fayetteville Police Department has performed periodic evaluations on other types of conductive energy weapons (CEWs) to confirm Taser as the preferred less than lethal weapon, and

WHEREAS, the Department's existing Taser X-26 products have been discontinued and have exceeded their five year warranty, and

WHEREAS, Teeco Safety, Inc. is the sole authorized regional supplier for Taser International and has been supplying the Fayetteville Police Department with Tasers since 2004.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and therefore waives the requirements of formal competitive bidding and approves a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of new Taser products for use by the Police Department.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Teeco Safety

P.O. Box 7784
1360 Grimmert Dr.
Shreveport, LA 71107

Voice: 318 424-5176
Fax: 318 424-5184

QUOTATION

Quote Number: 7951
Quote Date: Jan 31, 2014
Page: 1

C. 2
Teeco Safety, Inc.
Page 4 of 8

Quoted To:
City of Fayetteville Attn: Accounts Payable 113 West Mountain Fayetteville, AR 72701 Phone: 479 575-8256 Fax: 479 575-8241

Ship to:
Fayetteville Police Dept. 100 West Rock Fayetteville, AR 72701

Drop Shipment

Customer ID	Good Thru	Payment Terms	Sales Rep
FayettevilleC	3/2/14	Net 30 Days	Ed Carey

Quantity	Item	Description	Unit Price	Amount
90.00	TAS-11003	TASER #11003, YELLOW X26P ECD, POWER MAGAZINE AND HOLSTER NOT INCLUDED.	873.85	78,646.50
90.00	TAS-11004	TASER #11004 X26P 4-YEAR EXTENDED WARRANTY	269.99	24,299.10
90.00	TAS-26820	TASER #26820 X2 TASERCAM HD WITH AUTOMAIC SHUT DOWN (AS) FEATURE	540.75	48,667.50
90.00	TAS-26763	TASER #26763 TASERCAM HD 4-YEAR EXTENDED WARRANTY	149.95	13,495.50
90.00	TAS-11501	TASER #11501 X26P BLACKHAWK HOLSTER, RIGHT HAND	51.75	4,657.50
250.00	TAS-44203	TASER #44203 GREEN DOOR CARTRIDGE, 25 FOOT DUTY	26.55	6,637.50
100.00	TAS-34200	TASER #34200 YELLOW DOOR CARTRIDGE, 15 FOOT TRAINING	21.55	2,155.00
2.00	TAS-26762	TASER #26762 TASERCAM HD USB DOWNLOAD KIT	14.95	29.90
1.00	02	SHIPPING AND HANDLING ESTIMATE	1,940.00	1,940.00

Visit us at www.teecosafety.com or like us on Facebook!

By _____

Thank you for your business!

Subtotal	180,528.50
Sales Tax	
TOTAL	180,528.50
Use Tax	17,602.00
Tax Rebate	<5,786.00>
Total	192,344.50

SOLE SOURCE JUSTIFICATION

PURPOSE:

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

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

INSTRUCTIONS:

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

TO: Purchasing Division Date: 01/31/2014
FROM: Willie Newman Dept: Police
Names of Requisitioner and Dept. Head
SUBJECT: Sole Source Justification
Purchase Requisition p-card (attached)
Proposed Vendor Teeco Safety
Product Description X-26P Taser and TaserCam

STATEMENT

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

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

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

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

- A. These features are:

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

We have performed periodic evaluations on other types conductive energy weapons (CEW) to confirm Taser as our preferred less than lethal weapon. Currently, there are a limited number of other CEWs in the marketplace, and we recently completed the evaluation of Karbon Arms products. On January 10, 2014, Taser International was awarded a permanent injunction against Karbon Arms for patent infringement. Taser remains the best less than lethal weapon in the marketplace.

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

Explain:

Fayetteville Police Department has used and trained with Tasers since 2004, and found them effective
in preventing injury to both officers and suspects that need to be taken into custody. We maintain
certified Taser Instructors for training purposes, and have performed periodic evaluations on other
types of conductive energy weapons (CEW) to confirm Taser as our preferred less than lethal weapon.

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

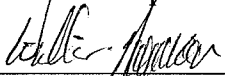
Explain: Fayetteville Police Department has used and trained with Tasers since 2004. We maintain
in-house certified Taser Instructors and every officer is certified annually on the deployment of this
CEW.

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

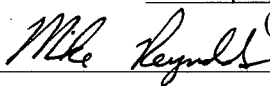
Taser International, the manufacturer of X-26P Tasers and TaserCams, have a very
limited number of distributors for their products. Teeco Safety is the regional supplier
for Taser International. Teeco Safety has been supplying the Police Department with
Taser products since the project inception in 2004.

Authorization:

Full Name and Title of Requisitioner Willie Newman, Asst Support Services Mgr

Signature  (typed or printed in ink) Date 1-31-2014

Full Name of Division Head Deputy Chief Mike Reynolds

Signature  (typed or printed in ink) Date JANUARY 31, 2014

- TASER CAM™ HD recorder, Model 26810 (full HD video and audio) and TASER CAM HD with AS (automatic shut-down feature), Model 26820.
 1. TASER CAM HD replacement battery, Model 26764.
 2. The TASER CAM HD can be downloaded by USB with the TASER CAM HD Download Kit, Model 26762.
 3. TASER CAM HD optional 4-year extended warranty, Item Number 26763.
- Power Modules for X26 ECD: Digital Power Magazine (DPM) Model 26700; eXtended Digital Power Magazine (XDPM) model 26701; and Controlled Digital Power Magazine (CDPM), Models 26702 and 26703.
- Power Modules for X2 and X26P ECD's: Performance Power Magazine (PPM) Model 22010; Tactical Performance Power Magazine (TPPM) Model 22012; and Automatic Shut-Down Power Magazine (APPM) Model 22011; eXtended Performance Power Magazine (XPPM) Model 11010.
- Power Module for X3 and X3W ECDs: Enhanced Digital Power Magazine (EPM) Model 33203
- TASER Shockwave ECD, Models 90012, 90011, 90013, and 90010. The TASER Shockwave ECD runs off of a Shockwave Power Magazine (SPM), Model 90007.
- TASER Blast Door Repair Kit Model 44019 and TASER Blast Door Replenishment Kit Model 44023

Smart™, TASER CAM™, X2™, X3W™, and X26™ are trademarks of TASER International, Inc., and TASER®, and X3® are registered trademarks of TASER International, Inc., registered in the U.S. © 2011 TASER International, Inc. All rights reserved.

TEECO SAFETY IS THE SOLE AUTHORIZED TASER DISTRIBUTOR FOR ARKANSAS	SOLE AUTHORIZED REPAIR FACILITY TASER BRAND PRODUCTS
Teeco Safety Inc. 1360 Grimmer Drive, PO Box 7784 Shreveport, LA. 71107 1-800-697-8564 Phone 1-318-424-5184 Fax	TASER International, Inc. 17800 N. 85 th Street Scottsdale, AZ 85255 Phone: 480-905-2000 or 800-978-2737 Fax: 480-991-0791

Please contact us at 1-800-978-2737 with any questions.

Sincerely,



Jim Halsted
Vice President, LE Sales
TASER International, Inc.

City of Fayetteville Item Review Form

2014-0066

Registrar File Number

02/18/2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jeremy Pate

Submitted By

Development Services

Department

Action Required:

A resolution authorizing Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation and enter into a \$3,000,000 purchase contract agreement with Chambers Bank to acquire 328 acres of "Mt. Kessler" as described herein, to support a land donation of 48 acres for future parkland credit, to trade land for like property and trail easement, and to approve a budget adjustment.

Does this item have a cost? ☒ Yes

\$1,600,000.00

Cost of this request

4470.9470.5805.00

Account Number

14013.1

Project Number

Category or Project Budget

Funds Used to Date

-\$1,600,000.00

Remaining Balance

Kessler Mt. Acquisition

Program or Project Name

Land acquisition

Program or Project Category

4470 - Sales Tax Capital

Fund Name

Budgeted Item? ☐ No

Budget Adjustment Attached? ☒ Yes

02-05-14 11:27 RCVD V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

dmw
Feb 5, 2014
Paul a. Becher FEB. 6, 2014
dmw 2/6/14
ENTERED 2/10/14 JB
Lionel J. ...



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff *DM*

From: Jeremy Pate, Director of Development Services *J.P.*

Date: February 04, 2014

Subject: Mt. Kessler Acquisition

RECOMMENDATION:

The City Staff recommends that the City Council authorize Mayor Jordan to formally apply for and accept a 50/50 matching grant from the Walton Family Foundation, subject to the terms described herein; enter into a contract agreement with Chambers Bank to purchase approximately 328 acres of Mt. Kessler for \$3,000,000; support the acceptance of a donation of approximately 48 acres of Mt. Kessler to be banked for future parkland dedication credit within the park quadrant, and trade approximately 38 "remnant" acres of the original 200-acre regional park for like/equal to acreage adjacent to regional park land.

BACKGROUND:

Mt. Kessler has been identified through multiple organizations and individuals as a gem in the City worthy of preservation. The property is situated adjacent to both the City's 200-acre future regional park for active sports activities and an existing network of properties that have been designated for conservation and trail activities. It is entirely within the City of Fayetteville's municipal limits, located in southwest Fayetteville. Mt. Kessler can currently be accessed via W. Kessler Mountain Road, west of I-540, or via hiking and biking trail from Smokehouse Trail, south of Hwy 62 West. The property is currently owned by Chambers Bank, and there are no active uses of the property other than outdoor recreation.

Mt. Kessler has a rich history of settlement from the mid 1800's and has a unique advantage of being a property that exists today without much change from that time period. Blessed with an abundance of native flora and fauna, stands of native old-growth Ozark tree species, rock outcroppings, significant view sheds, changes in topography and ecosystem, the property is a perfect opportunity for citizens from the region and beyond to engage in discovery of the Ozark forest, for both recreational and educational opportunities.

After several discussions with Frank Sharp of the Mount Kessler Greenways Advocates and representatives John Coleman and Bob Caulk of the Fayetteville Natural Heritage Association, who have been advocating for the preservation of Mt. Kessler for some time, the City began conversations with the Walton Family Foundation to gauge their interest in a grant opportunity for the acquisition of the approximately 376-acre Mt. Kessler property generally west of the City's Regional Park, in an effort to permanently place this asset in the public domain. Our vision is to utilize already forged partnerships with the Mt. Kessler Greenways Advocates, Fayetteville Natural Heritage Association, Ozark Off-Road Cyclists, the International Mountain Bicycling

Association, the University of Arkansas, Fayetteville Public Schools and others to develop programs at Mt. Kessler that emphasize and expand upon established outdoor recreation in the form of mountain biking, hiking, and nature study. We plan to use these relationships to continue the design, development, expansion and long-term maintenance of the Mt. Kessler Trail system for recreational use; to foster working outdoor classrooms and laboratory spaces for use by the University and surrounding schools; to provide for the study of native Arkansas flora, fauna and geologic rock formations; to promote awareness of watershed and natural resource preservation; and to provide places for healthy, active lifestyles for future generations' wellbeing. Our goal is to promote stewardship of this land in a responsible manner, and to preserve it for use by citizens of Northwest Arkansas in years to come.

It is important to note that current entitlement affords the property owner to market, sell and develop the property being described. The proximity of Mt. Kessler to Fayetteville's future Regional Park is fortuitous, and is a major reason that this acquisition makes sense for the City at this time. Expanding the City's highly programmed active recreational space to include another 376 acres of natural active and passive open space creates a place unlike many others in the region or state. In addition, the property acquisition allows for necessary connectivity for the City's multi-use trail system, part of the network of trails developing throughout Fayetteville and Northwest Arkansas that will provide access to the Regional Park and Mt. Kessler for cyclists and pedestrians from throughout the region. The provision of access and amenities by way of the developing Regional Park and Fayetteville Alternative Transportation network creates almost 600 acres of parkland that will be a legacy acquisition.

PROPOSAL:

Buyer: The City has obtained approval from the Walton Family Foundation to formally apply for and accept a grant of up to \$1.5 million in purchasing the Mt. Kessler property. Formal application for the grant with a matching financial commitment requires Council approval in the form of a Resolution, part of the action requested here. As the City has experienced in the past, Foundation grants are based upon Output and Outcome Performance Measures, which describe the overall terms of the grant that the City must accept in order to access the grant funds. More fully described in the attached letter from Buddy Philpot, Executive Director of the Walton Family Foundation, the general terms are as follows:

Output Performance Measures:

- The purpose of the grant is to support the City in our efforts to acquire the 376-acre Mt. Kessler property and permanently place this asset and its mountain biking trails in the public domain.
- The Foundation will grant the City up to \$1,500,000 with a matching contribution from the City once the City has applied for and acknowledged the terms and conditions of the grant
- The City must execute a real estate purchase contract by April 15, 2014 and take ownership no later than April 30, 2014
- The City must outline a plan and process for permanently placing the 376 acres in the public domain and preservation as greenspace by April 30
- The City must commit to maintaining and operating all current and future trails to specific standards as outlined in the grant agreement by April 30
- The City will establish a baseline of trail usage within 30 days of acquisition and collect trail use data for no less than six months following in accordance with referenced methodologies

Outcome Performance Measures:

- The City will provide evidence of match funding in the amount of up to \$1,500,000 by April 30
- The City will establish a publically accessible trailhead allowing access to the trailheads on the 376 acres within 90 days of officially acquiring the property
- Targets for trail usage will be established from the baseline data gathered, and the intent is for usage to increase in the six months following initial measurement.

The City, by Resolution, would agree to these terms in order to receive the grant and acquire the property. The City would be willing to own and permanently maintain the property as public park property, within a permanent greenspace area. All contract documents and deeds would be produced and a closing scheduled before a deadline of March 31, 2014. Matt Mihalevich, the City's Trails Coordinator, is familiar with the trail standards and specifications, and the City would utilize working relationships with various groups identified herein to ensure we meet these standards. Finally, the City would provide a public trailhead access within 90 days, with a more fully developed permanent trailhead and access to be provided within the adjacent Regional Park as it is constructed. We are requesting City Council approval to reserve funds to purchase the property, and will evaluate any other maintenance, programming and operational costs through the CIP or annual budget.

The City has had wonderfully productive relationships with a number of the individuals and entities that have a vested interest in securing this property for permanent public use as outdoor recreation, educational and research space. The Fayetteville Natural Heritage Association (FNHA) is one such group. Through very productive conversations with Bob Caulk and John Coleman, both of whom are on the Board of Directors, the FNHA has committed to raising \$300,000 over three years toward the purchase of the property, thereby offsetting a portion of this initial cost for purchase and physical improvements required. This commitment is being recognized as a separate agenda item, but is an important component of the acquisition.

Seller: For several months, the City has been in discussions with Chambers Bank representatives about the feasibility of purchasing some or all of this property. Initially, the asking price based on most recent appraisals was out of reach. However, through creative problem-solving and negotiation, the City staff feels a very good compromise has been reached that benefits the current owner of the property, whose intent is to sell for development portions of the property, and taxpayers, who will ultimately benefit from an almost 600-acre regional park property. Chambers Bank has been very good to work with, and the staff must express our gratitude to Mr. John Chambers III, Chairman of Chambers Bank, Hunter Haynes of HCH Consulting, Inc., and JR Meeks of Chambers Bank for being very willing to discuss options for the city to acquire this property. The terms of the purchase are also outlined in a letter of commitment attached, and will be included in a contract for purchase where they are not approved directly by City Council resolution.

- Chambers Bank agrees to sell approximately 328 acres for \$3,000,000
- Chambers Bank agrees to donate approximately 48 acres to be banked for future parkland credit, in accordance with city ordinance
- The City would agree to trade certain "island" portions of the original 200-acre regional park that Chambers Bank donated to the City several years ago, as more fully depicted in the attached map. This trade would include credit for a multi-use trail easement as generally depicted on the same map.

THE CITY OF FAYETTEVILLE, ARKANSAS

- Planned multi-use trails connecting the Mt. Kessler property and Regional Park would not be constructed across the Chambers property until connecting trails were also under construction, and the City would work with any developer to allow crossing of the trail with streets, utilities, etc.
- The City would agree to erect signage along a common property line indicating “park boundary” and the existence of private property, upon which trespassing was not permitted
- The consummation of the purchase would need to occur no later than March 31, 2014

The City finds these terms are reasonable and in the favor of the citizens of the City of Fayetteville, given the permanent protection of mountain biking/hiking trails within the greenspace of Mt. Kessler and all of the opportunities that will be possible for the enjoyment of this unique natural resource.

The City is very interested in acquiring this important property for future generations, and support from the Walton Family Foundation is a pivotal element in doing so. We believe that the addition of this property as a public asset enhances the quality of life for residents of Northwest Arkansas by providing a unique venue for healthy outdoor recreation and wellness activities in the form of nature trails for hiking and biking; for childhood to college education through environmental programs; and for the preservation of open space and protection of watershed and natural resources. Together, we believe these elements fit the goals of CityPlan 2030, most particularly in assembling an enduring green network, and will undoubtedly place Fayetteville and Northwest Arkansas in a place to continue to retain and attract talent to the region because of our quality of life reputation.

BUDGET IMPACT:

The overall budget for this acquisition is \$3,100,000. The initial investment to purchase the described 376 acres requires \$1,500,000 from the city, from Fund Reserve, and a matching grant from \$1,500,000 is being recognized from the Walton Family Foundation. One of the grant terms requires construction of a public trailhead within 90 days of the property acquisition, the specific location of which has yet to be determined. Staff estimates that a maximum of \$100,000 should cover the cost of this physical improvement. With the commitment from the FNHA, a total of \$300,000 will be deposited back into the reserve fund over the next three years, similar to other partnerships between the City and FNHA in previous greenspace acquisitions. These funds will help offset the \$1,600,000 that the City is pulling from reserves.

At the direction of the Mayor, the staff will work together, along with agencies interested in the mountain-biking trail system, to identify operational, maintenance and programming expansion costs; it is our intent to hold these costs to minimal levels and use area partners as much as possible, as the primary purpose of the Mt. Kessler purchase is to preserve and enhance the mountain-biking/hiking trail system and the surrounding greenspace so that generations to come can enjoy the same experience as previous ones have.

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO APPLY FOR AND ACCEPT A 50/50 MATCHING GRANT FROM THE WALTON FAMILY FOUNDATION IN THE AMOUNT OF \$1,500,000.00, TO USE THIS GRANT AND \$1,600,000.00 OUT OF RESERVES TO PURCHASE ABOUT 328 ACRES OF MT. KESSLER FROM CHAMBERS BANK AND TO BUILD A TRAILHEAD, TO APPROVE A LAND SWAP WITH CHAMBERS BANK, TO SUPPORT A PARKLAND DEDICATION OF ABOUT 48 ACRES FOR FUTURE PARKLAND CREDIT AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has a unique opportunity to work with the Walton Family Foundation, Fayetteville Natural Heritage Association and Chambers Bank to acquire and preserve 376 acres of Mt. Kessler for \$3,000,000.00 and parkland dedication so that the Regional Park will grow to almost 600 contiguous acres of amenities running the gamut from developed sports fields to mountain biking and nature trails; and

WHEREAS, the City will also need to spend about \$100,000.00 from reserves to develop a public trailhead for the many nature, hiking, biking and recreational trails already established and to be established and enhanced as part of the Regional Park.

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 City of Fayetteville application for the 50/50 matching grant with the Walton Family Foundation, extends its deepest appreciation and gratitude to the Walton Family Foundation for this grant, agrees to accept and match this \$1.5 million donation with City funds from reserves, agrees to use this Three Million Dollars to purchase about 328 acres from Chambers Bank, agrees to build the public trailhead for about \$100,000.00 from reserves and authorizes Mayor Jordan to sign all necessary documents and agreements necessary to accomplish this grant, purchase and project.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby agrees to support and recommend that the Fayetteville Planning Commission accept a parkland dedication of about 48 acres by Chambers Bank to be used for future parkland credit.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby agrees to swap those parcels of City land with Chambers Bank for the Chambers Bank parcels and trail easements all as identified on the map attached to this Resolution as Exhibit A.

Page 2
Resolution No.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached Budget Adjustment recognizing grant revenue of \$1.5 million from the Walton Family Foundation and expenditures of \$3.1 million for purchase of the Mt. Kessler property and construction on the trailhead.

PASSED and **APPROVED** this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

V13.1031 C. 3
Mt. Kessling Acquisition
Page 8 of 18

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	

\$1,600,000 of the funding will come from a General Fund transfer and \$1,500,000 will come from a Walton Family Foundation grant.

TOTAL BUDGET ADJUSTMENT		4,700,000	4,700,000	Project.Sub Number
Account Name	Account Number	Increase / (Decrease)		
		Expense	Revenue	
Land acquisition	4470.9470.5805.00	⇒ 3,000,000		14013 . 1
Land acquisition	4470.9470.5805.00	⇒ 100,000	-	14013 . 1
Transfer from General	4470.0947.6602.01	⇒	1,600,000	14013 . 1
Commercial grants	4470.0947.4305.00	⇒	1,500,000	14013 . 1
				.
				.
Transf to Cap Improvement	1010.6600.7602.47	⇒ 1,600,000		57039 . 1401
Use of fund balance	1010.0001.4999.99	⇒	1,600,000	.

The
**WALTON FAMILY
FOUNDATION**

P.O. Box 2030 Fayetteville AR 72712-2030

February 4, 2014

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

Re: Grant #2013-1037

Dear Mayor Jordan,

It is my pleasure to inform you that The Walton Family Foundation, Inc. (the "Foundation") has approved a grant of up to \$1,500,000.00 to the City of Fayetteville (the "Grantee"). This grant is subject to the following terms and conditions:

1. **Purpose:** The purpose of the grant is support the City of Fayetteville as they acquire approximately 376 acres located in southeast Fayetteville known as Mt. Kessler which lies adjacent to the City's 200 acre regional park currently under development. The purchase of this property from private ownership will permanently place this asset and its existing ~5-6 miles of single track mountain bike and hiking trails in the public domain. This grant is more fully described in Grantee's letter of interest dated August 28, 2013. Grantee agrees to use all grant funds exclusively for the grant's purposes. Any changes in these purposes must be authorized in advance by the Foundation in writing.
2. **Amount:** Up to One Million Five Hundred Thousand Dollars (\$1,500,000.00).
3. **Payable:** One payment in the amount of up to \$1,500,000.00 shall be payable upon receipt of a copy of this letter from Grantee acknowledging the terms and conditions set forth herein and satisfactory evidence of \$1,500,000 in matching commitments as well as an executed real estate purchase contract for the 376 acres. Matching commitments must be documented for the foundation by April 30, 2014. In the event the matching commitments are not documented by this deadline, all outstanding obligations of the Foundation will terminate.
4. **Accounting:** (a) The Foundation encourages, whenever feasible, the deposit of grant funds in an interest-bearing account. For purposes of this letter, the term "grant funds" includes the grant and any income earned thereon.

(b) Grantee will maintain records of receipts and expenditures made in connection with the grant funds and will keep these records during the period covered by the Grantee's reporting obligations specified in paragraph 5 and for at least four years thereafter ("Maintenance Period"). Grantee will make its books and records in connection with the grant funds available for inspection by the Foundation during normal business hours as the Foundation may request at any time during the Maintenance Period.
5. **Reporting and Evaluation:** Grantee will provide the Foundation with an interim financial and narrative report by October 31, 2014 and a final financial and narrative report by May 31, 2015. These reports shall include an account of expenditures of grant funds, and a brief narrative of what was accomplished

(including a description of progress made in fulfilling the purposes of the grant and a confirmation of Grantee's compliance with the terms of the grant).

Success will be measured against the outputs and outcomes described below.

All reports will be sent electronically to HomeRegion@wffmail.com. If you have questions relative to reporting, please contact Janet Post, Home Region Focus Coordinator, 479-464-1576, email jpost@wffmail.com. Please reference Grant #2013-1037 on all reports submitted.

6. **Representations:** Grantee represents and warrants to the Foundation that:

(a) Grantee is an organization in good standing, is either an organization described in section 501(c)(3) of the Internal Revenue Code ("Code") or a governmental unit, and is not a "private foundation" described in section 509(a) of the Code. Grantee will promptly notify the Foundation of any change in Grantee's tax status under the Code.

(b) In no event will Grantee use any grant funds:

(i) to carry on propaganda, or otherwise to attempt, to influence legislation;

(ii) to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; or

(iii) to undertake any activity other than for a charitable, educational or other exempt purpose specified in section 170(c)(2)(B) of the Code.

(c) Grantee will comply with all applicable laws and regulations.

7. **Repayment:** The Foundation may discontinue any further payments to Grantee, and may direct Grantee to repay any unexpended grant funds to the Foundation, if any of the following events occurs:

(i) Grantee ceases to maintain its tax-exempt status as described in paragraph 6(a) above;

(ii) Grantee fails to comply with the terms of this letter; or

(iii) There is a material change in Grantee's key personnel that in the sole opinion of the Foundation adversely affects Grantee's management of the grant.

8. **Release and Indemnity:** Unless prohibited by law, Grantee shall release, indemnify, defend and hold harmless the Foundation and its directors, officers, employees and agents from and against any and all claims, actions, suits, demands, damages, losses, expenses and liabilities, arising out of or related in any way to the actions or omissions of Grantee (or its directors, officers, employees, agents or contractors) in connection with the Grant and the project funded by the Grant, except to the extent caused by the Foundation's (or its directors, officers, employees or agents') negligent actions or omissions. Grantee further agrees to carry insurance in such forms and amounts as are commercially reasonable and appropriate to cover Grantee's operations and to enable Grantee to indemnify and defend the Foundation as provided hereunder.

9. **Grant Publicity:** Grant publicity related to this grant consistent with Grantee's normal practice is permitted, subject to the following provisions. The Foundation expects any announcements and other publicity

to focus on Grantee's work and the project or issue funded by the grant. Recognition of the Foundation's role in funding the project is permitted, provided that the timing, content and strategic focus of such publicity should be approved by the Foundation contact listed in paragraph 11. Publicizing the grant and the Foundation in Grantee's publications and communications in a manner consistent with similar grants obtained by Grantee is permitted.

The Foundation may ask Grantee to provide illustrations, photographs, videos, recordings, information or other materials related to the grant (collectively "Grant Work Product") for use in Foundation communications including the Foundation's website, annual report, newsletters, board materials, presentations, communications and other publications. Grantee agrees to provide the Foundation with such items upon the Foundation's reasonable request and hereby grants to the Foundation and anyone acting under the authority of the Foundation a fully paid-up, world-wide, right and license to use, reproduce, display and distribute the Grant Work Product in connection with the Foundation's charitable operations and activities. In connection therewith, Grantee shall be responsible for obtaining all necessary rights and permissions from third parties for the Foundation to use the Grant Work Product for these purposes. By signing this Agreement, Grantee also acknowledges and agrees to use by the Foundation of historical, programmatic and other information relating to Grantee and the grant hereunder.

10. **Gratuities:** The Foundation desires that all of Grantee's resources be dedicated to accomplishing its philanthropic purposes. Therefore, Grantee agrees that it will not furnish the Foundation or its Board of Directors, officers, staff or affiliates with any membership, commemorative items, recognition plaques or gratuities or benefits of any kind.

11. **Contact:** For all communications regarding the grant, your point of contact at the Foundation will be Program Officer, Ryan Hale. He can be contacted via phone or email as follows: Telephone number (479) 464-1579, Fax number (479) 464-1580 and Email rhale@wffmail.com.

We have enclosed two original grant letters. Please sign one copy as Grantee's acknowledgment of the terms and conditions herein stated and return it to me in the enclosed self-addressed envelope. If the signed acknowledgment of this letter is not received in the Foundation's office by February 28, 2014, the Foundation will consider the Grantee to have declined the grant.

On behalf of the Foundation, I extend every good wish for the success of your organization's endeavors.

Sincerely,



Buddy D. Philpot
Executive Director

ACKNOWLEDGED AND AGREED

By: _____
Lioneld Jordan (Date)
City of Fayetteville

Appendix A: City of Fayetteville
Purchase & Preserve Mt. Kessler in Fayetteville

Output Performance Measures:

- The City will execute a real estate contract for the purchase of 376 acres known as Mt. Kessler by April 15, 2014 as evidenced by submission of executed contract.
- The City will fully acquire and take ownership of the property by April 30, 2014 as evidenced by deed.
- The City will provide an outline of its plan and process for permanently placing the 376 acres in the public domain and permanent preservation as greenspace in perpetuity by April 30, 2014.
- The City will sign an agreement to commit to maintain and operate all current and future trails on Mt. Kessler to the same standards as outlined in the Razorback Regional Greenway operations and management plan as well as the guidelines listed in the IMBA “Guide to Sweet Single-track” and “Managing Mountain Biking” handbooks by April 30, 2014, as evidenced by a letter signed by Mayor Lioneld Jordan.
- The City will sign an agreement to commit to establish a trailhead that will create access to the trail system at Mt. Kessler through city owned or controlled property by April 30, 2014, as evidenced by a letter signed by Mayor Lioneld Jordan.
- The City will establish a baseline of trail usage for the single track trails located on Mt. Kessler using the methodology developed by ALTA Planning + Design Consultants. Measurement will commence within 30 days of acquisition and will be collected for no less than six months.

Outcome Performance Measures:

- The City will provide evidence of match funding in the amount of up to \$1.5 million by April 30, 2014 as evidenced by program records.
- The City will establish a publicly accessible trailhead allowing access to trails on the 376 acres within 90 days of officially acquiring the property as evidenced by program records.
- General trail usage on the single track trails located on Mt. Kessler will increase in the six months following initial measurement. The baseline established during the first 6 months after completion will be used to set the target for the increase in trail usage. All targets will be subject to WFF input.



January 30, 2014

Don Marr
Chief of Staff
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Dear Don:

It was a pleasure meeting with you and Jeremy last week. Based on our meeting and further discussions, please find the following to be the terms upon which Chambers Bank would agree to sell the Mt. Kessler area of the Southpass development to the city of Fayetteville:

- Chambers Bank would agree to sell 327.868 acres of the 375.618 acres for a purchase price of \$3,000,000.
- Chambers Bank would agree to donate 47.749 acres, the balance of the 375.618 acres, to the City of Fayetteville to be held for any future park land dedication requirements in that quadrant of the City.
- The City would trade certain portions of the 200 acres originally deeded to the City, including the "island portion" and the areas located along the North property line, to Chambers Bank in exchange for acreage located to the West of the road leading to the water towers along with a section adjacent to Sports complex area and Mt. Kessler Road as well the execution of a 25 foot Multi-Use Trail Easement in favor of the City of Fayetteville for a trail. The trail shall run along the unnamed streams within the 50 foot riparian stream bank protection area to the North to connect the future Shiloh Trail and to the South to connect to the Regional Park area. The location of said areas and trail would be mutually determined and agreed upon, and shall equal the same amount of acreage. Please see attached diagram to further explain this point.
- The City would agree to not construct the planned trails in the Multi-Use Trail Easement areas, until the connector trails were under construction.

Don Marr
January 24, 2014
Page 2

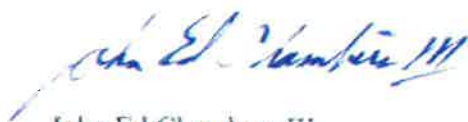
- The City would work with any developer to allow the crossing of any of the Multi-Use Trail Easement areas with roadways, utilities, etc. as were deemed necessary and in the best interest of development.
- The City would agree to erect signage, along common boundary lines, indicating the existence of private property and that trespassing was not allowed; the design and placement of said signage to be mutually agreed upon.
- The consummation of the proposed terms above shall be completed no later than March 31st.

It is my understanding that this project will require the City of Fayetteville City Council's approval in order for us to move forward with the execution of any contract. Upon behalf of me and my team, we look forward to working with you on this project and the continued success of the City of Fayetteville.

I have attached a diagram, which indicates the Mt Kessler area to be 375.618 acres, along with the acreage of the areas to be traded. Once again I enjoyed visiting with you both and look forward to working on this project. Upon review please let me know of any comments or questions you may have.

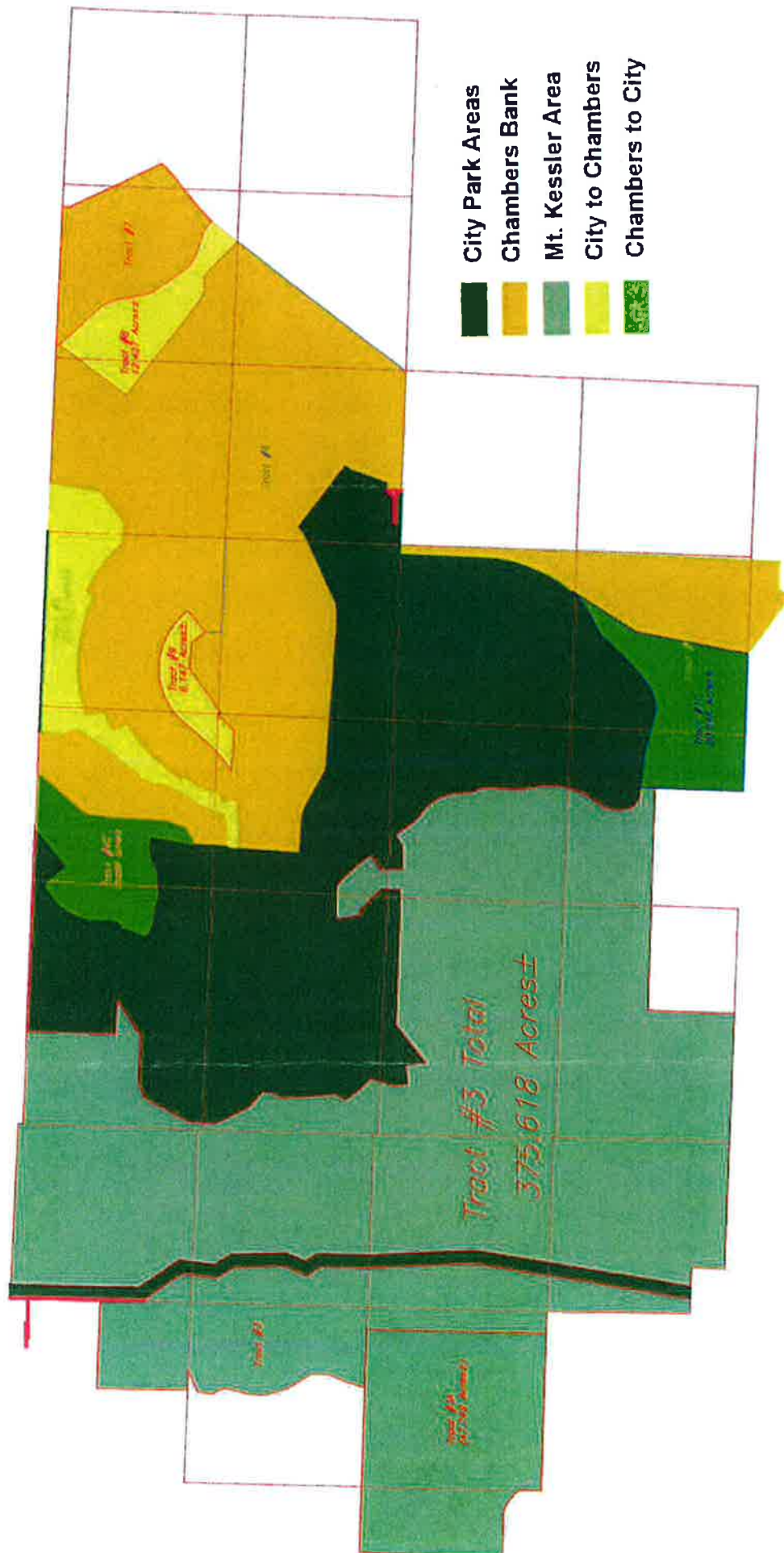
I look forward to hearing from you soon.

Sincerely,



John Ed Chambers III
Chairman Chambers Bank

Enclosure





The Fayetteville Natural Heritage Association, Inc. is dedicated to conserving natural areas of Fayetteville and its environs for the benefit of present and future generations.

January 29, 2014

Lioneld Jordan, Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Dear Mayor Jordan,

The establishment of a 387-acre Mount Kessler Reserve on the southwest corner of Fayetteville would protect a significant piece of regional green infrastructure while benefiting our community through environmental education, public recreation, public water supply protection, and wildlife habitat and ecosystem preservation. Two regional conservation planning initiatives led by FNHA identified Mount Kessler as a very high priority in establishing an enduring green network.

The Fayetteville Natural Heritage Association Board of Directors has committed to raising \$300,000 in three years toward the purchase of the Reserve by the City. This is identical to the commitment made toward the purchase of Mount Sequoyah Woods. Although it took five years to fulfill our commitment for the Mount Sequoyah purchase, we feel it can be accomplished in three years because FNHA is now an established organization with several significant accomplishments and Mr. Frank Sharp has built a very extensive Mount Kessler Advocates network.

Thank you for your continued support of FNHA priorities.

Sincerely,



Bob Caulk
Chairman

P.O. Box 3635 Fayetteville, Arkansas 72702-3635
www.fayettevillenatural.org

Goal 5: We will assemble an enduring green network.

"The Enduring Green Network connects people and nature through a mapped system of trails and green infrastructure. This network recognizes and assembles the ecological assets in Fayetteville that need to be preserved while providing a lasting connected corridor for wildlife. The strength, function and appreciation of the Enduring Green Network will develop over time as our community experiences these natural areas and distinct ecosystems." (Description based on public feedback during City Plan 2030 public input sessions.)

The natural environment, and connections with the environment, is part of what makes Fayetteville special. Residents treasure the quality of life associated with living in a place that offers magnificent views and a variety of recreational opportunities. The natural environment of Fayetteville needs to be properly preserved and enhanced. The City of Fayetteville community needs to increase efforts to protect the natural landscape, increase parks and trails, and preserve long views across open green spaces.

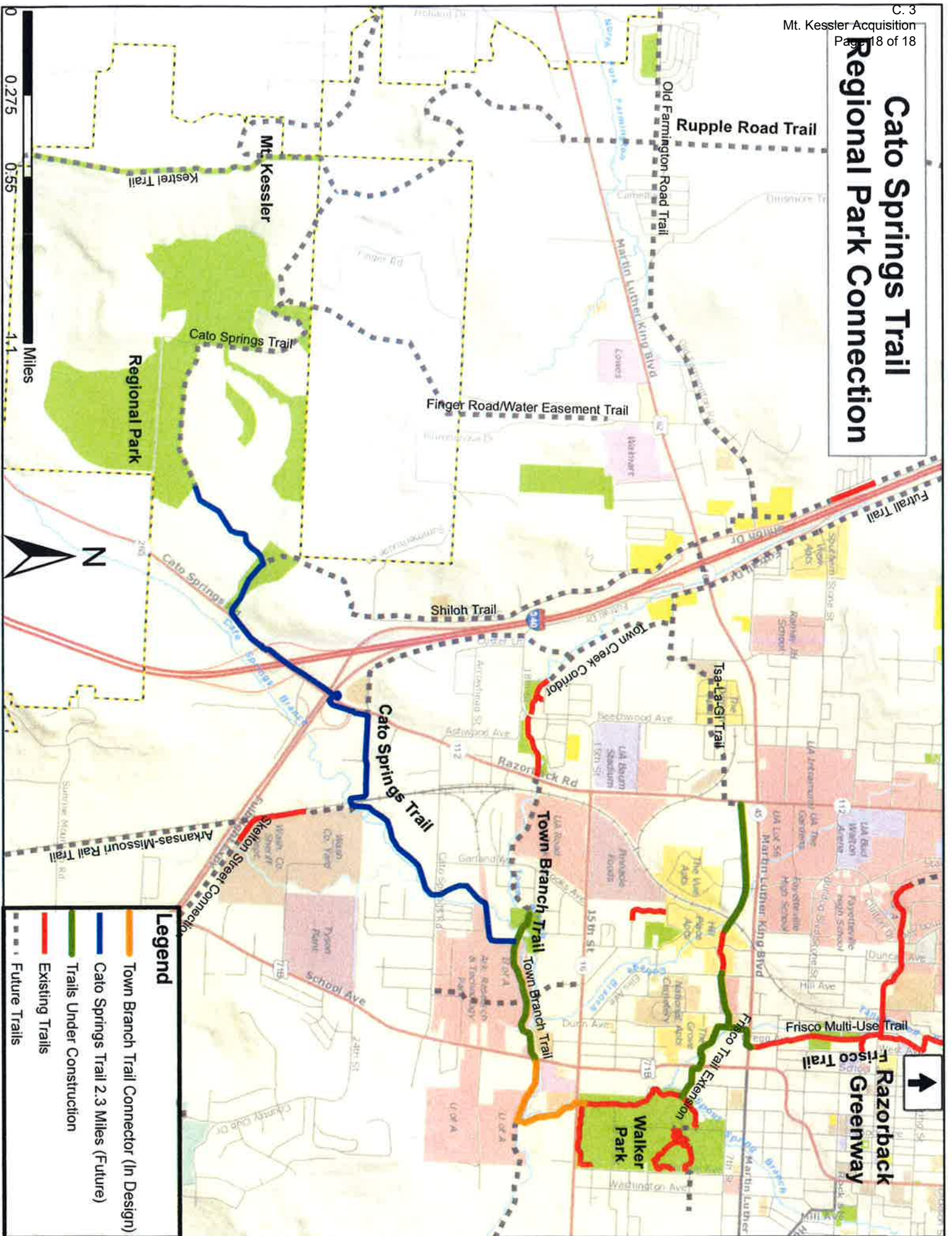
A green network helps maintain the community character and quality of life that makes Fayetteville the great city that it is today, and contributes to the economic success and stability of the City. Fayetteville must compete with other cities in the region for population, jobs, and retail sales. It has a number of assets unavailable to the other cities including the University of Arkansas, the Walton Arts Center, Dickson Street, and an intact city core area that is improving and strengthening. One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity. If the City chooses unregulated development that strips away the natural setting or reserves pieces of it for only a select few, it will lose one of its advantages in the regional economic competition. Since this environment is one of the advantages that distinguish Fayetteville from other cities, it can be an important factor in marketing the unique quality of life to future residents and employers.



Fayetteville Natural Heritage Association
Green Infrastructure Study



Cato Springs Trail Regional Park Connection



City of Fayetteville Item Review Form

C. 4
Kum & Go, L.C. Agreement
Page 1 of 10

2014-0062

Legistar File Number

2/18/14

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

Submitted By

Development Services

Department

Action Required:

A Resolution to approve the Fourth Amendment to the Land Sale Agreement with Kum and Go, L.C., to share in the costs of widening Highway 16 and to extend the Closing Date to no later than April 21, 2014.

Does this item have a cost? ☒ Yes

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

Kum 2-3-14

Paul A. Buch

Mr. Mann 2-4-14
Scott Jordan

01-31-14A11:08 RCVD

dm





www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

Council Meeting of February 18, 2014

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: January 31, 2014

Subject: **A Resolution to approve the Fourth Amendment to the Land Sale Agreement with Kum and Go, L.C., to share in the costs of widening Highway 16 and to extend the Closing Date to no later than April 21, 2014.**

BACKGROUND:

The City's agreement with Kum and Go, L.C. for Kum and Go's purchase of a portion of City property adjacent to Highway 16 was approved by the City Council in February, 2013. As the project has progressed, multiple amendments have been brought forward addressing various issues that have come to light. Recently, the Arkansas State Highway and Transportation Department (AHTD), during their review of the permit request for the Kum and Go, indicated that an additional lane on Highway 16 at the intersection of Huntsville and Happy Hollow would be required due to the planned installation of the new street/driveway into the Kum and Go. As noted on the attached site plan, this street/driveway will create a 4-way intersection at Happy Hollow and Huntsville, and this additional lane would serve as a turning lane for traffic turning off of Highway 16 at the intersection.

After several discussions with the AHTD, Engineering staff recommended to the Mayor that a cost share with the AHTD be proposed. In December, a letter (attached) was sent to the AHTD proposing this cost share. The AHTD has recently responded positively to this request, and will design the improvements for incorporation into their active construction project on Highway 16. The AHTD will expect a payment of 50% of the cost of the change order for the additional lane before they will begin the work. Once the actual cost is known, staff will present the amount to the City Council for approval of a payment to the AHTD.

PROPOSAL:

The City's current agreement with Kum and Go is to share 50/50 in the cost of the new street/access drive between Highway 16 and Ray Avenue, and in the cost of signal improvements that are necessary as part of this access drive construction. The proposed fourth amendment to the agreement will add the cost of the widening of highway 16 to the cost share agreement. If this amendment is approved, the City's responsibility will be 25% of the cost of the work, with the AHTD and Kum and Go paying the remaining 50% and 25%, respectively.

Additionally, due to the delays in getting this issue resolved and other factors, Kum and Go has requested an extension of the closing date to not later than April 21, 2014.

RECOMMENDATION:

Staff recommends approval of the Fourth Amendment to the Land Sale Agreement.

BUDGET IMPACT:

The total cost of the road widening has been estimated to be up to \$250,000. Therefore, the City's portion, after cost shares with the AHTD and Kum and Go, is estimated to be \$62,500. The actual cost will be known after the AHTD completes the Change Order with their construction contractor.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE FOURTH AMENDMENT TO LAND SALE AGREEMENT WITH KUM & GO, L.C. TO EXTEND THE CLOSING DATE TO NO LATER THAN APRIL 21, 2014 AND TO AGREE TO EQUALLY SHARE THE CITY'S PORTION OF THE COSTS OF A DEDICATED LEFT TURN LANE

WHEREAS, the City of Fayetteville agreed to sell and Kum & Go, L.C. agreed to buy a lot of slightly under two acres for \$1,155,001.00 pursuant to the First Amendment to Land Sale Agreement approved by the City Council by Resolution No. 26-13 on February 5, 2013; and

WHEREAS, Kum & Go, L.C. and the City agreed to cost share 50/50 the design and construction costs for the agreed upon new street from the intersection of Happy Hollow and Huntsville to Ray Avenue and agreed that the Closing Date would be in early December at the option of Kum & Go, L.C.; and

WHEREAS, the City requested and Kum & Go, L.C. agreed to extend the period allowed for the demolition of the old Tyson factory for about an additional two and a half months to enable the City to sell the building for salvage for a substantial savings for our taxpayers; and

WHEREAS, Kum & Go, L.C. has agreed to a further 50/50 cost share of the City's portion of its 50/50 cost share with the Arkansas Highway and Transportation Department for any expenses related to the dedicated left turn lane needed for intersection of Happy Hollow and Huntsville which accesses both City and Kum & Go, L.C. property and requested an extension of Closing until April 21, 2014.

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 Fourth Amendment to the Land Sales Agreement attached to this Resolution and authorizes Mayor Jordan to sign this amended Agreement.

PASSED and APPROVED this 18th day of February 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FOURTH AMENDMENT TO LAND SALE AGREEMENT

THIS FOURTH AMENDMENT TO LAND SALE AGREEMENT (hereinafter, the "Amendment") is made and entered into effective the _____ day of February, 2014, by and between the CITY OF FAYETTEVILLE, AR, a municipal corporation ("City" or "Fayetteville"), and KUM & GO, L.C., an Iowa limited liability company ("Kum & Go"), WITNESSETH:

WHEREAS, Kum & Go and City have entered into that certain Purchase Agreement (the "Agreement") whereby City has agreed to sell and Kum & Go has agreed to buy certain real estate situated in Fayetteville, Arkansas; and

WHEREAS, Kum & Go and City have entered into the First Amendment to Land Sale Agreement on February 5, 2013; and

WHEREAS, Kum & Go and City have entered into the Second Amendment to Land Sale Agreement on March 19, 2013; and

WHEREAS, Kum & Go and City have entered into the Third Amendment to Land Sale Agreement on September 17, 2013; and

WHEREAS, Kum & Go and City desire to amend this Agreement for a fourth time as set forth herein.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, it is agreed as follows:

1. Extension of Time for Closing. Kum & Go, L.C. and the City of Fayetteville agree that upon Kum & Go, L.C.'s request to extend the Closing Date pursuant to Paragraph 7 of the Land Sale Agreement, Kum & Go, L.C. shall have the right to extend the Closing Date to not later than April 21, 2014.

2. Dedicated Left Turn Lane on Huntsville Road. The Arkansas Highway and Transportation Department has agreed to design and construct a dedicated left turn lane into the City's development site at the old Tyson Plant property if the City pays 50% of these costs. The City and Kum & Go, L.C. now

agree to equally share the City of Fayetteville's 50% cost share with the Arkansas Highway and Transportation Department.

3. Ratification. Except as modified by this Fourth Amendment, all terms within the Agreement and its First, Second and Third Amendments are ratified and confirmed by the parties.

4. Counterparts, Facsimile. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be executed all on or as the day and year first above written.

KUM & GO, L.C.

CITY OF FAYETTEVILLE, AR

By: Niki DePhillips
NIKI DePHILLIPS,
SVP Store Development

By: _____
LIONELD JORDAN
Mayor

ATTEST:

By: _____
SONDRA E. SMITH
City Clerk/Treasurer



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

ADMINISTRATION
113 West Mountain
Fayetteville, AR 72701
P (479) 575-8330 F (479) 575-8257

December 10, 2013

Mr. Frank Vozel, P.E.
Deputy Director/Chief Engineer
Arkansas State Highway and Transportation Department
P.O. Box 2261
Little Rock, AR 72203-2261

Re: Highway 16/Huntsville Rd. Intersection

Dear Mr. Vozel:

As you may know, the City of Fayetteville has entered into a contract with Kum and Go, LLC to sell a portion of City property near the intersection of Huntsville Road and Happy Hollow, on State Highway 16. As part of the project, a new street is planned to be constructed to create a 4-way intersection at Highway 16 and Huntsville Road. The intersection currently is a three way intersection that was constructed by the City in 2006, and includes a 4-lane cross section on Highway 16. Additionally, the Department is widening Highway 16 to the east of this intersection, in partnership and cooperation with the City, with the City paying \$5 million toward the approximately \$12 million cost of the project.

Kum and Go, LLC has been pursuing Department approval of the intersection layout, so that they can begin design work on the traffic signal modifications necessary as part of the new leg to be added to the intersection. The Department has recently determined that it will be necessary to add a fifth lane at the intersection, to provide a dedicated left turn lane for both travel directions on Highway 16.

While we agree with the concept, and recognize that this design will create a better intersection, it seems that the Department should share in the cost of this work, just as the City has invested heavily in the cost of the work on the nearby widening project. This work will resolve a weakness in the transportation network that, absent the development project, would have remained after the Highway 16 widening project was completed. We have estimated the cost of the widening to be approximately \$200,000 to \$250,000, based on the unit costs from the Department's current contract with Sweetser Construction, and we would propose that this cost be shared equally between the Department and the City. (This does not include the cost of the signal relocation, which will be borne by the developer and/or the City).

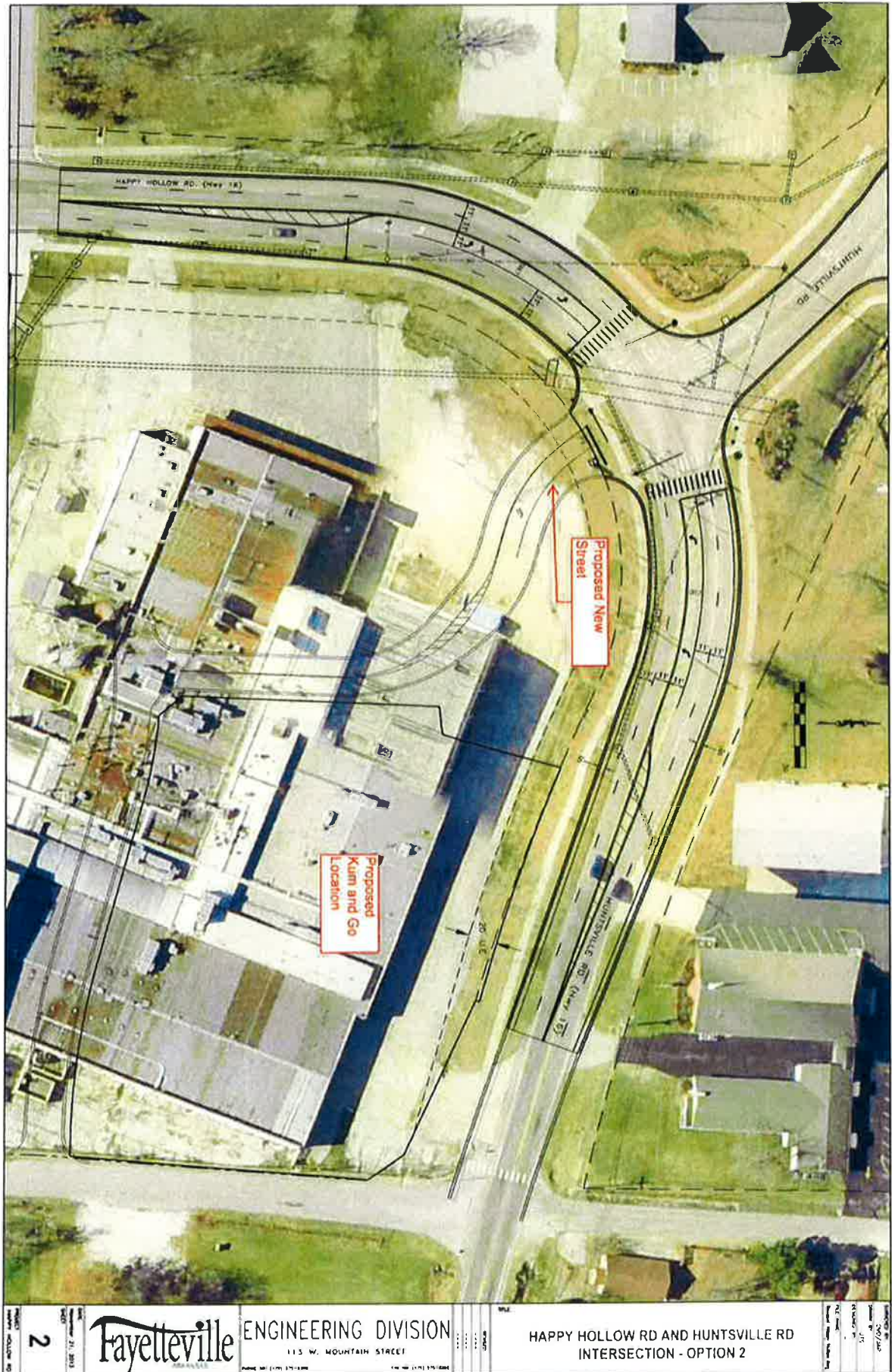
In closing, we sincerely appreciate the partnership that we have enjoyed with the Department during my Administration. We are continuing to look for ways to partner with the Department on facilities owned by the Department that are used by our citizens, including using STP-A funds that recently have become available. We hope that you feel the same, and will recognize this opportunity to work together to strengthen our transportation network in the City.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lioneld Jordan".

Lioneld Jordan
Mayor

Cc: Commissioner Dick Trammel, Ark. Highway Commission



ARKANSAS STATE HIGHWAY COMMISSION



JOHN ED REGENOLD
CHAIRMAN
ARMOREL

DICK TRAMMEL
VICE CHAIRMAN
ROGERS

THOMAS B. SCHUECK
LITTLE ROCK

ROBERT S. MOORE, JR.
ARKANSAS CITY

FRANK D. SCOTT, JR.
LITTLE ROCK

SCOTT E. BENNETT, P.E.
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 • VOICE/TTY 711 • FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM • WWW.IDRIVEARKANSAS.COM

January 23, 2014

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Jordan:

Reference is made your letter concerning improvements to the Highway 16 and Huntsville Road intersection in Fayetteville.

As you stated, the Department has reviewed the proposed intersection layout and has determined that a dedicated left turn lane for both travel directions on Highway 16 is necessary. You also stated that the estimated cost for this improvement is \$250,000. The City has proposed a partnering arrangement of sharing this cost equally with the Department.

As you are aware, a widening project is underway on Highway 16 on selected sections between Armstrong Avenue and Stone Bridge Road (Job 040578). The City is responsible for 50 percent of the cost of Job 040578 up to \$5,000,000. The Department is agreeable to adding construction of a dedicated left turn lane at the subject intersection to Job 040578 by change order and for paying one-half of the cost. The City will be billed for their portion after the change order is negotiated but prior to execution. This will increase the City's contribution to Job 040578 to approximately \$5,125,000. We agree that this additional work will improve operations on Highway 16 and enhance safety. Also, it is a natural addition to Job 040578.

Thank you for your interest in Arkansas' transportation system. If you have any questions, please let me know.

Sincerely,

Handwritten signature of Scott E. Bennett in black ink.

Scott E. Bennett
Director of Highways
and Transportation

c: Highway Commission
Deputy Director and Chief Engineer
Assistant Chief Engineers
Transportation Planning and Policy
Programs and Contracts
District 4
Job 040578 "C" File

Q:\WINWORD\TUDOR\Letters\Fayetteville - Hwy 16 Huntsville Intersection.doc

City of Fayetteville Staff Review Form

C. 5
Reappropriating Bonded, On-Going
Capital Projects and Containing Obligations
Page 1 of 18

2014-0065

Legistar File Number

2/18/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Kevin Springer

Finance & Internal Services /
Budget & Information Management

Submitted By

Department / Division

Action Required:

A RESOLUTION TO AMEND THE 2014 ADOPTED BUDGET BY REAPPROPRIATING \$75,497,000 IN BONDED OR ON-GOING CAPITAL PROJECTS AND OUTSTANDING OBLIGATIONS AND GRANT FUNDED ITEMS.

Budget Impact:

VARIOUS

CITYWIDE

Account Number

Fund

VARIOUS

VARIOUS

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 135,637,070.00

Funds Obligated \$ 26,157,114.87

Current Balance \$ **109,479,955.13**

Does item have a cost? No

Item Cost \$ -

Budget Adjustment Attached? Yes

Budget Adjustment \$ 75,497,000.00

Remaining Budget \$ **184,976,955.13**

V20140128

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

Paula Beck

Am Man 2/6/14

ENTERED
RB 2/6/14
03-03-14 PM 4:59 RCVD KJ
[Signature]



www.accessfayetteville.org

CITY OF FAYETTEVILLE, ARKANSAS
BUDGET & RESEARCH DIVISION
113 West Mountain • Fayetteville, AR 72701
P (479) 575-8347

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff
Paul A. Becker, Director of Finance

FROM: Kevin Springer, Budget Director

DATE: February 03, 2014

SUBJECT: **2014 Budget Reappropriation Request**

PROPOSAL:

A resolution to amend the 2014 Adopted Budget by reappropriating \$75,497,000 in bonded or on-going capital projects and outstanding obligations and grant funded items.

BACKGROUND / RECOMMENDATION:

Budget appropriations for 2013 expired December 31, 2013. Equipment and supplies or services must have been received by December 31 in order to be charged to the 2013 Budget. Some departments have items or services that were budgeted in 2013 but were not delivered or complete by year-end. In these cases, unspent amounts for those projects and items need to be re appropriated, since they were not included in the 2014 Budget. In the case of capital improvement projects, unspent funds are added to any amounts appropriated in the 2014 Budget.

Because of the need for project continuation, staff recommends approval of the attached reappropriation budget request at the February 18, 2014 City Council meeting. In addition, staff is recommending approval of any changes to this request that may arise due to finalizing the 2013 year end which would result in a decrease in the total authorized budget. City Council is requested to amend the 2014 Adopted Budget by re-authorizing up to \$75,497,000 for purchase commitments and capital improvements as follows:

	Obligated	Non-Obligated	Total
Bonded Capital Projects	\$ 5,796,012	\$ 26,536,395	\$ 32,332,407
Grant/Donations/Reimbursements	182,341	2,686,692	2,869,033
Outstanding Operational Obligations	189,472	-	189,472
Capital Improvements Projects (CIP)	5,716,559	34,389,529	40,106,088
	<u>\$ 11,884,384</u>	<u>\$ 63,612,616</u>	<u>\$ 75,497,000</u>

A finalized listing of the capital project reappropriations will be submitted to City Council as an informational item during the First Quarter of 2014.

Please find attached a schedule of capital projects by Improvement Type which were included in the 2013 Budget that were not fully expended during the 2013 fiscal year. The 2013 estimated unreserved fund balance/retained earnings for the respective funds reflected the cost of the requested reappropriation. These re-budgeted items, therefore, do not impact the estimated fund balance amounts which were forecasted in the 2014 Budget.

The re-authorization of prior year's appropriated projects and items are normal budget operating procedures and are generally for one-time expenses. Approval of this request will allow the 2014 Budget to be increased to reflect the attached information. Several of the requested re-authorizations include revenue offset in the form of grant revenues.

Total requested re-budgets for all funds are in the attached worksheet. These amounts will require City Council action. For your information, a summary by Funding Source and Improvement Type is included following this memo. The reappropriation amounts are broken out into two separate categories:

- Obligated: These items have Contracts/Purchase Orders already issued on them during 2013 and the City will not receive the item and/or service until 2014.
- Unobligated: These items did not have any Contracts/Purchase Orders issued on them as of 2013.

BUDGET IMPACT:

The estimated fund balance for the 2014 Budget was based on the assumption that these 2013 funds would be either spent in 2013 or be reappropriated. The funds do not increase the use of operating reserves and this request simply retains project funding for identified and scheduled capital improvements for the current fiscal year.

If you have any questions concerning the attachment or the procedure, please feel free to contact either Paul A. Becker (575-8330) or Kevin Springer (575-8226). Thank you for your attention to this request.

RESOLUTION NO. _____

A RESOLUTION TO AMEND THE 2014 ADOPTED BUDGET BY REAPPROPRIATING \$75,497,000.00 IN BONDED OR ONGOING CAPITAL PROJECTS, OUTSTANDING OBLIGATIONS AND GRANT FUNDED ITEMS

WHEREAS, capital projects often are constructed and paid for in more than one calendar year which requires the funds appropriated in the initial year for the project to be reappropriated to the subsequent year to complete the project; and

WHEREAS, certain outstanding obligations and grant funded items must be reappropriated to complete these obligations or grant funded projects.

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 an amendment to the 2014 Budget to reflect \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items as shown on the worksheet attached as Exhibit "A."

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
1 - BONDS	4520 - Sales Tax Construction Bond			
	Street Improvements			
	06035 - Transportation Bond Street Improvements	5,471,906	21,020,543	26,492,449
	5400 - Water & Sewer			
	Street Improvements			
	06035 - Transportation Bond Street Improvements	-	21,845	21,845
	Water & Sewer Improvements			
	08072 - Hwy 265 Water/Swr Relocate & 36" Wtr Lin	-	9,659	9,659
	4560 - Parking Deck Project			
	Transportation Improvements			
	11028 - Entertainment District Parking Facility	324,106	5,484,348	5,808,454
1 - BONDS Total		5,796,012	26,536,395	32,332,407



2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
2 - GRANTS	1010 - General			
	Donations			
	39012 - District Court Automation	-	361	361
	33048 - Animal Services Miscellaneous Donations	-	17,129	17,129
	33049 - Animal Services Clinic Donations	-	1,725	1,725
	33044 - Police Department Donations	-	7,263	7,263
	33045 - Police Law Enforcement State Forfeitures	-	88,942	88,942
	33046 - Police Law Enforcement Fed Forfeitures	65,073	94,104	159,177
	39024 - Police IRS/Treasury Forfeitures	-	436,178	436,178
	39033 - AR ETS Dispatch Training Reimbursement	-	336	336
	33047 - Fire Department Act 833/46/Misc Revenue	17,268	3,779	21,047
	33051 - Parks & Recreation Donations	-	21,764	21,764
	Fire Improvements			
	31303 - Fire FEMA Grant - Wildland Fire Gear	-	150,920	150,920
	Grants			
	30026 - Animal Services Commercial Grant Project	-	4,443	4,443
	31301 - Police DTF State Crime Fund Grant	-	11,224	11,224
	38067 - Police STEP Grant	-	83,643	83,643
	38070 - Police High Intensity Drug Trafficking	-	13,440	13,440
	39022 - Police JAG Local Solicitation	-	36,893	36,893
	36024 - Historic Preservation Travel & Training	-	3,923	3,923
	Police Improvements			
	31026 - Police EPA Drug Lab Clean Up	-	1,605	1,605
	31307 - COPS Hiring Grant - 2013	-	723,494	723,494
	36033 - Police Internet Crimes Against Child Grt	-	166	166
	37042 - Police Bulletproof Vests Partnership	-	2,340	2,340
	38071 - Police IRS Reimbursements	-	17,106	17,106

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	2180 - Community Development Block Grant			
	Donations			
	32003 - CDBG Donations	-	385	385
	Operational			
	Community Development Block Grant	-	798,229	798,229
	2930 - Drug Law Enforcement			
	Grants			
	38070 - Police High Intensity Drug Trafficking	-	118,341	118,341
	5500 - Solid Waste			
	Solid Waste Improvements			
	31302 - Keep Fayetteville Beautiful CLPP	-	588	588
	31304 - Curbside Value Partnership Grant	-	6,327	6,327
	33028 - Solid Waste E-Waste Grant (ADEQ)	-	42,044	42,044
	2230 - Special State Grants			
	Grants			
	31306 - NEA School Street Grant	100,000	-	100,000
2 - GRANTS Total		182,341	2,686,692	2,869,033

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
3 - OPERATIONAL	1010 - General			
	Operational			
	Obligated: CDW:Digital Software Cloud	1,314	-	1,314
	Obligated: Moxxy Ox: Digital Design City Seal	2,738	-	2,738
	Obligated: Everbridge: Emergency Notification Services	3,949	-	3,949
	Obligated: Vaccinations	19,600	-	19,600
	Obligated: Furniture/Desks	1,841	-	1,841
	Obligated: Cisco Programming Services	4,200	-	4,200
	Obligated: Fayetteville Police Memorial	3,828	-	3,828
	Obligated: Uniforms, Equipment, & Ammo	45,349	-	45,349
	Obligated: HAZMAT Decontamination Tent	24,794	-	24,794
	Obligated: Office Chair	767	-	767
	Obligated: Grubbs Hoskyn: Geotechnical Investigation	7,353	-	7,353
	2100 - Street			
	Operational			
	Obligated: Vinyl Plank Floor Installation	38,139	-	38,139
	5400 - Water & Sewer			
	Operational			
	Obligated: Screened Top Soil / Dam Face Clearing	10,147	-	10,147
	Obligated: Environmental Consulting: Wetlands & Environmr	234	-	234
	5500 - Solid Waste			
	Operational			
	Obligated: Boston Mountain Educator Position	25,000	-	25,000
	5550 - Airport			
	Operational			
	Obligated: Repair Freon Line Supports	219	-	219
3 - OPERATIONAL Total		189,472	-	189,472

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
4 - CIP	1010 - General			
	Community Development Improvements			
	50033 - Raze and Removals	-	2,650	2,650
	Other Capital Improvements			
	13031 - Woolsey Architectural Assessments	-	13,570	13,570
	57018 - Sales Tax Capital Improvements Trans	-	74,500	74,500
	51303 - Industrial Park-GeoTech Evaluations	34	9,999	10,033
	57032 - Transfers to Shop Fund (9700)	-	3,655	3,655
	59027 - Economic Development Services	288,750	1,000	289,750
	Tracking Items			
	51022 - Public Access Television Fees	-	317	317
	2100 - Street			
	Grants			
	11020 - FEMA Flood Damage (Project Worksheets)	-	66,998	66,998
	2130 - Parking			
	Transportation Improvements			
	11009 - Parking Lot Impvs - Entertainment Dist	-	52,000	52,000
	11028 - Entertainment District Parking Facility	-	20,000	20,000
	06001 - Parking Lot Improvements and Overlays	-	30,055	30,055
	2250 - Parks Development			
	Parks & Recreation Improvements			
	02002 - Regional Park Development	76,854	4,408,000	4,484,854
	02013 - Neighborhood Park Development	49,933	50,639	100,572
	02014 - Other Park & Safety Improvements (2250)	-	22,489	22,489
	13001 - Community Park Improvements	490,172	127,888	618,060

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	2300 - Impact Fee			
	Fire Improvements			
	07003 - Fire Impact Fee Improvements	-	90,838	90,838
	08046 - Fire Traffic Preemption Signals	-	30,000	30,000
	Police Improvements			
	07001 - Police Impact Fee Improvements	-	87,709	87,709
	Wastewater Treatment Improvements			
	07004 - Wastewater Impact Fee Improvements	-	913,548	913,548
	Water & Sewer Improvements			
	07002 - Water Impact Fee Improvements	-	2,444,239	2,444,239
	2930 - Drug Law Enforcement			
	Police Improvements			
	12015 - 4th DFT Highway Interdiction	-	2,000	2,000
	4270 - Replacement & Disaster Recovery			
	Grants			
	11020 - FEMA Flood Damage (Project Worksheets)	-	313,206	313,206
	Other Capital Improvements			
	04030 - Flood Damage Repair - 2004	-	6,210	6,210
	04038 - Replacement Copier Funds	-	63,634	63,634
	Vehicles & Equipment Improvements			
	05042 - Fleet - Vehicles/Equipment Under \$10,000	-	9,885	9,885

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	4470 - Sales Tax Capital Improvements			
	Bridge & Drainage Improvements			
	02097 - Stormwater Quality Mgmt/Nutrient Reduct	4,973	99,775	104,748
	02108 - Other Drainage Improvements	-	860,221	860,221
	03005 - State Bridge Cost Sharing Program	-	475,906	475,906
	10014 - Lake Wilson Spillway Repair	-	35,180	35,180
	Fire Improvements			
	02006 - Fire Facility Maintenance	-	53,853	53,853
	03019 - Fire Apparatus Purchases	-	418,799	418,799
	10015 - Fire Mobile Radios	-	4,413	4,413
	10017 - Fire Information Technology Updates	-	18,716	18,716
	Grants			
	11020 - FEMA Flood Damage (Project Worksheets)	-	28,665	28,665
	Information Technology Improvements			
	02055 - Geographic Information System (GIS)	-	10,654	10,654
	02056 - Local Area Network (LAN) Upgrades	-	14,077	14,077
	02057 - Microcomputer / Printer Replacements	-	13,892	13,892
	02060 - Printer Replacements	-	12,062	12,062
	02094 - Document Management	-	63,436	63,436
	04027 - AS/400 Computer Upgrades	-	30,392	30,392
	04047 - Accessfayetteville Technical Improvement	-	18,921	18,921
	05055 - Software Upgrades - City Wide	-	14,456	14,456
	08025 - Time and Attendance	-	26,333	26,333
	09031 - Storage Area Network (SAN)	-	11,841	11,841
	10013 - IT Assessment and Project Management	107,178	20,590	127,768
	99021 - Municipal Management System	-	9,630	9,630
	13007 - Enterprise Data Warehouse System	-	97,000	97,000
	13008 - ERP Upgrade/Replacement	-	1,222,000	1,222,000
	13006 - Data Center Relocation	-	22,396	22,396

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	In-House Pavement Improvements			
	02052 - In-House Pavement Improvements	-	207,834	207,834
	In-House Sidewalk Improvements			
	02053 - Sidewalk Improvements	141,034	294,769	435,803
	Other Capital Improvements			
	02046 - Building Improvements	8,138	753,351	761,489
	02061 - P.E.G. Television Center - Equipment	-	20,552	20,552
	04001 - Telecommunication Systems Upgrades	-	19,384	19,384
	07010 - Budgeting & Planning Software System	-	39,778	39,778
	11004 - Parking Lot Rehab (City Employee Lot)	-	42,610	42,610
	12005 - On-Screen Graphics Generator Upgrade	-	6,816	6,816
	13004 - City Hall Audio-Visual Renovation	-	70,000	70,000
	13005 - Citywide Building Ins Appraisal Study	-	35,000	35,000
	13015 - Television Center Digital Conversion	-	75,000	75,000
	13002 - Accounting Image Scanner & Check Sealer	-	837	837
	13010 - Legislative Management/Agenda Routing	-	11,838	11,838
	13014 - Remote Meeting Recording	-	10,508	10,508
	Parks & Recreation Improvements			
	02001 - Lights of the Ozarks	-	6,433	6,433
	08001 - Tree Escrow	-	147,899	147,899
	02045 - Forestry/Safety & ADA Compliance (4470)	7,848	85,858	93,706

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	Police Improvements			
	02047 - Police Building Improvements	-	6,063	6,063
	02062 - Police Specialized Equipment	-	94,497	94,497
	06002 - Police Technology Improvements	-	59,709	59,709
	06003 - Police Unmarked Vehicles	-	3,900	3,900
	08013 - Police Tandburg Video Arraignment System	-	18,000	18,000
	11006 - Police Equipment Replacement	-	20,569	20,569
	11008 - Police Digital Media Management System	-	50,000	50,000
	13012 - Police Patrol Vehicle Electronic Upgrade	-	160,000	160,000
	13011 - Police Bulletproof Vests	-	4,500	4,500
	13028 - Police Gym Equipment	-	3,893	3,893
	Street Improvements			
	02116 - Street ROW / Intersection / Cost Sharing	-	432,293	432,293
	04017 - Township Widening - Gregg to N College	-	189,010	189,010
	06005 - Duncan/California/Harmon Intersections	-	67,656	67,656
	06008 - Ruppel Road - Wedington to Mt. Comfort	-	297,213	297,213
	06035 - Transportation Bond Street Improvements	1,171,443	244,674	1,416,117
	10011 - Old Wire Road-Mission to Crossover	-	550,005	550,005
	11027 - AHTD Reimbursements Highway 16 East	1,296	9,916	11,212
	12010 - Zion Road - Vantage to Crossover	-	150,000	150,000
	Trail Improvements			
	02016 - Trail Development	476,339	1,278,588	1,754,927
	Transportation Improvements			
	02063 - Traffic Signal Improvements	1,479	227,310	228,789
	11021 - Drainage Maintenance	-	7,356	7,356
	13029 - Rodgers Drive Repair	-	6,396	6,396

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	5400 - Water & Sewer			
	Citywide Improvements			
	09028 - Fiber Optic Cable	-	56,491	56,491
	Grants			
	11020 - FEMA Flood Damage (Project Worksheets)	11,448	56,169	67,617
	Street Improvements			
	06035 - Transportation Bond Street Improvements	-	28,800	28,800
	Wastewater Treatment Improvements			
	02032 - W.W.T.P. Building Improvements	-	125,697	125,697
	02068 - Upgrade/Replace Lift Stations - W.W.T.P.	191,905	4,611	196,516
	02069 - Plant Pumps and Equipment - W.W.T.P.	-	42,223	42,223
	10008 - UV Disinfection System Replacement	-	2,159,000	2,159,000
	10027 - Phosphorus Standards Management	-	49,856	49,856
	Water & Sewer Improvements			
	01023 - Mount Sequoyah W&S System Upgrade	-	107,450	107,450
	02017 - Sanitary Sewer Rehabilitation	8,412	3,710,725	3,719,137
	02067 - Water and Sewer Cost Sharing	98,949	95,847	194,796
	03018 - 36" Waterline Replacement & Protection	-	53,731	53,731
	04020 - Water Line Projects As Needed	12,500	126,774	139,274
	04036 - Mount Sequoyah Pressure Plane Impvs	-	90,687	90,687
	04039 - Water Impact Fee Cost Sharing Projects	-	320,594	320,594
	08072 - Hwy 265 Water/Swr Relocate & 36" Wtr Lin	-	208,726	208,726
	10005 - South Mtn Pump Station Repair & Replace	-	73,596	73,596
	10006 - Benson Mountain Pressure Plane Upgrade	-	325,000	325,000
	10007 - W/S Improvements Defined by Study	182,795	611,399	794,194
	10010 - Sewer Replace - Elkins Outfall Line	-	73,486	73,486
	10020 - Broyles Road Gravity Lines & Force Main	-	88,379	88,379
	11010 - Irrigation Reels - WWTP	-	83,748	83,748
	11011 - W/S Relocations for Street Bond Projects	460,571	239,948	700,519
	11012 - Waterline - Huntsville (265 - Van Hoose)	527,411	157,073	684,484

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	11013 - Wetlands Bank Construction	-	350,000	350,000
	11014 - White River NPDES UAA and APCEC Action	113,157	34,998	148,155
	12009 - Water System Rehabilitation/Replacement	-	1,153,000	1,153,000
	13018 - Wastewater Treatment/Water Quality Imps	195,705	1,187,145	1,382,850
	Water & Sewer Services Improvements			
	02064 - Water & Sewer Rate/Operations Study	-	140,078	140,078
	02065 - Water Meters	3,830	75,823	79,653
	02066 - Backflow Prevention Assemblies	-	53,190	53,190
	03038 - Business Office Improvements	-	75,105	75,105
	13016 - Business Office Technology Improvements	-	30,000	30,000
	13017 - Business Office Printer Replacements	-	30,000	30,000
	13019 - Water/Sewer Equipment Expansions	-	11,025	11,025
	5500 - Solid Waste			
	Citywide Improvements			
	09028 - Fiber Optic Cable	-	106,788	106,788
	Other Capital Improvements			
	13030 - Access Control & Security System	46,348	4,486	50,834
	Solid Waste Improvements			
	03016 - Recycling Improvements	-	50,620	50,620
	07012 - Materials Recovery Facility Improvements	-	71,596	71,596
	09013 - Transfer Station Improvements	-	13,370	13,370
	09019 - Recycling Containers ADEQ Grant Purchase	-	31,315	31,315
	10001 - Solid Waste Compactors	-	183,431	183,431
	10002 - Compost Site Slab Expansion	-	480,331	480,331
	10003 - Westside Recycling Drop Off Facility	-	49,614	49,614
	10004 - Solid Waste Commercial Rate Study	-	110,000	110,000
	12004 - Recycling Drop Off Fac (North/Central)	-	521,000	521,000
	13022 - Solid Waste MadVac	-	40,000	40,000
	13021 - Solid Waste Office & Trans Station Exp	5,300	1,058,700	1,064,000

2014 Appropriations (Detail)

CATEGORY	FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
	5550 - Airport			
	Aviation Improvements			
	05046 - Airport Expansion Equipment (AIP#21 REV)	-	40,018	40,018
	09021 - Airport Hangar Fire	-	28,660	28,660
	12011 - Executive Hangar Office Addition	800	-	800
	13023 - Airport ARFF Personal Protective Gear	-	31,000	31,000
	13025 - Airport Roof Replacements	-	41,000	41,000
	13026 - Airport Self Serve Station Upgrade	-	10,000	10,000
	13027 - Airport Sprinkler Sys Repl White Hangar	-	65,000	65,000
	51301 - FBO Capital Expenditures	-	660	660
	13024 - Airport Ground Service Equip Acquisition	-	929	929
	Other Capital Improvements	7,904	791	8,695
	13030 - Access Control & Security System			
	9700 - Shop			
	Other Capital Improvements			
	12007 - Shop Improvements	-	254,681	254,681
	Vehicles & Equipment Improvements			
	02076 - Fleet - Backhoe/Loaders	-	25,973	25,973
	02078 - Fleet - Light/Medium Utility Vehicles	128,570	153,620	282,190
	02079 - Fleet - Heavy Utility Vehicles	-	1,257	1,257
	02080 - Fleet - Other Vehicles/Equipment	429,428	391,764	821,192
	02081 - Fleet - Police/Passenger Vehicles	-	133,135	133,135
	02082 - Fleet - Solid Waste Vehicles/Equipment	466,055	102,226	568,281
	02083 - Fleet - Tractor/Mower	-	150,784	150,784
	06012 - Fleet - Automatic Vehicle Wash System	-	34,330	34,330
	02077 - Fleet - Construction Equipment	-	33,824	33,824
4 - CIP Total		5,716,559	34,389,529	40,106,088
Grand Total		\$ 11,884,384	\$ 63,612,616	\$ 75,497,000

2014 Appropriations (Summary by Fund)

FUNDING SOURCE	OBLIGATED	NON OBLIGATED	TOTAL
1010 - General	\$ 486,858	\$ 1,826,469	\$ 2,313,327
2100 - Street	38,139	66,998	105,137
2130 - Parking	-	102,055	102,055
2180 - Community Development Block Grant	-	798,614	798,614
2230 - Special State Grants	100,000	-	100,000
2250 - Parks Development	616,959	4,609,016	5,225,975
2300 - Impact Fee	-	3,566,334	3,566,334
2930 - Drug Law Enforcement	-	120,341	120,341
4270 - Replacement & Disaster Recovery	-	392,935	392,935
4470 - Sales Tax Capital Improvements	1,919,728	9,293,223	11,212,951
4520 - Sales Tax Construction Bond	5,471,906	21,020,543	26,492,449
4560 - Parking Deck Project	324,106	5,484,348	5,808,454
5400 - Water & Sewer	1,817,064	12,061,878	13,878,942
5500 - Solid Waste	76,648	2,770,210	2,846,858
5550 - Airport	8,923	218,058	226,981
9700 - Shop	1,024,053	1,281,594	2,305,647
Grand Total	\$ 11,884,384	\$ 63,612,616	\$ 75,497,000

City of Fayetteville Item Review Form

2014-0057

Legistar File Number

02/18/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Andrew Garner

Submitted By

City Planning

Department

Action Required:

RZN 13-4536: Rezone (4310 MARTIN LUTHER KING BLVD./EDWARDS, 594): Submitted by BATES AND ASSOCIATES for property located at 4310 MARTIN LUTHER KING BOULEVARD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL contains approximately 0.74 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

Does this item have a cost?

☐

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item?

☐

Budget Adjustment Attached?

☐

V20130812

01-31-14 A08:59 RCVD

Previous Ordinance or Resolution #

Original Contract Number:

Comments:



dm

WGC

AK

2-3-14

Paul A. Becker

2-3-2014

Am Man

2-4-13

Kimberly

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, City Planning Director

Date: January 30, 2014

Subject: RZN 13-4536: Rezone (4310 Martin Luther King Boulevard/Edwards)

RECOMMENDATION: The Planning Commission and Planning Division recommend approval of an ordinance to rezone the property from R-A, Residential Agricultural to CS, Community Services.

BACKGROUND: The subject property is zoned R-A, Residential Agricultural and is located on the north side of Martin Luther King Boulevard near the border between Fayetteville and Farmington. The property is an undeveloped hay field with the North Fork Farmington Creek traversing east to west adjacent to the north of the site. The subject 4.42-acre parcel was created through a recent lot split and is adjacent to the west of the recently constructed Career Academy cosmetology school.

Rezoning History:

- On March 20, 2012 the City Council approved rezoning the adjacent property to the east (1.14 acres) to CS, Community Services for Career Academy.
- On November 25, 2013 the Planning Commission denied a rezoning request of 4.42 acres, including the subject property, to C-1, Neighborhood Commercial.

LAND USE ANALYSIS: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**.* City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This area is a state highway corridor that transitions from a regional commercial area to the east (Wal-Mart, Lowe's, various hotels, etc.) to undeveloped land, low- to medium-density residential areas, and a few isolated non-residential uses in between Lowe's and this site. This site is immediately adjacent to undeveloped land to the west under the same ownership, then a single family neighborhood in Farmington to the west. Career Academy is adjacent to the east. There are non-residential uses in Farmington adjacent to the southwest. Other areas in the vicinity to the north, south, and east are largely undeveloped rural residential with a commercial/office shopping center and the Ozark Mountain Smokehouse within 400-500 feet to the east and south, respectively.

Staff finds the proposal is generally consistent with the City's land use planning objectives, principles and policies, as evidenced by the number of guiding policies for City Neighborhood Area this proposal meets. Rezoning the property will accommodate the future land use plan for non-residential and residential uses in this intended medium-intensity area along a principal arterial/state highway. The subject property is not considered infill as it is a greenfield site on the periphery of the City. However, the site is almost immediately adjacent to developed area in the City of Farmington to the west and Career Academy to the east. Staff does not consider the proposed rezoning suburban sprawl because it is located in an area that has adequate streets, water, and

sewer facilities, and is adjacent to a busy corridor connecting Fayetteville and Farmington. Additionally, the CS zoning is a form-based zoning district with a build-to zone that requires a compact and efficient development pattern; not a sprawling pattern. The proposed CS zoning would be compatible with the variety of uses along this corridor.

Further, due to a large portion of this site being located within a floodplain, the proposal to only rezone a portion of this site outside of the floodplain is in line with the City's environmental and sustainability initiatives. The form-based zone would permit the building to be placed closer to the road allowing for preservation of much of the rear portion of the lot near the creek.

DISCUSSION: On January 27, 2014, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-0.

BUDGET IMPACT: None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 13-4536, FOR APPROXIMATELY 0.74 ACRES LOCATED ON THE NORTH SIDE OF WEST MARTIN LUTHER KING BOULEVARD NEAR THE BORDER OF FARMINGTON FROM R-A, RESIDENTIAL AGRICULTURAL TO CS, COMMUNITY SERVICES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-A, Residential Agricultural to CS, Community Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A" RZN 13-4536

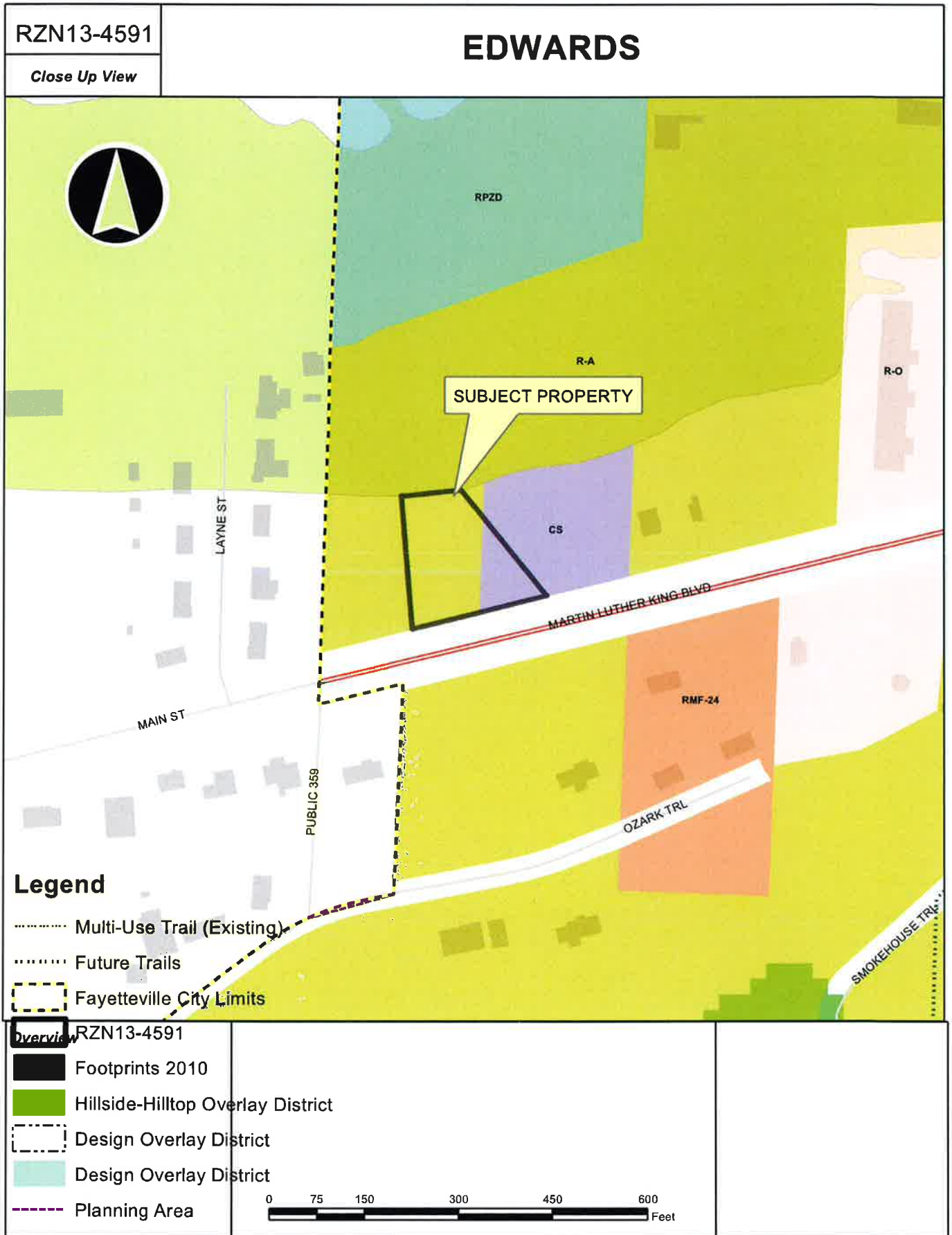


EXHIBIT "B"
RZN 13-4536

A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #62 WHICH IS S02°09'12"W 837.89' AND S76°02'55"W 135.84' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY S76°05'27"W 222.25', THENCE LEAVING SAID RIGHT-OF-WAY N04°34'02"W 214.60', THENCE S89°28'22"E 9.79', THENCE N83°59'36"E 85.64', THENCE S39°08'50"E 218.39' TO THE POINT OF BEGINNING, CONTAINING 0.74 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



PC Meeting of January 27, 2014

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, City Planning Director
Corey Granderson, Staff Engineer
DATE: ~~January 22, 2014~~ Updated January 30, 2014

RZN 13-4536: Rezone (4310 MARTIN LUTHER KING BLVD./EDWARDS, 594): Submitted by BATES AND ASSOCIATES for property located at 4310 MARTIN LUTHER KING BOULEVARD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL contains approximately 0.74 acres. The request is to rezone the property to CS, COMMUNITY SERVICES. Planner: Andrew Garner

BACKGROUND:

The subject property is zoned R-A, Residential Agricultural and is located on the north side of Martin Luther King Boulevard at the border between Fayetteville and Farmington. The property is an undeveloped hay field with the North Fork Farmington Creek traversing east to west adjacent to the north of the site. The subject 4.42-acre parcel was created through a recent lot split and is adjacent to the west of the recently constructed Career Academy cosmetology school. Surrounding land uses and zoning are shown in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped	R-PZD Walnut Crossing
South	Undeveloped; single family home	R-A, Residential Agricultural
East	Career Academy	CS, Community Services
West	Undeveloped field/Single family residences	R-A, Residential Agricultural; City of Farmington

Rezoning History:

- On March 20, 2012 the City Council approved rezoning the adjacent property to the east (1.14 acres) to CS, Community Services for Career Academy.
- On November 25, 2013 the Planning Commission denied a rezoning request of 4.42 acres, including the subject property, to C-1, Neighborhood Commercial.

Proposal: The overall parcel contains approximately 4.42 acres and the floodplain for the North Fork Farmington Creek encompasses approximately half of the property. The applicant proposes to rezone 0.74 acres of the overall parcel from R-A, Residential Agricultural to CS, Community Services. The proposed rezoning area does not include any of the floodplain. The applicant's intent is to construct a doughnut store on the subject 0.74 acres.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends approval of the applicant's request to rezone the property to CS, Community Services. This area of the City has been designated as City Neighborhood Area on the Future Land Use Plan map and is located along a busy, improved state highway (Martin Luther King Boulevard). The proposed CS zoning which allows for a mix of nonresidential and residential uses in a form-based zone is consistent with this designation. Further, due to a large portion of this site being located within a floodplain, the proposal to only rezone a portion of this site outside of the floodplain is in line with the City's environmental and sustainability initiatives. The form-based zone would permit the building to be placed closer to the road allowing for preservation of much of the rear portion of the lot near the creek, similar to what has occurred at the adjacent Career Academy development to the east

Staff recommends forwarding RZN 13-4536 to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>01-27-14</u>	☐ Tabled	☒ Forwarded	☐ Denied		
		<i>Recommend approval</i>			
Motion: <u>Hoskins</u>	Second: <u>Chesser</u>	Vote: <u>6-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>		
Date:	☐ Approved	☐ Denied			

INFRASTRUCTURE:

Streets: The site has access to Martin Luther King Blvd. Martin Luther King Blvd is a fully improved five lane state highway in this location. Street improvements will be evaluated at the time of development.

Water: Public water is available to the property. There is a 12" water main across Martin Luther King Blvd. Public water main improvements will need to be extended to the site to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is an 8" main and a 12" main that crosses this property. The capacity of the existing sewer may need to be evaluated at the time of development to ensure adequate capacity.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain and the Streamside Protection Zones.

Police: The Fayetteville Police Department has not objected to this request.

Fire: The Fayetteville Police Department has not objected to this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**, which is a denser and primarily residential urban fabric where mixed and low-intensity nonresidential uses are usually confined to corner locations. City Neighborhood Areas recognize conventional strip commercial developments, but encourage complete, compact, 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: This area is a state highway corridor that transitions from a regional commercial area to the east (Wal-Mart, Lowe's, various hotels, etc) to undeveloped land, low- to medium-density residential areas, and a few isolated non-residential uses in between Lowe's and this site. This site is immediately adjacent to undeveloped land to the west under the same ownership, then a single family neighborhood in Farmington to the west. Career Academy is adjacent to the east. There are non-residential uses in Farmington adjacent to the southwest of this site. The general uses in the vicinity to the north, south, and east are largely undeveloped rural residential use. The Ozark Mountain Smokehouse and a commercial/office shopping center are located within 400-500 feet to the east.

Staff finds the proposal is generally consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for City Neighborhood Area this proposal meets. Rezoning the property will accommodate the future land use plan for non-residential and residential uses in this intended medium-intensity area along a principal arterial/state highway. The subject property is not considered infill as it is a greenfield site on the periphery of the City. However, the site is almost immediately adjacent to urban and developed area in the

City of Farmington to the west and Career Academy to the east. Staff does not consider the proposed rezoning suburban sprawl because it is located in an area that has adequate streets, water, and sewer facilities, and is adjacent to a busy corridor connecting Fayetteville and Farmington. Additionally, the CS zoning is a form-based zoning district with a build-to zone that requires a compact and efficient development pattern, and not a sprawling pattern. The proposed CS zoning would also be compatible with the variety of uses along this corridor.

Further, due to a large portion of this site being located within a floodplain, the proposal to only rezone a portion of this site outside of the floodplain is in line with the City's environmental and sustainability initiatives. The form-based zone would permit the building to be placed closer to the road allowing for preservation of much of the rear portion of the lot near the creek.

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

Finding: The property is currently zoned R-A, Residential Agricultural but is designated as a City Neighborhood Area on the Future Land Use Plan. Agricultural uses are typically not intended or desired in a City Neighborhood Area. A rezoning is needed to allow the variety of uses specified on the Future Land Use Plan. In addition to the Future Land Use Plan designation, staff finds that rezoning the property to a form-based zoning district is partially justified due to natural site constraints. This site has development limitations as a result of the regulations associated with the floodway and floodplain, and Streamside Protection Ordinance. A form-based zoning district would require new development to be constructed close to the street, providing more buildable area away from the floodplain at the back of the property.

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

Finding: Future development allowed under the proposed zoning could substantially increase traffic on Martin Luther King Boulevard over the existing R-A zoning. However, Martin Luther King is an improved five-lane state highway and can handle large volumes of traffic. With the regulations of Chapter 166.08, Street Design and Access Management Standards, the proposed zoning would likely not create or appreciably increase traffic danger or congestion. At the time this original parent tract was subdivided to create the Career Academy parcel, the owner placed a note on the plat that was filed of record limiting access to two points: one that was developed with Career Academy, and one that is an existing access along the western property line within an access easement.

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

Finding: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments and are included in this report. The proposed zoning change should have no substantial adverse impact on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable.

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09)

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(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 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
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	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores

Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(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 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

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

(G) *Minimum buildable street frontage.* 65% of the lot width.



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Suite 3/ Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350
www.nwabatesinc.com

April 25, 2012

Planning Commission
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Gregory and Chris Edwards Martin Luther King Blvd. Property Rezoning

Dear Commissioners,

This letter is to fulfill the requirements of item 5 on the rezoning application. We are proposing to rezone the property from R-A to Community Services.

- a. Current property owner: Gregory and Chris Edwards. There are no pending sales on this property.
- b. The zoning change will allow the property owner to build a Old Tyme Donut's shop. This lot is part of a larger parcel that contains a couple zonings. One is community services, which is the same as what we're proposing. Likewise, there is relatively dense R-PZD zoning to the north. Old Tyme Donuts will provide coffee and other amenities to the large number of residents driving by and coming to this location.
- c. As mentioned above in item 'B', the land use is located adjacent to a Community Services zoning along a major east/west corridor used by thousands of people throughout the day. It is also located directly south of a dense, R-PZD zoning that was built by Rausch Coleman recently. The property is on its way to Farmington, our fair neighbor, whose residents often work in Fayetteville, our fair city, and we all no doubt would enjoy the opportunity to purchase some coffee and donuts throughout the day.
- d. A 12" sewer main is located on the North of the property, and 8" sewer main in the Access Easement on the West of the property, and a 6" sewer main is located across MLK Jr. Blvd. A 12" water main is located across MLK Jr. Blvd.
- e. This parcel is located along HWY 62, a major east/west corridor for the country. Particularly, this location serves transit from the edge of Oklahoma, Farmington and other outlying areas. We are proposing a relatively typical zoning change along what has been and is a corridor for building and transit.
- f. In order to build the Old Tyme Donuts, the zoning must be changed to one of the other more conducive zonings for restaurants.
- g. Old Tyme Donuts will primarily be a place residents will stop by on their way to and from places, not appreciably increasing traffic. In other words, this is not a destination. It's a place to pick up small items on our way to and from places.

- h. There are currently large sewer and water services in the area. The property will not increase density, as a commercial property, and will only utilize existing services to the extent they were intended.
- i. The property is currently R-A. While this has been the usual land use in the area for years, it is slightly impractical that along such a major arterial, between Community Services, RMF-24 and R-O, the property continue to be an agricultural use. Finally, the property is currently being used as a soil stockpile for the community services building built directly adjacent to the property. This land use is allowed under R-A zoning. There are several erosion control measures in place, however, it would no doubt be more favorable to the street, residents and adjacent property owners as a neighborhood restaurant.

If you have any questions or require additional information, please feel free to call.

Sincerely,

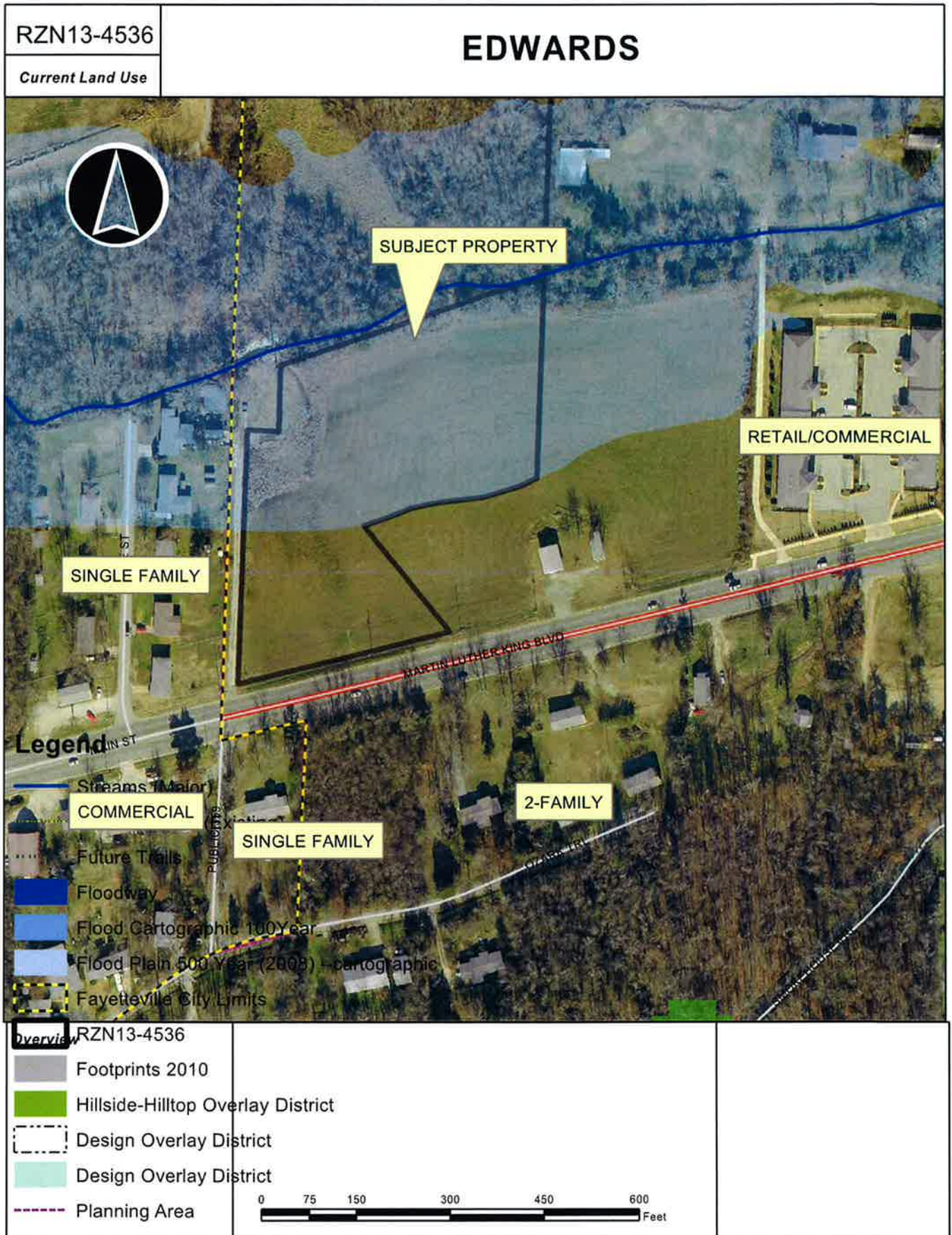
Evan Niehues
Bates & Associates, Inc.

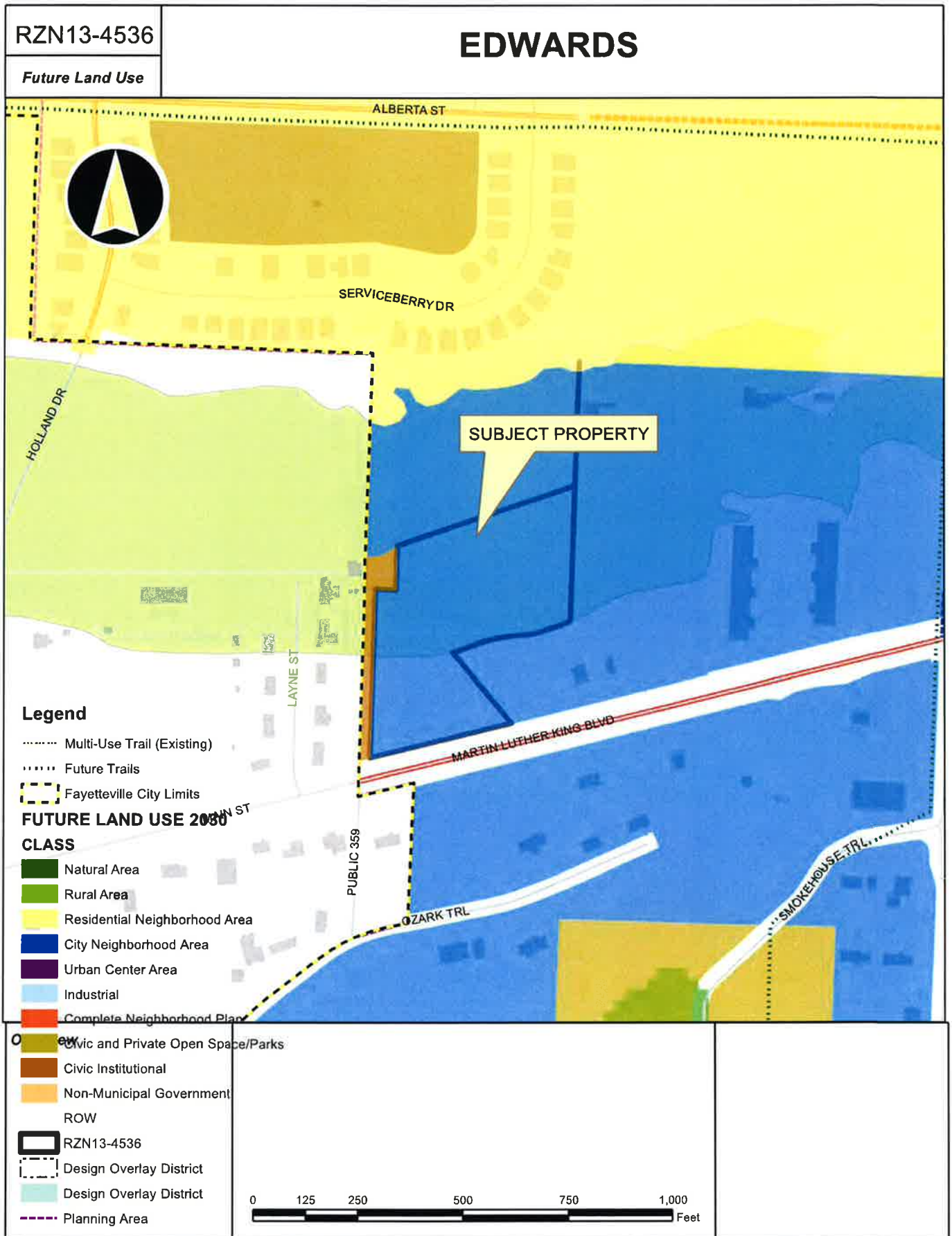
TOTAL ACREAGE
PARCEL #765-16286-001
4.42 ACRES +/-

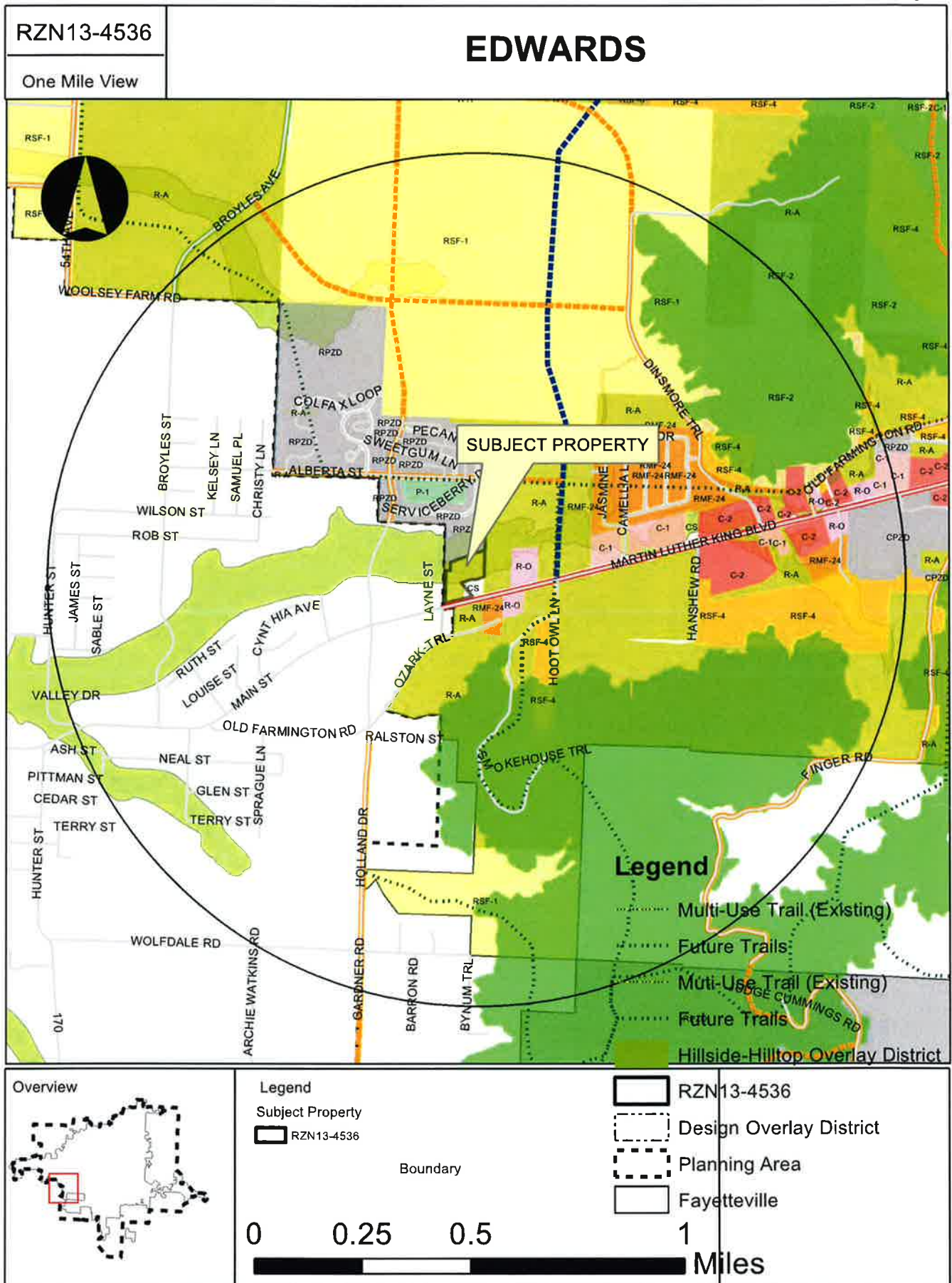


Proposed CS, Community Services









City of Fayetteville Item Review Form

2014-0056

Legistar File Number

02/18/2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Quin Thompson

Submitted By

Development Services

Department

Action Required:

ADM 13-4603: Administrative Item (UDC AMENDMENT CHAPTER 161, Use Unit 44, Cottage Housing Development). Submitted by CITY PLANNING STAFF for revisions to the Unified Development Code, Chapter 161. The proposal is a minor editorial correction to Use Unit 44, Cottage Housing Development.

Does this item have a cost? ☐ No

Cost of this request

Category or Project Budget

Program or Project Name

Account Number

Funds Used to Date

Program or Project Category

\$0.00

Project Number

Remaining Balance

Fund Name

Budgeted Item? ☐

Budget Adjustment Attached? ☐

01-31-14 A08:58 V20130812

Previous Ordinance or Resolution #

Original Contract Number:

Comments:

[Signature]

[Signature]

Paul A. Berke

Alm M... 2-4-14

[Signature]



[Handwritten signature]

2-3-14



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *J*
Andrew Garner, City Planning Director *ang*

From: Quin Thompson, Current Planner

Date: January 30, 2014

Subject: ADM 13-4603 Unified Development Code Amendment Use Unit 44: Cottage Housing Development

RECOMMENDATION: The Planning Commission and Planning Division staff recommend approval of an ordinance to insert UU-44, Cottage Housing, back into the zoning districts in which it was previously approved.

BACKGROUND and PROPOSAL: Due to what staff believes was a clerical error, Use Unit 44, Cottage Housing (UU-44,) has been inadvertently removed from certain zoning districts in which it was approved by City Council on December 6, 2011 as **Ordinance No. 5462**. This current code amendment proposes to place UU-44 back into several zoning districts in Chapter 161, as intended with the original ordinance (Ord. 5462, 12-06-2011). The code change is as follows:

<u>Zoning District</u>	<u>Uses</u>
161.10 RT-12	Use by Right
161.11 RMF-6	Use by Right
161.12 RMF-12	Use by Right
161.13 RMF-18	Use by Right
161.14 RMF-24	Use by Right
161.15 RMF-40	Use by Right
161.16 Neighborhood Services	Use by Right
161.18 C-1	Use by Right
161.19 Community Services	Use by Right
161.20 C-2	Use by Right
161.21 Urban Thoroughfare	Use by Right
161.23 Downtown Core	Use by Right
161.24 Main Street/Center	Use by Right
161.25 Downtown General	Use by Right
161.26 Neighborhood Conservation	Conditional Use Permit

DISCUSSION: On January 27, 2014 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-0.

BUDGET IMPACT: None.

ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 161 OF THE
UNIFIED DEVELOPMENT CODE TO AUTHORIZE *COTTAGE
HOUSING DEVELOPMENT* (UU-44) INTO ZONING
DISTRICTS IN WHICH IT WAS ORIGINALLY APPROVED
BY ORD. 5462

WHEREAS, the City of Fayetteville has long sought to increase the availability of
quality affordable housing for its citizens; and

WHEREAS, the City of Fayetteville has an established policy to encourage in-fill
development and the mixture of different types and sizes of single family housing within
neighborhoods; and

WHEREAS, providing for a properly planned clustering of small, high quality, detached
single family houses (cottages) within a neighborhood of larger lots and homes can provide
attractive, compatible and affordable housing for our citizens.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends
Chapter 161: **Zoning Regulations** of the U.D.C. to add “(RR) Use Unit 44 Cottage
Housing Development” where it was originally approved by ordinance 5462, but has been
unintentionally removed, more specifically identified by Exhibit A.

PASSED and **APPROVED** this day of , 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Exhibit 'A'

161.10 RT-12	Use by Right
161.11 RMF-6	Use by Right
161.12 RMF-12	Use by Right
161.13 RMF-18	Use by Right
161.14 RMF-24	Use by Right
161.15 RMF-40	Use by Right
161.16 Neighborhood Services	Use by Right
161.18 C-1	Use by Right
161.19 Community Services	Use by Right
161.20 C-2	Use by Right
161.21 Urban Thoroughfare	Use by Right
161.23 Downtown Core	Use by Right
161.24 Main Street/Center	Use by Right
161.25 Downtown General	Use by Right
161.26 Neighborhood Conservation	Conditional Use Permit



PC Meeting of January 27, 2014

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Quin Thompson, Current Planner
THRU: Andrew Garner, City Planning Director
DATE: January 02, 2014

ADM 13-4603: Administrative Item (UDC AMENDMENT CHAPTER 161, Use Unit 44, Cottage Housing Development). Submitted by CITY PLANNING STAFF for revisions to the Unified Development Code, Chapter 161. The proposal is a minor editorial correction to Use Unit 44, Cottage Housing Development.

Planner: Quin Thompson

BACKGROUND

Due to what Staff believes was a clerical error, Use Unit 44, Cottage Housing (UU-44,) was inadvertently removed from certain zoning districts in which it was approved by City Council on 6 December, 2011 as **Ordinance No. 5462**

PROPOSAL

The proposed code amendment under *UDC Chapter 161: Zoning Regulations* includes Use Unit 44, Cottage Housing, within several zoning districts according to the intention of the original ordinance (Ord. 5462, 12-06-2011.)

This amendment proposes to place UU-44 back into zoning districts in Chapter 161 where it has been inadvertently removed as follows:

161.10 RT-12	Use by Right
161.11 RMF-6	Use by Right
161.12 RMF-12	Use by Right
161.13 RMF-18	Use by Right
161.14 RMF-24	Use by Right
161.15 RMF-40	Use by Right
161.16 Neighborhood Services	Use by Right
161.18 C-1	Use by Right
161.19 Community Services	Use by Right
161.20 C-2	Use by Right
161.21 Urban Thoroughfare	Use by Right
161.23 Downtown Core	Use by Right
161.24 Main Street/Center	Use by Right
161.25 Downtown General	Use by Right
161.26 Neighborhood Conservation	Conditional Use Permit

The proposed code changes are shown in ~~strikeout~~ and highlight/underline in the attached document.

RECOMMENDATION

Staff recommends that the Planning Commission forward **ADM 13-4603** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**

Motion: Chesser

Second: Bunch

Vote: 6-0-0

Meeting Date: January 27, 2014

TITLE XV UNIFIED DEVELOPMENT CODE

161.10 District RT-12, Residential Two And Three Family

(A) *Purpose.* The RT-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(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 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less
----------------	------------

(D) *Bulk and area regulations.*

	Single-family	Two-family	Three-family
Lot width minimum	60 ft.	70 ft.	90 ft.
Lot area minimum	6,000 sq. ft.	7,260 sq. ft.	10,890 sq. ft.
Land area per dwelling unit	6,000 sq. ft.	3,630 sq. ft.	3,630 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
A build-to zone that is located between the front property	8 ft.	20 ft.

line and a line 25 feet from the front property line.		
---	--	--

(F) *Building height regulations.*

Building height maximum	30/45 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of 45 feet.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

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

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

Cross reference(s)--Variance, Ch. 156.

161.11 District RMF-6, Residential Multi-Family – Six Units Per 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
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park

Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	6 or less
----------------	-----------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a Manufactured 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.*

Manufactured 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
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	30/45 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of 45 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

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

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592 06-18-13)

161.12 District RMF-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

TITLE XV UNIFIED DEVELOPMENT CODE

(C) *Density.*

Units per acre	12 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured 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.*

Manufactured 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
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156

(F) *Building height regulations.*

Building Height Maximum	30/45 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 0 and 10 feet from the front

property line or any master street plan right-of-way line shall have a maximum height of 30 feet. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of 45 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

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

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.13 District RMF-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	18 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured 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.*

Manufactured 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
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s) --Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	30/45 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet. Buildings or portions of the building set back greater than 10 feet from the master street plan

right-of-way shall have a maximum height of 45 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

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

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a	50 ft.

TITLE XV UNIFIED DEVELOPMENT CODE

Manufactured home park	
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	30/45/60ft.*
-------------------------	--------------

*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet, between 10-20 feet from the master street plan right-of-way a maximum height of 45 feet and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 60 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

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

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5079, 11-20-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5495, 4-17-12; Ord. 5592, 06-18-13)

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
------------------------	---------

Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home park	3,000 sq. ft.
Townhouses & Apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	30/45/60 ft.*
-------------------------	---------------

*A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 30 feet, between 10-20 feet from the master street plan right-of-way a maximum height of 45 feet and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 60 feet.

Any building which exceeds the height of 20 feet shall be set back from any side boundary line of

an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

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

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cottage Housing Development

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

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

TITLE XV UNIFIED DEVELOPMENT CODE

(C) *Density.*

Units per acre	10 or less
----------------	------------

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	A build-to zone that is located between 10 and 25 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

(Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.18 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-

	in/drive through restaurants
Unit 25	Offices, studios, and related services
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Building height regulations.*

Building Height Maximum	56 ft.*
-------------------------	---------

*Any building which exceeds the height of 20 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to

provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(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 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	56 ft.
-------------------------	--------

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

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.20 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 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials

TITLE XV UNIFIED DEVELOPMENT CODE

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	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Building height regulations.*

Building Height Maximum	75 ft.*
-------------------------	---------

*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(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. 5312, 4-20-10; Ord. 5339, 8-3-10; 5353, 9-7-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.21 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(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 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory Dwellings
Unit 44	Cottage Housing Development

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

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication 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.*

(1) Lot width minimum

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

(2) Lot area minimum. None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building height regulations.*

Building Height Maximum	56/84 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 10 and 15 ft. from the front property line or any master street plan right-of-way line shall have a maximum height of 56 feet. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of 84 feet.

Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.

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

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5353, 9-7-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.23 Downtown Core

(A) *Purpose.* Development is most intense, and land use is densest in this zone. The downtown core is designed to accommodate the commercial, office, governmental, and related uses commonly found in the central downtown area which provides a wide range of retail, financial, professional office, and governmental office uses. For the purposes of Chapter 96: Noise Control, the Downtown Core district is a commercial 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 13	Eating places
Unit 14	Hotel, motel, and amusement facilities

Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 44	Cottage Housing Development

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 80% of lot width.

(G) *Building height regulations.*

Building Height Maximum	56/168 ft.*
-------------------------	-------------

*A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 56 feet. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of 168 feet.

TITLE XV UNIFIED DEVELOPMENT CODE

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.24 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street/Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the *Center* are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the *Main Street/Center* district is a commercial 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 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 44	Cottage Housing Development

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments

Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(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	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) *Building height regulations.*

Building Height Maximum	56/84 ft.*
-------------------------	------------

*A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 56 feet. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of 84 feet.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5042, 8-07-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.25 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 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation 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	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.

Rear, from center line of an alley	12 ft.
------------------------------------	--------

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

(G) *Building height regulations.*

Building Height Maximum	56 ft.
-------------------------	--------

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.26 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(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 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business *
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cottage Housing Development

(C) *Density. 10 Units Per Acre.*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	80 ft.
Three Family	90 ft.

TITLE XV UNIFIED DEVELOPMENT CODE

(2) *Lot area minimum.* 4,000 Sq. Ft.

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	5 ft.
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

ORDINANCE NO. 5462

AN ORDINANCE TO ENACT §164.22 **COTTAGE HOUSING DEVELOPMENT** INTO THE UNIFIED DEVELOPMENT CODE, TO AMEND §162.01 TO ADD (RR) UNIT 44 *COTTAGE HOUSING DEVELOPMENT* AND TO AMEND CHAPTER 161 **ZONING DISTRICT** TO AUTHORIZE COTTAGE HOUSING DEVELOPMENTS AS A RIGHT IN MULTI-FAMILY RESIDENTIAL DISTRICTS AND AS A CONDITIONAL USE IN SINGLE FAMILY RESIDENTIAL DISTRICTS

WHEREAS, the City of Fayetteville has long sought to increase the availability of quality affordable housing for its citizens; and

WHEREAS, the City of Fayetteville has an established policy to encourage in-fill development and the mixture of different types and sizes of single family housing within neighborhoods; and

WHEREAS, providing for a properly planned clustering of small, high quality, detached single family houses (cottages) within a neighborhood of larger lots and homes can provide attractive, compatible and affordable housing for our citizens.

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 §164.22 **Cottage Housing Development** (as shown on Exhibit A) into the Unified Development Code of Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01 to add use unit:

"(RR) Unit 44. Cottage Housing Development.

(1) Description. Unit 44 is provided in order that cottage housing developments are permitted by right in multi-family zoning districts and by Conditional Use Permit in single family zoning districts.

Page 2
Ordinance No. 5462

(2) *Included uses.*

Cottage Housing Developments

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 161: **Zoning Regulations** of the U.D.C. to add "(RR) Use Unit 44 Cottage Housing Development" as a use by right in multi-family residential districts and as a conditional use in single family residential districts as more specifically identified by Exhibit B.

PASSED and **APPROVED** this 6th day of December, 2011.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
LISA BRANSON, Deputy City Clerk



Exhibit "A"

164.22 Cottage Housing Development

- (A) *Purpose.* The purpose of the cottage development ordinance is to encourage innovation and variety in housing while ensuring compatibility with established neighborhoods, and to provide opportunities for ownership of detached single-family dwellings for a population diverse in age, income and household size.
- (B) *Applicability.* Cottage housing development is permitted to be located as identified in Chapter 161: Zoning Regulations of the Unified Development Code, however, zoning and development regulations such as density, bulk and area, building area, street frontage requirements, lot splits and other standards for cottage housing development shall follow the criteria adopted in this chapter.
- (C) *Development Review Process.* For the purpose of development review cottage housing developments less than one acre shall be processed as a Site Improvement Plan. Cottage housing development on lots larger than one acre shall be processed as a Large Scale Development. If individual cottage housing unit lots are created the cottage housing development shall be processed through the subdivision platting process.
- (D) *Cottage Housing Development Size, Separation Requirements and Existing Structures.*
- (1) *Number of Cottage Housing Units Permitted.* Cottage housing development shall contain a minimum of four and a maximum of 12 cottages located in a cluster, on no less than one half acre.
 - (2) *Cottage Housing Development Separation Requirement.* Cottage housing developments shall have a minimum separation from other cottage housing developments of not less than 1,000 feet.
 - (3) *Existing Nonconforming Structures.* On a lot to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cottage density.
- (E) *Zoning Regulations.* The parent tract prior to development shall conform to the zoning criteria of the underlying zoning district.
- (1) *Density.* Zoning Districts that allow cottage housing development as a Use by Right shall conform with the density requirement of the underlying zoning district. Zoning districts that allow cottage housing developments as a Conditional Use shall be allowed a density not to exceed two times the maximum density allowed in the underlying zoning district.
 - (2) *Lot Width Minimum.* There is no lot width requirement for individual cottage housing units.
 - (3) *Lot Area Minimum.* The lot area minimum for cottage housing unit lots is 750 square feet.
 - (4) *Land Area per Dwelling Unit.* The land area per dwelling unit requirement is 750 sq. ft.
 - (5) *Setback Requirements.*
 - (a) All structures shall have a minimum separation of ten feet, measured from edge of eave to edge of eave, from other structures or cottages within the cottage housing development.
 - (b) The setback from the exterior property lines of the original parent tract shall be set by the underlying zoning district.
 - (6) *Building Height Regulations.* The height for all structures in a cottage development shall not exceed the permitted height requirement of the underlying zoning district.
 - (7) *Building Area.* There is no minimum building area requirement for individual cottage housing unit lots.

- (8) *Accessory Dwelling Units.* Accessory dwelling units are not permitted in cottage housing developments.
- (F) *Common Property Maintenance.* Community buildings, parking areas and common open space shall be owned and maintained commonly by the cottage housing development residents, through a condominium associations, a homeowners' association or a similar mechanism, and shall not be dedicated to the City.
- (G) *Development Standards.* All cottage developments are subject to the following standards:
- (1) *Floor Area.* The total conditioned space floor area of each cottage shall not exceed 1,100 square feet.
- (a) Cottages shall have a maximum first floor area or footprint of no more than 900 sq. feet, excluding covered or attached porches.
- (b) Future additions to any cottage housing unit shall meet the requirements of this chapter.
- (c) Floor area that does not count towards the total conditioned space floor area permitted for a cottage housing unit includes:
- (i) Architectural projections such as utility closets no greater than eighteen inches in depth and six feet in width, bay windows and fireplaces.
- (ii) Spaces with a ceiling height of six feet or less measured to the exterior walls, such as interior attic eaves.
- (2) *Cottage Orientation.* The fronts of all cottage housing units shall be oriented around the common open space or towards the street, with the following exception:
- (a) A maximum of 1 cottage in a cottage housing development is allowed to be located in an area that does not front onto the common open space or street right of way. These units shall be located within 25 feet of the common open space and shall have direct pedestrian access to the common open space and the street.
- (3) *Open space.*
- (a) The required common open space shall be provided in one contiguous parcel.
- (b) A minimum of 300 square feet of common open space shall be provided per cottage housing unit. Common open space with a dimension of less than 20 feet shall not be included in the calculation.
- (c) Each cottage housing unit shall be provided with a private open space of 250 square feet with no dimension of less than 10 feet. Private open space should be contiguous to each cottage, for the exclusive use of the cottage resident.
- (d) Parking areas, driveways and common pedestrian access shall not be counted as open space.
- (4) *Fences.* Fencing in cottage housing development should be respectful of the context of the surrounding neighborhood and should accentuate the common and private open spaces.
- (a) Fencing located between a cottage housing unit and a public street or the common open space shall not exceed 48" in height.
- (5) *Parking Requirements and Standards.* Parking areas should be located within the cottage housing development in such a way as to maintain the character along the public street and to minimize the noise and light impacts on private residences and public spaces. Reductions in parking space allowances are not permitted in cottage housing developments. Permitted on-street parking spaces adjacent to a projects frontage may count towards the parking requirements of the development subject to approval by the Zoning and Development Administrator. Parking standards for cottage housing developments shall be as follows:
- (a) The required number of parking spaces for each cottage shall be determined according to the square footage of the cottage housing unit.

- (i) Cottages less than 1,000 sq. ft. shall have 1.5 parking spaces provided.
- (ii) Cottages over 1,000 sq. ft. shall have 2 parking spaces provided.
- (b) Parking lots containing five or more parking spaces shall comply with the parking lot construction and design standards located in Chapter 172: Parking and Loading of the City's Unified Development Code.
- (c) Parking lots shall be located a minimum of 25' back from the public right-of-way.
- (d) Shared covered parking shall be designed to be similar and compatible to the design, materials and roof pitches used for the cottage housing units.
- (e) Parking space dimensions shall comply with Chapter 172: Parking and Loading of the Unified Development Code.
- (6) *Bicycle Parking.* Bicycle parking should be located in a common area and preferably be covered to protect the long term storage of bicycles. It is recommended that cottage housing developments should provide one unsheltered bicycle rack or the equivalent sheltered space to store two bicycles per cottage housing unit.
- (7) *Fire Department Access.* Fire department access shall be determined at the time of development review. Any part of structure in a cottage housing development that is located more than 150 feet from Fire Department vehicle access, as measured by an approved route around the exterior of the buildings or facilities, shall have a fire department approved sprinkler system.
- (8) *Pedestrian Connectivity.* All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system.
- (9) *Utilities.* Individual cottage housing units shall have a unique connection to the main water and sewer lines. Main water and sewer lines on private property servicing cottage housing unit developments shall be located in a dedicated easement.
- (10) *Community Buildings.* Community buildings and common pavilions less than 2,000 sq. ft. are permitted by right in cottage housing development. These structures shall be architecturally integrated with the architectural style of the cottage housing development.
- (11) *Stormwater/Grading.* Cottage housing developments shall comply with the grading, drainage and stormwater provisions set forth in the Unified Development Code Chapter 169 and 170. A drainage permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with these requirements.
- (12) *Solid Waste Service.* For the purposes of solid waste collection cottage housing developments are considered a residential use and should receive residential solid waste service (individual carts and recycling bins). In certain instances, it may be necessary to service cottage housing developments with commercial solid waste collection equipment (dumpsters). This may occur when a project is located in a predominately commercial area serviced by commercial solid waste pick up. It is incumbent on the developer to design solid waste service into the cottage housing development plan early in the process. The final determination of solid waste service and pick-up areas will be made at the time of development review. Specific requirements for residential and commercial solid waste pick-up shall be as follows:
 - (a) Residential solid waste service requires a designated location adjacent to the street curb for trash carts and recycling bins. This location shall be kept clear of obstructions on the designated solid waste pick-up day. If this location is also used for on-street parking it shall be clearly marked and a sign posted restricting use for the designated solid waste pick-up day. A minimum linear distance of 9 ft. is required to accommodate each cottage housing unit's trash cart and recycling bin.

- (b) Commercial solid waste service requires a dumpster location that is freely accessible for front end loading and screened from public view.
 - (c) Solid waste facilities shall be located behind the front building setback line and shall be screened from the right-of-way and adjacent property owners by either architectural treatments or vegetative screening.
- (H) *Building Design Standards.* Building design shall provide variety and visual interest in order to provide compatibility with the character of the surrounding neighborhood. These standards are intended to avoid the repetitive use of the same building design, structural features, detailing or finishes within the cottage housing development.
- (1) *Variety in Cottage Housing Units Floor Plans and Architectural Treatments.* In cottage housing developments no two structures shall be identical in terms of exterior finishes. All cottage housing units shall differ from each other by utilizing at least two of the following options:
- (a) Variations in building material finishes such as clapboard, shake shingles, stone, brick, etc., and building color;
 - (b) Variations in adjacent cottage housing unit floor plans that alter the location of exterior windows and doors;
 - (c) Variations in the size of main floor area and/or building height of adjacent structures; or
 - (d) A front porch with a minimum width no less than 50% of the front building façade. Front porches shall have a minimum depth of 6 feet. No structurally identical front porches shall be located on adjacent cottage housing units.
- (2) *Required Architectural Elements.* A cottage housing unit with a front porch that is credited for meeting the requirements of section 164.22(H)(1) above shall not be credited with meeting the requirements of this section. All cottage housing units in a cottage housing development shall contain a minimum of two of the following building features or treatments:
- (a) Porch.
 - (b) Variations in roof shapes or gables between adjacent structures.
 - (c) Roof brackets.
 - (d) Bay windows.
 - (e) Dormers.
 - (f) Chimneys.
 - (g) Other similar features or treatments as approved by the Zoning and Development Administrator.
- (I) *Variances from the minimum Cottage Housing Development Requirements.* An applicant may request a variance for specific requirements of the cottage housing development ordinance from the Planning Commission. Notification of adjoining and adjacent property owners shall conform to the requirements of Chapter 157: Notification and Public Hearings of the City's Unified Development Code. A variance of the following standards of the cottage housing development ordinance may be requested:
- (1) *Number of cottage housing units permitted.*
 - (2) *Cottage housing development separation requirement.*

Exhibit "B"

161.04 RSF-.5	Conditional Use Permit
161.05 RSF-1	Conditional Use Permit
161.06 RSF-2	Conditional Use Permit
161.07 RSF-4	Conditional Use Permit
161.08 RSF-7	Conditional Use Permit
161.09 RSF-8	Conditional Use Permit
161.10 RT-12	Use by Right
161.11 RMF-6	Use by Right
161.12 RMF-12	Use by Right
161.13 RMF-18	Use by Right
161.14 RMF-24	Use by Right
161.15 RMF-40	Use by Right
161.16 Neighborhood Services	Use by Right
161.17 R-O	Use by Right
161.18 C-1	Use by Right
161.19 Community Services	Use by Right
161.20 C-2	Use by Right
161.21 Urban Thoroughfare	Use by Right
161.22 C-3	Use by Right
161.23 Downtown Core	Use by Right
161.24 Main Street/Center	Use by Right
161.25 Downtown General	Use by Right
161.26 Neighborhood Conservation	Conditional Use Permit

AGENDA REQUEST

FOR: COUNCIL MEETING OF NOVEMBER 15, 2011

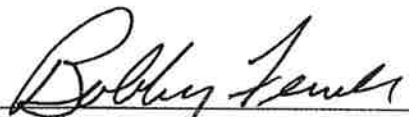
FROM:

ALDERMAN BOBBY FERRELL and ALDERMAN MARK KINION

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

ADM 11-3782: (Cottage Housing Development): An Ordinance to Adopt
ADM 11-3782 Cottage Housing Development

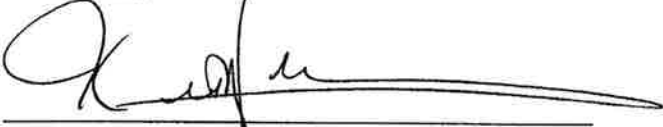
APPROVED FOR AGENDA:


Bobby Ferrell
Alderman

11-8-11
Date

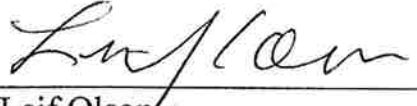

Mark Kinion
Alderman

11-01-2011
Date


City Attorney
(as to form)

10-31-2011
Date

Packet Prepared by:


Leif Olson
Associate Planner

10-31-2011
Date

Left on the Second Reading at the Nov. 15, 2011 CC mtg.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
John Coleman, Sustainability and Strategic Planning Director

From: Leif Olson, Planner *LO*

Date: September 23, 2011

Subject: ADM 11-3782 Cottage Housing Development Ordinance

RECOMMENDATION

Staff and the Planning Commission recommends approval of an ordinance amending Chapter 164: Supplementary Zoning Regulations of the Unified Development Code by adopting ADM 11-3782 Cottage Housing Development.

BACKGROUND

In 2010 City Staff began the process of updating the City's long range comprehensive plan, City Plan 2030, which resulted in a complete update with identified action steps related to the six goals. One of the action steps related to the goal "Create opportunities for attainable housing" was to draft and adopt a cottage housing development ordinance.

Cottage housing development is defined as "a cluster of detached single family homes, restricted in size and of high architectural quality, oriented around common open space." Cottage housing development is modeled after traditional housing development patterns that existed in the past. Cities in the Pacific Northwest region of the U.S. began developing innovative cottage housing ordinances a decade ago as a solution for the lack of attainable housing in their communities. Small in scale, cottage housing developments fit well into existing neighborhoods on vacant or underutilized land; for this reason they are an effective tool for infill and revitalization. As the median family size continues to decline, 2.2 people per household in according to the 2010 Census, this form of housing will be in high demand by a fast growing demographic, most notably singles, families of 3 or less and retirees. Fee simple or condominium ownership of individual cottage housing units promotes neighborhood stability. In these ways, cottage housing developments can promote infill, reduce sprawl, and create opportunities for attainable housing.

Staff anticipates that the majority of cottage housing development proposals will be infill situations on sites that have access to existing infrastructure such as streets, water and sewer service. Therefore, it is imperative that

cottage housing development be compatible with the existing built environment. This ordinance is purposely intended to be very prescriptive in terms of how and where cottage housing development is designed and constructed. The draft ordinance has been reviewed and amended by Planning, Engineering, Solid Waste and Fire Department staff.

Specifically, the ordinance would address the following City Plan 2030 goals:

Goal 1 - We will make appropriate infill and revitalization our highest priorities.

Goal 2 - We will discourage suburban sprawl.

Goal 6 - We will create opportunities for attainable housing.

The Cottage Housing Development ordinance is proposed to be inserted into Chapter 164: Supplementary District Regulations. The following are some of the important standards and regulations to ensure that Cottage Housing Developments are compatible with adjoining land uses:

- Permitted as a use by right in multi-family zoning districts and as conditional use in all single-family zoning districts.
- Review process dependent on the size and scale of the project – small projects (> 1 acre) processed as Site Improvement Plans – large projects (< 1 acre) processed as Large Scale Developments.
- A minimum of 4 cottage housing units and a maximum of 12 cottage housing units in a Cottage Housing Development.
- A minimum separation of 1,000 linear feet between Cottage Housing Developments.
- Cottage Housing Developments in multi-family zoning districts are limited to the density of the underlying zoning district – Cottage Housing Developments in single family zoning districts are restricted to no more than two times the underlying density allowed.
- The lot are minimum is 750 sq.ft. This would allow for a small 500 sq. ft. dwelling with 250 sq. ft. of private open space.
- Building setbacks are set by the underlying zoning district – with the exception that separation requirements between structures are a minimum of 10 feet.
- Cottages are limited to a maximum of 1,100 sq. ft. of conditioned living space.
- Cottages shall be oriented towards the street or around a common open space.
- A minimum of 300 sq. ft. of common open space and 250 sq. ft. of private open space is required for each cottage.
- Adequate and appropriate parking shall be provided for each cottage, through though the parking may be clustered together.
- Fire Department access is required for all structures – Sprinkler systems are required for cottages located 150 ft. or more from the designated Fire Department access area.
- All Cottage Housing Developments are required to obtain a drainage permit and perform any drainage studies or detention requirements according to UDC Ch. 170: Stormwater Management, Drainage and Erosion Control.
- Solid Waste service should be primarily residential (trash carts and recycling bins). Exceptions may be allowed for Cottage Housing Developments located in primarily commercial areas of the City.
- Architectural standards apply to all structures within a Cottage Housing Development in order to ensure quality design and compatibility with the surrounding neighborhood.

- The applicant may request a variance from the minimum 1,000 ft. separation requirement between Cottage Housing Developments and from the maximum number of units allowed.

DISCUSSION

On September 12, 2011 the Planning Commission voted 6-3-0 in favor of a recommendation of approval for ADM 11-3782 Cottage Housing Development Ordinance.

BUDGET IMPACT

None.

Handed out at Agenda Session 11/18/11

ORDINANCE NO. _____

AN ORDINANCE TO ENACT §164.22 COTTAGE HOUSING DEVELOPMENT INTO THE UNIFIED DEVELOPMENT CODE, TO AMEND §162.01 TO ADD (RR) UNIT 44 COTTAGE HOUSING DEVELOPMENT AND TO AMEND CHAPTER 161 ZONING DISTRICT TO AUTHORIZE COTTAGE HOUSING DEVELOPMENTS AS A RIGHT IN MULTI-FAMILY RESIDENTIAL DISTRICTS AND AS A CONDITIONAL USE IN SINGLE FAMILY RESIDENTIAL DISTRICTS

WHEREAS, the City of Fayetteville has long sought to increase the availability of quality affordable housing for its citizens; and

WHEREAS, the City of Fayetteville has an established policy to encourage in-fill development and the mixture of different types and sizes of single family housing within neighborhoods; and

WHEREAS, providing for a properly planned clustering of small, high quality, detached single family houses (cottages) within a neighborhood of larger lots and homes can provide attractive, compatible and affordable housing for our citizens.

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 §164.22 **Cottage Housing Development** (as shown on Exhibit A) into the Unified Development Code of Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01 to add use unit:

“(RR) Unit 44. Cottage Housing Development.

- (1) *Description.* Unit 44 is provided in order that cottage housing developments are permitted by right in multi-family zoning districts and by Conditional Use Permit in single family zoning districts.

(2) Included uses.

Cottage Housing Developments

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 161: **Zoning Regulations** of the U.D.C. to add "(RR) Use Unit 44 Cottage Housing Development" as a use by right in multi-family residential districts and as a conditional use in single family residential district as more specifically identified by Exhibit B.

PASSED and **APPROVED** this 15th day of November, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Exhibit "A"

164.22 Cottage Housing Development

- (A) *Purpose.* The purpose of the cottage development ordinance is to encourage innovation and variety in housing while ensuring compatibility with established neighborhoods, and to provide opportunities for ownership of detached single-family dwellings for a population diverse in age, income and household size.
- (B) *Applicability.* Cottage housing development is permitted to be located as identified in Chapter 161: Zoning Regulations of the Unified Development Code, however, zoning and development regulations such as density, bulk and area, building area, street frontage requirements, lot splits and other standards for cottage housing development shall follow the criteria adopted in this chapter.
- (C) *Development Review Process.* For the purpose of development review cottage housing developments less than one acre shall be processed as a Site Improvement Plan. Cottage housing development on lots larger than one acre shall be processed as a Large Scale Development. If individual cottage housing unit lots are created the cottage housing development shall be processed through the subdivision platting process.
- (D) *Cottage Housing Development Size, Separation Requirements and Existing Structures.*
- (1) *Number of Cottage Housing Units Permitted.* Cottage housing development shall contain a minimum of four and a maximum of 12 cottages located in a cluster, on no less than one half acre.
 - (2) *Cottage Housing Development Separation Requirement.* Cottage housing developments shall have a minimum separation from other cottage housing developments of not less than 1,000 feet.
 - (3) *Existing Nonconforming Structures.* On a lot to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cottage density.
- (E) *Zoning Regulations.* The parent tract prior to development shall conform to the zoning criteria of the underlying zoning district.
- (1) *Density.* Zoning Districts that allow cottage housing development as a Use by Right shall conform with the density requirement of the underlying zoning district. Zoning districts that allow cottage housing developments as a Conditional Use shall be allowed a density not to exceed two times the maximum density allowed in the underlying zoning district.
 - (2) *Lot Width Minimum.* There is no lot width requirement for individual cottage housing units.
 - (3) *Lot Area Minimum.* The lot area minimum for cottage housing unit lots is 750 square feet.
 - (4) *Land Area per Dwelling Unit.* The land area per dwelling unit requirement is 750 sq. ft.
 - (5) *Setback Requirements.*
 - (a) All structures shall have a minimum separation of ten feet, measured from edge of eave to edge of eave, from other structures or cottages within the cottage housing development.
 - (b) The setback from the exterior property lines of the original parent tract shall be set by the underlying zoning district.
 - (6) *Building Height Regulations.* The height for all structures in a cottage development shall not exceed the permitted height requirement of the underlying zoning district.
 - (7) *Building Area.* There is no minimum building area requirement for individual cottage housing unit lots.

- (8) *Accessory Dwelling Units.* Accessory dwelling units are not permitted in cottage housing developments.

- (F) *Common Property Maintenance.* Community buildings, parking areas and common open space shall be owned and maintained commonly by the cottage housing development residents, through a condominium associations, a homeowners' association or a similar mechanism, and shall not be dedicated to the City.

- (G) *Development Standards.* All cottage developments are subject to the following standards:

- (1) *Floor Area.* The total conditioned space floor area of each cottage shall not exceed 1,100 square feet.

- (a) Cottages shall have a maximum first floor area or footprint of no more than 900 sq. feet, excluding covered or attached porches.
- (b) Future additions to any cottage housing unit shall meet the requirements of this chapter.
- (c) Floor area that does not count towards the total conditioned space floor area permitted for a cottage housing unit includes:
 - (i) Architectural projections such as utility closets no greater than eighteen inches in depth and six feet in width, bay windows and fireplaces.
 - (ii) Spaces with a ceiling height of six feet or less measured to the exterior walls, such as interior attic eaves.

- (2) *Cottage Orientation.* The fronts of all cottage housing units shall be oriented around the common open space or towards the street, with the following exception:

- (a) A maximum of 1 cottage in a cottage housing development is allowed to be located in an area that does not front onto the common open space or street right of way. These units shall be located within 25 feet of the common open space and shall have direct

pedestrian access to the common open space and the street.

- (3) *Open space.*

- (a) The required common open space shall be provided in one contiguous parcel.
- (b) A minimum of 300 square feet of common open space shall be provided per cottage housing unit. Common open space with a dimension of less than 20 feet shall not be included in the calculation.
- (c) Each cottage housing unit shall be provided with a private open space of 250 square feet with no dimension of less than 10 feet. Private open space should be contiguous to each cottage, for the exclusive use of the cottage resident.
- (d) Parking areas, driveways and common pedestrian access shall not be counted as open space.

- (4) *Fences.* Fencing in cottage housing development should be respectful of the context of the surrounding neighborhood and should accentuate the common and private open spaces.

- (a) Fencing located between a cottage housing unit and a public street or the common open space shall not exceed 48" in height.

- (5) *Parking Requirements and Standards.* Parking areas should be located within the cottage housing development in such a way as to maintain the character along the public street and to minimize the noise and light impacts on private residences and public spaces. Reductions in parking space allowances are not permitted in cottage housing developments. Permitted on-street parking spaces adjacent to a projects frontage may count towards the parking requirements of the development subject to approval by the Zoning and Development Administrator. Parking standards for cottage housing developments shall be as follows:

- (a) The required number of parking spaces for each cottage shall be determined according to the square footage of the cottage housing unit.

- (i) Cottages less than 1,000 sq. ft. shall have 1.5 parking spaces provided.
- (ii) Cottages over 1,000 sq. ft. shall have 2 parking spaces provided.
- (b) Parking lots containing five or more parking spaces shall comply with the parking lot construction and design standards located in Chapter 172: Parking and Loading of the City's Unified Development Code.
- (c) Parking lots shall be located a minimum of 25' back from the public right-of-way.
- (d) Shared covered parking shall be designed to be similar and compatible to the design, materials and roof pitches used for the cottage housing units.
- (e) Parking space dimensions shall comply with Chapter 172: Parking and Loading of the Unified Development Code.
- (6) *Bicycle Parking.* Bicycle parking should be located in a common area and preferably be covered to protect the long term storage of bicycles. It is recommended that cottage housing developments should provide one unsheltered bicycle rack or the equivalent sheltered space to store two bicycles per cottage housing unit.
- (7) *Fire Department Access.* Fire department access shall be determined at the time of development review. Any part of structure in a cottage housing development that is located more than 150 feet from Fire Department vehicle access, as measured by an approved route around the exterior of the buildings or facilities, shall have a fire department approved sprinkler system.
- (8) *Pedestrian Connectivity.* All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system.
- (9) *Utilities.* Individual cottage housing units shall have a unique connection to the main water and sewer lines. Main water and sewer lines on private property servicing cottage housing unit developments shall be located in a dedicated easement.
- (10) *Community Buildings.* Community buildings and common pavilions less than 2,000 sq. ft. are permitted by right in cottage housing development. These structures shall be architecturally integrated with the architectural style of the cottage housing development.
- (11) *Stormwater/Grading.* Cottage housing developments shall comply with the grading, drainage and stormwater provisions set forth in the Unified Development Code Chapter 169 and 170. A drainage permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with these requirements.
- (12) *Solid Waste Service.* For the purposes of solid waste collection cottage housing developments are considered a residential use and should receive residential solid waste service (individual carts and recycling bins). In certain instances, it may be necessary to service cottage housing developments with commercial solid waste collection equipment (dumpsters). This may occur when a project is located in a predominately commercial area serviced by commercial solid waste pick up. It is incumbent on the developer to design solid waste service into the cottage housing development plan early in the process. The final determination of solid waste service and pick-up areas will be made at the time of development review. Specific requirements for residential and commercial solid waste pick-up shall be as follows:
 - (a) Residential solid waste service requires a designated location adjacent to the street curb for trash carts and recycling bins. This location shall be kept clear of obstructions on the designated solid waste pick-up day. If this location is also used for on-street parking it shall be clearly marked and a sign posted restricting use for the designated solid waste pick-up day. A minimum linear distance of 9 ft. is required to accommodate each cottage housing unit's trash cart and recycling bin.

- (b) Commercial solid waste service requires a dumpster location that is freely accessible for front end loading and screened from public view.
 - (c) Solid waste facilities shall be located behind the front building setback line and shall be screened from the right-of-way and adjacent property owners by either architectural treatments or vegetative screening.
- (H) *Building Design Standards.* Building design shall provide variety and visual interest in order to provide compatibility with the character of the surrounding neighborhood. These standards are intended to avoid the repetitive use of the same building design, structural features, detailing or finishes within the cottage housing development.
- (1) *Variety in Cottage Housing Units Floor Plans and Architectural Treatments.* In cottage housing developments no two structures shall be identical in terms of exterior finishes. All cottage housing units shall differ from each other by utilizing at least two of the following options:
- (a) Variations in building material finishes such as clapboard, shake shingles, stone, brick, etc., and building color;
 - (b) Variations in adjacent cottage housing unit floor plans that alter the location of exterior windows and doors;
 - (c) Variations in the size of main floor area and/or building height of adjacent structures; or
 - (d) A front porch with a minimum width no less than 50% of the front building façade. Front porches shall have a minimum depth of 6 feet. No structurally identical front porches shall be located on adjacent cottage housing units.
- (2) *Required Architectural Elements.* A cottage housing unit with a front porch that is credited for meeting the requirements of section 164.22(H)(1) above shall not be credited with meeting the requirements of this section. All cottage housing units in a cottage housing development shall contain a minimum of two of the following building features or treatments:
- (a) Porch.
 - (b) Variations in roof shapes or gables between adjacent structures.
 - (c) Roof brackets.
 - (d) Bay windows.
 - (e) Dormers.
 - (f) Chimneys.
 - (g) Other similar features or treatments as approved by the Zoning and Development Administrator.
- (I) *Variances from the minimum Cottage Housing Development Requirements.* An applicant may request a variance for specific requirements of the cottage housing development ordinance from the Planning Commission. Notification of adjoining and adjacent property owners shall conform to the requirements of Chapter 157: Notification and Public Hearings of the City's Unified Development Code. A variance of the following standards of the cottage housing development ordinance may be requested:
- (1) *Number of cottage housing units permitted.*
 - (2) *Cottage housing development separation requirement.*

Exhibit "B"

161.04 RSF-.5	Conditional Use Permit
161.05 RSF-1	Conditional Use Permit
161.06 RSF-2	Conditional Use Permit
161.07 RSF-4	Conditional Use Permit
161.08 RSF-7	Conditional Use Permit
161.09 RSF-8	Conditional Use Permit
161.10 RT-12	Use by Right
161.11 RMF-6	Use by Right
161.12 RMF-12	Use by Right
161.13 RMF-18	Use by Right
161.14 RMF-24	Use by Right
161.15 RMF-40	Use by Right
161.16 Neighborhood Services	Use by Right
161.17 R-O	Use by Right
161.18 C-1	Use by Right
161.19 Community Services	Use by Right
161.20 C-2	Use by Right
161.21 Urban Thoroughfare	Use by Right
161.22 C-3	Use by Right
161.23 Downtown Core	Use by Right
161.24 Main Street/Center	Use by Right
161.25 Downtown General	Use by Right
161.26 Neighborhood Conservation	Conditional Use Permit

*Planning Commission
September 12, 2011
Page 14 of 18*

ADM 11-3782: Administrative Item (UDC CH. 164: SUPPLEMENTARY DISTRICT REGULATIONS – COTTAGE HOUSING DEVELOPMENT): Submitted by THE CITY OF FAYETTEVILLE PLANNING DIVISION. The request is to amend Chapter 164 of the Unified Development Code (UDC) to permit cottage housing development.

Leif Olson, Planner, gave the staff report and outlined the key points of the Cottage Housing Ordinance with a power point presentation.

Commissioner Cabe opened the floor for public comment.

Rob Sharp addressed the commission and expressed his support of the ordinance. Sharp commented on the fact that the ordinance was very prescriptive in order to achieve a high quality product. **Sharp** discussed the need in Fayetteville for smaller housing units to serve the growing demographic of singles, couples, retirees, etc.

Commission Cabe closed the floor for public comment.

Commissioner Chesser asked if the architectural requirements would preclude modern architectural styles.

Leif Olson stated that the ordinance is not prescriptive in regard to architectural style.

Commissioner Chesser commented that he felt that the Cottage Housing Ordinance should be permitted by right in single family zoning districts.

Commissioner Chesser stated that he would have a hard time supporting this ordinance if it did not allow CHD's in single family zoning districts by right.

Commissioner Earnest stated his support of the ordinance.

Commission Cabe asked if existing non-conforming structures would count as a housing unit in the total number of housing units permitted in the development.

Leif Olson stated that an existing structure that would remain on the property after the development was completed would count as one of the housing units allowed in the development.

Commission Cabe asked if any other cities permitted well done parking areas to count in the square footage of open space required per dwelling unit.

Leif Olson indicated that none of the twenty or so CHD ordinances that staff looked at allowed parking areas to count for the required open space requirement.

Commissioner Cabe asked if the language regarding the inclusion of bicycle racks or designated bike storage should be strengthened to a requirement instead of a recommendation.

Leif Olson indicated that staff removed the requirement for bike storage because a City Council sponsor of the ordinance requested that change. Olson stated that the City does require bike racks for commercial projects but not for any single family type projects but that staff would encourage developers to include bike storage facilities in their design.

*Planning Commission
September 12, 2011
Page 15 of 18*

Commissioner Cabe asked if a variance could be added in order to allow for less variation in the architectural requirements.

Leif Olson stated that the ordinance could be amended in order to allow for that possibility.

Commissioner Hoskins asked if there is anything in the ordinance that would preclude someone from having a garage attached to a cottage housing unit.

Leif Olson stated that the requirement is that the footprint of the home shall not exceed 900 square feet.

Commissioner Hoskins asked if staff had seen any of these developments that had garages attached to the cottages.

Leif Olson and Andrew Garner both indicated that they had not found examples with garages attached.

Commissioner Hoskins asked about the square foot requirement for the cottages and whether the City should allow for units larger than 1,100 square feet. Hoskins asked staff about the square footage requirements of peer cities that had adopted CHD.

Leif Olson stated that of the approximately 20 peer cities ordinances reviewed the square footage was typically limited to 1,000 to 1,300 square feet.

Commissioner Hoskins asked if it would make sense to allow for cottage housing units that are larger than 1,100 square feet. Hoskins stated that the 1,100 sq. ft. would limit the market for these housing units. Hoskins discussed the various demographic trends and what buyers are looking for.

Leif Olson stated that the limited square footage requirement is in place for the purposes of scale and compatibility and that once you get up over a certain square footage it is no longer a cottage but a house. Olson stated that staff felt strongly that 1,100 sq. ft. was appropriate to ensure that the units were small enough in scale.

Commissioner Hoskins indicated that he felt 1,100 sq. ft. is too small and that the inconvenience of parking and walking to a cottage unit may turn off some potential buyers. Hoskins stated that it would be very difficult to locate a garage in a unit with a maximum first floor footprint of 900 sq. ft.

Leif Olson stated that the cottage housing ordinance is designed to be very prescriptive and that it is a very specific tool that will not appeal to all developers or potential buyers. Olson discussed the fact that this type of development would appeal to a niche market that would not necessarily see the fact that the housing unit did not have a garage as a negative.

Commissioner Hoskins stated that he thought it was a great ordinance and he thanked staff for bringing it forward.

Commissioner Chesser discussed the square footage requirement and suggested that some flexibility might be desirable. Chesser suggested allowing a percentage overage of the maximum sq. ft. allowed.

Leif Olson discussed the ability for the developer to do fee simple or condominium ownership and that the incentive for the developer was to be able to create individual lots for each cottage that did not have to have street frontage so long as the parent tract met the requirements of the underlying zoning district. Olson stated that the prescriptive requirements of the ordinance such as the 1,100 sq. ft. maximum are intended to ensure that the

*Planning Commission
September 12, 2011
Page 16 of 18*

housing built would be small in scale and not a cluster of large homes without street frontage.

Commissioner Hoskins stated that his issue with the ordinance was that the footprint was limited to 900 sq. ft. and the limited ability to have a garage within that area.

Commissioner Cabe stated that he felt that the ability for each cottage housing unit to have direct car access would be limited due to the cost of providing private streets in such a small cluster of size limited homes. **Cabe** discussed the CHD ordinance as a tool that will be used as an alternative development pattern and that we shouldn't try to shoehorn this ordinance in order to meet what is the perceived current real estate market. **Cabe** indicated that he thought these developments would be tucked into vacant and underutilized land in the core of Fayetteville instead of on the fringe of the City. Discussion followed regarding carports and garages.

Rob Sharp stated that a garage is not necessarily integral to a housing unit and the fact that the social interactions that take place walking is viewed as a positive aspect of these developments. **Sharp** also discussed that he felt it was important to get a few of these built and then come back and revisit the ordinance to see what was and wasn't working.

Commissioner Earnest pointed out that this is only a tool to help meet the changing demographics. **Earnest** acknowledged that the PZD process existed for developers to do innovative projects and that variations of these type of projects can still be approved with the PZD.

Motion:

Commissioner Earnest made a motion to forward ADM 11-3782 to the City Council with a recommendation for approval. **Commissioner Bunch** seconded the motion. **Upon roll call the motion passed with a vote of 6-3-0 (Commissioners Chesser, Honchell, and Hoskins voting 'no').**

ORDINANCE NO. _____

AN ORDINANCE TO ENACT §164.22 **COTTAGE HOUSING DEVELOPMENT** INTO THE UNIFIED DEVELOPMENT CODE

WHEREAS, the City of Fayetteville has long sought to increase the availability of quality affordable housing for its citizens; and

WHEREAS, the City of Fayetteville has an established policy to encourage in-fill development and the mixture of different types and sizes of single family housing within neighborhoods; and

WHEREAS, providing for a properly planned clustering of small, high quality, detached single family houses (cottages) within a neighborhood of larger lots and homes can provide attractive, compatible and affordable housing for our citizens.

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 §164.22 **Cottage Housing Development** (as shown on Exhibit A) into the Unified Development Code of Fayetteville.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Agenda Session 2/11/14

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, J
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 18, 2014**

A meeting of the Fayetteville City Council will be held on February 18, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 04, 2014 City Council meeting minutes.
2. **McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the Terminal Apron Rehabilitation Project and to approve a budget adjustment of \$36,050.00.

3. **Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.
4. **Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.
5. **Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.
6. **Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.
7. **2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group grant in the amount of \$6,800.00.
8. **Rotochopper Go – Bagger:** A resolution approving a budget adjustment in the amount of \$18,500.00 to recognize revenue received from the auction and sale of Unit 479 - 2005 Rotochopper Go-Bagger 250.
- NB#2 ⑨ **Karcher North America, Inc.:** A resolution to approve and certify the participation of Karcher North America, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Karcher North America, Inc.

B. Unfinished Business:

1. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. *This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting. This ordinance was left on the First Reading at the January 21, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.*

Left on the First Reading.

2. **RZN 13-4538 (Razorback Road/Victory Commons):** An ordinance rezoning that property described in rezoning petition RZN 13-4538, for approximately 5.09 acres, located at 731 S. Razorback Road from I-1, Heavy Commercial and Light Industrial, to UT, Urban Thoroughfare. *This ordinance was left on the First Reading at the December 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the January 7, 2014 City Council meeting and Tabled to the February 4, 2014 City Council meeting. This ordinance was left on the Second Reading at the February 5, 2014 City Council meeting and Tabled to the February 18, 2014 City Council meeting.*

Left on the Second Reading.

C. New Business:

Move to
3

- ① **ADM 13-4331 Amend Chapters 151, 162, 163 and 164:** An ordinance to amend §164.10 Garage and/or Agricultural and Produce Sales; §161.10 (X) Unit 24 Home Occupation; §163.08 Home Occupations and §164.04 Urban Agriculture (fowl, bees, and goats) of the Unified Development Code.

Move to
4

- ② **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.

Move
to # 1

- ③ **Mt. Kessler Acquisition:** A resolution to authorize Mayor Jordan to apply for and accept a 50/50 matching grant from the Walton Family Foundation in the amount of \$1,500,000.00, to use this grant and \$1,600,000.00 out of reserves to purchase about 328 acres of Mt. Kessler from Chambers Bank and to build a trailhead, to approve a land swap with Chambers Bank, to support a parkland dedication of about 48 acres for future parkland credit and to approve the attached budget adjustment.

- ✓ **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.

- ✓ **Reappropriating Bonded, On-Going Capital Projects and Containing Obligations:** A resolution to amend the 2014 adopted budget by reappropriating \$75,497,000.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

6. **RZN 13-4536 (4310 Martin Luther King Blvd./Edwards):** An ordinance rezoning that property described in rezoning petition RZN 13-4536, for approximately 0.74 acres located on the north side of west Martin Luther King Boulevard near the border of Farmington from R-A, Residential Agricultural to CS, Community Services.

7. **ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development):** An ordinance to amend Chapter 161 of the Unified Development Code to authorize Cottage Housing Development (UU-44) into zoning districts in which it was originally approved by Ordinance No. 5462.

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra E. Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, J
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 18, 2014**

A meeting of the Fayetteville City Council will be held on February 18, 2014 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the February 04, 2014 City Council meeting minutes.
2. **McClelland Consulting Engineers, Inc. Task Order No. 10:** A resolution to approve Task Order No. 10 with McClelland Consulting Engineers, Inc. in the amount of \$36,050.00 for project design and bidding services associated with the terminal apron rehabilitation project and to approve a budget adjustment of \$36,050.00.

3. **Garver Engineers, LLC:** A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road, and to approve a budget adjustment of \$352,879.00.

4. **Street Name Change:** A resolution to change the name of Arbuckle Lane to Woodward Lane.

5. **Community Development Block Grant (CDBG) Agreement:** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) Agreement for 2014 when received in the estimated amount of \$540,700.00 and approving the 2014 Action Plan.

6. **Amend Resolution No. 07-14:** A resolution amending Resolution No. 07-14 to change the awarding of Bid #14-04 for the purchase of hillside gravel from Leming & Son Trucking, Inc. to Les Rogers, Inc. for materials picked up in the amount of \$1.49 per ton and authorizing the use of other bidders based on price and availability as needed through the end of calendar year 2014.

7. **Combs Park Tree Mitigation:** A resolution approving a budget adjustment in the total amount of \$4,250.00 to transfer a tree escrow balance for the planting of mitigation trees in Combs Park.

8. **2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant:** A resolution authorizing application for a 2014 Keep America Beautiful/Dr. Pepper Snapple Group Grant in the amount of \$6,800.00.

9. **Rotochopper Go - Bagger:**

10. **Katcher North America, Inc.:**

Karcher

B. Unfinished Business:

1. **Amend Chapter 178:** An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property. *This ordinance was left on the First Reading at the November 19, 2013 City Council meeting and tabled to the December 17, 2013 City Council meeting. This ordinance was left on the First Reading at the December 17, 2013 City Council meeting and Tabled to the January 21, 2014 City Council meeting. This ordinance was tabled to the February 18, 2014 City Council meeting at the January 21, 2014 City Council meeting.*

Left on the First Reading.

C. New Business:

1. **RZN 13-4536:** An ordinance rezoning that property described in rezoning petition RZN 13-4536, for approximately 0.74 acres located on the north side of west Martin Luther

King Boulevard near the border of Farmington from R-A, Residential Agricultural to CS, Community Services.

NB #3 ② **Teeco Safety, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Teeco Safety, Inc. in the amount of \$192,344.50 for the purchase of taser products.

NB #8 ③ **ADM 13-4603: (UDC Amendment Chapter 161, Use Unit 44, Cottage Housing Development):** An ordinance to amend Chapter 161 of the Unified Development Code to authorize Cottage Housing Development (UU-44) into zoning districts in which it was originally approved by Ordinance No. 5462.

NB #2 ④ **Amend:** An ordinance to amend §164.10 Garage and/or Agricultural and Produce Sales; §161.10 (x) Unit 24 Home Occupation; §163.08 Home Occupations and §164.04 Urban Agriculture (fowl, bees, and goats) of the Unified Development Code.

NB #5 ⑤ **Kum & Go, L.C. Agreement:** A resolution to approve the fourth amendment to land sale agreement with Kum & Go, L.C. to extend the closing date to no later than April 21, 2014 and to agree to equally share the City's portion of the costs of a dedicated left turn lane.

NB #1 ⑥ **Amend Protected Streams Map:**

NB #4 ⑦ **Walton Family Foundation:** Mt. Kessler Acquisition:

NB #6 ⑧ **Re-appropriating Bonded, ~~at~~ On-Going Capital Projects; and Containing obligations:**

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

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

Old business and new business.

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

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

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

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

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