

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

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

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
February 3, 2015**

A meeting of the Fayetteville City Council was held on February 3, 2015 at 5:30 p.m. 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 January 20, 2015 City Council meeting minutes.

APPROVED

2. **Chevrolet of Fayetteville:** A resolution to authorize the purchase of one (1) Chevrolet Equinox from Chevrolet of Fayetteville in the amount of \$20,247.00 pursuant to a state procurement contract for use by the Parking Management Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 24-15

3. **Toyota of Fayetteville:** A resolution to authorize the purchase of one (1) Toyota Prius from Toyota of Fayetteville in the amount of \$22,627.00 pursuant to a state procurement contract for use by the Building Safety Division, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 25-15

4. **Lewis Ford of Fayetteville:** A resolution to authorize the purchase of one (1) 2015 Ford F250 from Lewis Ford of Fayetteville, Arkansas in the amount of \$22,427.00 pursuant to a state procurement contract for use by the Animal Services Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 26-15

5. **Chevrolet of Fayetteville:** A resolution to authorize the purchase of one (1) 2015 Chevrolet Equinox AWD from Chevrolet of Fayetteville in the amount of \$21,699.00 pursuant to a state procurement contract for use by the Utilities Director, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 27-15

6. **Landers Dodge of Benton:** A resolution to authorize the purchase of one (1) 2015 Dodge Ram 1500 4x4 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,193.00 pursuant to a state procurement contract for use by the Water and Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 28-15

7. **Landers Dodge of Benton:** A resolution to approve the purchase of one (1) 2015 Dodge Ram 1500 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,367.00 pursuant to a state procurement contract for use by the Police Department, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 29-15

8. **Henard Utility Products:** A resolution to authorize the purchase of a bandit chipper/shredder from Henard Utility Products in the amount of \$32,522.25 plus applicable taxes pursuant to the National Joint Powers Alliance Cooperative Purchasing Agreement for use by the Parks and Recreation Department and Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 30-15

9. **Bale Chevrolet:** A resolution to approve the purchase of one (1) 2015 non-motor pool replacement vehicle from Bale Chevrolet in the amount of \$32,371.00 with options pursuant to a state procurement contract for use by the Police Department, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 31-15

10. **Washington County Jail Services Interlocal Agreement Amendment:** A resolution approving an amendment to the Jail Services Interlocal Agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2015.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 32-15

11. **Express the Willingness for Sain Street Connection:** A resolution to express the willingness of the City of Fayetteville to utilize federal-aid funds for the construction of the Sain Street connection from North Front Street to Vantage Boulevard.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 33-15

12. **Southwestern Electric Power Company Agreement:** A resolution to approve an agreement with Southwestern Electric Power Company to participate in an Energy Efficiency Rebate Program in the amount of \$4,967.83, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 34-15

13. **Swepeco of Fayetteville Utility Work Agreement:** A resolution to approve a Utility Work Agreement with Swepeco of Fayetteville, Arkansas for utility relocations as part of the Highway 112 Widening Project between Razorback Road and Garland Avenue, with the amount to be paid by the City of Fayetteville not to exceed \$91,878.59.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 35-15

14. **Grant Thornton LLP Contract:** A resolution to approve a contract with Grant Thornton LLP in the amount of \$87,500.00 to provide Independent Audit Services to the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 36-15

15. **Training Grounds for the Fayetteville Fire Department:** A resolution to designate approximately 14.2 acres of city property as training grounds for the Fayetteville Fire Department.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 37-15

B. Unfinished Business:

1. **RZN 14-4864 Koutroumbis Appeal:** An ordinance rezoning that property described in Rezoning Petition RZN 14-4864, for approximately 0.26 acres, located at 232 West Ash Street from RSF-4, Residential Single Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. ***This Ordinance was left on the First Reading at the January 6, 2015 City Council Meeting. This ordinance was left on the Second Reading at the January 20, 2015 City Council meeting.***

THIS ORDINANCE FAILED

2. **Repeal and Replace Title V Public Works and Amend Chapter 51 and Chapter 10:** An ordinance to repeal and replace Title V Public Works, Article III Discharge and Pretreatment Regulations; to Amend § 51.137 Monthly Sewer Rates; to Amend § 51.138 Definitions Pertaining to Water and Sewer Rates; to Amend § 51.999 Penalty; and to Amend § 10.99 General Penalty of the Fayetteville Code. ***This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.***

THIS ORDINANCE WAS LEFT ON THE SECOND READING

3. **Enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections:** An ordinance to enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections into the Fayetteville Code to clarify the proper procedure for the citizens' right of the initiative and referendum. ***This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.***

THIS ORDINANCE WAS LEFT ON THE 1ST READING AND TABLED TO THE MARCH 17, 2015 CITY COUNCIL MEETING

C. New Business:

1. **RZN 14-4882 (East Side of Ruppel RD./Westside Village):** An ordinance rezoning that property described in Rezoning Petition RZN 14-4882, for approximately 21.63 acres, located on the east side of Ruppel Road North of the Boys and Girls Club, from R-PZD, Residential Planned Zoning District R-PZD 06-1884 Westside Village, to NS, Neighborhood Services.

THIS ORDINANCE WAS LEFT ON THE 1ST READING

2. **RZN 14-4883 (HWY. 112 North of Truckers Drive/Parkwest):** An ordinance rezoning that property described in Rezoning Petition RZN 14-4883, for approximately 93.04 acres, located at HWY 112 North of Truckers Drive from R-PZD 05-1796, Residential Planned Zoning District Park West, to RSF-8, Residential Single Family, 8 units per acre, and CS, Community Services.

THIS ORDINANCE WAS LEFT ON THE 1ST READING

3. **RZN 14-4916 (956 Ray Avenue/Hodous):** An ordinance rezoning that property described in Rezoning Petition RZN 14-4916, for approximately 0.32 acres, located at 956 Ray Avenue from RMF-24, Residential Multi Family, 24 units per acre, to NS, Neighborhood Services.

THIS ORDINANCE WAS LEFT ON THE 2ND READING

4. **R-PZD 14-4924 (South Shiloh Dr./Hawkins House at Shiloh Village):** An ordinance rezoning that property described in Rezoning Petition RZN 14-4924, for approximately 10.74 acres, located at South Shiloh Drive from RMF-24, Residential Multi Family, 24 units per acre, to R-PZD 14-4924, Residential Planned Zoning District Hawkins House.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5738

5. **Amend the Fayetteville Alternative Transportation and Trails Master Plan:** A resolution to amend the Fayetteville Alternative Transportation and Trails Master Plan by to clarify that separated bicycle and pedestrian trails are planned for the Interstate 49 Interchanges at Garland Avenue (Highway 112), Wedington Drive (Highway 16) and Martin Luther King, Jr. Boulevard (Highway 62), and to amend the Master Street Plan to add a typical cross section for separated bicycle and pedestrian trails.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 38-15

Announcements:

Adjournment: 6:43 p.m.

City Council Agenda Session Presentations:

City Council Tour:

Subject:	Roll				
Kinion arrived at 5:32 p.m. Alderman Schoppmeyer and Petty were absent.	Schoppmeyer	absent			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	absent			
	Tennant	✓			
	Mayor Jordan	✓			

7-0

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

Subject:	Consent				
Motion To:					
Motion By:		Approve			
Seconded:		Marsh			
		Gray			
<u>Minutes</u> <u>Approved</u> <u>Approved</u> 24-15 thru 37-15	Schoppmeyer	Absent			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Mayor Jordan				

6-0

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

Subject:		RZN 14-4864 KOUTROUMBIS APPEAL			
Motion To:			3rd Read	Pass	Reconsider
Motion By:			Gray		Long
Seconded:			Tennant		La Tour
B. 1 Unfinished Business <u>Failed</u>	Schoppmeyer	Absent	Absent	Absent	Absent
	La Tour	✓	✓	✓	✓
	Long	✓	N	✓	✓
	Gray	✓	N	✓	N
	Marsh	✓	N	N	N
	Kinion	✓	N	N	N
	Petty	Absent	Absent	Absent	Absent
	Tennant	✓	✓	✓	✓
	Mayor Jordan				

6-0

2-4

4-2

(Reconsider passed)

3-3

Failed

Subject:		REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND CHAPTER 51 AND CHAPTER 10			
Motion To:			2nd Read		
Motion By:			Long		
Seconded:			Tennant		
B. 2 Unfinished Business <u>Left on the Second Reading</u>	Schoppmeyer	Absent			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	Absent			
	Tennant	✓			
	Mayor Jordan				

6-0

Subject:	ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS				
Motion To:		<i>Table to March 17, 2015</i>			
Motion By:		<i>Tennant</i>			
Seconded:		<i>La Tour</i>			
B. 3 Unfinished Business <i>Left on the first Reading & Tabled to March 17, 2015</i>	Schoppmeyer	<i>absent</i>			
	La Tour	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	<i>absent</i>			
	Tennant	✓			
	Mayor Jordan				

6-0

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

Subject:		RZN 14-4882 (EAST SIDE OF RUPPLE RD./WESTSIDE)			
Motion To:					
Motion By:					
Seconded:					
C. 1 New Business <i>Left on the first Reading.</i>	Schoppmeyer	<i>absent</i>			
	La Tour	<i>✓</i>			
	Long	<i>✓</i>			
	Gray	<i>N</i>			
	Marsh	<i>N</i>			
	Kinion	<i>N</i>			
	Petty	<i>absent</i>			
	Tennant	<i>✓</i>			
Mayor Jordan					

*3-3
failed*

Subject:		RZN 14-4883 (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST)			
Motion To:					
Motion By:					
Seconded:					
C. 2 New Business <i>Left on the first Reading</i>	Schoppmeyer				
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
Mayor Jordan					

Subject:	RZN 14-4916 (956 RAY AVENUE/HODOUS)				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>		
Motion By:		<i>Gray</i>	<i>Marsh</i>		
Seconded:		<i>Marsh</i>	<i>Gray</i>		
C. 3 New Business <i>Left on</i> <i>the second</i> <i>Reading</i>	Schoppmeyer	<i>Absent</i>	<i>Absent</i>		
	La Tour	<i>✓</i>	<i>✓</i>		
	Long	<i>N</i>	<i>N</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Marsh	<i>✓</i>	<i>✓</i>		
	Kinion	<i>✓</i>	<i>✓</i>		
	Petty	<i>Absent</i>	<i>Absent</i>		
	Tennant	<i>✓</i>	<i>N</i>		
	Mayor Jordan	<i>✓</i>			

*6-1**4-2 (Failed)**Mayor Jordan voted yes to go to the second reading*

Subject:	R-PZD 14-4924 (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE)				
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Marsh</i>	<i>Marsh</i>		
Seconded:		<i>Gray</i>	<i>Gray</i>		
C. 4 New Business <i>passed</i>	Schoppmeyer	<i>Absent</i>	<i>absent</i>	<i>absent</i>	
	La Tour	<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</i>	<i>absent</i>	<i>absent</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				

*6-0**6-0**6-0**5438*

Subject:	AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN				
Motion To:		<i>Amend to new resolution & exhibit.</i>	<i>Approve</i>		
Motion By:		<i>Marsh</i>	<i>Marsh</i>		
Seconded:		<i>Gray</i>	<i>Gray</i>		
C. 5 New Business <i>passed</i> <i>38-15</i>	Schoppmeyer	<i>Absent</i>	<i>absent</i>		
	La Tour	<i>✓</i>	<i>✓</i>		
	Long	<i>✓</i>	<i>✓</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Marsh	<i>✓</i>	<i>✓</i>		
	Kinion	<i>✓</i>	<i>✓</i>		
	Petty	<i>Absent</i>	<i>absent</i>		
	Tennant	<i>✓</i>	<i>✓</i>		
	Mayor Jordan				

*6-0**6-0*

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



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: February 4, 2015

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of February 3, 2015

1. A resolution to authorize the purchase of one (1) Chevrolet Equinox from Chevrolet of Fayetteville in the amount of \$20,247.00 pursuant to a state procurement contract for use by the Parking Management Division.
2. A resolution to authorize the purchase of one (1) Toyota Prius from Toyota of Fayetteville in the amount of \$22,627.00 pursuant to a state procurement contract for use by the Building Safety Division, and to approve a budget adjustment.
3. A resolution to authorize the purchase of one (1) 2015 Ford F250 from Lewis Ford of Fayetteville, Arkansas in the amount of \$22,427.00 pursuant to a state procurement contract for use by the Animal Services Division.
4. A resolution to authorize the purchase of one (1) 2015 Chevrolet Equinox AWD from Chevrolet of Fayetteville in the amount of \$21,699.00 pursuant to a state procurement contract for use by the Utilities Director, and to approve a budget adjustment.
5. A resolution to authorize the purchase of one (1) 2015 Dodge Ram 1500 4x4 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,193.00 pursuant to a state procurement contract for use by the Water and Sewer Division.
6. A resolution to approve the purchase of one (1) 2015 Dodge Ram 1500 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,367.00 pursuant to a state procurement contract for use by the Police Department, and to approve a budget adjustment.

7. A resolution to authorize the purchase of a Bandit Chipper/Shredder from Henard Utility Products in the amount of \$32,522.25 plus applicable taxes pursuant to the National Joint Powers Alliance Cooperative Purchasing Agreement for use by the Parks and Recreation Department and Transportation Division.
8. A resolution to approve the purchase of one (1) 2015 Non Motor Pool Replacement Vehicle from Bale Chevrolet in the amount of \$32,371.00 with options pursuant to a state procurement contract for use by the Police Department, and to approve a budget adjustment.
9. A resolution approving an amendment to the Jail Services Interlocal Agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2015.
10. A resolution to express the willingness of the City of Fayetteville to utilize federal-aid funds for the construction of the Sain Street connection from North Front Street to Vantage Boulevard.
11. A resolution to approve an agreement with Southwestern Electric Power Company to participate in an energy efficiency rebate program in the amount of \$4,967.83, and to approve a budget adjustment.
12. A resolution to approve a utility work agreement with Swepeco of Fayetteville, Arkansas for utility relocations as part of the Highway 112 widening project between Razorback Road and Garland Avenue, with the amount to be paid by the City of Fayetteville not to exceed \$91,878.59.
13. A resolution to approve a contract with Grant Thornton LLP in the amount of \$87,500.00 to provide independent audit services to the City of Fayetteville.
14. A resolution to designate approximately 14.2 acres of city property as training grounds for the Fayetteville Fire Department.
15. A resolution to amend the Fayetteville Alternative Transportation and Trails Master Plan by to clarify that separated bicycle and pedestrian trails are planned for the Interstate 49 interchanges at Garland Avenue (Highway 112), Wedington Drive (Highway 16) and Martin Luther King, Jr. Boulevard (Highway 62) and remove the on-street linkage designation from a portion of Highway 112 from Howard Nickell Road to Ernie Jacks Boulevard, a portion of Highway 16 from Meadowlands Drive to North Street and a portion of Highway 62 from Ruppel Road to South School Avenue; and to amend the Master Street Plan to add a typical cross section for separated bicycle and pedestrian trails.

City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323



Meeting Agenda - Final

Tuesday, February 3, 2015

5:30 PM

City Hall Room 219

City Council

Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Martin W. Schoppmeyer, Jr. Ward 3
John S. La Tour Ward 4
Alan Long Ward 4

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:**

A. 1 2014-0494 Approval of the January 20, 2015 City Council meeting minutes.

A. 2 2015-0017 CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) CHEVROLET EQUINOX FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$20,247.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE PARKING MANAGEMENT DIVISION

Attachments: [SRP 2-3-15 PRED Equinox 1282](#)

A. 3 2015-0019 TOYOTA OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) TOYOTA PRIUS FROM TOYOTA OF FAYETTEVILLE IN THE AMOUNT OF \$22,627.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE BUILDING SAFETY DIVISION, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 BLSF Prius 1283](#)
 [BA 2-3-15 BLSF Prius 1283](#)

A. 4 2015-0021 LEWIS FORD OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 FORD F250 FROM LEWIS FORD OF FAYETTEVILLE, ARKANSAS IN THE AMOUNT OF \$22,427.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE ANIMAL SERVICES DIVISION

Attachments: [SRP 2-3-15 ANSV Pickup 2193](#)

A. 5 2015-0025 CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 CHEVROLET EQUINOX AWD FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$21,699.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE UTILITIES DIRECTOR, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 UDIR EQUINOX 1285](#)
 [BA 2-3-15 UDIR Equinox 1285](#)

A. 6 2015-0032 LANDERS DODGE OF BENTON:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 4X4 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,193.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE WATER AND SEWER DIVISION

Attachments: [SRP 2-3-15 WSMN Pickup 2192](#)

A. 7 2015-0033 LANDERS DODGE OF BENTON:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,367.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 PDPT pickup 2190](#)
 [BA 2-3-15 PDPT pickup 2190](#)

A. 8 2015-0016 HENARD UTILITY PRODUCTS:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A BANDIT CHIPPER/SHREDDER FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF \$32,522.25 PLUS APPLICABLE TAXES PURSUANT TO THE NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT FOR USE BY THE PARKS AND RECREATION DEPARTMENT AND TRANSPORTATION DIVISION

Attachments: [SRP 2-3-15 chipper 9210](#)

A. 9 2015-0028 BALE CHEVROLET:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 NON-MOTOR POOL REPLACEMENT VEHICLE FROM BALE CHEVROLET IN THE AMOUNT OF \$32,371.00 WITH OPTIONS PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [CC Packet - Non-motor Pool](#)
 [BA - Non-motor Pool](#)

A. 10 2015-0022 WASHINGTON COUNTY JAIL SERVICES INTERLOCAL AGREEMENT AMENDMENT:

A RESOLUTION APPROVING AN AMENDMENT TO THE JAIL SERVICES INTERLOCAL AGREEMENT WITH WASHINGTON COUNTY, ARKANSAS, CONTINUING FEES AT \$60.00 PER BOOKED PRISONER FOR CALENDAR YEAR 2015

Attachments: [CC Packet - 2015 Jail Contract](#)

A. 11 2015-0013 EXPRESS THE WILLINGNESS FOR SAIN STREET CONNECTION:

A RESOLUTION TO EXPRESS THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE CONSTRUCTION OF THE SAIN STREET CONNECTION FROM NORTH FRONT STREET TO VANTAGE BOULEVARD

Attachments: [Sain Street Connection.pdf](#)

A. 12 2015-0015 SOUTHWESTERN ELECTRIC POWER COMPANY AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH SOUTHWESTERN ELECTRIC POWER COMPANY TO PARTICIPATE IN AN ENERGY EFFICIENCY REBATE PROGRAM IN THE AMOUNT OF \$4,967.83, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [Dickson Street Lighting Incentive Packet](#)
 [BA 2015 Dickson Street Lighting Incentive](#)

A. 13 2015-0034 SWEPCO OF FAYETTEVILLE UTILITY WORK AGREEMENT:

A RESOLUTION TO APPROVE A UTILITY WORK AGREEMENT WITH SWEPCO OF FAYETTEVILLE, ARKANSAS FOR UTILITY RELOCATIONS AS PART OF THE HIGHWAY 112 WIDENING PROJECT BETWEEN RAZORBACK ROAD AND GARLAND AVENUE, WITH THE AMOUNT TO BE PAID BY THE CITY OF FAYETTEVILLE NOT TO EXCEED \$91,878.59

Attachments: [2015-0034 SWEPCO Utility Relocation Agreement](#)

A. 14 2015-0020 GRANT THORNTON LLP CONTRACT:

A RESOLUTION TO APPROVE A CONTRACT WITH GRANT THORNTON LLP IN THE AMOUNT OF \$87,500.00 TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE

Attachments: [2015-0020 Grant Thornton audit](#)
[DC TO MAYOR, CITY COUNCIL RE GRANT THORNTON CONTRACT LANGU](#)

A. 15 2014-0268 TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT:

A RESOLUTION TO DESIGNATE APPROXIMATELY 14.2 ACRES OF CITY PROPERTY AS TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT

Attachments: [SRF & SRM Fire Training Grounds](#)

B. Unfinished Business:**B. 1 2014-0572 RZN 14-4864 KOUTROUMBIS APPEAL:**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26 ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

Attachments: [14-4864 CC Packet](#)
[14-4864 CC ORD](#)

This ordinance was left on the First Reading at the January 6, 2015 City Council meeting. This ordinance was left on the Second Reading at the January 20, 2015 City Council meeting.

**B. 2 2015-0003 REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND
CHAPTER 51 AND CHAPTER 10:**

AN ORDINANCE TO REPEAL AND REPLACE TITLE V PUBLIC WORKS, ARTICLE III DISCHARGE AND PRETREATMENT REGULATIONS; TO AMEND § 51.137 MONTHLY SEWER RATES; TO AMEND § 51.138 DEFINITIONS PERTAINING TO WATER AND SEWER RATES; TO AMEND § 51.999 PENALTY; AND TO AMEND § 10.99 GENERAL PENALTY OF THE FAYETTEVILLE CODE

Attachments:

[2015-0003 Discharge and Pretreatment Regulation Changes A-III A-V
EXHIBIT A & B](#)

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

**B. 3 2015-0008 ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE
AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS:**

AN ORDINANCE TO ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

Attachments:

[Agenda Packet Ord § 36.20](#)

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

C. New Business:

**C. 1 2015-0023 RZN 14-4882 (EAST SIDE OF RUPPLE RD./WESTSIDE
VILLAGE):**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

[14-4882 Agenda Item](#)
[14-4882 Exhibit A and B](#)
[14-4882 CC ORD](#)

- C. 2 2015-0029 RZN 14-4883 (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST):**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND CS, COMMUNITY SERVICES

Attachments:

[SRF and Reports 14-4883](#)

[Exhibits A & B 14-4883](#)

[ORD 14-4883](#)

- C. 3 2015-0030 RZN 14-4916 (956 RAY AVENUE/HODOUS):**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

[SRF and Reports 14-4916](#)

[Exhibits A & B 14-4916](#)

[ORD 14-4916](#)

- C. 4 2015-0031 R-PZD 14-4924 (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE):**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE

Attachments:

[SRF and Reports 14-4924](#)

[Exhibits A , B & Booklet 14-4924](#)

[ORD 14-4924](#)

C. 5 2015-0040 AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN:

A RESOLUTION TO AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN BY TO CLARIFY THAT SEPARATED BICYCLE AND PEDESTRIAN TRAILS ARE PLANNED FOR THE INTERSTATE 49 INTERCHANGES AT GARLAND AVENUE (HIGHWAY 112), WEDINGTON DRIVE (HIGHWAY 16) AND MARTIN LUTHER KING, JR. BOULEVARD (HIGHWAY 62), AND TO AMEND THE MASTER STREET PLAN TO ADD A TYPICAL CROSS SECTION FOR SEPARATED BICYCLE AND PEDESTRIAN TRAILS

Attachments: [2014-0040 Trails Master Plan & Master Street Plan Modification](#)

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

G. 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, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0040

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: C. 5

AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN:

A RESOLUTION TO AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN BY TO CLARIFY THAT SEPARATED BICYCLE AND PEDESTRIAN TRAILS ARE PLANNED FOR THE INTERSTATE 49 INTERCHANGES AT GARLAND AVENUE (HIGHWAY 112), WEDINGTON DRIVE (HIGHWAY 16) AND MARTIN LUTHER KING, JR. BOULEVARD (HIGHWAY 62), AND TO AMEND THE MASTER STREET PLAN TO ADD A TYPICAL CROSS SECTION FOR SEPARATED BICYCLE AND PEDESTRIAN TRAILS

WHEREAS, on April 1, 2014, the City Council approved Resolution No. 67-14 supporting the inclusion on separated bicycle and pedestrian trails at the Interstate 49 interchanges at Garland Avenue, Wedington Drive and Martin Luther King, Jr. Boulevard; and

WHEREAS, pursuant to its policy, the Arkansas Highway and Transportation Department has incorporated bike lanes rather than separated trails in the initial design of the interchanges because the separated trails are not included in the City's current Alternative Transportation and Trails Master Plan or the current Master Street Plan; and

WHEREAS, the plans must be updated in order for the Arkansas Highway and Transportation Department to consider incorporating separated bicycle and pedestrian trails in the final design of the interchanges.

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 the Fayetteville Alternative Transportation and Trails Master Plan as shown in Exhibits A-2, B-2 and C-2, attached hereto and made a part hereof, to clarify that separated bicycle and pedestrian trails are planned for the Interstate 49 interchanges at Garland Avenue (Highway 112), Wedington Drive (Highway 16) and Martin Luther King, Jr. Boulevard (Highway 62).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends the Master Street Plan to add a typical cross section for separated bicycle and pedestrian trails as shown in Exhibit D, attached hereto and made a part hereof.

City of Fayetteville Staff Review Form

2015-0040

Legistar File ID

February 3rd 2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Matt Mihalevich

1/23/2015

Engineering /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

- 1.) A modification to the Fayetteville Alternative Transportation & Trails Master Plan to clarify that separated bicycle and pedestrian trails are planned, for consideration by the Arkansas State Highway & Transportation Department as they improve the intersections of I-49 with Garland Ave. (Hwy 112), Wedington Dr. (Hwy 16) and Martin Luther King Blvd. (Hwy 62) as shown on the attached exhibits A-2, B-2 and C-2.
- 2.) A modification of the City's Master Street Plan to add a typical cross section as shown in Exhibit D.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	NA	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

TO: Mayor Jordan
City Council

COPY: Don Marr, Chief of Staff

FROM: Jeremy Pate, Development Services Director

DATE: January 26, 2015

SUBJECT: Request for Walk-On Item – I-49 Interchange improvements

Attached is an agenda packet prepared by staff related to on-going designs that the Arkansas Highway and Transportation Department has indicated is time-sensitive. Staff is requesting the City Council permit this item to be added at the agenda session in order to be considered for approval at the meeting of February 03, 2015.

As you are aware, the Arkansas Highway & Transportation Department (AHTD) has been in the process of preparing concept designs for interchange improvements at the Hwy 16, Hwy 62, and Hwy 112 interchanges within the city limits. In April of 2014, staff presented comments related to concept designs to the City Council and through Resolution 67-14, these comments were sent to the AHTD by Mayor Jordan. We recently received feedback related to one specific interchange, Hwy 112, in which the accommodation for pedestrians and cyclists as a separated facility (multi-use trail) would not be permitted, because our master plans show “on-street linkages” and bike lanes instead. Rather, bike lanes would be installed; additional sidepaths or a separated facility would be considered, but only at the cost of the City. Because of the important safety considerations of this matter, staff visited with the AHTD Director and his staff on Wednesday, Jan 21 in Little Rock to discuss. It was recommended that the AHTD would review the Council and staff’s request for a separated facility rather than bike lanes for a short distance within the interchange area if our master plans were modified to reflect this desired improvement. Attached to this memo is a request to amend the City’s Alternative Transportation and Trails Master Plan and the Master Street Plan, accordingly.

Staff is respectfully requesting this item be added to your agenda due to the timeliness in the AHTD’s preparation of plans. We received this guidance on Wednesday of last week and were told that 60% complete design drawings for at least the Hwy 112 interchange have been completed, therefore any changes at this point would need to be made swiftly.

MEETING OF FEBRUARY 3RD 2015

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Chris Brown, City Engineer

FROM: Matt Mihalevich, Trails Coordinator

DATE: January 23rd, 2015

SUBJECT: 2014-0040 Transportation Master Plan Modification

RECOMMENDATION:

Staff recommends,

- 1.) A modification to the Fayetteville Alternative Transportation & Trails Master Plan to clarify that separated bicycle and pedestrian paths/trails are planned, for consideration by the Arkansas State Highway & Transportation Department as they improve the intersections of I-49 with Garland Ave. (Hwy 112), Wedington Dr. (Hwy 16) and Martin Luther King Blvd. (Hwy 62) as shown on the attached exhibits A-2, B-2 and C-2.
- 2.) A modification of the City's Master Street Plan to add a typical cross section as shown in Exhibit D.

BACKGROUND:

On January 21st 2015, City staff met with Scott Bennett, Director of the Arkansas State Highway Department (AHTD) regarding the proposed interchange improvements along I-49 with regard to bicycle and pedestrian connectivity. The 2009 Fayetteville Alternative Transportation and Trails Master Plan proposes street linkages across I-49 at Garland Ave. (Hwy 112) and Wedington Dr. (Hwy 16). At the interchange of I-49 and Martin Luther King Jr. Blvd. (Hwy 62), both a street linkage and a separated trail are shown – see Exhibits A-1, B-1 and C-1. The designation of “street linkage” has been widely interpreted as bike lanes, but in some cases with high vehicular volume and speed, a separated bicycle and pedestrian trail is recommended instead of an on-street facility. In addition, the adopted street cross section in the Master Street Plan further indicates the planned provision of bike lanes through these interchanges on the State highway system, which are classified as principal arterials. On April 1st, 2014 the City Council approved resolution 67-14 supporting the inclusion of a separated bicycle and pedestrian trail instead of the proposed bike lanes at all three interchanges and a letter was sent by Mayor Jordan to AHTD expressing the City Council's desire.

AHTD has a policy to include bicycle facilities on their projects if the local municipality has the facility included in an adopted master plan. Since the most current City trails master plan shows “street linkage” and the Master Street Plan cross section indicates bike lanes, AHTD has followed their policy and included the bike lanes. A separated bicycle and pedestrian trail

cannot be considered a substitute to bike lanes, therefore the pedestrian trail would only be included if the City pays the additional cost.

DISCUSSION:

In order to clarify and provide more guidance to AHTD on the type of facility preferred by the City, staff proposes modifying the Trails Master Plan and Master Street Plan in the three interchange project areas to indicate the planned infrastructure more specifically. Due to the high traffic volume at these three intersections, staff proposes removal of the street linkage designation and replacement with a separated bicycle and pedestrian path/trail through each of the interchanges as shown on exhibits A-2, B-2, C-2 and the proposed typical cross section shown in exhibit D. As we continue to evaluate the usage of our alternative transportation system by our residents, we are finding that the separated trail along the side of major roadways provides a more comfortable facility and receives higher usage than bike lanes in many cases. In each of these locations, there are sections of existing trails that are either planned for construction within the next 2-3 years (so that they will be done by the end of construction of the interchanges), along with sections that have not been scheduled due to the lack of connections across I-49, therefore a separated facility for bicycles and pedestrians is safest and most appropriate at these locations.

BUDGET/STAFF IMPACT:

None.

Attachments:

2014-0598 Staff Review Memo
2009 Fayetteville Alternative Transportation & Trails Master Plan
Exhibit A-1 Garland Avenue (Hwy 112) Current Master Plan Detail
Exhibit A-2 Wedington Dr. (Hwy 16) Current Master Plan Detail
Exhibit A-3 Martin Luther King Jr. Blvd. (Hwy 62) Current Master Plan Detail
Proposed Fayetteville Alternative Transportation & Trails Master Plan Modifications
Exhibit A-1 Garland Avenue (Hwy 112) Proposed Modifications Detail
Exhibit A-2 Wedington Dr. (Hwy 16) Proposed Modifications Detail
Exhibit A-3 Martin Luther King Jr. Blvd. (Hwy 62) Proposed Modifications Detail
Master Street Plan – Interchanges Identified.
Exhibit D - Typical Proposed Cross Section
Resolution 67-14 and letter to AHTD
ATAC recommendation for Garland Ave. Hwy 112
E-mail from Trinity Smith

City of Fayetteville, AR Master Trail Plan

Fayetteville Alternative Transportation & Trails Master Plan (FATT Plan)

September 1st, 2009



This certifies that this is the official Master Trail Plan map referred to in Resolution No. 192-09 of the City of Fayetteville.

Adopted by the Fayetteville City Council on September 1st, 2009 - Resolution No. 192-09

Frank J. Jackson
Mayor
Andrea G. Smith
City Clerk

Master Trail Plan

Future Trail
 Future Street Linkage

Current Trails

Multi-Use Trail
 Nature Trail
 Park Trail
 Street Linkage

Corresponding # on Map (Color Coded)	Future Trail Name
1	718 Connection
2	Arkansas-Missouri Rail Trail
3	Bradley Park Trail
4	Broyles Ave Connection
5	Canterbury Loop
6	Chelsea Connection
7	Clabber Creek Trail
8	Clabber Creek Trail - North Spur
9	Clear Creek Trail
10	Country Club Link
11	Crossover Road Connection
12	Devo Park Trail
13	East Power Line Trail
14	Finger Road/Water Easement Trail
15	Frison Trail
16	Futrell Trail
17	Greathouse Park Trail
18	Hambling Creek Trail
19	Hambling Creek Trail Extension
20	I-44/Crocy Connection
21	Kastler Trail
22	Kestrel Trail
23	Lake Fayetteville Trail
24	Lighthouse Trail Link
25	Martin Luther King Blvd Connection
26	Morningside Trail Connection
27	Mount Sequoyah Trail
28	Mud Creek Trail
29	Mud Creek Trail Connection
30	Mud Creek Trail Redo
31	Nickaska Creek Trail
32	Oak Ridge Trail
33	Old Farmington Road Trail
34	Old Wire Connection
35	Overcrest Trail Connection
36	Owl Creek Trail
37	Park Plaza Connection
38	Porter Road Connection
39	Pump Station Spur
40	Quarry Trace Connection
41	Ray Ave Connection
42	Red Oak Trail
43	Rockwood Trail Connection
44	Scul Creek Trail Extension
45	Shiloh Trail
46	Shiloh Street Connection
47	St. Paul Trail
48	Sublett Creek Trail
49	Town Branch Creek Trail
50	Town Creek Corridor
51	Tsu-Li-Gi Trail
52	U of A Farm Link
53	Van Buren Connection
54	Vandergriff Trail
55	Walker Park Connection
56	West Loop Trail
57	White River West Trail

"Corresponding # on Map (Color Coded with "Current Trails" Symbology)	Current Trail or Street Link Name
2	Clabber Creek Trail
3	Frison Trail
4	Front Street Side Path
5	Gordon Long Park Trail
6	Gulley Park Trail
7	Hambling Creek Trail
8	Joyce Blvd Side Path
9	Kitty Creek Trail
10	Lake Fayetteville Trail
11	Martin Luther King Blvd Side Path
12	Mud Creek Trail
13	Razorback Side Path
14	Red Oak Trail
15	Rolling Hills Bike Lane
16	Saint Paul Trail
17	Scul Creek Trail
18	Shiloh Trail
19	Town Branch Creek Trail
20	Vantage Dr Bike Lane
21	Walker Park Trail
22	Washington Side Path
23	Wilson Park Trail
24	Zion Rd Bike Lane



0 0.5 1
Miles

Hillside-Hilltop Overlay District
 Park
 Lake
 Stream
 School
 Fayetteville City Limits
 Street (Major)
 Street
 Railroad

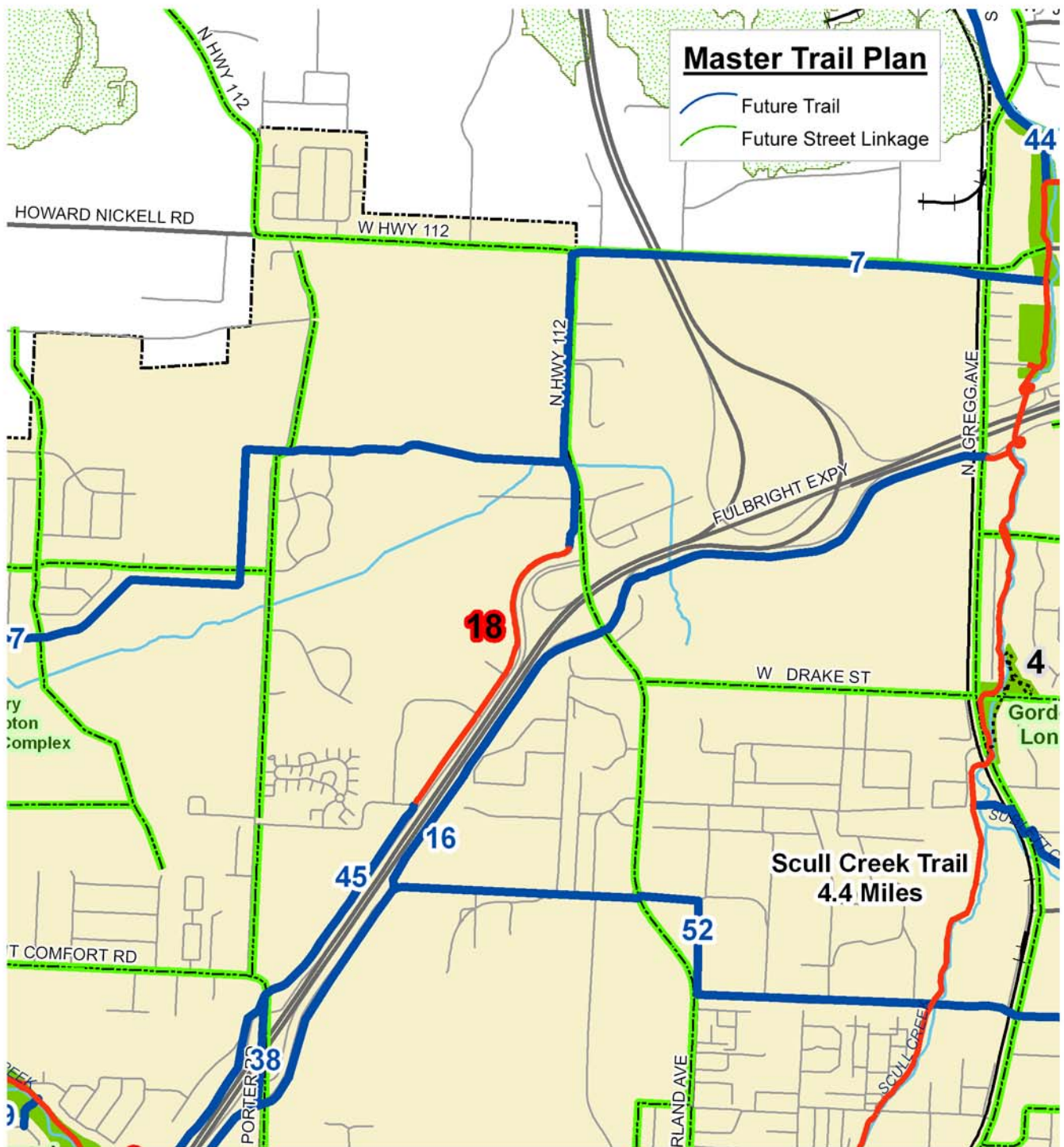


Exhibit A-1
2009 Adopted Alternative
Transportation & Trails Master Plan
Hwy. 112 (Garland Ave.) & I-49



Exhibit B -1
2009 Adopted Alternative
Transportation & Trails Master Plan
Hwy 16 (Wedington Dr.) & I-49



CITY OF
Fayetteville
ARKANSAS

Exhibit C-1
2009 Adopted Alternative
Transportation & Trails Master Plan
Hwy. 62 (Martin Luther King Jr. Blvd.) & I-49

Fayetteville Alternative Transportation & Trails Master Plan (FATT Plan)
JANUARY 2015

Future Trail

Future Street Linkage

Multi-Use Trail

Nature Trail

Park Trail

Street Linkage

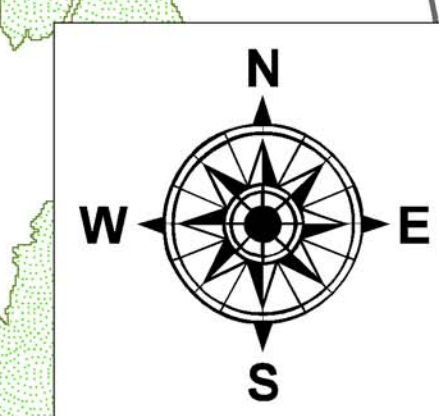
**Remove Future Street Linkage
And Add Future Trail from I-49
East Bound Ramps to Howard
Nickell Rd. See Exhibit A-2**

Remove Future Street Linkage And Add Future Trail from Meadowlands to West End Dr. See Exhibit B-2

**Remove Future Street Linkage And
Add Future Trail from the Ruppel Rd.
to the East Bound Ramps of I-49
See Exhibit C-2**

Corresponding # on Map (Color Coded)	Future Trail Name
1	71B Connection
2	Arkansas-Missouri Rail Trail
3	Braden Park Trail
4	Broyles Ave Connection
5	Canterbury Loop
6	Chelusa Connection
7	Clabber Creek Trail
8	Clabber Creek Trail - North Spur
9	Clear Creek Trail
10	Country Club Link
11	Crossover Road Connection
12	Davis Park Trail
13	East Power Line Trail
14	Finger Road/Water Easement Trail
15	Frisco Trail
16	Futral Trail
17	Greathouse Park Trail
18	Hamesting Creek Trail
19	Hamesting Creek Trail Extension
20	I-540/Gregg Connection
21	Kessler Trail
22	Kestrel Trail
23	Lake Fayetteville Trail
24	Lighton Trail Link
25	Max Lufher King Blvd Connection
26	Morningside Trail Connection
27	Mount Sequoyah Trail
28	Mud Creek Trail
29	Mud Creek Trail Connection
30	Mud Creek Trail Redo
31	Nickaska Creek Trail
32	Oak Ridge Trail
33	Old Farmington Road Trail
34	Old Wire Connection
35	Overcrest Trail Connection
36	Owl Creek Trail
37	Park Place Connection
38	Porter Road Connection
39	Pump Station Spur
40	Quarry Trace Connection
41	Ray Ave Connection
42	Red Oak Trail
43	Rockwood Trail Connection
44	Scull Creek Trail Extension
45	Shiloh Trail
46	Skelton Street Connection
47	St. Paul Trail
48	Sublett Creek Trail
49	Town Branch Creek Trail
50	Town Creek Corridor
51	Tsa-La-Gi Trail
52	U of A Farm Link
53	Van Buren Connection
54	Vandergriff Trail
55	Walker Park Connection
56	West Loop Trail
57	White River West Trail

*Corresponding # on Map (Color Coded with "Current Trails" Symbology)	Current Trail or Street Link Name
1	Clabber Creek Trail
2	Frisco Trail
3	Front Street Side Path
4	Gordon Long Park Trail
5	Gulley Park Trail
6	Hamesteing Creek Trail
7	Joyce Blvd Side Path
8	Kitty Creek Trail
9	Lake Fayetteville Trail
10	Martin Luther King Blvd Side Path
11	Mud Creek Trail
12	Raven Trail
13	Razorback Side Path
14	Red Oak Trail
15	Rolling Hills Bike Lane
16	Saint Paul Trail
17	Scout Creek Trail
18	Shiloh Trail
19	Town Branch Creek Trail
20	Vantage Dr Bike Lane
21	Walker Park Trail
22	Weddington Side Path
23	Wilson Park Trail
24	Zion Rd Bike Lane



A horizontal scale bar with tick marks at 0, 0.5, and 1. The word "Miles" is written to the right of the bar.



This certifies that this is the official Master Trail Plan map referred to in Resolution No. 192-09 of the City of Fayetteville.

Adopted by the Fayetteville City Council on
September 1st, 2009 Resolution No. 192-09

Mayor

City Clerk



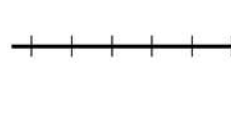
Fayetteville City Limits



Street (Major)

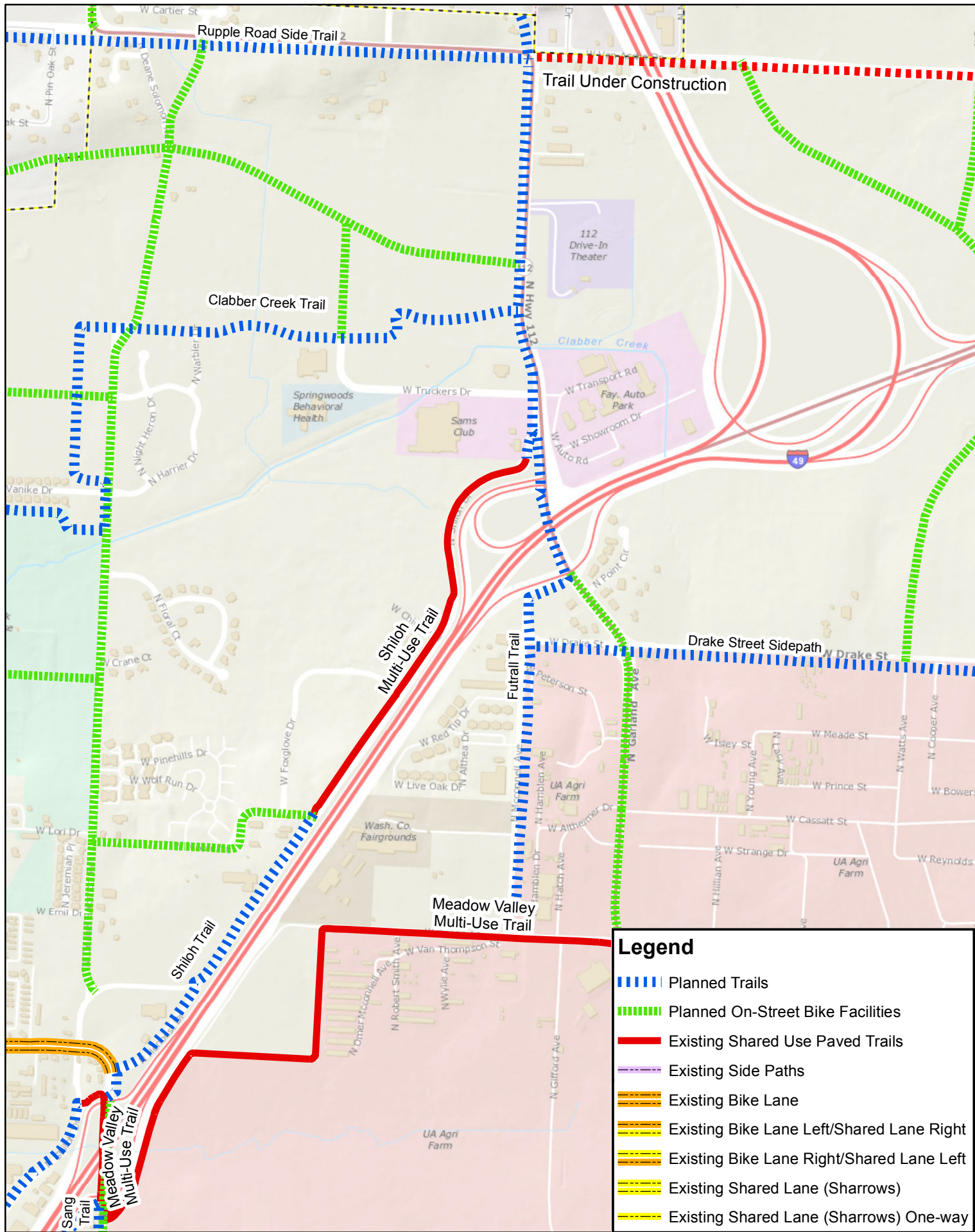


Street



Railroad

Source: Trails Coordinator, City of Fayetteville, AR. Fayetteville Planning Division. GIS Office, City Hall, Fayetteville, AR.
Cartographer: Susan K Plesse 2006, with assistance from Matt Mihalevich
* Current trails that are not labeled with a corresponding color code number either do not have names or are Nature Trails intentionally left off of the Current Trails List.
Map Document: G:\GIS2\Projects\2009PATF\Plan\Maps\2009MasterTrailPlan (Draft).mxd



0 250 500 1,000 1,500 2,000 2,500
Feet

Exhibit A-2
Hwy. 112 (Garland Ave.) & I-49
Proposed Bicycle Facilities

January 2015



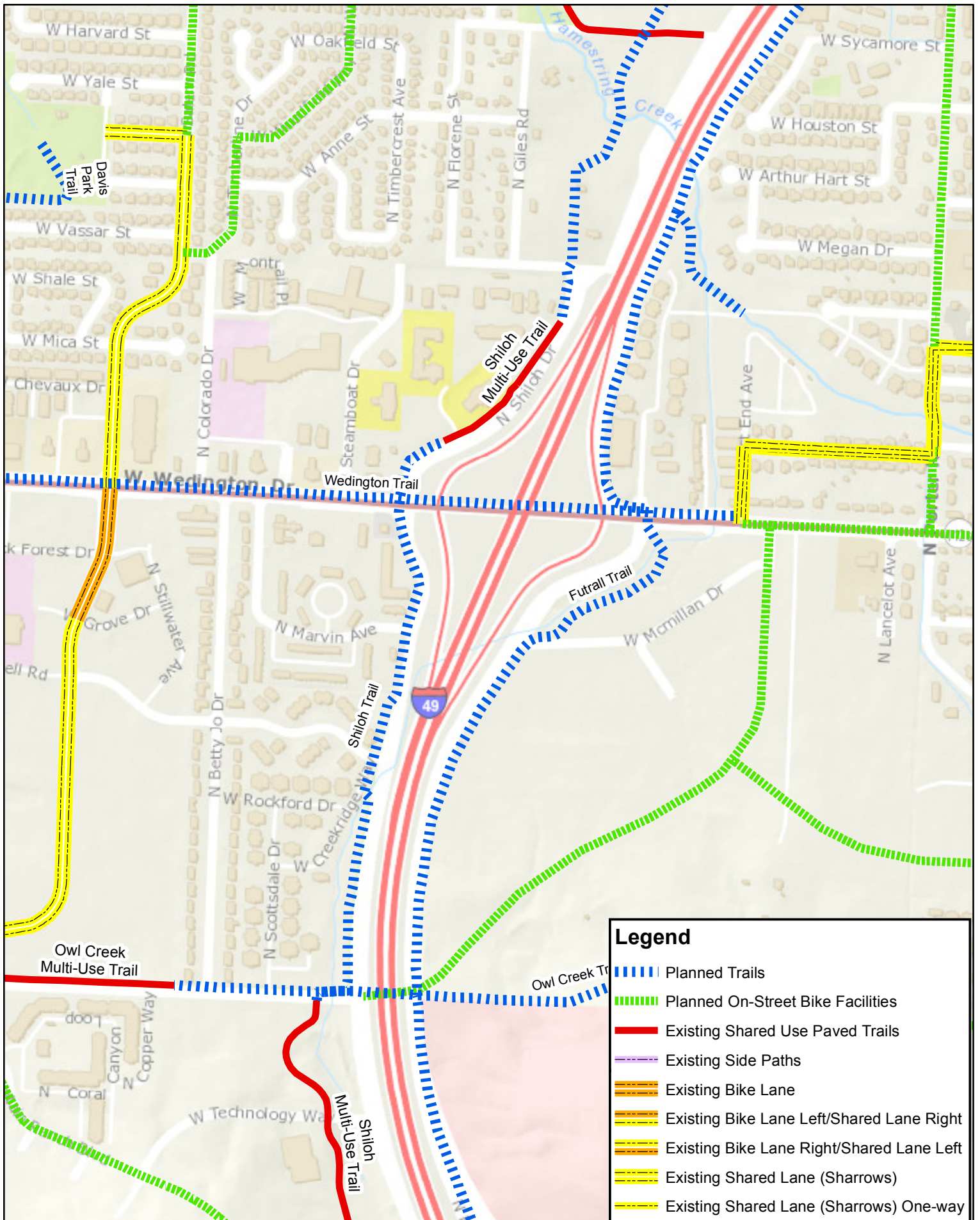


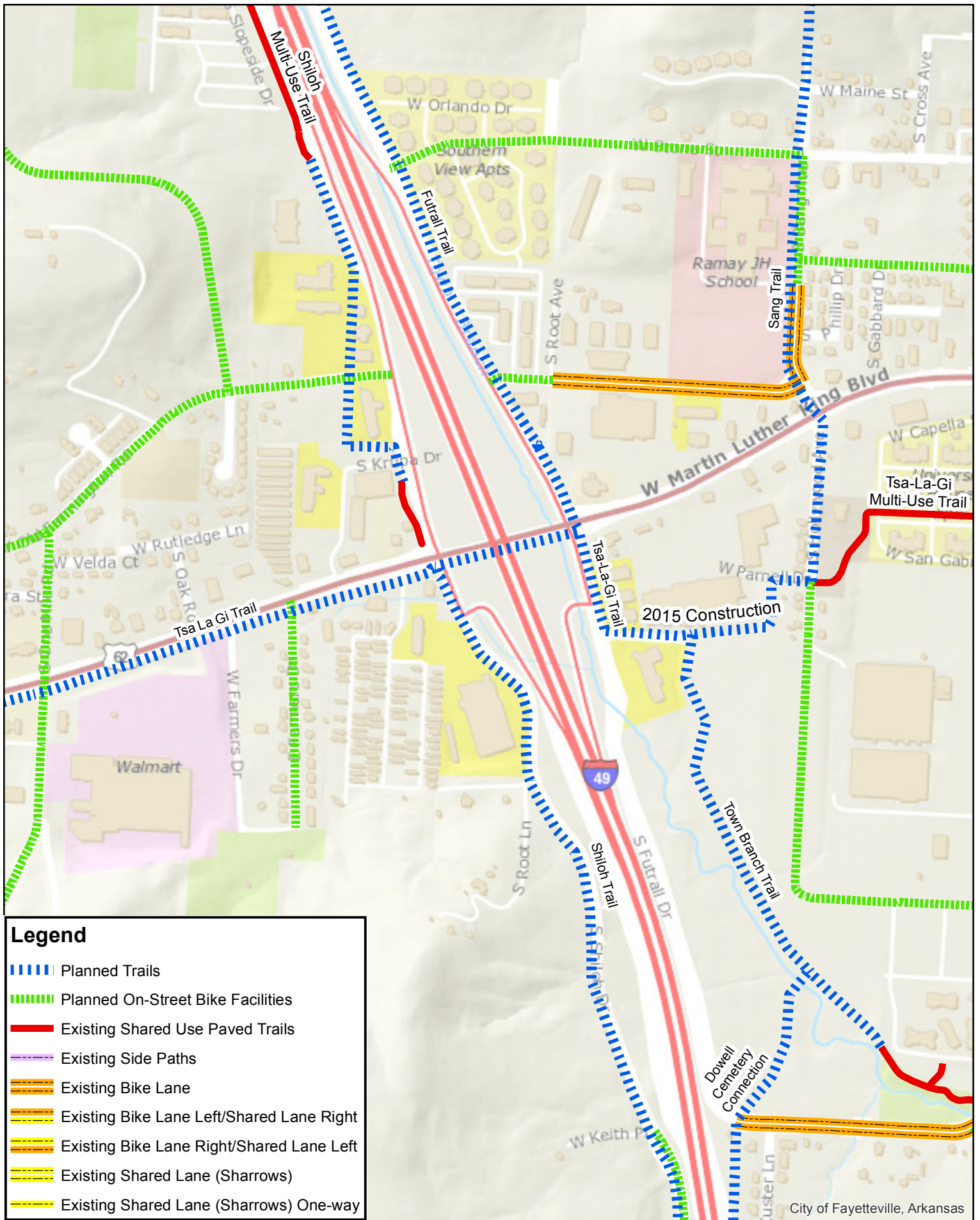
Exhibit B-2

Hwy. 16 (Wedington Dr.) & I-49
Proposed Bicycle Facilities

January 2015



CITY OF
Fayetteville
ARKANSAS



0 150300 600 900 1,200 1,500
Feet

Hwy. 62 (Martin Luther King Blvd.) & I-49
Proposed Bicycle Facilities

January 2015



CITY OF
Fayetteville
ARKANSAS

City Plan 2030

Master Street Plan

Fayetteville
ARKANSAS

Adopted by the Fayetteville City Council on
August 16, 2011 Resolution No. 146-11

Mayor *David J. ...*
City Clerk *Dorinda C. ...*

Proposed Principal Arterial at
Freeways/Expressways Cross
Section as Shown on Exhibit D.

- Downtown Master Plan**
- ST-37
 - ST-40 (ONE WAY)
 - ST-45
 - LOCAL URBAN
 - MS-63
- EXISTING STREETS**
- U of A Campus Master Plan
 - COLLECTOR
 - FREEWAY/EXPRESSWAY
 - MINOR ARTERIAL
 - PRINCIPAL ARTERIAL
 - PRIN ARTERIAL PKWY
- PLANNED STREETS**
- COLLECTOR
 - FREEWAY/EXPRESSWAY
 - MINOR ARTERIAL
 - PRINCIPAL ARTERIAL
 - PRIN ARTERIAL PKWY
 - LOCAL
- Future Trails
- Multi-Use Trails--Existing
- Platted Street
- Enduring Green Network
 - Stream_Polygons
 - 100 YEAR FLOOD
- Planning Area Boundary
- Hillside/Hilltop Overlay District
 - PARK
 - Other Cities
 - Quarter Mile Grid

0 0.5 1 Mile



12.2.6a

PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS

PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS are designed to efficiently accommodate high volumes of merging and turning traffic. Pedestrian and Bicycle accommodations are recommended to be separated from vehicle traffic and crosswalks are recommended to be signalized or grade separated. The separated pedestrian and bicycle path/trail will typically be included for short sections, connecting to existing or planned trails on either side of the interstate.

6a PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS:

Design Service Volume:	< 17,600 vpd
Desired Operating Speed:	30-40 mph
Travel Lanes:	min. four 11' lanes
Bicycle Lanes:	None
Median:	None
Parking:	None
Paved Width:	min. 83'
Right of Way:	min. 83'
Sidewalks:	One side min. 5' wide
Greenspace:	None
Bike Path/Trail:	One side 14' wide separated

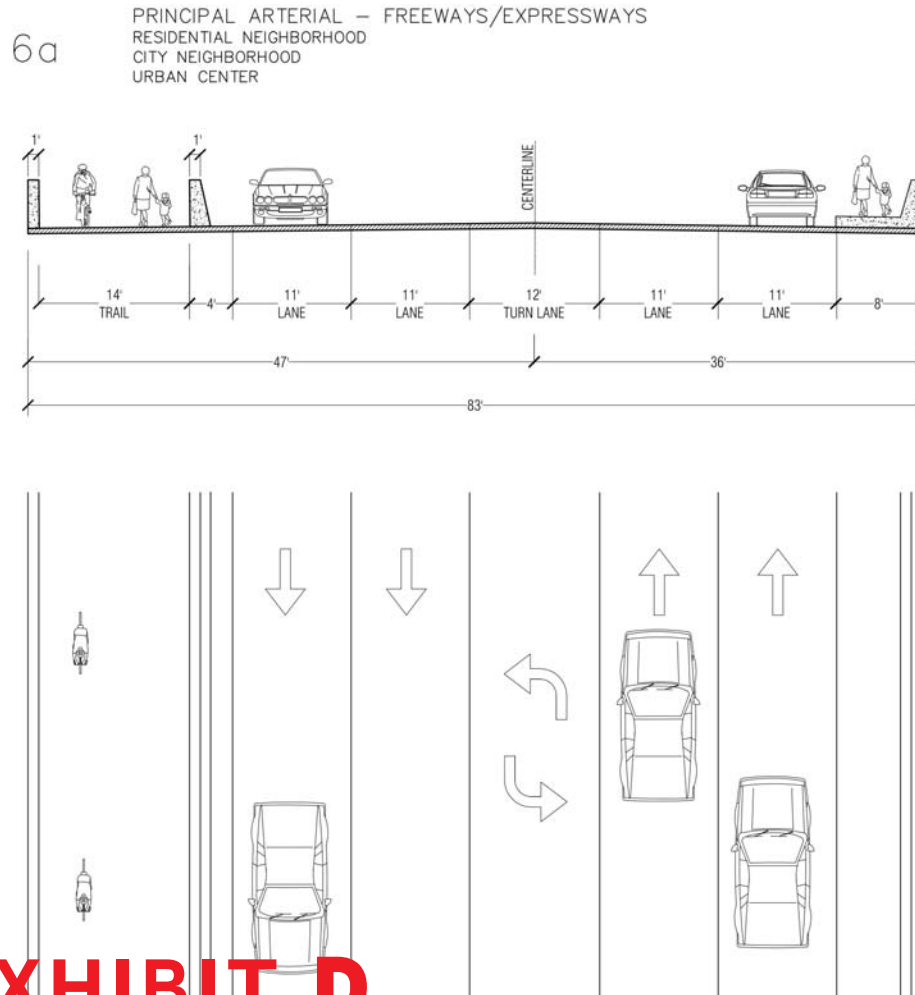


EXHIBIT D



RESOLUTION NO. 67-14

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S AGREEMENT WITH THE RECOMMENDATIONS OF MAYOR JORDAN, DEVELOPMENT DIRECTOR JEREMY PATE AND CITY ENGINEER CHRIS BROWN CONCERNING THE PROPOSED HIGHWAY 16W AND I-540 INTERCHANGE IMPROVEMENTS AND THE HIGHWAY 62 AND I-540 INTERCHANGE IMPROVEMENTS

WHEREAS, the Fayetteville City Council thanks the Arkansas Highway Commission and the Arkansas Highway and Transportation Department for their plans and commitment to improve the I-540 interchanges with Highway 62 (MLK) and Highway 16 (Wedington); and

WHEREAS, the City Council also thanks the Arkansas Highway and Transportation Department for providing us an opportunity to comment upon the proposals and for its willingness to listen to local citizens, business, government concerning these two vitally important highway improvements.

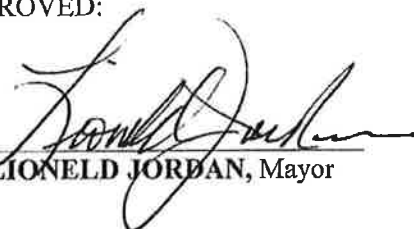
NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby reports that it has studied the current proposals for the I-540 interchanges with Highway 62 and Highway 16 as well as the analysis of suggested improvements by Mayor Jordan, Development Services Director Jeremy Pate and City Engineer Chris Brown and hereby have determined that the suggested changes by the City of Fayetteville Administration are reasonable and pragmatic and should increase safety, diminish congestion, better accommodate bicycle and pedestrian traffic through these interchanges.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that the Arkansas Highway and Transportation Division incorporate as many and as much of the City of Fayetteville proposals (attached as Exhibit A) into its final design as are feasible and practical.

PASSED and APPROVED this 1st day of April, 2014.

APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

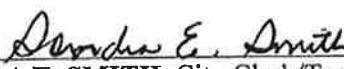
By: 
SONDRA E. SMITH, City Clerk/Treasurer



Exhibit A
To
Resolution NO. 67-14

The Fayetteville City Council supports the Arkansas Highway and Transportation Department in its efforts to improve the interchanges at Highway 16 and Highway 62 along I-540, but requests that the following comments be considered during the design:

- 1) Provision of bicycle and pedestrian access across I-540: Due to the volume of traffic and increased number of lanes proposed, a shared use trail on one side of the roadway at both interchanges is preferred over traditional bike lanes.
- 2) Use of Median for Access Management. Medians for access management are recognized as an important feature for safety and traffic management. However, the limitation on access should be balanced with providing existing and future businesses with adequate provisions for the public to enter and exit their property:
 - a) Consider a signalized median break at Hwy 16 and Tahoe Circle, to provide access for both vehicular traffic and pedestrians onto and across Highway 16.
 - b) Consider an additional median break on Highway 62 at the eastern entrance to Wal-Mart, and additional cross connections between businesses near the Highway 62/I-540 interchange to minimize u-turns and long "out of the way" travel distances.
- 3) Conversion of Shiloh Drive from Persimmon Street to Highway 16 from 1-way traffic to 2-way traffic: Allowing traffic to use Shiloh to access the right turn loop ramp at Highway 16 will potentially reduce the traffic on Highway 16.
- 4) Transit Accommodations: Transit routing should be considered and the Department should engage Ozark Regional Transit and Razorback Transit for their input.
- 5) Highway 62 Interchange: The loop ramp option is preferred over the flyover option.

The City Council requests that these comments, supplemented by additional detailed comments provided by City Staff and the Mayor, be incorporated into the final design for the Highway 16 and Highway 62 interchanges.



OFFICE OF THE MAYOR
LIONELD JORDAN

April 3, 2014

Mr. Lynn Malbrough, Division Head
Environmental Division
Arkansas Highway and Transportation Department
PO Box 2261
Little Rock, AR 72203-2261

Re: AHTD Jobs BB0410 and BB0411

Dear Mr. Malbrough:

My staff and I have reviewed the plans for the interchange improvements at Interstate 540 and Highways 16 and 62/180. We are in support of the proposed projects, and look forward to the mobility and traffic safety enhancements that they will provide. We do have a few comments about the plans, as detailed below.

First, provision of bicycle and pedestrian access across I-540 is a major goal of the City of Fayetteville. The lack of adequate bicycle and pedestrian connections across the I-540 currently is a significant safety issue, and has been a source of numerous public comments. The City's Alternative Transportation and Trails Plan details the pedestrian and bicycle facilities that are planned throughout the City. Excerpts of this plan showing the planned connections in the project area are attached. Due to the volume of traffic and increased number of lanes proposed, the City recommends that a shared-use trail be constructed on one side of the roadway at both interchanges, to separate bicycle/pedestrian movements from vehicular movements. It appears that this 12-16' wide shared-use trail could be constructed within generally the same right-of-way as is currently proposed, in lieu of bicycle lanes and sidewalks on both sides.

Second, the City is supportive of access management in the project areas to reduce turning conflicts and crashes. However, the limitation on access should be balanced with providing existing and future businesses with adequate provisions for the public to enter and exit their property. Additional median breaks, as detailed further below, will also reduce the number of U-turns, thereby providing for more efficient operation of intersections in the project area.

Third, there are existing transit routes that use these interchanges, and as growth occurs west of I-540, additional transit routes and facilities may be needed. Therefore, transit routing should be considered and the Department should engage Ozark Regional Transit and Razorback Transit for their input.

Specific comments on each project are as follows:

Job BB0411 Hwy 16/112S (Wedington) Interchange Comments

- Consider a median break and signalization at Hwy 16 and Tahoe Place/Marvin Avenue. The City recognizes the need for a traffic signal at the offset intersection of Tahoe Place & Marvin Avenue with a pedestrian phase to safely accommodate citizens wanting to cross this busy arterial. This was a clear desire of citizens from a public input process recently conducted by the City of Fayetteville as part of a corridor plan for Wedington Drive.
- Consider converting Shiloh Drive to a two-way street from Wedington Drive to Persimmon Street, to assist with traffic movement that will be greatly affected by the median. This change will help reduce the traffic on Wedington Drive, by allowing traffic to travel east on Persimmon and other City streets south of Wedington Drive rather than being forced to use Wedington as the route to I-540. If left turns at Shiloh are a concern, Shiloh could be restricted to a right turn only during peak times.
- The City prefers a multi-use trail on the north side of the Wedington, which should be physically separated from vehicle traffic to safely cross I-540, rather than separate bike lanes within the traffic. Ideally, the path across the bridge should be 16 feet wide, separated from the road by a parapet wall, with a 12' wide path with green space on the roadway portions for the length of the project. The greenspace should be as wide as possible, up to 10 feet in width per the City's Master Street Plan cross section for an arterial street.
- Consider reduction of the curb radii where appropriate at street intersections, to provide a more walkable environment along Wedington Drive.
- Construction or replacement of north south trails in the project area should be included as well, along with installation of pedestrian signals, crosswalks, and 12 foot wide ADA ramps to accommodate existing and future trail connections.

Job BB0410-Hwy 62 (MLK Jr. Blvd) Interchange Comments

- The loop ramp option is the City's preferred option, as the City is concerned with the flyover option's impact to adjacent businesses and properties. The solid retaining wall access ramp rising above the existing properties onto the flyover bridge will block all access and visibility for these properties. If the flyover option is the chosen option, the following should be considered:
 - Increasing the steepness of the ramp to reduce its length along Hwy 62.
 - Provide for better access to Wal-Mart, to avoid creating a congestion problem at Hwy 62/One Mile Road intersection. If a median break at the existing eastern entrance to Wal-Mart is not provided, certainly improvements to the Finger Road access should be implemented and more detailed analysis of the One-Mile Road should be further undertaken.
 - Mitigate some of the loss of highway access from existing businesses and residents by adding cross connections between businesses, to reduce the need for vehicles to travel long distances and make u-turns to access business locations. In many cases the cost of these connections appear to be minor compared to the risk of additional right of way damages. Minor cross-connections will also reduce the number of u-turns, providing for better operations at the Highway intersections.

- The City understands the loop ramp option as currently design is more costly than the flyover ramp. However, it appears that adjusting the loop design speed/radius and/or acquiring additional right of way to allow the loop ramp to move to the east may eliminate the need to move the main lanes on I-540, bringing costs more in line with the flyover option.
- The City prefers a multiuse trail (in lieu of bike lanes) on the south side of Hwy 62 if the flyover option is chosen or on the north side if the loop option is chosen. The trail should be separated from the highway by a greenspace, or a parapet wall if there is not adequate greenspace. Similar to the Highway 16 interchange, the greenspace should be as wide as possible, up to 10 feet in width per the City's Master Street Plan cross section for an arterial street.
- Construction or replacement of north south trails in the project area should be included as well, along with installation of pedestrian signals, crosswalks, and 12 foot wide ADA ramps to accommodate existing and future trail connections.

Finally, the Fayetteville City Council has passed Resolution No. 67-14 expressing their support of the project and providing comments. Please consider these comments along with the ones presented in this letter and the attached plan markups as you proceed to final design.

Once again, I would like to thank the Department for the opportunity to review these plans and provide comments. If you have any questions, or need to further discuss these comments, please contact either Chris Brown, our City Engineer (479.575.8207; cbrown@fayetteville-ar.gov), or Jeremy Pate our Development Services Director (479.575.8265; jpate@fayetteville-ar.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Lioneld Jordan", written over a light blue circular stamp.

Lioneld Jordan
Mayor

Attachments: City Council Resolution No. 67-14
 Excerpts of City of Fayetteville Alt. Transportation and Trails Mstr. Plan
 Red-lined typical sections and plan views



October, 6th 2014

Active Transportation Advisory Committee

Re: AHTD improvements at I-49 and Hwy 112 (Garland Ave.)

Dear Mayor and City Council Members,

The Fayetteville Active Transportation Advisory Committee met on October, 1st 2013 and discussed the proposed improvements to the intersection of I-49 and Highway 112 (Garland Ave.). This citizen based committee reviews projects with the goal of improving safety and connectivity for pedestrians and bicycles. The Highway 112 corridor is an important connection for bicycle and pedestrian connectivity and the committee unanimously supports the addition of a 12 foot wide separated shared use trail along the south side of Highway 112 through the zone of improvement from Truckers Drive to Drake Street.

This bicycle connection is identified on the adopted Fayetteville Alternative Transportation and Trails (FATT) Master Plan. The preliminary plans presented at the public meeting for the project on September 25th show bike lanes within the curb section of Highway 112. Based on bicycle user feedback, the ATAC committee prefers a separated shared use path for safety and comfort compared to riding in the road with the vehicle traffic. By removing the 4 foot bike lanes on each side of the road, 8 feet of space is regained. When combined with the 5 foot sidewalk planned, there will be 13 feet of space available for the proposed 12 foot trail. Therefore no additional right of way will be necessary for this change.

On behalf of the ATAC committee, we appreciate the inclusion of bicycle infrastructure in the proposed project, but request consideration of a separated shared use trail instead of bike lanes through this section of Hwy 112.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alan Long", is written over a light blue circular stamp.

Alan Long,
Active Transportation Advisory Committee, Chair

-----Original Message-----

From: Smith, Trinity D. [<mailto:Trinity.Smith@ahtd.ar.gov>]

Sent: Wednesday, November 26, 2014 3:42 PM

To: Brown, Chris

Subject: BB0414 PI Comments

Chris,

This is what I would like to discuss with you. I can respond by letter if you want, but I wanted to at least touch base with you first. The lane widths and bike lanes cannot be traded out for a shared use path. A shared use path (and barrier) can be added to the project at the expense of the City if that is what the City would like to pursue. The AASHTO Bicycle Guide is clear that a shared use path is not a substitute for bike lanes.

We can talk early next week if you are available. I hope you and your family have a great and safe Thanksgiving.

Trinity

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

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

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
January 20, 2015**

A meeting of the Fayetteville City Council was held on January 20, 2015 at 5:30 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 Adella Gray, Sarah Marsh, Matthew Petty, Mark Kinion, Justin Tennant, Martin Schoppmeyer, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Mark Kinion arrived at 5:35 p.m.

Pledge of Allegiance:

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Election of Vice Mayor

Alderman Marsh moved to nominate Alderman Mark Kinion as Vice Mayor. Upon roll call Alderman Mark Kinion was elected as Vice Mayor with a vote of 7-0. Alderman Kinion was absent during the vote.

Alderman Mark Kinion was elected as Vice Mayor

Presentation of the City of Fayetteville Martin Luther King Brotherhood Award – Kit Williams:

City Attorney Kit Williams: I have been privileged to select a City of Fayetteville employee to receive the Dr. Martin Luther King Jr. Brotherhood Award. This award is given annually in recognition to a city employee whose service to our city and our community best exemplifies Dr. King's dream of equality, justice and brotherhood. This year's honoree exemplifies Dr. Martin Luther King's spirit of equality and legacy of service. She has managed one of our most important city departments and worked diligently and creatively to expand its services to our city staff and citizens. Always down to earth and humble, she works diligently every day to help Fayetteville citizens who have questions about our government. She helps citizens and staff to locate important city documents, ordinances and historic records. She ensures all important city documents are safely stored and indexed. She accurately reports and maintains the records for every City Council meeting. She led the effort to put our City Council meetings on the internet live.

City Clerk Sondra Smith has served our city and citizens as City Clerk Treasurer since February of 2003. I have worked closely with Sondra and can attest to her servant leadership, integrity and kindness to all who visit the City Clerk office. Sondra has served with distinction and dedication, not only here in Fayetteville, but as a state wide leader for the Arkansas Municipal League and the Arkansas City Clerk Association. Sondra has worked to become an International and Arkansas Certified Municipal Clerk. Sondra serves our community. For many years she has worked at the Senior Center. She is active in her church and its community outreach efforts. Sondra is a glowing example of how the Golden Rule should not just be preached, but lived.

Mr. Williams presented the Dr. Martin Luther King Jr. Brotherhood award to Sondra Smith, City Clerk Treasurer.

City Clerk Sondra Smith: It has been an honor and privilege to serve the citizens of the City of Fayetteville. I look forward to doing it as many more years as the city will have me. Thank you.

State of the City Address - Mayor Lioneld Jordan

Mayor Lioneld Jordan read the State of the City Address.

A copy is attached.

Agenda Additions: None

Consent:

Approval of the January 6, 2015 City Council meeting minutes.

Approved

RJN Group, Inc. Sanitary Sewer Evaluation Study: A resolution to approve a contract with RJN Group, Inc. in the amount of \$891,251.00 for a Sanitary Sewer Evaluation Study for Basins SFM-05 and SFM-18/19, and an amount not to exceed \$225,000.00 for the design of recommended improvements identified by the study.

Resolution 06-15 as recorded in the office of the City Clerk

Garver, LLC Professional Engineering Services Agreement: A resolution to approve a Professional Engineering Services Agreement with Garver, LLC in an amount not to exceed \$149,900.00 for engineering design and construction observation for the painting of the exterior and interior of the 5 million gallon Baxter Water Tank and the Mount Sequoyah Water Tank, and for the demolition and sale of the 1 million gallon Baxter Water Tank.

Resolution 07 -15 as recorded in the office of the City Clerk

Bid #15-01 Asphalt Striping Service, LLC: A resolution to award Bid #15-01 and authorize the purchase of reflectorized paint markings from Asphalt Striping Service, LLC in variable amounts for the Transportation Division as needed through the end of 2015.

Resolution 08 -15 as recorded in the office of the City Clerk

Bid #15-02 Curb and Gutter Construction Purchase: A resolution to award Bid #15-02 and authorize the purchase of curb and gutter construction from Fochtman Enterprises, Inc. as a primary supplier and Tomlinson Asphalt as secondary supplier in variable amounts as needed through the end of calendar year 2015, and to authorize the use of other bidders based on price and availability.

Resolution 09 -15 as recorded in the office of the City Clerk

Bid #15-03 Hillside Gravel Purchase: A resolution to award Bid #15-03 and authorize the purchase of hillside gravel from Les Rogers, Inc as primary supplier and Sweetser Construction as secondary supplier for materials picked up, and from Sweetser Construction as primary supplier and Les Rogers, Inc. as secondary supplier for materials delivered for variable unit prices as needed through the end of calendar year 2015.

Resolution 10 -15 as recorded in the office of the City Clerk

Bid #15-04 S&R Trucking Truck Hauling Services: A resolution to award Bid #15-04 and authorize the purchase of truck hauling services from S&R Trucking for variable unit prices and to authorize the use of other bidders based on price and availability as needed through the end of calendar year 2015.

Resolution 11 -15 as recorded in the office of the City Clerk

Bid #15-05 Concrete Purchase: A resolution to award Bid #15-05 and authorize the purchase of concrete from Tune Concrete Company as primary supplier and APAC-Central as secondary

supplier in variable amounts and to authorize the use of other bidders based on price and availability as needed through the end of calendar year 2015.

Resolution 12 -15 as recorded in the office of the City Clerk

Bid #15-06 Aggregate Materials Purchase: A resolution to award Bid #15-06 and authorize the purchase of aggregate materials for varying unit prices from various vendors, as needed through the end of calendar year 2015.

Resolution 13 -15 as recorded in the office of the City Clerk

Bid #15-08 Plastic Drainage Pipe Purchase: A resolution to award Bid #15-08 and authorize the purchase of Plastic Drainage Pipe for varying unit prices from various vendors, as needed through the end of calendar year 2015.

Resolution 14 -15 as recorded in the office of the City Clerk

Bid #15-09 Concrete Drainage Pipe Purchase: A resolution to award Bid #15-09 and authorize the purchase of Concrete Drainage Pipe from Scurlock Industries as primary supplier and Hanson Pipe as secondary supplier for varying unit prices as needed through the end of calendar year 2015.

Resolution 15 -15 as recorded in the office of the City Clerk

Bid #15-10 Topsoil Purchase: A resolution to award Bid #15-10 and authorize the purchase of topsoil from Les Rogers, Inc. in the amount of \$12.40 per cubic yard in variable amounts as needed through the end of calendar year 2015.

Resolution 16 -15 as recorded in the office of the City Clerk

Bid #15-11 Flint Trading, Inc.: A resolution to award Bid #15-11 and authorize the purchase of preformed thermoplastic pavement markings from Flint Trading, Inc. for varying unit prices as needed through the end of calendar year 2015.

Resolution 17 -15 as recorded in the office of the City Clerk

Bid #15-12 Retaining Wall Blocks Purchase: A resolution to award Bid #15-12 and authorize the purchase of retaining wall blocks from Arrowhead Precast, LLC as primary supplier and Industrial Precast, Inc. as secondary supplier in variable amounts as needed through the end of calendar year 2015.

Resolution 18 -15 as recorded in the office of the City Clerk

Bid #15-14 Waste Disposal Services for Construction Debris: A resolution to award Bid #15-14 and authorize the purchase of waste disposal services for construction debris from S&R Trucking Winslow, LLC and Holtzclaw Excavating, Inc. In the amount of \$10.00 per load as needed through the end of calendar year 2015.

Resolution 19 -15 as recorded in the office of the City Clerk

Environmental Consulting Operations, Inc., Amendment No. 1 and One Year Renewal: A resolution to approve Amendment No. 1 to the contract with Environmental Consulting Operations, Inc. for wetlands mitigation site monitoring and management and to authorize an extension of the amended contract through 2015 in the amount of \$50,766.00.

Resolution 20 -15 as recorded in the office of the City Clerk

Plante and Moran, PLLC: A resolution to approve an extension to the contract with Plante and Moran, PLLC for information technology services through June 5, 2015 in the amount of \$90,090.00, and to approve a budget adjustment.

Resolution 21 -15 as recorded in the office of the City Clerk

Gordon Long Park Trailhead - Tap Revenue: A resolution to express the willingness of the City of Fayetteville to utilize federal-aid funds for construction of restrooms and expanded parking at Gordon Long Park, and to approve a budget adjustment in the amount of \$260,000.00.

Resolution 22 -15 as recorded in the office of the City Clerk

Amend the 2015 Adopted Budget: A resolution to amend the 2015 Adopted Budget by reappropriating \$86,181,388.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

Resolution 23 -15 as recorded in the office of the City Clerk

Alderman Long moved to accept the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

RZN 14-4864 Koutroumbis Appeal: An ordinance rezoning that property described in Rezoning Petition RZN 14-4864, for approximately 0.26 acres, located at 232 West Ash Street from RSF-4, Residential Single Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. ***This Ordinance was left on the first reading at the January 6, 2015 City Council Meeting.***

City Attorney Kit Williams: The applicant requested this to not be heard tonight. We could go to the second reading.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Amend Chapters 151, 161, 162 and 166 (ADM 14-4896 UDC Amendment Small-Scale Production): An ordinance amending Title IV: Unified Development Code of the City of Fayetteville, to Amend Chapters 151, 161, 162 and 166 to create a new use unit for small scale production including boutique and specialty manufacturing and to place this new use unit in appropriate zoning designations. *This ordinance was left on the first reading at the January 6, 2015 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

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

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5735 as Recorded in the office of the City Clerk

New Business:

Asphalt Materials Purchase: An ordinance to waive the requirements of formal competitive bidding during calendar year 2015 for the purchase of asphalt materials for use by the Transportation Division, but to require informal quarterly bids or quotes.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Director gave a brief description of the ordinance.

Alderman La Tour: Do you think doing it on a quarterly basis would protect us from paying too much for asphalt?

Terry Gulley: We started this several years ago because we were wanting to lock it in for the year. We would bid it competitively once a year. There is not a lot of fluctuation. This is the best way for us to be able to manage it, instead of being locked in on one particular year.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5736 as Recorded in the office of the City Clerk

ESRI, Inc. Enterprise License Agreement: An ordinance to waive the requirements of formal competitive bidding and approve a three year enterprise license agreement with ESRI, Inc. in the amount of \$150,000.00 payable in installments of \$50,000.00 per year for Geographic Information System software.

City Attorney Kit Williams read the ordinance.

Greg Mitchell, GIS Coordinator gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5737 as Recorded in the office of the City Clerk

Repeal and Replace Title V Public Works and Amend Chapter 51 and Chapter 10: An ordinance to repeal and replace Title V Public Works, Article III Discharge and Pretreatment Regulations; to Amend § 51.137 Monthly Sewer Rates; to Amend § 51.138 Definitions Pertaining to Water and Sewer Rates; to Amend § 51.999 Penalty; and to Amend § 10.99 General Penalty of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

Denise Georgiou, Pretreatment Coordinator gave a brief description of the ordinance.

Alderman Kinion: This has been through the Water, Sewer & Solid Waste Committee. Thank you Denise for meeting the expectations of the ADEQ. The committee brought this forward with the committee's approval.

Alderman Marsh: Do we have to do the holding period for public comment on this?

City Attorney Kit Williams: We do need to do that. There is only a few items that might be a raise in sewer fees. It would be safer to wait the 30 days to make sure we do not violate state law.

This ordinance was left on the First Reading

Enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections: An ordinance to enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections into the Fayetteville Code to clarify the proper procedure for the citizens' right of the initiative and referendum.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams briefly explained why he brought this ordinance forward.

Mr. Williams stated the reason he placed responsibility to review and certify or correct a proposed referendum petition upon the City Attorney, is to hopefully prevent a legally improper petition from being circulated and later being either rejected by the court or having to be recirculated because of some mistake.

I would hope that you would leave this particular ordinance on the first reading and also leave it on the second reading to see if what I believe will happen in the state legislature will actually happen which is an Act that will prohibit us from addressing Civil Rights in the future.

Alderman Tennant: There was mention of taking this to Ordinance Review at some point and Kit, you said you were not in any particular hurry. We have Ordinance Review coming up, but we have a full agenda. I had planned on suggesting this go to a future Ordinance Review anyway. Kit, you are suggesting we wait until the legislature session?

City Attorney Kit Williams: If we can wait until the second meeting in February, I think by then we will probably know if the Act has been passed or we will hear about the Act.

A discussion followed about the timeline for discussing the proposed ordinance at the Ordinance Review Committee meeting.

Alderman Long: The way this is written, it impacts all future initiatives and referendum elections. Why are we waiting on what happens with the Civil Rights at the state level?

City Attorney Kit Williams: The reason I waited and didn't propose this any earlier is because I did not want to get this involved with any other kind of issue. This does affect all future referendums and initiatives and should be viewed as that and not as a part of some other issue. I felt that the other issue probably is not going to be possible anyway. It would have been potentially possible if we had taken it up almost immediately. That did not happen and so it's probably too late to even move in that direction. I think the legislature will be quicker than we would be. That is why I thought we should leave it on the first reading. It's really going to affect only other future ordinances and issues.

Mayor Jordan: As the sponsor of the ordinance, you recommend we at least go through all three readings?

City Attorney Kit Williams: Yes.

Alderman Marsh: This isn't about the Civil Rights ordinance. This is about any referendum so I am not sure why we need to wait. What you have drafted is a clear cut and expedient process for handling this. It's consistent with existing precedent of state and county laws. It has this great system of allowing the Circuit Court to provide appropriate checks and balances. I don't understand why we are waiting on the legislature. We need this clarity before any other issue arises.

Alderman Long: Was this written because of the Civil Rights referendum petition? If it is, then we shouldn't even be talking about it.

City Attorney Kit Williams: It was written because of the confusion that became apparent during the Civil Rights referendum process and the litigation we suffered. That is what brought it to my attention. In response to Alderman Marsh, it's very rare we have a referendum. I don't see anything right now that looks very controversial. There is no real reason to try to move it along real fast. I would rather we take our time.

Alderman La Tour: I appreciate the City Attorney's consideration of the people of our city and wanting to help in the petition process by assisting in drafting a more appropriate title. Political winds change. Mr. Williams gave his assurance he would be fair, but we don't know about the person after him. This ordinance places the City Attorney in a strong position to delay the acquiring of signatures. Having gone through the Chapter 119 petition process, timing is very important. When the City Council enacts an Act that makes people upset, that level of emotion dissipates with the passage of time. If we were to wait six weeks to three months before we start the petition process, circulating for signatures, most people would have gotten on with their lives and would not be interested as much as in that initial staff when enacted by the City Council.

We are giving the City Attorney's office the authority to change the wording of the title of the petition itself. If we want to pattern after the state petition process, why don't we give that authority to the Attorney General who would not necessarily be biased? We could make the City Attorney's

proposed changes, merely proposals, leaving the initiative with the people who are bringing the petition process.

Alderman Marsh: Our City Attorney is elected by our people. They are directly accountable to the people. They don't work for the administration. The time to do this is when we don't see any controversial legislature on the horizon and that would be now.

Alderman La Tour: I agree the City Attorney is elected. A lot of damage can be done in three or four years before the next election cycle. Recall petitions are very rare and rarely successful. I would like to keep the movement with the people and not bring it to a public official before it goes to the people. Timing is very important for a successful petition campaign. The proposal is a two day delay, but if the people don't like the changes, we have to go to Circuit Court. As a practicing attorney, I can file motion upon motion. I can make it last in court six months.

City Attorney Kit Williams: If you practice in Arkansas, you would realize an election contest is always handled very quickly. As you can see from the last case we had, we got to Judge Lindsey very quickly with the decision. It did not last for months or even weeks. This is what would happen in this particular case. We can't order the Attorney General to review one of our referendum petitions. He doesn't work for us. He is a state officer and he reviews state initiated acts and referendums and determines if they are acceptable. The reason I placed any duties on the City Attorney is because the City Attorney should have some familiarity with this law, where many other people would not. The City Attorney is in a fine position to help the citizens of Fayetteville, who he does work for, in order to get their referendums done correctly.

A discussion followed about the appropriate person to review municipal referendums.

Alderman Kinion: We are trying to prevent litigation against the city by clarifying a procedure. We know from recent activity, we were exposed to litigation because of unclear codification regarding the situation we were faced with. I'm not in a hurry to do this. I want to do it the right way. We are looking at the opportunity in the future to prevent any confusion. The urgency is to look at this fairly, without bias towards any single issue and to be certain that the forward movement of any repeal has a fair and well outlined path to take.

Alderman La Tour continued to reiterate that he would like the City Attorney to have the role of making suggestions, instead of taking an authoritative role.

City Attorney Kit Williams advised that the proposed ordinance needed to go to the Ordinance Review Committee.

A discussion followed about the procedural process of the Ordinance Review Committee.

Alderman Gray: No matter what happens about the Civil Rights issue, it's not going to change this?

City Attorney Kit Williams: It would not change my recommendation.

Alderman Tennant discussed the timeline for the Ordinance Review Committee's agenda.

Mayor Jordan explained the rules of public comment.

Loraine O'Neal, 3001 West Wedington stated she felt it needed to be addressed and should go to the Ordinance Review Committee. She believes it is a good thing to allow time to pass so citizens can read and understand what is being proposed.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion failed 3-5. Alderman Gray, Marsh and Kinion voting yes. Alderman Tennant, Schoppmeyer, La Tour, Long, and Petty voting no.

This ordinance was left on the First Reading

Announcements:

Don Marr, Chief of Staff: There will be an Ordinance Review Committee meeting on January 21, 2015 at 2:00 p.m. at City Hall in Room 326 to review the Scooter Insurance ordinance.

The Christmas tree pickup is continuing through January 31, 2015.

The Compost Facility winter hours are Tuesday and Thursday from 8:00 a.m. to 3:00 p.m. and the first Saturday of each month.

Mr. Marr explained the process for virtual stickers in regards to garbage bags.

Mayor Jordan announced he would be attending the United States Conference of Mayors meeting.

Alderman Long: There will be a Ward 4 meeting on January 26, 2015 at 6:00 p.m. at City Hall in Room 111.

Adjournment: 7:32 p.m.

City Council Agenda Session Presentations: None

City Council Tour: None

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Amended to this;

Handed out at the 2-3-15
City Council meeting.

RESOLUTION NO.

A RESOLUTION TO AMEND THE FAYETTEVILLE ALTERNATIVE TRANSPORTATION AND TRAILS MASTER PLAN BY TO CLARIFY THAT SEPARATED BICYCLE AND PEDESTRIAN TRAILS ARE PLANNED FOR THE INTERSTATE 49 INTERCHANGES AT GARLAND AVENUE (HIGHWAY 112), WEDINGTON DRIVE (HIGHWAY 16) AND MARTIN LUTHER KING, JR. BOULEVARD (HIGHWAY 62) AND REMOVE THE ON-STREET LINKAGE DESIGNATION FROM A PORTION OF HIGHWAY 112 FROM HOWARD NICKELL ROAD TO ERNIE JACKS BOULEVARD, A PORTION OF HIGHWAY 16 FROM MEADOWLANDS DRIVE TO NORTH STREET AND A PORTION OF HIGHWAY 62 FROM RUPPLE ROAD TO SOUTH SCHOOL AVENUE; AND TO AMEND THE MASTER STREET PLAN TO ADD A TYPICAL CROSS SECTION FOR SEPARATED BICYCLE AND PEDESTRIAN TRAILS

WHEREAS, on April 1, 2014, the City Council approved Resolution No. 67-14 supporting the inclusion on separated bicycle and pedestrian trails at the Interstate 49 interchanges at Garland Avenue, Wedington Drive and Martin Luther King, Jr. Boulevard; and

WHEREAS, pursuant to its policy, the Arkansas Highway and Transportation Department has incorporated bike lanes rather than separated trails in the initial design of the interchanges because the separated trails are not included in the City's current Alternative Transportation and Trails Master Plan or the current Master Street Plan; and

WHEREAS, the Arkansas Highway and Transportation Department has also requested that the City remove from the Fayetteville Alternative Transportation and Trails Master Plan the on-street linkage designation from a portion of Highway 112 from Howard Nickell Road to Ernie Jacks Boulevard, a portion of Highway 16 from Meadowlands Drive to North Street and a portion of Highway 62/180 from Ruppel Road to South School Avenue; and

WHEREAS, the plans must be updated in order for the Arkansas Highway and Transportation Department to consider incorporating separated bicycle and pedestrian trails in the final design of the interchanges.

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 the Fayetteville Alternative Transportation and Trails Master Plan to clarify that separated bicycle and pedestrian trails are planned for the Interstate 49 interchanges at Garland Avenue (Highway 112), Wedington Drive (Highway 16) and Martin Luther King, Jr. Boulevard (Highway 62) as shown in Exhibits A-2, B-2 and C-2, attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends the Master Street Plan to add a typical cross section for separated bicycle and pedestrian trails as shown in Exhibit D, attached hereto and made a part hereof.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends the Fayetteville Alternative Transportation and Trails Master Plan to remove the on-street linkage designation from a portion of Highway 112 from Howard Nickell Road to Ernie Jacks Boulevard, a portion of Highway 16 from Meadowlands Drive to North Street and a portion of Highway 62 from Ruppel Road to South School Avenue as shown in Exhibit E, attached hereto and made a part hereof.

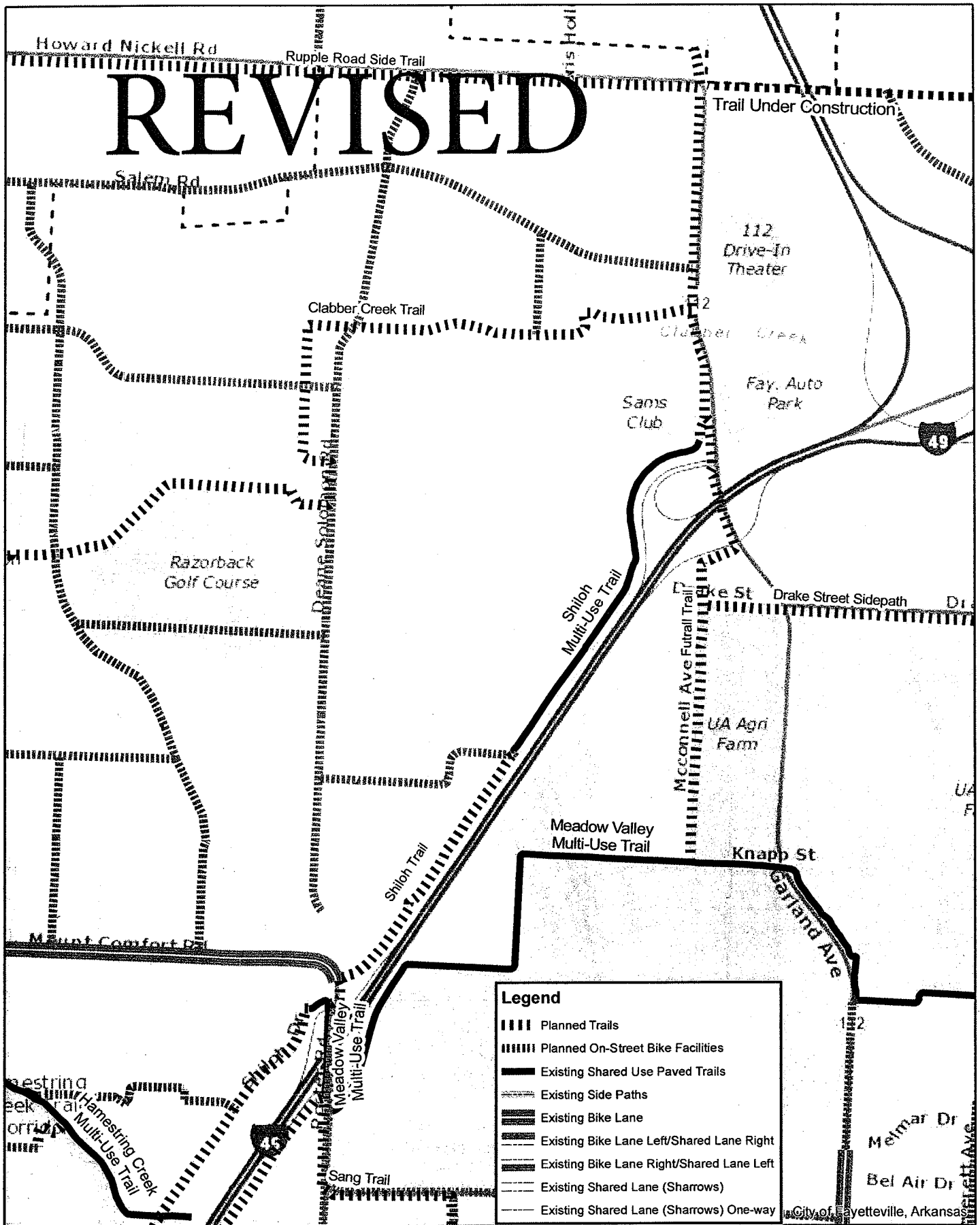
PASSED and **APPROVED** this 3rd day of February, 2015.

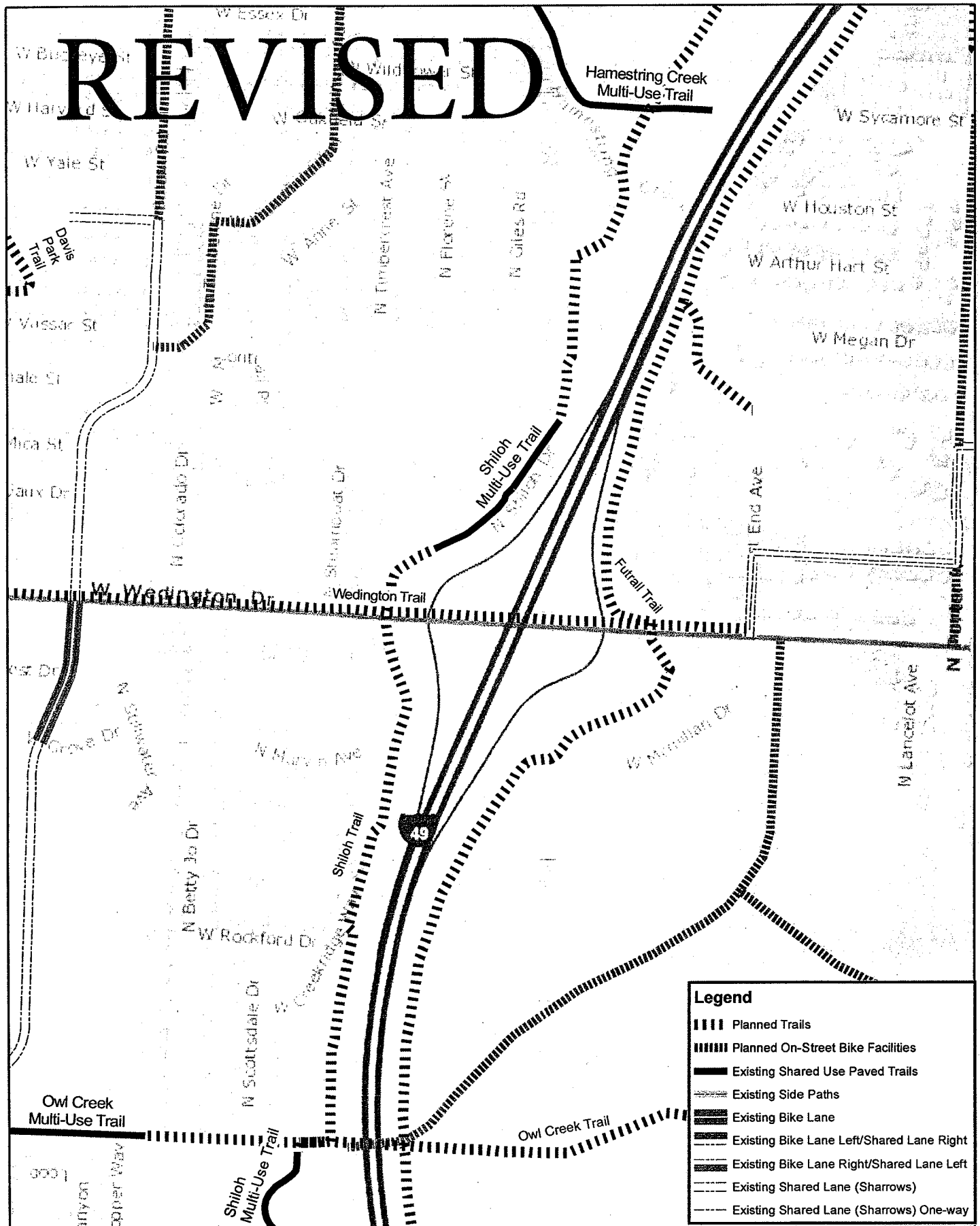
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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





12.2.6a

PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS

PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS are designed to efficiently accommodate high volumes of merging and turning traffic. Pedestrian and Bicycle accommodations are recommended to be separated from vehicle traffic and crosswalks are recommended to be signalized or grade separated. The separated pedestrian and bicycle path/trail will typically be included for short sections, connecting to existing or planned trails on either side of the interstate.

6a PRINCIPAL ARTERIAL STREETS AT FREEWAYS/EXPRESSWAYS:

Design Service Volume:	< 17,600 vpd
Desired Operating Speed:	30-40 mph
Travel Lanes:	min. four 11' lanes
Bicycle Lanes:	None
Median:	None
Parking:	None
Paved Width:	min. 83'
Right of Way:	min. 83'
Sidewalks:	One side min. 5' wide
Greenspace:	None
Bike Path/Trail:	One side 14' wide separated

6a

PRINCIPAL ARTERIAL - FREEWAYS/EXPRESSWAYS
RESIDENTIAL NEIGHBORHOOD
CITY NEIGHBORHOOD
URBAN CENTER

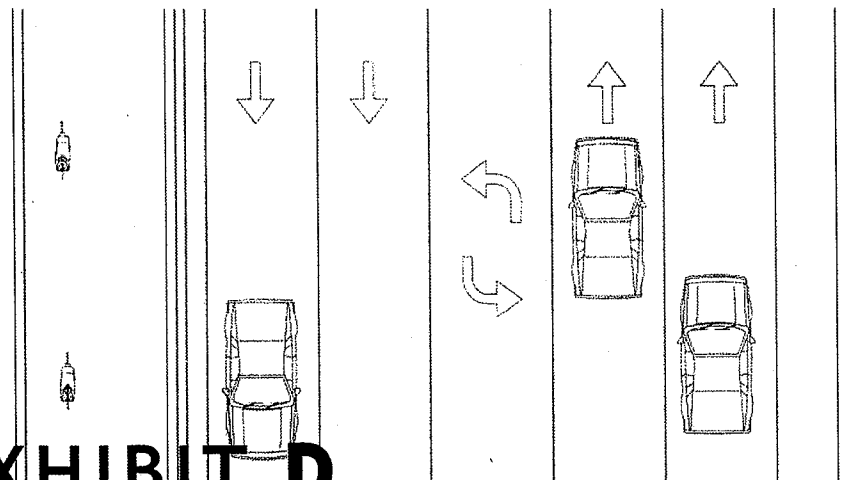
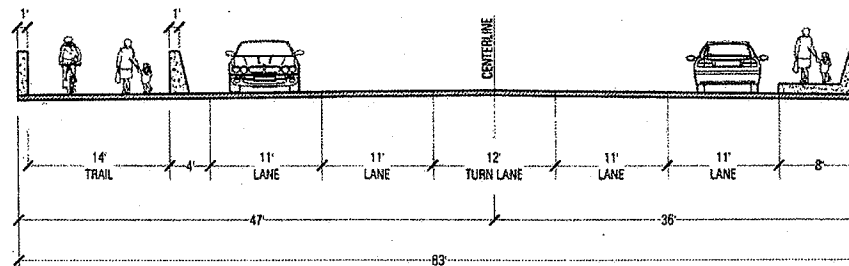


EXHIBIT D

CITY
PLAN
2030

PROPOSED REVISION TO THE Master Trail Plan

Fayetteville Alternative Transportation & Trails Master Plan (FATT Plan)
FEBRUARY 2015

REVISED

Master Trail Plan

Future Trail
Future Street Linkage

Current Trails

Multi-Use Trail
Nature Trail
Park Trail
Street Linkage

Hwy. 112 (Garland Ave.)

Remove Future Street Linkage
And Add Future Trail from I-49
East Bound Ramps to Howard
Nickell Rd. See Exhibit A-2

Hwy. 46 (Wedington Ave.)

Remove Future Street Linkage And
Add Future Trail from Meadowslands
to North St. See Exhibit B-2

Hwy. 62 (Martin Luther King Blvd.)
Remove Future Street Linkage And
Add Future Trail from the Ruppel Rd.
to the East Bound Ramps of I-49
See Exhibit C-2

Corresponding # on Map (Color Code)	Future Trail Name
1	1st Street Linkage
2	2nd Street Linkage
3	3rd Street Linkage
4	4th Street Linkage
5	5th Street Linkage
6	6th Street Linkage
7	7th Street Linkage
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16	16th Street Linkage
17	17th Street Linkage
18	18th Street Linkage
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21	21st Street Linkage
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23	23rd Street Linkage
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100	100th Street Linkage

Exhibit E



Corresponding # on Map (Color Code)	Current Trail or Street Linkage (Color Code)
1	1st Street Linkage
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Hillside-Hillock Overlay District
Fayetteville City Limits
Street (Major)
Street
Railroad
Park
Lake
Stream
School

This exhibits that this is the official
Master Trail Plan for the City of Fayetteville.
Adopted by the Fayetteville City Council on
September 15, 2014. Resolution No. 147-14.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323



Meeting Agenda - Tentative Agenda

Tuesday, February 3, 2015

5:30 PM

City Hall Room 219

City Council

Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Martin W. Schoppmeyer, Jr. Ward 3
John S. La Tour Ward 4
Alan Long Ward 4

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:**

A. 1 2014-0494 Approval of the January 20, 2015 City Council meeting minutes.

A. 2 2015-0017 CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) CHEVROLET EQUINOX FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$20,247.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE PARKING MANAGEMENT DIVISION

Attachments: [SRP 2-3-15 PRED Equinox 1282](#)

A. 3 2015-0019 TOYOTA OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) TOYOTA PRIUS FROM TOYOTA OF FAYETTEVILLE IN THE AMOUNT OF \$22,627.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE BUILDING SAFETY DIVISION, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 BLSF Prius 1283](#)
 [BA 2-3-15 BLSF Prius 1283](#)

A. 4 2015-0021 LEWIS FORD OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 FORD F250 FROM LEWIS FORD OF FAYETTEVILLE, ARKANSAS IN THE AMOUNT OF \$22,427.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE ANIMAL SERVICES DIVISION

Attachments: [SRP 2-3-15 ANSV Pickup 2193](#)

A. 5 2015-0025 CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 CHEVROLET EQUINOX AWD FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$21,699.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE UTILITIES DIRECTOR, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 UDIR EQUINOX 1285](#)
 [BA 2-3-15 UDIR Equinox 1285](#)

A. 6 2015-0032 LANDERS DODGE OF BENTON:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 4X4 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,193.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE WATER AND SEWER DIVISION

Attachments: [SRP 2-3-15 WSMN Pickup 2192](#)

A. 7 2015-0033 LANDERS DODGE OF BENTON:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,367.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [SRP 2-3-15 PDPT pickup 2190](#)
 [BA 2-3-15 PDPT pickup 2190](#)

A. 8 2015-0016 HENARD UTILITY PRODUCTS:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A BANDIT CHIPPER/SHREDDER FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF \$32,522.25 PLUS APPLICABLE TAXES PURSUANT TO THE NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT FOR USE BY THE PARKS AND RECREATION DEPARTMENT AND TRANSPORTATION DIVISION

Attachments: [SRP 2-3-15 chipper 9210](#)

A. 9 2015-0028 BALE CHEVROLET:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 NON-MOTOR POOL REPLACEMENT VEHICLE FROM BALE CHEVROLET IN THE AMOUNT OF \$32,371.00 WITH OPTIONS PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [CC Packet - Non-motor Pool](#)
[BA - Non-motor Pool](#)

A. 10 2015-0022 WASHINGTON COUNTY JAIL SERVICES INTERLOCAL AGREEMENT AMENDMENT:

A RESOLUTION APPROVING AN AMENDMENT TO THE JAIL SERVICES INTERLOCAL AGREEMENT WITH WASHINGTON COUNTY, ARKANSAS, CONTINUING FEES AT \$60.00 PER BOOKED PRISONER FOR CALENDAR YEAR 2015

Attachments: [CC Packet - 2015 Jail Contract](#)

A. 11 2015-0013 EXPRESS THE WILLINGNESS FOR SAIN STREET CONNECTION:

A RESOLUTION TO EXPRESS THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE CONSTRUCTION OF THE SAIN STREET CONNECTION FROM NORTH FRONT STREET TO VANTAGE BOULEVARD

Attachments: [Sain Street Connection.pdf](#)

A. 12 2015-0015 SOUTHWESTERN ELECTRIC POWER COMPANY AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH SOUTHWESTERN ELECTRIC POWER COMPANY TO PARTICIPATE IN AN ENERGY EFFICIENCY REBATE PROGRAM IN THE AMOUNT OF \$4,967.83, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [Dickson Street Lighting Incentive Packet](#)
[BA 2015 Dickson Street Lighting Incentive](#)

A. 13 2015-0034 SWEPCO OF FAYETTEVILLE UTILITY WORK AGREEMENT:

A RESOLUTION TO APPROVE A UTILITY WORK AGREEMENT WITH SWEPCO OF FAYETTEVILLE, ARKANSAS FOR UTILITY RELOCATIONS AS PART OF THE HIGHWAY 112 WIDENING PROJECT BETWEEN RAZORBACK ROAD AND GARLAND AVENUE, WITH THE AMOUNT TO BE PAID BY THE CITY OF FAYETTEVILLE NOT TO EXCEED \$91,878.59

Attachments: [2015-0034 SWEPCO Utility Relocation Agreement](#)

A. 14 2015-0020 GRANT THORNTON LLP CONTRACT:

A RESOLUTION TO APPROVE A CONTRACT WITH GRANT THORNTON LLP IN THE AMOUNT OF \$87,500.00 TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE

Attachments: [2015-0020 Grant Thornton audit](#)
[DC TO MAYOR, CITY COUNCIL RE GRANT THORNTON CONTRACT LANGU](#)

A. 15 2014-0268 TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT:

A RESOLUTION TO DESIGNATE APPROXIMATELY 14.2 ACRES OF CITY PROPERTY AS TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT

Attachments: [SRF & SRM Fire Training Grounds](#)

B. Unfinished Business:

B. 1 2014-0572 RZN 14-4864 KOUTROUMBIS APPEAL:

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26 ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

Attachments: [14-4864 CC Packet](#)
 [14-4864 CC ORD](#)

This ordinance was left on the First Reading at the January 6, 2015 City Council meeting. This ordinance was left on the Second Reading at the January 20, 2015 City Council meeting.

B. 2 2015-0003 REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND CHAPTER 51 AND CHAPTER 10:

AN ORDINANCE TO REPEAL AND REPLACE TITLE V PUBLIC WORKS, ARTICLE III DISCHARGE AND PRETREATMENT REGULATIONS; TO AMEND § 51.137 MONTHLY SEWER RATES; TO AMEND § 51.138 DEFINITIONS PERTAINING TO WATER AND SEWER RATES; TO AMEND § 51.999 PENALTY; AND TO AMEND § 10.99 GENERAL PENALTY OF THE FAYETTEVILLE CODE

Attachments: [2015-0003 Discharge and Pretreatment Regulation Changes A-III A-V](#)
 [EXHIBIT A & B](#)

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

B. 3 2015-0008 ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS:

AN ORDINANCE TO ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

Attachments: [Agenda Packet Ord § 36.20](#)

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

C. New Business:

C. 1 2015-0023 RZN 14-4882 (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

[14-4882 Agenda Item](#)

[14-4882 Exhibit A and B](#)

[14-4882 CC ORD](#)

C. 2 2015-0029 RZN 14-4883 (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND CS, COMMUNITY SERVICES

Attachments:

[SRF and Reports 14-4883](#)

[Exhibits A & B 14-4883](#)

[ORD 14-4883](#)

C. 3 2015-0030 RZN 14-4916 (956 RAY AVENUE/HODOUS):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

[SRF and Reports 14-4916](#)

[Exhibits A & B 14-4916](#)

[ORD 14-4916](#)

C. 4 2015-0031 R-PZD 14-4924 (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE

Attachments:

[SRF and Reports 14-4924](#)

[Exhibits A , B & Booklet 14-4924](#)

[ORD 14-4924](#)

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

G. 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, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0017

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 2

CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) CHEVROLET EQUINOX FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$20,247.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE PARKING MANAGEMENT DIVISION

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 purchase of one (1) Chevrolet Equinox from Chevrolet of Fayetteville in the amount of \$20,247.00 pursuant to a state procurement contract for use by the Parking Management Division.

City of Fayetteville Staff Review Form

2015-0017

Legistar File ID

2/3/2015

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

Jesse Beeks/Barbara Olsen/Sara Glenn

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Chevy Equinox from Chevrolet of Fayetteville of Fayetteville, AR for the Arkansas state vehicle purchase contract price of \$20,247.

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02081.2015

Police/Passenger Vehicles

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 346,000.00

Funds Obligated \$ -

Current Balance \$ 346,000.00

Does item have a cost? Yes

Item Cost \$ 20,247.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 325,753.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one Chevy Equinox for use by Parking – Entertainment district

RECOMMENDATION:

That City Council approve the purchase of one Chevy Equinox from Chevrolet of Fayetteville of Fayetteville, AR for the state contract price of \$20,247.

BACKGROUND:

Unit 1110U is a 2003 Honda Element that was due for replacement in 2011, but has been pushed back. It is now worn out and needs to go. A Chevrolet Equinox is available off the state contract.

DISCUSSION:

Fleet recommends the purchase of one Chevy Equinox for the Arkansas State Vehicle purchase contract price from Chevrolet of Fayetteville of Fayetteville, AR in the amount of \$20,247.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

Sufficient replacement funds have been budgeted and collected. Operating funds are budgeted.

Attachments:

PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.							Requisition No.: Date: 1/14/2015		
							P.O Number:		
Vendor #: 17009			Vendor Name: CHEVROLET OF FAYETTEVILLE				Mail ☐ Yes ☒ No		
Address:					FOB Point:		Taxable ☐ Yes ☒ No		
City:			State:		Zip Code:		Ship to code: 50		
Requester: Barbara Olsen					Requester's Employee #: 1940		Extension: 3485		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project.Sub#	Inventory #	Fixed Asset #
1	2015 CHVROLET EQUINOX	1	EA	20,247.00	\$20,247.00	9700.1920.5802.00	02081.2015		701282
2	TO BE UNIT 1282, FIXED ASSET				\$0.00				
3	PER AR STATE CONTRACT				\$0.00				
4	701282				\$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: \$20,247.00 Tax: \$0.00 Total: <u>\$20,247.00</u>		
Approvals:									
Mayor: _____			Department Director: _____			Purchasing Manager: _____			
Chief Financial Officer: _____			Budget Director: _____			IT Director: _____			
Dispatch Manager: _____			Utilities Manager: _____			Other: _____			



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0019

Agenda Date: 2/3/2015

Version: 2

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 3

TOYOTA OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) TOYOTA PRIUS FROM TOYOTA OF FAYETTEVILLE IN THE AMOUNT OF \$22,627.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE BUILDING SAFETY DIVISION, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of one (1) Toyota Prius from Toyota of Fayetteville in the amount of \$22,627.00 pursuant to a state procurement contract for use by the Building Safety Division.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0019

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks/Sara Glenn/Barbara Olsen

1/14/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Toyota Prius from Toyota of Fayetteville of Fayetteville, AR for the Arkansas State Vehicle Purchase Contract price of \$22,627, and approving a budget adjustment to move funds to the Fleet expense account.

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02081.2015

Police/Passenger Vehicles

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 346,000.00

Funds Obligated \$ 20,247.00

Current Balance \$ 325,753.00

Does item have a cost? Yes

Item Cost \$ 22,627.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 37,000.00

Remaining Budget \$ 340,126.00

Previous Ordinance or Resolution #

V20140710

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one Toyota Prius for use by Building Safety

RECOMMENDATION:

That City Council approve the purchase of one Toyota Prius from Toyota of Fayetteville of Fayetteville, AR for the State Vehicle contract price in the amount of \$22,627 for use by Building Safety and approve a budget adjustment to move funds to the Fleet expense account.

BACKGROUND:

Unit 2074 is a 2005 Chevy pickup that is due for replacement. It is worn out and needs to be replaced. Development Services has requested that this pickup be replaced with a Prius as this unit will not go off-road at all. Having a very fuel efficient vehicle will help cut costs for Building Safety. A Toyota Prius is available off the State vehicle purchase contract.

DISCUSSION:

Fleet recommends the purchase of one Toyota Prius for the Arkansas State Vehicle Purchase contract price from Toyota of Fayetteville of Fayetteville, AR in the amount of \$22,627.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

Sufficient replacement funds have been collected to replace this unit.

Attachments:

BA – Budget Adjustment
PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.						Requisition No.:	Date: 1/14/2015		
						P.O Number:			
Vendor #: 23469		Vendor Name: Toyota of Fayetteville				Mail ☐ Yes ☒ No	Legistar#: 2015-0019		
Address:					FOB Point:	Taxable ☐ Yes ☒ No	Expected Delivery Date:		
City:		State:			Zip Code:	Ship to code: 50			Quotes Attached ☐ Yes ☒ No
Requester: Barbara Olsen					Requester's Employee #: 1940		Extension: 3485		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project.Sub#	Inventory #	Fixed Asset #
1	2015 TOYOTA PRIUS	1	EA	22,627.00	\$22,627.00	9700.1920.5802.00	02081.2015		701283
2	TO BE UNIT 1283, FIXED ASSET 701283				\$0.00				
3	OFF STATE CONTRACT				\$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: \$22,627.00			
						Tax: \$0.00			
						Total: \$22,627.00			
Approvals: Mayor: _____ Department Director: _____ Purchasing Manager: _____ Chief Financial Officer: _____ Budget Director: _____ IT Director: _____ Dispatch Manager: _____ Utilities Manager: _____ Other: _____									

City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year	Division: Fleet Operations	Adjustment Number
2015	Dept.: Transportation Services	
	Requestor: Barbara Olsen	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Fleet budgeted to replace unit 2074 - a pickup (BLSF_F006) with a replacement pickup, so funds were budgeted in the light/medium truck project 02078 in 2015. This unit was originally budgeted in 2014 and was budgeted again in 2015. I am requesting to move the funds from 2014 into the 2015 passenger car project. Sufficient funds remain to meet city objectives.

	COUNCIL DATE:	2/3/2015
	LEGISTAR FILE ID#:	2015-0019
	<i>Barbara Fell</i>	
	1/14/2015 9:58 AM	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/

RESOLUTION/ORDINANCE

TOTAL		-	-					v.20141113
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name		
	Expense	Revenue	Project	Sub				
9700.1920.5802.00	(17,000)	-	02078	2015	EX	Vehicles And Equipment		
9700.1920.5802.00	(20,000)	-	02078	2014	EX	Vehicles And Equipment		
9700.1920.5802.00	37,000	-	02081	2015	EX	Vehicles And Equipment		
	-	-						
	-	-						
	-	-						
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	-	-						
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	-	-						
	-	-						



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0021

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 4

LEWIS FORD OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 FORD F250 FROM LEWIS FORD OF FAYETTEVILLE, ARKANSAS IN THE AMOUNT OF \$22,427.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE ANIMAL SERVICES DIVISION

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 purchase of one (1) 2015 Ford F250 from Lewis Ford of Fayetteville, Arkansas in the amount of \$22,427.00 pursuant to a state procurement contract for use by the Animal Services Division.

2193
Animal Services

City of Fayetteville Staff Review Form

2015-0021

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks/Sara Glenn/Barbara Olsen

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Ford F250 from Lewis Ford of Fayetteville, AR for the Arkansas State Vehicle Purchase Contract price of \$22,427.

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02078.2015

Light/Medium Utility Vehicles

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 568,000.00

Funds Obligated \$ -

Current Balance \$ 568,000.00

Does item have a cost? Yes

Item Cost \$ 22,427.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 545,573.00

Previous Ordinance or Resolution #

V20140710

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one pickup for Animal Services division

RECOMMENDATION:

That City Council approve the purchase of one Ford F250 from Lewis Ford of Fayetteville, AR for the state contract amount of \$22,427.

BACKGROUND:

Unit 2124 is a 2008 Ford F-250 with 125,000 miles and has a 6 year life expectancy. It was due for replacement in 2014 but was pushed back to 2015. It is worn out and due for replacement.

DISCUSSION:

Fleet recommends the purchase of one Ford F250 from Lewis Ford of Fayetteville, AR for the state contract amount of \$22,427.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

Sufficient funds were collected to replace both the truck and the animal control body, however the body will be reused from the current unit. The remaining funds will be set aside to replace the body with the next replacement. The replacement truck is available off the state vehicle purchase contract.

Attachments:

PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO)

(Not a Purchase Order)

All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov.

Purchase shall not be made until an actual PO has been issued.

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.										Requisition No.: Date: 1/14/2015	
Vendor #:		7040		Vendor Name:		Lewis Ford		Legistar#:		2015-0021	
Address:				FOB Point:				Mail ☐ Yes ☒ No		Expected Delivery Date:	
City:				State:				Taxable ☐ Yes ☒ No			
Requester:		Barbara Olsen		Requester's Employee #:		1940		Quotes Attached ☐ Yes ☒ No			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project Sub#	Inventory #	Fixed Asset #		
1	2015 FORD F250	1	EA	22,427.00	\$22,427.00	9700.1920.5802.00	02078.2015		702193		
2	TO BE UNIT 2193, FIXED ASSET 702193				\$0.00						
3	OFF STATE CONTRACT				\$0.00						
4	QH Deduct Bed				\$0.00						
5	LS Limited slip differential				\$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: \$22,427.00	
										Tax: \$0.00	
										Total: \$22,427.00	
Approvals:											
Mayor: _____										Purchasing Manager: _____	
Chief Financial Officer: _____										IT Director: _____	
Dispatch Manager: _____										Other: _____	



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0025

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 5

CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 CHEVROLET EQUINOX AWD FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$21,699.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE UTILITIES DIRECTOR, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of one (1) 2015 Chevrolet Equinox from Chevrolet of Fayetteville in the amount of \$21,699.00 pursuant to a state procurement contract for use by the Utilities Director.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0025

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks/Sara Glenn/Barbara Olsen

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Chevy Equinox AWD from Chevrolet of Fayetteville of Fayetteville, AR for the state contract price of \$21,699, and approving a budget adjustment to move funds to the Fleet expense account.

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02081.2015

Police/Passenger Vehicles

Project Number

Project Title

Budgeted Item? No

Current Budget \$ 346,000.00

Funds Obligated \$ 42,874.00

Current Balance \$ 303,126.00

Does item have a cost? Yes

Item Cost \$ 21,699.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 23,300.00

Remaining Budget \$ 304,727.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments: This is an expansion for the newly appointed utilities director. They will use the funds from Water and Sewer's expansion equipment that was budgeted for 2015. The new unit will be 1285 UDIR_F001.



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one Equinox for Utilities Director

RECOMMENDATION:

That City Council approve the purchase of one Chevy Equinox AWD from Chevrolet of Fayetteville of Fayetteville, AR for the state contract price of \$21,699, and approve a budget adjustment to move funds to the Fleet expense account.

BACKGROUND:

This is an expansion for the newly appointed Utilities Director. There is not currently a vehicle for this position, however one is necessary. They will use the funds from Water and Sewer's expansion equipment project that was budgeted for 2015 for this purchase. An Equinox is available off the state vehicle purchase contract.

DISCUSSION:

Fleet recommends the purchase of one Chevy Equinox AWD from Chevrolet of Fayetteville of Fayetteville, AR for the state contract price of \$21,699.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

A budget adjustment has been prepared for the operating charges for 2015. A budget adjustment has been prepared to transfer the capital funds to Fleet's expense project.

Attachments:

BA – Budget Adjustment
PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.						Requisition No.:	Date: 1/14/2015		
						P.O Number:			
Vendor #: 17009		Vendor Name: CHEVROLET OF FAYETTEVILLE				Mail ☐ Yes ☒ No	Legistar#: 2015-0025		
Address:					FOB Point:	Taxable ☐ Yes ☒ No	Expected Delivery Date:		
City:		State:			Zip Code:	Ship to code: 50			Quotes Attached ☐ Yes ☒ No
Requester: Barbara Olsen					Requester's Employee #: 1940		Extension: 3485		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project.Sub#	Inventory #	Fixed Asset #
1	2015 CHEVROLET EQUINOX	1	EA	21,699.00	\$21,699.00	9700.1920.5802.00	02081.2015		701285
2	TO BE UNIT 1285, FIXED ASSET 701285				\$0.00				
3	OFF STATE CONTRACT				\$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: \$21,699.00 Tax: \$0.00 Total: \$21,699.00			
Approvals: Mayor: _____ Department Director: _____ Purchasing Manager: _____ Chief Financial Officer: _____ Budget Director: _____ IT Director: _____ Dispatch Manager: _____ Utilities Manager: _____ Other: _____									

Budget Year	Division: Fleet Operations	Adjustment Number
2015	Dept.: Transportation Services	
	Requestor: Barbara Olsen	

This is an expansion for the newly appointed utilities director. There is not currently a vehicle for this position, however one is necessary. They will use the funds from Water and Sewer's expansion equipment that was budgeted for 2015. The new unit will be 1285 UDIR F001.

	COUNCIL DATE:	2/3/2015
	LEGISTAR FILE ID#:	2015-0025
	<i>Barbara Fell</i>	
	<i>1/14/2015 9:36 AM</i>	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0032

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 6

LANDERS DODGE OF BENTON:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 4X4 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,193.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE WATER AND SEWER DIVISION

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 purchase of one (1) 2015 Dodge Ram 1500 4x4 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,193.00 pursuant to a state procurement contract for use by the Water and Sewer Division.

City of Fayetteville Staff Review Form

2015-0032

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks/Sara Glenn/Barbara Olsen

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Dodge Ram 1500 4x4 pickup off the State Vehicle Purchasing Contract in the amount of \$20,193 from Lander's Dodge of Benton, AR for the use by the Water & Sewer division.

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02078.2015

Light/Medium Trucks

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 568,000.00

Funds Obligated \$ 22,427.00

Current Balance \$ 545,573.00

Does item have a cost? Yes

Item Cost \$ 20,193.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 525,380.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one Dodge Ram 1500 for Water & Sewer division

RECOMMENDATION:

That City Council approve the purchase of one Dodge Ram 1500 4x4 pickup from Lander's Dodge of Benton, AR in the amount of \$20,193 for use by Water & Sewer division.

BACKGROUND:

Unit 2126 is a Chevy Silverado 4x4 that has 128,000 miles on it. It is worn out and due for replacement. A suitable pickup is available off the state vehicle purchase contract.

DISCUSSION:

Fleet recommends the purchase of one Dodge Ram 1500 4x4 pickup from Lander's Dodge of Benton, AR in the amount of \$20,193 for use by the Water & Sewer division.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

It has been budgeted for 2015 and sufficient funds have been budgeted and collected for replacement.

Attachments:

PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.							Requisition No.: Date: 1/16/2015		
Vendor #: _____ Vendor Name: Lander's Dodge Jeep							P.O Number: _____		
							Mail ☐ Yes ☒ No		
Address: _____					FOB Point: _____		Legistar#: 2015-0032		
City: _____			State: _____		Zip Code: _____	Ship to code: 50	Expected Delivery Date: _____		
Requester: Sara Glenn					Requester's Employee #: 3912		Extension: 3485		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project.Sub#	Inventory #	Fixed Asset #
1	2015 Dodge Ram 1500 4x4	1	EA	20,193.00	\$20,193.00	9700.1920.5802.00	02078.2015		702192
2	to be unit 2192, Fixed Asset 702192				\$0.00				
3	From State Contract				\$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: <u>\$20,193.00</u>		
							Tax: <u>\$0.00</u>		
							Total: <u><u>\$20,193.00</u></u>		
Approvals: Mayor: _____ Chief Financial Officer: _____ Dispatch Manager: _____ Department Director: _____ Budget Director: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Director: _____ Other: _____									



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0033

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 7

LANDERS DODGE OF BENTON:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,367.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) 2015 Dodge Ram 1500 pickup truck from Landers Dodge of Benton, Arkansas in the amount of \$20,367.00 pursuant to a state procurement contract for use by the Police Department.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0033

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Beeks/Sara Glenn/Barbara Olsen

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one Dodge Ram 1500 pickup from Lander's Dodge of Benton, AR in the amount of \$20,367 for use in the Police Department, and approval of a budget adjustment moving funds in Fleet expense accounts.

Budget Impact:

9700.1920.5802.00	Shop Fund
Account Number	Fund
02078.2015	Light/Medium Trucks
Project Number	Project Title
Budgeted Item? Yes	Current Budget \$ 568,000.00
	Funds Obligated \$ 42,620.00
	Current Balance \$ 525,380.00
Does item have a cost? Yes	Item Cost \$ 20,367.00
Budget Adjustment Attached? Yes	Budget Adjustment \$ 27,000.00
	Remaining Budget \$ 532,013.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments: Fleet budgeted to replace unit 1125 - a passenger car (POLC_F015) with a replacement pickup. Funds were budgeted in the passenger car project 02081 in 2014, however replacement was pushed back to 2015 and it was determined that a pickup truck would better suit the needs of the police department. For this reason, we are requesting that the funds be moved to the light/medium truck project 02078 in 2015.

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of one Dodge Ram 1500 pickup for Police Department

RECOMMENDATION:

That City Council approve the purchase of one Dodge Ram 1500 pickup from Lander's Dodge of Benton, AR in the amount of \$20,367, and approve a budget adjustment to move funds in Fleet expense accounts.

BACKGROUND:

1125 is a 2005 Taurus with 115,000 miles, is worn out and due for replacement. It was originally budgeted and scheduled for replacement in 2014, but was pushed back to 2015. Police has requested that this car be replaced with a 1/2 ton 2x4 pickup truck to better fit their needs.

DISCUSSION:

The pickup is available off the state vehicle purchase contract. Fleet recommends the purchase of one Dodge Ram 1500 pickup from Lander's Dodge of Benton, AR in the amount of \$20,367 for use in the Police Department.

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

We have budgeted and collected sufficient funds for this replacement.

Attachments:

BA – Budget Adjustment
PO – Purchase Requisition

City of Fayetteville - Purchase Order Request (PO)

(Not a Purchase Order)
All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov.
Purchase shall not be made until an actual PO has been issued.

Vendor #:		Vendor Name:		Lander's Dodge Jeep		Requisition No.:		Date: 1/16/2015	
Address:		FOB Point:		Mail ☐ Yes ☒ No		P.O Number:		Registrar#: 2015-0033	
City:		State:		Zip Code:		Taxable ☐ Yes ☒ No		Expected Delivery Date:	
Requester: Sara Glenn		Requester's Employee #:		Ship to code:		Quotes Attached ☐ Yes ☒ No			
		3912		50		Extension:			
		Account Number		Project.Sub#		Inventory #		Fixed Asset #	
		9700.1920.5802.00		02078.2015				702190	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost				
1	2015 Dodge Ram 1500	1	EA	20,367.00	\$20,367.00				
2	to be unit 2190, fixed asset 702190				\$0.00				
3	Off the State Contract				\$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: \$20,367.00			
						Tax: \$0.00			
						Total: \$20,367.00			
Approvals:									
Mayor: _____				Department Director: _____				Purchasing Manager: _____	
Chief Financial Officer: _____				Budget Director: _____				IT Director: _____	
Dispatch Manager: _____				Utilities Manager: _____				Other: _____	

City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year	Division: Fleet Operations	Adjustment Number
2015	Dept.: Transportation Services	
	Requestor: Barbara Olsen	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Fleet budgeted to replace unit 1125 - a passenger car (POLC_F015) with a replacement pickup. Funds were budgeted in the passenger car project 02081 in 2014, however replacement was pushed back to 2015 and it was determined that a pickup truck would better suit the needs of the police department. For this reason, we are requesting that the funds be moved to the light/medium truck project 02078 in 2015.

	COUNCIL DATE:	2/3/2015
	LEGISTAR FILE ID#:	2015-0033
	<i>Barbara Fell</i>	
	1/16/2015 11:30 AM	
	Budget Director	Date
	TYPE:	
	DESCRIPTION:	
	GLDATE:	
	POSTED:	/

RESOLUTION/ORDINANCE

TOTAL		-	-					v.20141113
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name		
	Expense	Revenue	Project	Sub				
9700.1920.5802.00	(27,000)	-	02081	2014	EX	Vehicles And Equipment		
9700.1920.5802.00	27,000	-	02078	2015	EX	Vehicles And Equipment		
	-	-						
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City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0016

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 8

HENARD UTILITY PRODUCTS:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A BANDIT CHIPPER/SHREDDER FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF \$32,522.25 PLUS APPLICABLE TAXES PURSUANT TO THE NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT FOR USE BY THE PARKS AND RECREATION DEPARTMENT AND TRANSPORTATION DIVISION

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 purchase of a Bandit Chipper/Shredder from Henard Utility Products in the amount of \$32,522.25 plus applicable taxes pursuant to the National Joint Powers Alliance cooperative purchasing agreement for use by the Parks and Recreation Department and Transportation Division.

City of Fayetteville Staff Review Form

2015-0016

Legistar File ID

2/3/2015

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

Jesse Beeks/Barbara Olsen/Sara Glenn

1/16/2015

Fleet Operations /
Transportation Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving the purchase of one chipper/shredder from Henard Utility Products off the NJPA contract 031014-BAN in the amount of \$35,693.17 (including tax).

Budget Impact:

9700.1920.5802.00

Shop Fund

Account Number

Fund

02080.2015

Other Vehicles and Equipment

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 233,000.00

Funds Obligated \$ -

Current Balance \$ 233,000.00

Does item have a cost? Yes

Item Cost \$ 35,693.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 197,307.00

Previous Ordinance or Resolution #

V20140710

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
THRU: Terry Gulley, Director of Transportation
FROM: Jesse Beeks, Fleet Operations Superintendent
DATE: January 14, 2015
SUBJECT: Purchase of a chipper/shredder for use by Parks and Transportation divisions

RECOMMENDATION:

That City Council approve the purchase of one chipper/shredder from Henard Utility Products off the NJPA bid in the amount of \$35,693.17 (including tax).

BACKGROUND:

Unit 9055 (a 2004 Vermeer chipper/shredder) was due for replacement in 2012 and was pushed back until 2015. It is presently broken down and repairs will cost between \$6,000 and \$7,000. It is not cost effective to repair it so it will be replaced. This unit is used by both Parks and Transportation divisions with costs shared 50/50.

DISCUSSION:

Transportation and Parks have demonstrated this Bandit and a Vermeer chipper. Both chippers work well, but this unit is quite a bit less expensive. The purchase price includes sales tax.

This replacement unit is available off the NJPA contract. Fleet recommends the purchase of one Bandit Model 990XP chipper from Henard Utility Products of Searcy, AR. off the NJPA contract in the amount of \$35,693.17 (including tax).

This purchase was approved by the Equipment Committee on January 13, 2015.

BUDGET/STAFF IMPACT:

Replacement funds collected are \$3,000 short of the amount needed, but that should be more than covered when the old unit is sold on GovDeals. Operating funds have been budgeted.

Attachments:

PO – Purchase Requisition
Quote from Henard Utility Products
NJPA contract 031014-BAN

City of Fayetteville - Purchase Order Request (PO) (Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.							Requisition No.:		Date:	
							P.O Number:			
Vendor #: 395			Vendor Name: HENARD UTILITY PRODUCTS				Mail ☐ Yes ☒ No		Legistar#: 2015-0016	
Address:						FOB Point:		Taxable ☒ Yes ☐ No		Expected Delivery Date:
City:			State:			Zip Code:		Ship to code: 50		
Requester: Barbara Olsen						Requester's Employee #: 1940		Extension: 3485		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project.Sub#	Inventory #	Fixed Asset #	
1	BANDIT 990XP 12" DRUM STYLE	1	EA	32,522.25	\$32,522.25	9700.1920.5802.00	02080.2015		709210	
2	CHIPPER/SHREDDER PER QUOTE				\$0.00					
3	TO BE UNIT 9210, FIXED ASSET				\$0.00					
4	709210				\$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: \$32,522.25			
							Tax: \$3,170.92			
							Total: \$35,693.17			
Approvals: Mayor: _____ Chief Financial Officer: _____ Dispatch Manager: _____ Department Director: _____ Budget Director: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Director: _____ Other: _____										

QUOTATION

#9210

FROM
HENARD UTILITY PRODUCTS, INC.
P.O. Box 9238
SEARCY, ARKANSAS 72145
PHONE (501)268-1987 FAX(501)268-7437
www.henardutility.com

INQUIRY NO. _____

DATE Dec 04, 2014

TERMS Net

DELIVERY In Stock

PRICES ARE QUOTED F.O.B.

TO
City of Fayetteville
113 West Mountain Street
Fayetteville, AR. 72701
ATTN: Jesse Beeks

WE ARE PLEASED TO QUOTE AS FOLLOWS:

QTY.	DESCRIPTION	PRICE EA.	AMOUNT
1	NJPA Contract 031014-BAN Bandit model 990XP 12" drum style chipper with Perkins 84.5 HP diesel engine tier3. Plus Deluxe Option Package Which includes: • Hand crank height adjustable discharge • 345 degree hand crank swivel discharge • Manual 12" chip deflector • Hydraulic lift cylinder • Reversing Auto Feed System		
	NJPA price	\$31,472.25	
	Set-up and shipping	\$1,050.00	
	Total price	\$32,522.25	
	TAX	3170.92	
		\$35,693.17	

QUOTED BY: MICHAEL MCINTOSH

mmcintosh@henardutility.com

Home > National Cooperative Contract Solutions > Contracts - Fleet > Landscape & Grounds Maintenance > Bandit Industries, Inc.



Overview

Contract Documentation

Pricing

Marketing Materials

NJPA Contact Information

HOW TO PURCHASE

Our step-by-step guide



Vendor Contact Info

Jason Morey
Direct Phone: 800-952-0178 ext.
281
jmorey@banditchippers.com
www.banditchippers.com

Bandit Industries, Inc.

Contract#: 031014-BAN

Category: Landscape & Grounds Maintenance

Description: Industrial Wood-Processing Equipment

Maturity Date: 04/10/2018

Bandit Industries is a leading manufacturer of wood processing equipment for the logging, tree service, biomass, land clearing, and wood waste recycling industries. Bandit's model lineup consists of nearly 50 models, including hand-fed wood chippers, whole tree chippers, stump grinders, forestry mowers and Beast® horizontal grinders. All Bandit machines are built by specialized teams at the company's mid-Michigan headquarters, using the highest quality materials and the latest technologies to create the most rugged, capable, and dependable equipment on the market. From municipalities to national tree service companies, land clearing contractors to one-man operations, there's a Bandit ideally suited for virtually any wood processing application.

[Find a Dealer](#)





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0028

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 9

BALE CHEVROLET:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 NON-MOTOR POOL REPLACEMENT VEHICLE FROM BALE CHEVROLET IN THE AMOUNT OF \$32,371.00 WITH OPTIONS PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) 2015 non-motor pool replacement vehicle from Bale Chevrolet in the amount of \$32,371.00 with options pursuant to a state procurement contract for use by the Police Department.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0028

Legistar File ID

2/3/2015

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

Greg Tabor

1/16/2015

Police /
Police Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve the purchase of a new non-motor pool vehicle from Bale Chevrolet, via state contract, in the amount of \$32,371 with options and a budget adjustment in the amount of \$18,034. This purchase was reviewed by the Equipment Committee on January 13, 2015.

Budget Impact:

4470.9470.5802.00

Sales Tax

Account Number

Fund

06003-1

Police Unmarked Vehicles

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 78,000.00

Funds Obligated \$ -

Current Balance **\$ 78,000.00**

Does item have a cost? Yes

Item Cost \$ 32,371.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 18,534.00

Remaining Budget **\$ 64,163.00**

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council

FROM: Greg Tabor, Chief of Police

DATE: January 16, 2015

SUBJECT: **Approve Purchase of a New Non-Motor Replacement Vehicle via State Contract**

RECOMMENDATION:

Staff recommends approval of the purchase of a new non-motor pool replacement vehicle from Bale Chevrolet, via state contract, in the amount of \$32,371 with options and a budget adjustment in the amount of \$18,034. This purchase was reviewed by the Equipment Committee on January 13, 2015. If you have questions, please contact me at extension 500.

BACKGROUND:

For over 25 years, the Police Department has maintained non-motor pool vehicles for Police Department operations. These vehicles are needed to blend in with normal traffic for administrative, investigative, and surveillance purposes.

DISCUSSION:

Typically, used vehicles are purchased for our non-motor pool fleet; however, State Contract pricing allows us to periodically purchase a new replacement for the approximate cost of a pre-owned vehicle. New vehicles have the benefit of a comprehensive manufacturer's warranty, latest safety standards, higher fuel efficiency, and lower emissions. This vehicle purchase is a scheduled replacement of unit number 1236, however, unit number 1236 was involved in a traffic accident in December 2014.

This traffic accident allows us the opportunity to purchase a new vehicle via state contract using the proceeds from our insurance claim, salvage revenue, and budgeted project funds. The insurance claim on unit number 1236 was \$16,534 and the salvage revenue from selling the wrecked vehicle on govdeals.com will be \$1,500 based on Kelley Blue Book and other industry calculations.

BUDGET/STAFF IMPACT:

The total budget adjustment of \$18,034 will recognize the above revenue and increase our Police Unmarked Vehicles project. The net difference cost of the new vehicle and the proceeds from the wrecked vehicle is \$14,337 and is budgeted in project number 06003-1.

Attachments:

Budget Adjustment
Vehicle Bid – State Contract
Purchase Order

STATE OF ARKANSAS
VEHICLE CONTRACT
SP-15-0011 / 2015 VEHICLES

Item #	Vehicle Type	Description	Model	Price	Vendor	Vendor #	OA #	MPG City	MPG Hwy
AUTOMOBILES									
1	ABA	4dr Sub-Compact Sedan	Ford Fiesta SE	\$14,925.00	Landers Ford	100069180	4600033473	29	39
2	ACA	4dr Compact Sedan	Chevrolet Sonic	\$15,528.00	Bale Chevrolet	100095671	4600030961	25	35
3	ADA	4dr Mid-Size Sedan	Ford Fusion	\$16,496.50	North Point Ford	100032541	4600030967	22	33
4	AEA	4dr Large Sedan	Chevrolet Impala Limited	\$17,877.00	Bale Chevrolet	100095671	4600030961	18	30
5	SAA	Small Station Wagon	Nissan Juke	\$20,098.00	North Point Nissan	100184216	4600033474	29	32
TRUCKS									
6	PAA	Small Pickup Truck Short Bed	Small Pickup Truck Short Bed	NO AWARD	NO AWARD	100149950	NO AWARD	NO AWARD	NO AWARD
7	PAB	Small Pickup Truck Extended Cab	Toyota Tacoma Access Cab	\$21,929.00	Landers Toyota	100149950	4600030966	21	25
8	PAD	Small Pickup Truck Crew Cab	Toyota Tacoma Crew Cab	\$22,611.00	Landers Toyota	100149950	4600030966	21	25
9	PAE	1/2T Full Size 4x4 Crew Cab	Dodge Ram 1500 Tradesman	\$21,844.00	Landers Dodge Jeep	100032541	4600030962	13	19
10	PBA	1/2T Full Size; 2WD Regular Cab	Ford F-150 Regular Cab	\$17,397.00	Landers Dodge Jeep	100032541	4600033475	17	25
11	PBB	1/2T Full Size; Ext-Cab Medium Duty	Ford F-150 Extended Cab	\$19,031.00	Landers Ford	100069180	4600033473	17	23
12	PBC	1/2T Full Size; Crew-Cab Medium Duty	Dodge Ram 1500 Tradesman Crew Cab	\$20,367.00	Landers Dodge Jeep	100032541	4600030962	14	20
13	PCA	1/2T Full Size; 4x4 Short Bed	Dodge Ram 1500	\$19,877.00	Landers Dodge Jeep	100032541	4600033475	13	19
14	PCB	1/2T Full Size 4x4 Ex-Cab; Short Bed	Dodge Ram 1500 Tradesman Quad Cab	\$20,193.00	Landers Dodge Jeep	100032541	4600030962	13	19
15	PCC	1/2T Full Size 4x4; Crew-Cab; Short Bed	Dodge Ram 1500 Tradesman Crew Cab	\$21,844.00	Landers Dodge Jeep	100032541	4600030962	13	19
16	PJA	3/4T HD; Long Bed	Ford F-250 XL Regular Cab	\$19,853.00	Landers Ford	10069180	4600033473	N/A	N/A
17	PJB	3/4T HD; Long Bed Ex-Cab	Ford F-250 XL Extended Cab	\$22,137.00	Landers Ford	100069180	4600033473	N/A	N/A
18	PJD	3/4T HD; Long Bed Crew-Cab	Ford F-250 XL Crew Cab	\$23,149.00	Landers Ford	100069180	4600033473	N/A	N/A
19	PEA	3/4T HD; 4x4 Long Bed	Ford F-250 Regular Cab 4x4	\$22,415.00	Allison Ford	100029092	4600033478	N/A	N/A
20	PEB	3/4T HD; 4x4 Long Bed Ex-Cab	Ford F-250 XL Extended Cab	\$24,697.00	Allison Ford	100029092	4600033478	N/A	N/A
21	PEO	3/4T HD; 4x4 Long Bed Crew-Cab	Dodge Ram 2500 Crew Cab	\$24,750.00	Landers Dodge Jeep	100032541	4600030962	N/A	N/A
22	PKA	1T Full Size Dually Long Bed Gas Eng.	Ford F-350	\$22,480.00	Landers Ford	100069180	4600033473	N/A	N/A
23	PQB	1T Chassis/Cab Single-Wheel, Crew Cab	Ram 3500	\$24,589.00	Landers Dodge Jeep	100032541	4600033475	N/A	N/A
24	PRA	1T Full Size Dually	Ford F-350	\$20,478.00	Riser Ford	100072101	4600030968	N/A	N/A
25	PRB	1T Chassis/Cab Dually, Crew Cab	Chevrolet Silverado 3500	\$25,174.00	George Nunnally Chevy	100004710	4600033479	N/A	N/A
26	PKD	1T Full Size Dually Long Bed Diesel Eng.	Ford F-350	\$29,276.00	Landers Ford	100069180	4600033473	N/A	N/A
27	PQD	1T Chassis/Cab Diesel, Crew Cab	Ford F-350 Crew Cab XL	\$32,348.00	Landers Ford	100069180	4600033473	N/A	N/A
28	PRC	1T Chassis/Cab Dually, Diesel Eng.	Chevrolet Silverado 3500	\$28,980.00	George Nunnally Chevy	100004710	4600033479	N/A	N/A
29	PRD	1T Chassis/Cab Dually, Diesel Eng. Crew-Cab	Ford F-350 Crew Cab XL	\$32,306.00	Landers Ford	100069180	4600033473	N/A	N/A
VANS & SUV's									
30	VAA	1/2T Full Size Utility Van;	Ford Transit	\$19,948.00	Landers Ford	100069180	4600033473	N/A	N/A
31	VAB	3/4T Full Size Utility Van;	Chevrolet Express Cargo Van	\$18,659.00	Bale Chevrolet	100095671	4600030961	N/A	N/A
32	VAC	1T Full Size Utility Van;	Chevrolet Express Cargo Van	\$22,648.00	Bale Chevrolet	100095671	4600033480	N/A	N/A
33	VBA	1/2T 8-Passenger Van	Ford Transit	\$22,969.00	Landers Ford	100069180	4600033473	N/A	N/A
34	VGA	3/4T 8-Passenger Van;	Chevrolet Express Passenger Van	\$21,262.00	Bale Chevrolet	100095671	4600030961	N/A	N/A
35	VCA	1T 12-Passenger Van;	Express Passenger Van 3500 LS	\$24,121.00	Landers Chevrolet	100029958	4600030973	11	16
36	VDA	1T 15-Passenger Van;	Chevrolet Express Passenger Van 3500 LS	\$26,059.00	Landers Chevrolet	100029958	4600030973	22	27
37	VEA	Compact Utility Mini-Van 2-Passenger	Ford Transit Connect Cargo	\$19,545.00	Riser Ford	100072101	4600030968	22	27
38	VEB	Compact Utility Mini-Van 5-Passenger Wagon	Ford Transit Connect Passenger	\$22,185.00	Riser Ford	100072101	4600030968	22	27
39	VFA	Compact 7-Passenger Mini-Van	Dodge Grand Caravan	\$20,963.00	Landers Dodge Jeep	100032541	4600030962	17	25
40	VHA	Sub-Compact 2WD 5-Passenger Utility Vehicle	Jeep Patriot	\$18,221.00	Landers Dodge Jeep	100032541	4600030962	21	28
41	VHB	Sub-Compact 4WD 5-Passenger Utility Vehicle	Jeep Patriot 4WD	\$19,601.00	Landers Dodge Jeep	100032541	4600030962	21	27
42	VHC	Compact 2WD 5-Passenger Utility Vehicle	Chevrolet Equinox FWD LS	\$20,247.00	Landers Chevrolet	100029958	4600030973	22	32
43	VHD	Compact 4WD 5-Passenger Utility Vehicle	Chevrolet Equinox AWD LS	\$21,699.00	Bale Chevrolet	100095671	4600030961	20	39
44	VIA	Mid-Size 2WD 7-Passenger Utility Vehicle	Dodge Durango	\$24,458.00	Landers Dodge Jeep	100032541	4600030962	16	23
45	VIB	Mid-Size 4WD Utility Vehicle	Dodge Durango	\$26,568.00	Landers Dodge Jeep	100032541	4600030962	16	23
46	VSA	Full-Size 2WD Utility Vehicle	Chevrolet Traverse FWD	\$23,179.00	Bale Chevrolet	100095671	4600030961	17	24

STATE OF ARKANSAS
VEHICLE CONTRACT
SP-15-0011 / 2015 VEHICLES

Item #	Vehicle Type	Description	Model	Price	Vendor	Vendor #	OA #	MPG City	MPG Hwy
47	VSB	Full-Size 4WD Utility Vehicle	Chevrolet Traverse AWD	\$25,059.00	Bale Chevrolet	100095671	4600030961	16	23
48	PMA	8-Passenger Carry-All:8cyl	Ford Expedition XL	\$29,179.00	Landers Ford	100069180	4600030986	14	20
HYBRID / ALTERNATIVE VEHICLES									
49	HCS	Hybrid-Electric Compact Sedan	Honda Civic Hybrid	No Award	No Award	No Award	No Award	No Award	No Award
50	HMH	Hybrid-Electric Mid-Size Hatchback	Toyota Prius	\$22,827.00	Steve Landers Toyota	100149950	4600030966	51	48
51	HMS	Hybrid-Electric Mid-Size Sedan	Hybrid-Electric Mid-Size Sedan	No Award	No Award	No Award	No Award	No Award	No Award
52	HTU	Hybrid-Electric 5 Passenger 2WD SUV, 4cyl	Hybrid-Electric 5 Passenger 2WD SUV, 4cyl	No Award	No Award	No Award	No Award	No Award	No Award
53	HFU	Hybrid-Electric 5 Passenger 4WD or AWD SUV	Hybrid-Electric 5 Passenger 4WD or AWD SUV	No Award	No Award	No Award	No Award	No Award	No Award
54	HST	Hybrid-Electric 7 Passenger 2wd SUV	Hybrid-Electric 7 Passenger 2wd SUV	No Award	No Award	No Award	No Award	No Award	No Award
55	HSF	Hybrid-Electric 7 Passenger 4wd or AWD SUV	Hybrid-Electric 7 Passenger 4wd or AWD SUV	No Award	No Award	No Award	No Award	No Award	No Award
56	HTT	Hybrid-Electric 1/2T Pickup 2WD Crew Cab	Hybrid-Electric 1/2T Pickup 2WD Crew Cab	No Award	No Award	No Award	No Award	No Award	No Award
57	HFT	Hybrid-Electric 1/2T Pickup 4WD Crew Cab	Hybrid-Electric 1/2T Pickup 4WD Crew Cab	No Award	No Award	No Award	No Award	No Award	No Award
58	HEA	Hybrid-Electric Volt Plug-In Hybrid	Chevrolet Volt	\$32,525.00	George Nunnally Chevy	100004710	4600030974	98	98
59	HEB	Nissan Leaf	Nissan Leaf	\$30,783.00	North Point Nissan	100184216	4600033474	126	101
60	HCX	Ford C-Max Hybrid	Ford C-Max Hybrid	No Award	No Award	No Award	No Award	No Award	No Award
61	HCE	Ford C-Max Energi	Ford C-Max Energi	No Award	No Award	No Award	No Award	No Award	No Award
62	HMT	Toyota Camry Hybrid	Toyota Camry Hybrid 2559	\$24,942.00	Steve Landers Toyota	100211587	4600033481	43	39
63	HFE	Ford Focus Electric	Ford Focus Electric	No Award	No Award	No Award	No Award	No Award	No Award
POLICE VEHICLES									
64	JAA	Campus Security Sedan	Chevrolet Cruze LS	\$16,057.00	Landers Chevrolet	100029958	4600030973	25	36
65	KAA	Chevy Impala Police Package	Chevy Impala Police Package	\$19,869.00	Landers Chevrolet	100029958	4600030973	18	30
66	LAA	Charger Pursuit Sedan V6	Dodge Charger Pursuit V6	\$22,267.00	Red River Dodge	100158685	4600030977	18	27
67	LAB	Charger Pursuit Sedan V8 Hemi	Dodge Charger Pursuit V8 Hemi	\$23,185.00	Red River Dodge	100158685	4600030977	16	25
68	PPV	Chevy Tahoe Police Package	Chevy Tahoe Police Package RWD	\$28,277.00	Bale Chevrolet	100095671	4600032261	16	23
69	KAB	Ford Police Interceptor Sedan AWD	Ford Police Interceptor Sedan AWD	\$23,501.00	Landers Ford	100069180	4600030986	18	25
70	PPW	Ford Police Interceptor Utility Vehicle AWD	Ford Police Interceptor Utility Vehicle AWD	\$25,480.00	Landers Ford	100069180	4600030986	16	21
71	LAC	Chevy Caprice Police Package V8 RWD	Caprice Police Package V8	\$25,251.00	George Nunnally Chevy	100004710	4600033479	18	26
72	PSS	Chevrolet Tahoe Special Service Vehicle	Chevrolet Tahoe Special Service Vehicle	\$30,474.00	Bale Chevrolet	100095671	4600032261	16	22
84	PPW	Chevrolet Police Pursuit Tahoe 4WD	Chevy Tahoe Police Package 4x4	\$31,058.00	Bale Chevrolet	100095671	4600032261	16	21
BI-FUEL & DEDICATED CNG VEHICLES									
73	HNA	Honda Civic Natural Gas (Dedicated)	Honda Civic Natural Gas (Dedicated)	No Award	No Award	No Award	No Award	No Award	No Award
74	PRF	Ram 2500 Bi-Fuel Crew Cab 3/4 ton Pick up	Ram 2500 Bi-fuel Crew Cab 3/4 ton Pick up	\$30,949.00	Red River Dodge	100158685	4600030977	N/A	N/A
75	PRG	Ford F-250 Bi-Fuel Regular Cab	Ford F-250 Bi-Fuel Regular Cab	\$30,707.00	Riser Ford	100072101	4600030968	N/A	N/A
76	PRH	Ford F-250 Bi-Fuel Super Cab	Ford F-250 Bi-Fuel Super Cab	\$32,616.00	Riser Ford	100072101	4600030968	N/A	N/A
77	PRJ	Ford F-250 Bi-Fuel Crew Cab	Ford F-250 Bi-Fuel Crew Cab	\$33,834.00	Riser Ford	100072101	4600030968	N/A	N/A
78	VAD	Chevrolet CNG 3/4-T Cargo Van (Dedicated)	Chevrolet CNG 3/4-T Cargo Van (Dedicated)	\$31,256.00	Bale Chevrolet	100095671	4600030961	N/A	N/A
79	VAE	Chevrolet CNG 1-T Cargo Van (Dedicated)	Chevrolet CNG 1-T Cargo Van (Dedicated)	\$32,084.00	Bale Chevrolet	100095671	4600030961	N/A	N/A
80	PRI	Chevrolet Bi-Fuel 2500HD Crew Cab	Chevrolet Bi-Fuel 2500HD Crew Cab	\$34,344.00	Smith Chevrolet	100059108	4600030978	N/A	N/A
81	PCG	Ford F-150 Bi-Fuel Regular Cab	Ford F-150 Bi-Fuel Regular Cab	No Award	No Award	No Award	No Award	No Award	No Award
82	PDG	Ford F-150 Bi-Fuel Super Cab	Ford F-150 Bi-Fuel Super Cab	No Award	No Award	No Award	No Award	No Award	No Award
83	PEG	Ford F-150 Bi-Fuel Crew Cab	Ford F-150 Bi-Fuel Crew Cab	No Award	No Award	No Award	No Award	No Award	No Award
85	AFB	Chevrolet Bi-Fuel CNG Impala	Chevrolet Bi-Fuel CNG Impala	\$31,986.00	Bale Chevrolet	100095671	4600033480	N/A	N/A
OKLAHOMA CNG VEHICLE CONTRACT									
HNA	Compact Car		Honda Civic NG	\$26,031.00	Russell Chevrolet	100001577	4600027953	27	38
PRH	3/4 Ton Truck		Chevrolet Silverado 2500 HD Extended Cab	\$34,062.00	George Nunnally Chevy	100004710	4600027956	12	16
VAB	3/4 Ton Cargo Van		Chevrolet Express 2500 Cargo Van	\$30,900.00	George Nunnally Chevy	100004710	4600027956	10	15
VAC	One Ton Cargo Van		Chevrolet Express 3500 Cargo Van	\$34,900.00	George Nunnally Chevy	100004710	4600027956	10	14

City of Fayetteville - Purchase Order Request (PO)										Requisition No.:	Date:
(Not a Purchase Order) All PO Requests shall be scanned to the Purchasing e-mail: Purchasing@fayetteville-ar.gov. Purchase shall not be made until an actual PO has been issued.										P.O. Number:	2/3/2015
Vendor #:	13292	Vendor Name:	Bale Chevrolet							Legistar#:	2015-0028
Address:	13101 Chenal Pkwy		FOB Point:							Expected Delivery Date:	
City:	Little Rock	State:	AR	Zip Code:	72211	Ship to code:			Quoted Attached		
Requester:	Willie Newman		Requester's Employee #:	2888	Account Number	4470.9470.5802.00		Project Sub#	06003-1	Inventory #	701284
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost						
1	Chevrolet Tahoe Special Services Vehicle	1	ea	32,371.00	\$32,371.00						
2					\$0.00						
3					\$0.00						
4					\$0.00						
5					\$0.00						
6					\$0.00						
7					\$0.00						
8					\$0.00						
9					\$0.00						
10					\$0.00						
*	Shipping/Handling		Lot		\$0.00						
Special Instructions: AASIS Contract #4600030961											
Subtotal: \$32,371.00 Tax: \$0.00 Total: \$32,371.00											
Approvals: Mayor: _____ Chief Financial Officer: _____ Dispatch Manager: _____ Department Director:  Budget Director: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Director: _____ Other: _____											

City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year 2015	Division: Police Dept.: Police Requestor: W. Newman	Adjustment Number
----------------------------	--	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Recognize revenue from the insurance and salvage of Unit #1236 and establish expense budget for the purchase of a new non-motor pool replacement vehicle.

RESOLUTION/ORDINANCE	COUNCIL DATE: 2/3/2015
	LEGISTAR FILE ID#: 2015-0028
	<i>Barbara Fell</i> 1/16/2015 10:50 AM
	Budget Director _____ Date _____
	TYPE: _____ DESCRIPTION: _____ GLDATE: _____ POSTED: _____ / _____

TOTAL	36,068	36,068					v.20150102
	Increase / (Decrease)		Project.Sub#				
Account Number	Expense	Revenue	Project	Sub	AT	Account Name	
1010.0001.4881.02	-	18,034			RE	Gain/Loss - Sale of Assets	
1010.6600.7602.47	18,034	-	57018	1010	EX	Transfer to Cap Improvement Fund	
4470.0947.6602.01	-	18,034	06003	1	RE	Transfer from General	
4470.9470.5802.00	18,034	-	06003	1	EX	Vehicles And Equipment	
	-	-					
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City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0022

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 10

WASHINGTON COUNTY JAIL SERVICES INTERLOCAL AGREEMENT AMENDMENT:

A RESOLUTION APPROVING AN AMENDMENT TO THE JAIL SERVICES INTERLOCAL AGREEMENT WITH WASHINGTON COUNTY, ARKANSAS, CONTINUING FEES AT \$60.00 PER BOOKED PRISONER FOR CALENDAR YEAR 2015

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 jail services interlocal agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2015. A copy of the contract amendment is attached as Exhibit "A".

City of Fayetteville Staff Review Form

2015-0022

Legistar File ID

2/3/2015

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

Greg Tabor

1/16/2015

Police /
Police Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of an amendment to the Jail Services Interlocal Agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2015.

Budget Impact:

1010.2900.5315.00

General

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 307,724.00

Funds Obligated \$ -

Current Balance \$ 307,724.00

Does item have a cost? No

Item Cost

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 307,724.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council
FROM: Greg Tabor, Chief of Police
DATE: January 16, 2015
SUBJECT: Amended Interlocal Agreement for Jail Services

RECOMMENDATION:

Staff recommends approval of an amendment to the Interlocal Agreement for Jail Services with Washington County, Arkansas, for continuing fees at \$60.00 per booked prisoner for calendar year 2015.

BACKGROUND:

The City of Fayetteville and Washington County entered into an Interlocal Agreement for Jail Services on October 19, 2004 with five subsequent amendments. The agreement allows that Washington County will provide jail space for City of Fayetteville prisoners in exchange of the City paying a set price for each booked prisoner.

DISCUSSION:

It is the desire of both Washington County and the City of Fayetteville to amend this Interlocal Agreement for Jail Services to extend the term of this agreement to include the 2015 calendar year with no increase in Schedule A which holds the price at \$60.00 per prisoner booking.

BUDGET/STAFF IMPACT:

There is no impact on our current budget or staffing levels associated with this amendment.

Attachments:

Interlocal Agreement for Jail Services

SIXTH AMENDED INTERLOCAL AGREEMENT FOR JAIL SERVICES

THIS AGREEMENT, is made pursuant to Ark. Code Ann. §14-14-910, by and between the County of Washington, Arkansas (hereinafter referred to as the "County"), and the City of Fayetteville, Arkansas, (hereinafter referred to as the "City"), herein collectively known as the "Parties".

WITNESSETH:

WHEREAS, the Parties entered into an Interlocal Agreement for Jail Services dated October 19, 2004, which was supplemented by an Addendum on April 19, 2006, which was amended on January 10, 2005; January 20, 2011; December 9, 2011, and September 1, 2012.

WHEREAS, the Parties desire to extend the Agreement, for another year.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND OBLIGATIONS OF THE PARTIES CONTAINED HEREIN, BE IT AGREED:

1. Effective January 1, 2015, Section 5 of the Interlocal Agreement for Jail Services remains unchanged and reads as follows:

"5. DURATION. The initial term of this Agreement shall commence January 1, 2015, and shall expire on December 31, 2015. The County further agrees to make jail space for City prisoners an operational priority during the initial term and any subsequent term of this Agreement."

2. Effective January 1, 2015, Schedule A of the Interlocal Agreement for Jail Services remains unchanged and reads as follows:

"SCHEDULE A

The current cost of keeping a County Prisoner in jail has been determined to be Sixty Five Dollars (\$65.00) per day, however, due to the fact that citizens of the City are paying a one quarter (¼ %) sales and use tax, and due to the long and ongoing history of sharing resources between the Washington County Sheriff and the Fayetteville Police Department, the County shall charge the City Sixty Dollars (\$60.00) per booked prisoner.

The rate provided for herein shall not increase more than ten percent (10%) in any following years that this Agreement is renewed."

CITY OF FAYETTEVILLE

WASHINGTON COUNTY

LIONELD JORDAN, Mayor

MARILYN EDWARDS, County Judge

ATTEST:

ATTEST:

SONDRA E. SMITH, City Clerk

BECKY LEWALLEN, County Clerk

APPROVED as to form:

APPROVED as to form:

KIT WILLIAMS
City Attorney

STEVE ZEGA
County Attorney

DATE: _____

DATE: 1/16/15



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0013

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 11

EXPRESS THE WILLINGNESS FOR SAIN STREET CONNECTION:

A RESOLUTION TO EXPRESS THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE CONSTRUCTION OF THE SAIN STREET CONNECTION FROM NORTH FRONT STREET TO VANTAGE BOULEVARD

WHEREAS, the City of Fayetteville understands that the Northwest Arkansas Regional Planning Commission has recently approved Federal-aid Surface Transportation Program Attributable funds for construction of the Sain Street Connection from North Front Street to Vantage Boulevard at the following Federal and City participating ratios, up to the maximum Federal-aid available:

	<u>Work Phase</u>	<u>Federal %</u>	<u>City %</u>
Construction of City Projects	Preliminary Engineering	80%	20%
	Right-of-Way	80%	20%
	Utilities	80%	20%
	Construction	80%	20%
	Construction Engineering	80%	20%
City projects programmed but not let to contract	All Phases	0%	100%

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 expresses its willingness to participate in accordance with its designated responsibilities in this project.

Section 2: That the City Council of the City of Fayetteville, Arkansas authorizes the Mayor and City Clerk to execute all appropriate agreements with the Arkansas State Highway and Transportation Department to expedite the construction of the above-stated improvements.

Section 3: That the City Council of the City of Fayetteville, Arkansas pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

City of Fayetteville Staff Review Form

2015-0013

Legistar File ID

2/3/2015

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

Paul Libertini

1/15/2015

Engineering /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A Resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid funds for the construction of the Sain Street Connection from N. Front Street to Vantage Boulevard.

Budget Impact:

Account Number

06035.3400

Fund

Sain Street Connection

Project Number

Project Title

Budgeted Item? No

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Chris Brown, City Engineer

FROM: Paul Libertini, Staff Engineer

DATE: January 15, 2015

SUBJECT: **A Resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid funds for the construction of the Sain Street Connection from N. Front Street to Vantage Boulevard.**

RECOMMENDATION:

Staff recommends approval of the attached resolution to design and construct the new roadway connection of Sain Street from N. Front Street to Vantage Boulevard. The resolution provides for:

- The City understands that Federal-aid Surface Transportation Program-Attributable funds are available for this project using the participating ratio of 80% Federal/20% City.
- The City will participate in accordance with its designated responsibilities for this project.
- The Mayor, or his designee, is authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this City project.
- The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department (AHTD) to initiate action to implement this project.

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.

An application for federal funding of the Sain Street Extension between N. Front Street and Vantage Boulevard was submitted to and selected by the Northwest Arkansas Regional Planning Commission (NWARPC). On September 24, 2014, the NWARPC approved funding of the design phase for \$320,000 (80%) from STP-A funds, but the City must provide a 20% local match of \$80,000 for a total of \$400,000. Other project phases such as right-of-way, utilities and road construction will be submitted for future year's available STP-A funding.

DISCUSSION:

The next step in this process is approval of the agreement with AHTD. Therefore, a City Council resolution expressing the willingness of the City to utilize Federal-aid funds, and to provide matching funds for the Federal-aid dollars, and to authorize the Mayor to sign the project agreement is needed. This item will be presented to and reviewed by the Transportation Committee at the January 27th meeting.

BUDGET/STAFF IMPACT:

This project will be based on an Agreement Of Understanding with AHTD in which Federal-aid money will pay 80% of the project amount and the City will pay 20%. Based on the total estimate of \$400,000 for engineering services, the federal aid portion will be \$320,000 and the City's portion \$80,000. (These numbers are subject to change as the project is developed and more detailed estimates are provided.) 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 CIP Fund.

Attachments:

Letter from AHTD dated 12/29/14

Agreement Of Understanding for Sain Street Connection

Sample Resolution

Exhibit: Mud Creek Blvd. Option No. 1 (Sain Street Extension)

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711



P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400
www.arkansashighways.com

December 29, 2014

RECEIVED

JAN 5 2015

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Sain St. Extension (Fayetteville)

Dear Mayor Jordan:

Reference is made to your letter requesting that the Department begin project development on the Sain Street connection from N. Front Street to Vantage Boulevard recently approved by the Northwest Arkansas Regional Planning Commission.

In order to proceed with a Federal-aid project, your City Council must adopt a resolution (sample enclosed) authorizing you to enter into any necessary agreements with the Department for the project. Then you and the City Attorney must sign the enclosed Agreement of Understanding. Upon receipt of the resolution and Agreement, State and Federal-aid job numbers will be assigned and a copy of the executed Agreement of Understanding will be returned to you. When submitting the Agreement to the Department for execution, you will also need to sign Attachment L and complete Attachment M.

If you have any questions, please contact Daniel Siskowski or Carlos Meredith at (501) 569-2261.

Sincerely,

Kevin Thornton
Assistant Chief Engineer-Planning

Enclosures

c: Deputy Director and Chief Engineer
Program Management
Consultant Contracts Administrator
Roadway Design
Transportation Planning and Policy
District 4
Jeff Hawkins, Executive Director - NWA Regional Planning Commission

**AGREEMENT OF UNDERSTANDING
BETWEEN
THE CITY OF FAYETTEVILLE
AND
THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration

RELATIVE TO

Construction of the **Sain Street connection from N. Front Street to Vantage Boulevard**, (hereinafter be called the "Project") as a Federal-aid STP-Attributable project.

WHEREAS, funding in the Moving Ahead for Progress in the 21st Century Act (MAP-21) includes 80% Federal-aid funds to be matched with 20% non-federal funds for certain city projects; and

WHEREAS, **the City of Fayetteville** (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for the eligible Project and to provide necessary matching cash share for such funds; and

WHEREAS, the Sponsor will transmit to the Arkansas State Highway and Transportation Department (hereinafter called the "Department") a signed and sealed Resolution from the City Council authorizing the Mayor to execute agreements and contracts with the Department for the Project; and

WHEREAS, funding participation will be as follows, subject to the amount of Federal-aid funds and obligation limitation approved and available for the Project:

	<u>Maximum Federal %</u>	<u>Minimum Sponsor %</u>	
Preliminary Engineering by Consultant	80	20	
Right-of-Way/Utilities	80	20	
Construction	80	20	
Construction Engineering by Consultant	80	20	
Department Administrative Costs	80	20	; and

WHEREAS, the Sponsor knows of no legal impediments to the completion of the Project; and

WHEREAS, it is understood that the Sponsor and the Department will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Disadvantaged Business Enterprises (DBEs) (Attachment A) and that, as part of these requirements, the Department may set goals for DBE participation in the Project, ranging from 0% to 100%, that are practical and related to the potential availability of DBEs in desired areas of expertise.

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement.

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration (FHWA), will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE SPONSOR WILL:

1. Initially submit to the Department \$1,000 (20%) to be matched by \$4,000 (80%) Federal-aid funds for Department administrative costs associated with state preliminary engineering, which include but are not limited to, on site meetings, environmental review, and plan and specification review. The Sponsor's final cost for this phase will be determined by actual Department charges to preliminary engineering.
2. Be responsible for hiring a consultant engineering firm(s) in accordance with the Local Agency Consultant Selection Procedures (Attachment B) to provide engineering services which include environmental documentation, preliminary engineering, and construction engineering for the Project. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**
3. Prepare plans, specifications, and a cost estimate for construction. A registered professional engineer must sign the plans and specifications for the Project. (See Attachment C for items to be included in the bid proposal.)
4. Additional preliminary design, approximately 30% plans, will be completed between N. Front Street and the new Highway 71B Flyover to guarantee alignment and profile match future improvement plans.
5. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.
6. Understand that **expenditures for preliminary or construction engineering performed by the Sponsor's forces are not eligible for reimbursement with federal funds.**
7. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.
8. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition). A registered professional engineer must sign the plans and specifications for the Project.
9. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.
10. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in compliance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**

11. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the “Uniform Act”).
12. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
13. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating the Sponsor’s clear and unencumbered title to any right-of-way to be used for the Project (See Attachment D). **NOTE: Any property that is to become Department right-of-way must be acquired in the Department’s name.**
14. Submit plans at 50% and 90% completion stages for Department review.
15. Submit a certification letter (Attachment E), including all items noted, to the Department when requesting authority to advertise the Projects for construction bids.
16. Advertise for bids in accordance with federal procedures as shown in Attachment F. **NOTE: FHWA authorization and Department approval must be given prior to advertising for construction bids.**
17. Forward a copy of all addenda issued for the Project during the advertisement to the Department.
18. After bids are opened and reviewed, submit a Certification Letter Requesting Concurrence in Award (Attachment G), including all items noted, to the Department.
19. Prior to awarding the construction contract, submit a check for \$1,000 to be matched by \$4,000 (80%) Federal-aid funds for Department administrative costs on the Project during construction. The Sponsor’s final share of cost for this phase will be determined by actual Department charges to construction engineering.
20. Have a full-time employee of the Sponsor in responsible charge during construction of the Project.
21. Prior to issuing the notice to proceed to the Contractor, hold a pre-construction meeting with the Contractor and invite the Department’s Resident Engineer assigned to the Project.
22. Ensure that all work, material testing and acceptance, and inspection is conducted in accordance with the Department’s Standard Specifications for Highway Construction (latest edition), Manual of Field Sampling and Testing Procedures, and Resident Engineer’s Manual and with the plans, specifications, and all other applicable FHWA and Department procedures for the Project.
23. Make periodic payments to the consultant for construction engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.
24. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then request reimbursement from the Department on the Construction Certification and Reimbursement Request (CCRR) form (Attachment H). Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.

25. Attach LPA Report of Daily Worked Performed (Attachment I) for all days that correspond with each CCRR submittal.
26. Prior to executing the work, submit construction contract change orders to the Department's Resident Engineer in charge of reimbursements for review and approval.
27. Upon completion of the Project, hold a final acceptance meeting for the Project and submit the LPA Final Acceptance Report form certifying that the Project was accomplished in accordance with the plans and specifications (Attachment J). This form must be signed by the engineer/architect performing construction inspection on the Project, the Department's Resident Engineer assigned to the project, the Sponsor's full-time employee in responsible charge, and the Sponsor's Mayor.
28. Maintain accounting records to adequately support reimbursement with Federal-aid funds and be responsible for the inspection, measurement and documentation of pay items, and certification of all work in accordance with the plans and specifications for the Project and for monitoring the Contractor and subcontractor(s) for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.
29. Pay all unpaid claims for all materials, labor, and supplies entered into contingent or incidental to the construction of said work or used in the course of said work including but not limited to materials, labor, and supplies described in and provided for in Act Nos. 65 and 368 of 1929, Act No. 82 of 1935, and Acts amendatory thereof.
30. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses, and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions of the Sponsor, including any act of omission, neglect or misconduct of said Sponsor. Further, the Sponsor shall take no action to compromise the immunity from civil suits afforded the State of Arkansas, the State Highway Commission, Arkansas Code 19-10-305, or the 11th Amendment of the United States Constitution. This obligation of indemnification shall survive the termination or expiration of this Agreement.
31. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
32. Retain all records relating to inspection and certification, the Contractor's billing statements, and any other files necessary to document the performance and completion of the work in accordance with requirements of 49 CFR 18.42 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Attachment K).
33. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.

34. Be responsible for 100% of all project costs incurred should the Project not be completed as specified.
35. Be responsible for 100% of any and all expenditures which may be declared non-participating in federal funds, including any such award by the State Claims Commission.
36. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment L), which is necessary for Project participation.
37. Repay to the Department the federal share of the cost of any portion of the Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be withheld from the Sponsor's Motor Fuel Tax allotment should the Sponsor fail to pay to the Department any required funds, fail to complete the Project as specified, or fail to adequately maintain or operate the Project.
38. Be responsible for all costs not provided by the Federal Highway Administration.
39. Repay to the Department the federal share of the cost of this project if for any reason the Federal Highway Administration removes federal participation.
40. Retain total, direct control over the Project throughout the life of all project improvements outside of the Department's right-of-way and **not, without prior approval from the Department:**
 - sell, transfer, or otherwise abandon any portion of the Project;
 - change the intended use of the Project;
 - make significant alterations to any improvements constructed with Federal-aid funds;
or
 - cease maintenance or operation of a project due to the Project's obsolescence.
41. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the Project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and may result in withholding all future Federal-aid.
42. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than \$500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The \$500,000 threshold is subject to change after OMB periodic reviews.
43. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.

44. Promptly notify the Department if the Project improvements outside of the Department's right-of-way are rendered unfit for continued use by natural disaster or other cause.
45. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment M).

THE DEPARTMENT WILL:

1. Maintain an administrative file for the project and be responsible for administering Federal-aid funds.
2. Review environmental documentation as prepared by the Sponsor.
3. Review plans and specifications submitted by the Sponsor.
4. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.
5. Ensure substantial compliance with federal contracting requirements through review of the bidding proposal for inclusion of required federal forms, review of the administration of the DBE program provisions, and general compliance with 23 CFR 635.
6. Advise the Sponsor when to proceed with advertisement of the Project for construction bids.
7. Review and concur in award of the construction contract for the Project.
8. Ensure that the Sponsor and the Sponsor's consultant provide adequate supervision and inspection of the Project by performing periodic inspections with the Sponsor's representatives and their consultant to verify that the work being performed by the Sponsor's contractor, and documented and certified by the Sponsor, meets the requirements of the Project plans, specifications, and all applicable FHWA and Department procedures. The Department intends to perform these inspections, at a minimum, when the construction work is approximately 10% and 50% completed. The Department will also participate in the final inspection of the Project.
9. Review and approve any necessary change orders for project/program eligibility.
10. Reimburse the Sponsor 80% (Federal-aid share) for eligible construction costs approved in the CCR form (Attachment H). This reimbursement will be limited to the maximum Federal-aid amount and to the federal amount available at the time payment is requested. If the payment requested exceeds the Federal-aid available at the time, the difference will be reimbursed as additional Federal-aid for the Project becomes available.
11. Subject to the availability of Federal-aid allocated for the Project, pay the Sponsor the remaining amount due upon completion of the Project and submittal of the certified LPA Final Acceptance Report form (Attachment J).
12. Be reimbursed for costs involved in performing all the services listed above.

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the Sponsor fail to pay to the Department any required funds due for project implementation or fail to complete the Project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the Sponsor's Motor Fuel Tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this _____ day of _____, 2015.

ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

CITY OF FAYETTEVILLE

Scott E. Bennett, P.E.
Director of Highways and Transportation

Lioneld Jordan
Mayor

Kit Williams
City Attorney

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT

NOTICE OF NONDISCRIMINATION

The Arkansas State Highway and Transportation Department (Department) 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 Department does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in the admission, access to and treatment in Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to EEO/DBE Section Head (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: EEO/DBE_Section_Head@ahtd.ar.gov

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

GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a disadvantaged business enterprise affirmative action program, which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 26, Subpart F, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in 49 CFR Part 26, Subsections 26.101 and 26.107 shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

LOCAL AGENCY

CONSULTANT SELECTION PROCEDURES

Section I – Application

These procedures apply to federally funded contracts for engineering and design services for projects. The federal laws and regulations that govern the procurement of engineering and design related services with Federal-aid highway funds are:

- 23 U.S.C. 112 “Letting of contracts”.
- 23 CFR 172 “Administration of Engineering and Design Related Service Contracts”,
- 49 CFR 18 “Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments” or more commonly known as the “Common Rule”,
- 40 U.S.C. Chapter 10 Subchapter VI, paragraphs 541-544 or commonly called the “Brooks Act”.

In accordance with the above federal laws and regulations, the Arkansas State Highway and Transportation Department (AHTD) has approved these procedures for use by the Local Agency for the “competitive negotiation” method of procurement as defined in 23 CFR 172.5, Methods of Procurement.

The Local Agency will use these procedures for Federal-aid contracts and may elect to use them for non-Federal-aid contracts.

These procedures do not apply to design-build Contracts.

Section II – Advertisement for Letters of Interest (LOIs).

The Local Agency may employ a consultant engineering firm when a need exists for engineering services and it is in the Local Agency’s best interest to employ an engineer or engineering firm.

As a minimum, the Local Agency will advertise in a statewide newspaper, the AHTD’s website and the Local Agency’s website (if available), advising that consultant engineering services are being sought. In addition, the Local Agency may advertise in appropriate national trade magazines or websites for specialized services. Interested firms must furnish a Letter of Interest with primary contact information and Architect-Engineer Qualifications Standard Form 330 Parts I and II. The advertisement will be for either a specific single project, a group of projects, or for an indefinite delivery of projects to be determined at a later date with specific task orders issued for each project.

When the Local Agency advertises a specific project, the advertisement will describe the work in general terms so that firms may evaluate their interest in performing the desired services.

When the Local Agency advertises a group of projects, a general description of work will be furnished. Firms will be asked to specify the projects they are interested in performing. When the Local Agency decides to proceed with a certain project, those firms having expressed interest in that project will be considered for selection.

When the Local Agency advertises for an indefinite delivery of projects with later specified task orders, the advertisement will include a general description of work for the project tasks.

Section III – Selection Committee.

The Local Agency will designate a Selection Committee (Committee) to evaluate and analyze the LOIs and Proposals.

Section IV – Evaluation of LOIs.

The Committee will evaluate each consultant firm based on the following:

No.	Evaluation Factors for LOIs	Maximum Points Possible
1	Professional staff including the education, experience, number of personnel available, and any partnerships with sub-consultants	10
2	General and professional reputation, including responsiveness to civil rights and equal employment opportunity requirements and opportunities	10
3	Past work performance	10
4	Experience with projects of a similar nature as those advertised	10
Total Points for LOI		40

Following their review, the selection committee will prepare a short list of engineering firms and recommend to the Local Agency that these firms submit detailed proposals for further evaluation.

Section V – Request for Proposal (RFP).

The Local Agency will prepare a scope of work statement and request proposals from the engineering firms on the short list. For projects with FHWA oversight, the Local Agency will forward the scope of work statement to AHTD to forward to FHWA for review and approval before soliciting RFPs. A Local Agency's scope of work will typically include the following:

1. A detailed description of the work
2. Services that will be furnished by the Local Agency
3. Services expected of the consultant
4. Project conditions of the work
5. Special conditions of the work
6. Assurance of participation of Disadvantaged Business Enterprises (DBE) in Federal-aid projects. The Local Agency may establish a DBE goal of a certain percentage of the work for DBE's to assure DBE's participation in Federal-aid projects. When a DBE goal is specified, the Local Agency will ensure that a certified DBE(s) performs the identified engineering work and that the payments to the DBE(s) verify that the goal was reached. The establishment of a DBE goal does not preclude a DBE from being the prime consultant for the project.

The short-listed firms should submit proposals that contain the following:

1. A cover letter with primary contact information
2. A detailed work plan that identifies the major tasks of work
3. A list of major concerns associated with completing the work
4. A detailed work schedule for specific projects as requested
5. A manpower estimate for specific projects as requested
6. Updated Standard Form 330 Parts I and II if necessary

The Committee will review the proposals with particular attention to the following evaluation factors and the consideration of Section IV. The evaluation factors and their relative importance will be listed in the RFP if any of the factors are different from the list below.

No.	Evaluation Factors for Proposals	Maximum Points Possible
1	Obvious indication that the scope of work is clearly understood	10
2	Comprehensive, coherent, and detailed work plan	10
3	Realistic work schedule when applicable	10
4	Proposed working office location, need for a local office, and any local representative*	5
5	Identification of sub-consultants and responsiveness to DBE goals and opportunities	5
6	Total Points for LOI	40
	Total Points for Proposals	80

*Locality preference may be used on a project by project basis where it is not based on political boundaries.

Based on these various items, the Committee will rank the firms in order of preference and submit the list to the Local Agency who will either:

1. Select one firm to enter negotiations with;

2. Select multiple firms for an indefinite delivery contract; or
3. Select two or more firms to interview (a firm may present additional information concerning their proposal at the interview). After the interviews, the Committee will re-evaluate the firms based on the interview and the same evaluation factors as noted previously. The ranked list will be submitted to the Local Agency for review and final selection.

The contract file will contain records of the rankings and supporting data; however, the rankings will not be public information. Copies of the LOI advertisement, the rankings, and supporting data shall be submitted to AHTD for the contract file.

Section VI – Negotiation and Contract Preparation.

Once a firm is selected for negotiation for a specific job or a group of projects, it will prepare a draft contract including a cost estimate for the project. The other firms on the short list will be advised of the firm selected, subject to successful negotiations.

More than one firm may be selected for an indefinite delivery contract. The contract will establish a maximum cost for the contract as well as an expiration date. As individual task orders are issued, individual task order cost estimates will be negotiated.

The selected firm will prepare a draft contract based on a sample contract furnished by the AHTD. In accordance with the principles of 23 CFR 172, the draft contract must include an overhead rate that is approved by the AHTD. The overhead rate shall be verified by an audit by a certified public accountant on behalf of the consultant if the contract exceeds \$250,000. If the contract is less than \$250,000, the overhead rate shall also be verified by an audit by a certified public accountant on behalf of the consultant if at least one of the following conditions applies:

1. when there is insufficient knowledge of the consultant's accounting system;
2. when there is previous unfavorable experience regarding the reliability of the consultant's accounting system; or
3. when the contract involves procurement of new equipment or supplies for which cost experience is lacking.

Pursuant to this requirement, the AHTD will notify the Local Agency if an audit by a certified public accountant for the selected firm is necessary. The certified audit needs to be provided by the selected firm prior to the submission of the final draft contract.

The Local Agency will review the draft contract proposal and either approve it as submitted or enter into negotiations with the selected firm to establish a contract and contract amount that the Local Agency deems is fair and reasonable. If a satisfactory contract cannot be negotiated with the selected firm, negotiations will be formally terminated. The Local Agency will then enter into negotiations with the second ranked firm. If negotiations with that firm fail, the Local Agency will formally terminate those

negotiations and begin to negotiate with the third ranked firm, and so on. If the Local Agency cannot negotiate a satisfactory contract with any of the firms on the short list, the Local Agency shall either:

1. Request proposals from additional firms who have submitted LOIs and are considered competent and qualified; evaluate and rank the firms based on the criteria described in Section V; and continue the negotiation process, or
2. Terminate all negotiations and begin the selection process again.

When the Local Agency and the consultant agree on a negotiated contract, the consultant will prepare a final draft and submit it to the Local Agency and AHTD for review. After review and a determination that it is acceptable, the consultant will sign the contract. The Local Agency will then execute the contract. The contract will subsequently be submitted to AHTD for final review and approval. When approved, copies of the signed contract will be distributed within the Local Agency and to the consultant.

For projects with FHWA oversight and for indefinite delivery contracts utilizing federal funds, the AHTD will forward the initial and final drafts of the contract to FHWA for review and comment. The FHWA approves the final executed contract by stamp and signature and retains a copy.

After the Local Agency executes an indefinite delivery contract, it will assign specific projects by task order for the duration of the contract period. The consultant will prepare each task order based on the scope of work furnished by the Local Agency. The task order will include a manpower estimate and cost. The Local Agency will review the task order and approve it as submitted or negotiate with the consultant to establish a task order and task order amount that the Local Agency deems is fair and reasonable. After review and a determination that the task order is acceptable, the consultant will sign the task order. The Local Agency will execute the task order. The task order will subsequently be submitted to AHTD for final review and approval. When approved, copies of the signed task order will be distributed within the Local Agency and to the consultant. For projects with FHWA oversight, the AHTD will forward the initial and final drafts of the task order to FHWA for review and comment. The FHWA approves the final executed task order by stamp and signature and retains a copy.

Section VII – Monitoring the Contract.

The Local Agency may identify staff members as key liaisons for specific projects or for technical matters during the administration of the contract period.

The Local Agency will:

1. Maintain the contract files.
2. Arrange and attend periodic progress meetings.
3. Coordinate reviews and approval actions with other agencies when necessary.

4. Review progress payments.
5. Coordinate questions from the consultant.
6. Negotiate any change or amendment to the contract and submit to AHTD for review and approval.
7. Prepare an evaluation of the consultant's performance after completion of the contract. A copy of the evaluation shall be submitted to the AHTD.

Section VIII – Consultant Liability

The Local Agency will include a contract requirement that the consultant will warrant that all services and work products provided as part of the contract are free from defects in workmanship at the time of acceptance and that the work conforms to the requirements of the contract. This warrant is effective regardless of the degree of inspection and acceptance by the Local Agency or others.

If the consultant is required to correct or re-perform any work or services, the work will be performed at no cost to the Local Agency, and any work or services corrected or re-performed by the consultant shall also be warranted that it is free from defects in workmanship. If the consultant fails or refuses to correct or re-perform, the Local Agency may, by contract or otherwise, correct or replace the deficient items or services with similar work or services, and charge the cost to the consultant or make an equitable adjustment in the consultant's reimbursement.

Acceptance is an act of an authorized representative of the Local Agency by which the Local Agency approves specific services, as partial or complete performance of the contract. Correction is the elimination of a defect.

REQUIRED CONTENTS OF BIDDING PROPOSALS FEDERAL-AID SURFACE TRANSPORTATION PROGRAM PROJECTS

1) **FHWA-1273**

Each set of contract documents shall include FHWA-1273, “Required Contract Provisions, Federal-aid Construction Contracts,” and such supplements that may modify the FHWA-1273. Copies of FHWA-1273 and supplements will be provided by the Department.

2) **Anti-Collusion and Debarment Certification**

The certification shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the law of the United States. The required form for the Anti-Collusion and Debarment Certification will be provided by the Department. The certification includes:

- Anti-collusion - A statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or in-directly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid.
- Debarment - A statement regarding debarment, suspension, ineligibility and voluntary exclusion as required by Title 49 of the Code of Federal Regulations, Part 29 (49 CFR 29).

Failure to submit the executed Certification as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

3) **Lobbying Certification**

This certification is required by 49 CFR 20. The form for this certification will be provided by the Department.

4) **Davis-Bacon Pre-determined Minimum Wage Rates**

Davis-Bacon requirements apply to all projects greater than \$2,000 that are physically located within the existing right-of-way of a functionally classified city street. The Davis-Bacon wage rates will be provided by the Department.

SPONSOR LETTERHEAD

JOB NUMBER
 JOB DESCRIPTION
 COUNTY

Title to the right of way necessary for the construction of this project has been acquired, *or will be acquired*, in accordance with applicable Federal Highway Administration procedures.

↓ indicate total number in each category here

	Tract(s)
	Option(s)
	Negotiation Pending* - <i>include tract number(s), and statement: It is anticipated that these tracts will be acquired by (date).</i>
	Condemnation(s) – (Order of Possession date)
	Condemnation(s) Pending* – <i>include tract number(s) and anticipated filing date</i>

* If applicable

There are no displacees on this project.

-Or-

Relocation Assistance has been provided in accordance with applicable Federal Highway Administration procedures and all displacees have moved from this project. There was/were # displaced (residence(s)/business(es)/personal property/etc) on the project.

There are no structures located within the right of way area.

-Or-

All structures have been removed from this project, except for those to be included as demolition items in the highway contract.

No right of way in excess of that needed for construction or future maintenance of this project was acquired.

No conflicting utilities are known to exist in the right of way area.

-Or-

Necessary utility relocation has been, or will be, completed as shown in the attached Utility Status Report.

Certified by: _____

Date: _____

(Type name)

(Type title)

CERTIFICATION LETTER
REQUESTING ADVERTISEMENT FOR BIDS

DATE

Mr. Emanuel Banks
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Banks:

The following documents are submitted concerning the referenced project:

1. One reproducible set of plans and specifications.
2. A copy of the engineer's estimate of cost.
3. Copies of any technical specifications or special provisions.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer licensed to practice in the State of Arkansas and that the plans and specifications were developed using the Arkansas State Highway and Transportation Department's *Standard Specifications for Highway Construction (latest edition)* and standard drawings, and comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

I understand that if any project items are declared non-participating in federal funds due to failure to comply with any State or federal requirements, the City will promptly repay such funds to the Arkansas State Highway and Transportation Department (AHTD). Further, I hereby authorize the Director of the Arkansas State Department of Finance and Administration to transfer such funds from the City's gasoline tax allotment to the AHTD's RRA Fund upon notification by the Director of Highways and Transportation that such funds are due AHTD and have not been paid by the City.

Approval to proceed with advertisement of the project for bids is requested.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Enclosures

GUIDELINES FOR ADVERTISING AND OPENING BIDS FEDERAL-AID PROJECTS

Upon receipt of written authorization from the Arkansas State Highway and Transportation Department, the project may be advertised for bids. The following minimum guidelines for advertising must be met:

- The minimum advertising period is three weeks.
- In addition to meeting the State requirements for advertising for construction projects, the project must be advertised a minimum of two times in a statewide newspaper.
- The notice must contain: (1) the time, date, and place that sealed bids are to be accepted, opened, and publicly read; (2) a brief description of the kind or type of work contemplated; and (3) the place at which prospective bidders may obtain plans and specifications.
- The Sponsor will include the following language in the solicitation for bids:

“The Sponsor hereby notifies all bidders that this contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws and other federal laws including the Fair Labor Standards Acts of 1938. The Work Hours Act of 1962 and Title VI of the Civil Rights Act of 1964 also apply.”
- All bids received in accordance with the terms of the advertisement shall be publicly opened and at a minimum, the total amount bid must be read (the sponsor may choose to read the bids item by item).
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting.
- In accordance with 23 CFR 635.110, any procedures and requirements for qualifying and licensing contractors must be approved by the Federal Highway Administration.
- **Negotiation with contractors during the period following the opening of bids and before the award of the contract is not permitted.**

CERTIFICATION LETTER
REQUESTING CONCURRENCE IN AWARD OF THE CONTRACT

DATE

Mr. Emanuel Banks
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Banks:

The following documents are submitted concerning the referenced project:

1. One set of bid tabulations.
2. Justification of award (if low bid amount is greater than 10% over the estimate).
3. A check for \$1,000 for AHTD construction involvement.

I certify that the referenced project was advertised and bids were received in accordance with the regulations governing Federal-aid projects and all other applicable state and federal regulations, and that this process has been reviewed and approved by the City Attorney. Additionally, I certify that the bid is being awarded to the lowest responsive and qualified bidder and that there has not been, nor will there be, any negotiations with the contractor or other bidders regarding the amount bid.

Your concurrence in the award of this contract to CONTRACTOR is requested.

Sincerely,

Mayor

City Attorney

Enclosures

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Revised: 12/19/13

PAGE 1 OF 2 PAGES

Job No.: _____	Payee/Sponsor: _____	DATE: _____
FAP: _____	address _____	
County: _____		PAY REQUEST # _____
Job Name.: _____	Federal Tax ID No.: _____	FROM: _____ TO: _____

SPONSOR'S REQUEST FOR PAYMENT

- 1 Maximum Approved Federal-aid Amount _____
- 2 Original Contract Amount _____
- 3 Net Changes by Change Orders _____
- 4 Present Contract Total _____
- 5 Present Federal-aid Amount (80% of Line 4
or Amount on Line 1, whichever is less) _____
- 6 Work Completed to Date _____
- 7 Federal Match (80% of Line 6 or amount
on Line 5, whichever is less) _____
- 8 Previous Reimbursements (Federal) _____
- 9 **Amount Due this Estimate**
(subtract Line 8 from Line 7)

CHANGE ORDER SUMMARY		ADDITIONS	DEDUCTIONS
Total changes previously approved			
Total approved this Request Period			
TOTALS			
NET CHANGES by Change Order (Line 3 above)			

Designated Full Time Employee In Responsible Charge

The information provided in this document is true and correct and I recommend that payment be made to the Contractor for this work.

By: _____ Date: _____

Title: _____

Sponsor's CEO

Payment is requested from the Arkansas State Highway and Transportation Department for the Amount Due. I certify that the Contractor and/or subcontractor(s) are complying with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the work has been completed by the Contractor in accordance with the plans and specifications; and that the Contractor has been paid for this work.

By: _____ Date: _____

Title: _____

DEPARTMENT USE ONLY

Recommended for Payment in
Accordance with Project Agreement

Approved for Payment

PAID

Voucher No. _____

Resident Engineer

State Construction Engineer

Date: _____

Attachment H

DETAIL ESTIMATE

PAGE 2 OF 2 PAGES

REQUEST NO: _____ DATE: _____

FROM: _____ TO: _____

CONTRACTOR: _____

A	B	C	D	E	F	G	H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STOCKPILED (NOT IN D or E)	TOTAL COMPLETED & STOCKPILED TO DATE (D+E+F)	% COMPLETED (G ÷ C)	BALANCE TO FINISH (C - G)
			PREVIOUS REQUESTS	THIS PERIOD				
	GRAND TOTALS							

Sponsor
LPA Report of Daily Work Performed

Job Name: _____ Job No.: _____
 FAP No.: _____ Contractor: _____
 Date: _____ Hours Worked: _____ – _____ Report No.: _____

Project Conditions

<u>Site Conditions</u>	<u>Weather</u>	<u>Contractors Personnel</u>
____ Useable	____ Sunny	____ Laborers
____ Partly Useable	____ Partly Cloudy	____ Carpenters
____ Not Useable	____ Rain	____ Concrete Laborers
Min Temp. (F) ____	Rainfall Amt. (in.) ____	____ Equip. Operators
Max Temp. (F) ____		____ Electricians
<u>Comments</u> 		____ Plumbers
		____ Foreman
		____ Other _____
		____ Other _____

Location and Description of Work Performed

Special Instructions and/or Conversations

Signed: _____
 Designated Full-time Employee

SPONSOR
LPA Final Acceptance Report

Job Name:		Date:
Job No:	FAP No:	
County:	Route:	
Contractor:		
Date Work Began:	Date Work Completed:	
Attendees:		
Remarks:		
Project Completed in Substantial Compliance with Plans and Specifications and Recommended for Final Acceptance by Sponsor	Recommended for Acceptance in Accordance with Project Agreement	
Engineer/Architect	AHTD Resident Engineer	

Project Recommended for Acceptance

Designated Full-time Employee: _____

I certify that the Contractor and/or subcontractor(s) have complied with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the project has been completed by the Contractor in accordance with the plans and specifications; that the Contractor has been paid for this work, and the project is hereby accepted.

SPONSOR's CEO

49 CFR 18.42

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Post-Award Requirements

Retention and access requirements for records.

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 18.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) *Starting date of retention period--*(1) *General.* When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) *Real property and equipment records.* The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) *Records for income transactions after grant or subgrant support.* In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the

end of the grantee's fiscal year in which the income is earned.

(4) *Indirect cost rate proposals, cost allocations plans, etc.* This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) *Access to records--*(1) *Records of grantees and subgrantees.* The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) *Expiration of right of access.* The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, and contracts and subcontracts under grants, sub grants, loans and cooperative agreements) which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CITY OF
FAYETTEVILLE

Lioneld Jordan
Mayor

Federal Funding Accountability and Transparency Act (FFATA)

Reporting Requirements

(For more information go to <https://www.fsrs.gov/>)

FFATA was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

A Prime Grant Recipient (hereinafter called AHTD (the Arkansas State Highway and Transportation Department)) awarded a new Federal grant greater than or equal to \$25,000 as of October 1, 2010 is subject to FFATA sub-award reporting requirements as outlined in the Office of Management and Budget guidance issued August 27, 2010. **AHTD is required to file a FFATA sub-award report for any sub-grant awarded to a sub-awardee greater than or equal to \$25,000.** As a sub-awardee, _____ shall provide the following information to AHTD in order to fulfill FFATA reporting requirements:

- ✓ A unique identifier (Dun & Bradstreet DUNS Number) of the sub-awardee receiving the award and the parent entity of the recipient, should the sub-awardee be owned by another entity;
- ✓ The names and total compensation of the five most highly compensated officers of the sub-awardee **if** the sub-awardee in the preceding Federal fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to information about the compensation of the senior executives of the sub-awardee through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

Required Sub-Awardee Information

(A) Sub-Awardee – DUNS Number: _____

Parent (if applicable) – DUNS Number: _____

- (B) In the preceding completed Federal fiscal year, did your business or organization (the legal entity to which the DUNS number entered above belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

Yes / No (Circle one)

If "Yes" is selected, answer (C).

- (C) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number entered above belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Yes / No (Circle one)

If "Yes" is selected, visit <http://www.sec.gov/edgar.shtml> for reference.

If "No" is selected, answer (D).

- (D) **If "No" was selected in Question "C",** complete the following information for the five (5) most highly compensated executives in your business or organization (the legal entity to which the DUNS number entered above belongs). Amount should reflect the Total Compensation Amount in the preceding completed Federal fiscal year in U.S. whole dollars.

Sub-Awardee Names and Compensation of Most Highly Compensated Officers

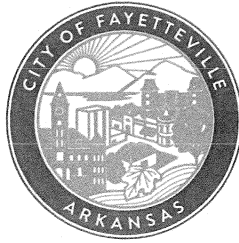
1. Name: _____ Amount: \$ _____

2. Name: _____ Amount: \$ _____

3. Name: _____ Amount: \$ _____

4. Name: _____ Amount: \$ _____

5. Name: _____ Amount: \$ _____



PM- LF
Handle.
lht

OFFICE OF THE MAYOR
LIONELD JORDAN

November 6, 2014

Ms. Lorie H. Tudor
Assistant Chief Engineer – Planning
Arkansas State Highway and Transportation Department
P.O. Box 2261
Little Rock, AR 72203

**Re: Sain Street Extension
Washington County
Fayetteville**

Dear Ms. Tudor,

The City of Fayetteville has recently been awarded \$320,000 of FFY2015 STP-A funds by the Northwest Arkansas Regional Planning Commission. These Federal-aid funds are for the SAIN STREET EXTENSION project that was programmed in the FY 2013 - 2016 Northwest Arkansas Regional Transportation Study (NARTS) Transportation Improvement Program (TIP) on October 27, 2014. The City now requests that the Arkansas State Highway and Transportation Department begin project development and prepare an Agreement of Understanding for this Federal-aid project.

Please call or e-mail Chris Brown, City Engineer, if you have any questions regarding this project at cbrown@fayetteville-ar.gov or 479-575-8207.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lioneld Jordan", is written over a horizontal line.

Lioneld Jordan
Mayor

RECEIVED

NOV 20 2014

Asst. Chief Engr.-Planning

FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. _____

**A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF FAYETTEVILLE
TO UTILIZE FEDERAL-AID FUNDS
FOR THE FOLLOWING CITY PROJECT:**

Sain Street Connection from N. Front Street to Vantage Boulevard

WHEREAS, the Northwest Arkansas Regional Planning Commission has recently approved Federal-aid Surface Transportation Program Attributable funds for the project at the following Federal and City participating ratios, up to the maximum Federal-aid available:

Type Work	Work Phase	Federal %	City %
Construction of City Projects	Preliminary Engineering	80	20
	Right-of-Way	80	20
	Utilities	80	20
	Construction	80	20
	Construction Engineering	80	20
City projects programmed but not let to contract	All Phases	-0-	100

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

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: The Mayor or his designated representative is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this City project.

SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this _____ day of _____, 2015.

Lioneld Jordan
Mayor of Fayetteville

ATTEST: _____
(SEAL)

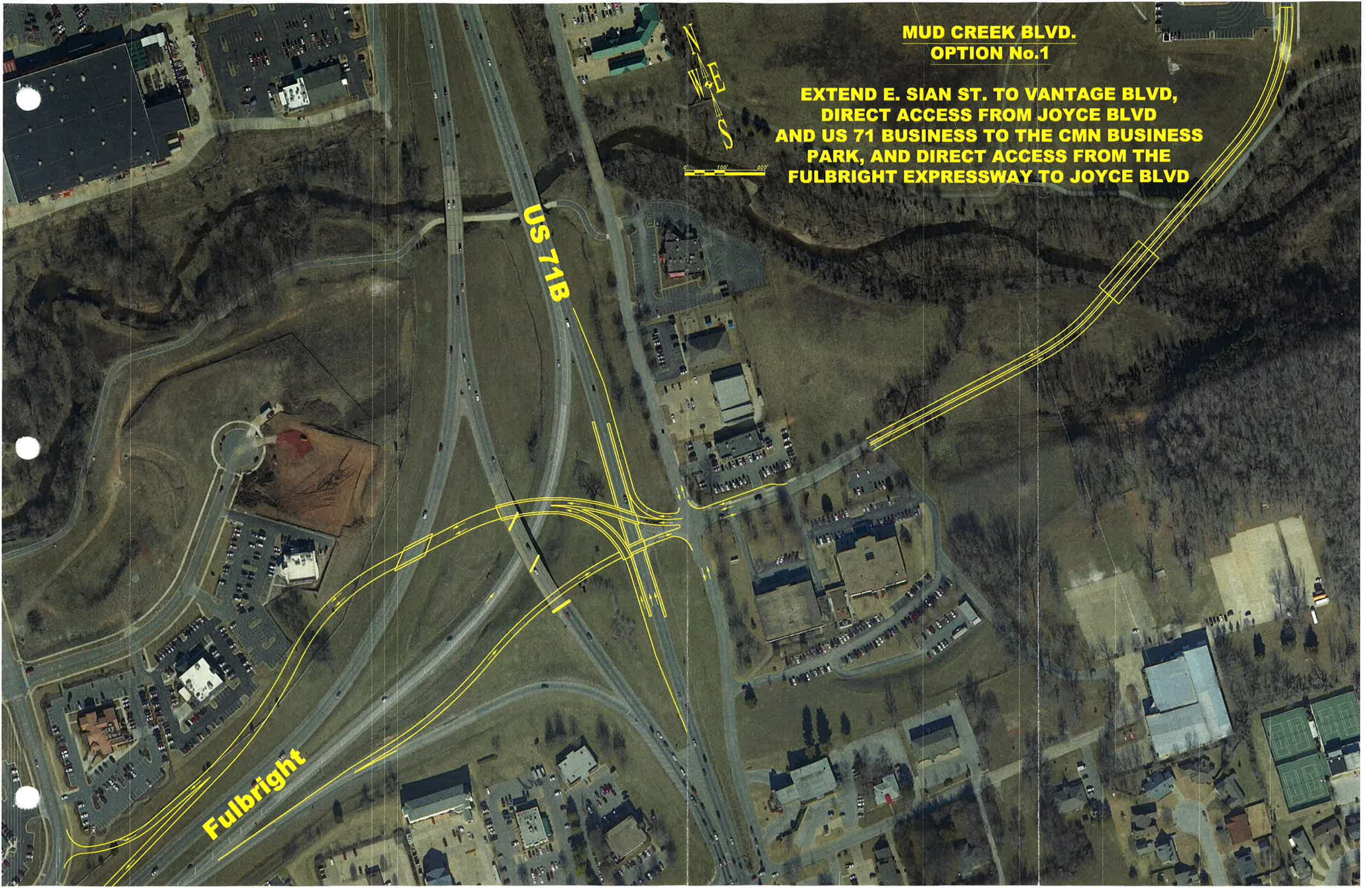
**MUD CREEK BLVD.
OPTION No.1**

**EXTEND E. SIAN ST. TO VANTAGE BLVD,
DIRECT ACCESS FROM JOYCE BLVD
AND US 71 BUSINESS TO THE CMN BUSINESS
PARK, AND DIRECT ACCESS FROM THE
FULBRIGHT EXPRESSWAY TO JOYCE BLVD**



US 71B

Fulbright





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0015

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 12

SOUTHWESTERN ELECTRIC POWER COMPANY AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH SOUTHWESTERN ELECTRIC POWER COMPANY TO PARTICIPATE IN AN ENERGY EFFICIENCY REBATE PROGRAM IN THE AMOUNT OF \$4,967.83, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Southwestern Electric Power Company to participate in an energy efficiency rebate program in the amount of \$4,967.83.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0015

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Peter Nierengarten

1/12/2015

Sustainability & Resilience /
Chief of Staff

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of an agreement with Southwestern Electric Power Company (SWEPCO) for a \$4967.83 incentive for the Dickson Street Lighting Retrofit project and approval of a budget adjustment. The project goal is to replace the existing lighting fixtures and install new lighting fixtures that will save the City of Fayetteville money, use less energy and light the street better.

Budget Impact:

2100.5315.5405

Lighting Equipment Maintenance

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 30,000.00

Funds Obligated \$ -

Current Balance \$ 30,000.00

Does item have a cost? No

Item Cost \$ -

Budget Adjustment Attached? Yes

Budget Adjustment \$ 4,968.00

Remaining Budget \$ 34,968.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council

THRU: Terry Gulley, Transportation Service Director

FROM: Peter Nierengarten, Sustainability & Resilience Director

DATE: January 12, 2015

SUBJECT: Dickson Street Lighting Retrofit

RECOMMENDATION:

Staff recommends approval of an agreement with Southwestern Electric Power Company (SWEPCO) for a \$4967.83 incentive for the Dickson Street Lighting Retrofit project and approval of a budget adjustment. The project goal is to replace the existing Dickson Street lighting fixtures with new lighting fixtures that will save the City of Fayetteville money, use less energy and light the street better.

BACKGROUND:

Recently, several business owners and citizens have complained that the existing lighting along W. Dickson Street does not provide enough light for adequate safety along the street. Currently there are 70 - 170 watt older light fixtures along W. Dickson Street.

DISCUSSION:

The Transportation Department has identified a 60 watt LED replacement fixture that will provide more light output at reduced energy cost. SWEPCO will provide an incentive to the city in the amount of \$4967.83 for the replacement of the existing fixtures. Total project cost is \$13,728 (\$8760 after the SWEPCO incentive). The estimated electricity savings associated with the new lighting will be \$3725 per year with a 3.5 to 4.0 year project payback.

BUDGET/STAFF IMPACT:

The Transportation Department will purchase and install the new LED lighting. Adequate funds are available in the Lighting Equipment Maintenance budget. The \$4967.83 incentive will be credited to that same budget.

Attachments:

SWEPCO Commercial & Industrial Energy Efficiency Program Application

Section 1: General Information

Customer Information					
Application Date:	12/30/14	SWEPCO Acct. No.:	967-311-296-0-5		
Company/Customer Name:	City of Fayetteville				
Contact First Name:	Lioneld	Last Name:	Jordan		
City:	Fayetteville	State:	AR	Zip:	72701
Primary Phone:	(479) 575-8330	Secondary Phone:			
E-mail Address:	mayor@fayetteville-ar.gov				
Project Site Address:	W. Dickson St.				
City:	Fayettville	State:	AR	Zip:	72701
Project Information					
Project Name:	Dickson Street Lighting Retrofit				
Project Type:	☐ New Construction ☒ Retrofit				
Has project changed from initial application?	☐ Yes ☒ No If yes, provide details of change:				
Required payback period of project:	5 year				
What are the estimated installation start and completion dates:					
Start Date:	1/1/15	Completion Date:	2/28/15		
Project Sponsor					
Has the Project Sponsor Changed from the Initial Project Application					
☒ Yes ☐ No					
If yes, Complete the following section:					
Project Sponsor Tax ID No.	71-6018462	Tax Exempt? (Y/N)	N		
Project Sponsor Name:	City of Fayetteville				
Mailing Address	113 W. Mountain St.				
City:	Fayetteville	State:	AR	Zip:	72701

Installation Information

Is the installation being conducted by in-house staff or by a Contractor?

☒ In-House Staff ☐ Contractor

If a Contractor is used, provide the following information:

Company Name:					
Contact First Name:		Last Name:			
Mailing Address:					
City:		State:		Zip:	
Primary Phone:		Secondary Phone:			
E-mail Address:					

For Official Use

*Information should match information provided on the W9 form

This section to be completed by a SWEPCO Energy Advisor

Customer Name: City of Fayetteville

Project Name: Dickson Street Lighting

Project ID: CIEEP-16472a

Energy Advisor: Alex Floyd

Incentive and Savings Information*

Measure Description	Estimated Savings		Incentive Rate		Estimated Incentive
	kW	kWh	\$/kW	\$/kWh	
Lighting	0.00	41,399	\$ 220.00	\$ 0.12	\$ 4,967.83
Total Incentive Reserved					\$ 4,967.83

*The amount listed as the Total Incentives Reserved is based on estimated savings. Actual incentive amount will be based on verified savings. The total incentives paid cannot exceed the amount noted in this section.

Section 2: Customer Agreement

This Commercial and Industrial Energy Efficiency Program Agreement (the "Agreement") is made and entered into by and between **SOUTHWESTERN ELECTRIC POWER COMPANY**, a Delaware corporation (hereinafter "SWEPCO"), and City of Fayetteville (hereinafter "Project Sponsor"), (SWEPCO and Project Sponsor each hereinafter referred to as a "Party" and together as the "Parties").

WHEREAS, SWEPCO has developed a Commercial and Industrial Program (the "CIEEP"), for its commercial and industrial customer classes; and

WHEREAS, the CIEEP seeks to procure energy savings and peak demand savings through the installation and operation of energy efficiency measures at the facilities of such customers; and

WHEREAS, Project Sponsor has developed a plan for participation in the CIEEP through a set of proposed or installed energy efficiency measures and other improvements necessary to produce energy savings or peak demand savings, or both;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I – DEFINITIONS

Business Day shall mean normal working days (8:00am – 5:00pm), Monday through Friday, January 1 through December 31, excluding holidays.

- 1.1 "Contract Documents" shall mean (i) the Project Sponsor's approved Initial Application, attached hereto and incorporated herein as Exhibit A; (ii) the Project Sponsor's approved Final Application, attached hereto and incorporated herein as Exhibit B; (iii) the CIEEP Procedures Manual, attached hereto and incorporated herein as Exhibit C; and (iv) this Agreement together with any and all other exhibits, addenda, or amendments referenced herein or made a part hereof in accordance with this Agreement.
- 1.2 "Customer" shall mean a non-residential distribution system customer of SWEPCO that owns or leases facilities at a Project Site and that has entered into a Customer Agreement with the Project Sponsor for the installation of Measures as a part of the Project. For the purposes of this Agreement, a "non-residential distribution system customer" shall mean a non-residential retail customer with a demand that exceeds 50 kW or a group of non-residential retail customers under common ownership within a service territory in which the combined demand exceeds 50 kW.
- 1.3 "Customer Agreement" shall mean the agreement between Customer and the Project Sponsor that specifies the rights and obligations of each Party with respect to the installation of the Measures at the Project Site(s) and other related and/or unrelated matters.

- 1.4 “Deemed Energy Savings” shall mean a pre-determined, validated estimate of Energy Savings attributable to a Measure in a particular type of application that SWEPCO may use instead of Measured Energy Savings.
- 1.5 “Deemed Peak Demand Savings” shall mean a pre-determined, validated estimate of Peak Demand Savings attributable to a Measure in a particular type of application that SWEPCO may use instead of Measured Peak Demand Savings.
- 1.6 “Deemed Savings” shall mean the sum of Deemed Energy Savings and Deemed Peak Demand Savings.
- 1.7 “Demand Savings” shall mean a quantifiable reduction in the rate at which energy is delivered to or by a system at a given instance, or average over a designated period, usually expressed in kilowatts (kW) or megawatts (MW). Demand Savings will be determined by comparing the efficiency of the installed qualifying energy efficiency equipment to that of new equipment that meets all applicable minimum efficiency standards—not to that of the customer’s existing equipment. In cases where no standard currently exists, existing equipment efficiencies will be used. Equipment standard efficiencies are ASHRAE 90.1-2001, and the SWEPCO Standard Lighting Wattage Table.
- 1.8 “Energy Savings” shall mean a quantifiable reduction in the Customer’s consumption of energy, or the amount by which the Customer’s energy consumption is reduced, as a result of the installation of qualifying energy-efficient measures. Energy Savings will be determined by comparing the efficiency of the installed measures to that of new measures that meets all applicable minimum efficiency standards—not to that of the customer’s existing measures. The exception for using existing efficiencies would be, in cases of replacing existing working equipment prior to the end of its estimated useful life, (EUL). Equipment EULs can be found in the Arkansas TRM version 1.0. In cases where no standard currently exists, existing measure efficiencies will be used. Measure standard efficiencies are ASHRAE 90.1-2001, and the SWEPCO Standard Lighting Wattage Table.
- 1.9 “Estimated Energy Savings” shall mean the Energy Savings expected to be derived in a single Performance Period from Measures to be installed or actually installed at the Project Site.
- 1.10 “Estimated Peak Demand Savings” shall mean the Peak Demand Savings expected to be derived in a single Performance Period from Measures to be installed or actually installed at the Project Site.
- 1.11 “Estimated Savings” shall mean the sum of Estimated Energy Savings and Estimated Peak Demand Savings.
- 1.12 “Measure” shall mean new equipment, material, or systems that (i) when installed and used at a Project Site, result in a measurable and verifiable reduction in either purchased electric energy consumption, measured in kilowatt-hours (kWh), or peak demand measured in

kilowatts (kW), or both; (ii) meet the requirements of the Contract Documents; and (iii) in the determination of SWEPCO, are not ineligible for incentive payments. Measures may include equipment, material, or systems that are installed as part of new construction.

- 1.13 "Measured Energy Savings" shall mean the Energy Savings derived during the Performance Period from the Measures installed at the Project Site as determined in accordance with the Measurement and Verification Plan found in the Final Application, set forth in Exhibit B, and as documented in a Savings Report approved by SWEPCO.
- 1.14 "Measured Peak Demand Savings" shall mean the Peak Demand Savings derived during the Performance Period from the Measures installed at the Project Site as determined in accordance with the Measurement and Verification plan found in the Final Application, set forth in Exhibit B, and as documented in a Savings Report approved by SWEPCO.
- 1.15 "Measured Savings" shall mean the sum of Measured Energy Savings and Measured Peak Demand Savings.
- 1.16 "APSC" shall mean the Arkansas Public Services Commission.
- 1.17 "Peak Demand" shall mean electrical demand at the time of highest annual demand on the utility's system, measured in 15-minute intervals.
- 1.18 "Peak Demand Savings" shall mean Demand Savings calculated as the maximum, one-hour average demand reduction that occurs while the system undergoing retrofit is operating at full load conditions during the peak summer period, defined as weekdays, between the hours of 1 p.m. and 7 p.m. CDT from May 1 until September 30, excluding federal holidays.
- 1.19 "Performance Period" shall mean the one (1) year period following approval of the Installation Report during which measurement and verification activities take place.
- 1.20 "Project" shall mean the sum of all activities and Measures required to achieve the Estimated Energy Savings and Estimated Peak Demand Savings necessary to meet the reserved incentive amount listed in the Project Sponsor's Final Application. New construction projects are eligible for this CIEEP.
- 1.21 "Project Site" shall mean the location of a Customer's facilities where approved Measures will be installed and from which Energy Savings or Peak Demand Savings, or both, will be obtained.
- 1.22 "Project Sponsor" shall mean any organization, group, or individual who contracts with SWEPCO to provide Energy Savings or Peak Demand Savings, or both, under the CIEEP.
- 1.23 "Prudent Electrical Practices" shall mean those practices, methods, standards and equipment commonly used in prudent electrical engineering and operations to operate electrical equipment lawfully and with safety, dependability and efficiency and in accordance with the National Electrical Safety Code, the National Electrical Code and any other

applicable federal, state and local codes provided, however, that in the event of a conflict, the applicable federal, state or local code shall govern.

ARTICLE II – TERM AND TERMINATION

The term of this Agreement shall commence on the date of execution by SWEPCO (the "Effective Date") and, unless otherwise terminated as set forth herein, shall continue in force and effect until payment by SWEPCO of the Performance Payment due pursuant to Article 7.4 herein, or until eighteen (18) months following the Effective Date, whichever occurs first.

ARTICLE III – COMPLIANCE WITH CIEEP PROCEDURES MANUAL

- 3.1 By executing this Agreement, Project Sponsor acknowledges that it received a copy of the CIEEP Procedures Manual (Exhibit C) prior to submission of its Initial or Final Application. Project Sponsor represents and affirms that its participation in the CIEEP has at all times been in compliance with the procedures and conditions set forth in the CIEEP Procedures Manual and that any failure to comply therewith may be treated as a breach of this Agreement notwithstanding the fact that such failure occurred prior to the execution of this Agreement. Project Sponsor also acknowledges that it meets or exceeds all of the qualifications required to participate in the CIEEP as described in the CIEEP Procedures Manual and that failure to meet the qualifications therein may be treated as a breach of this Agreement.
- 3.2 Procedures or conditions set forth in the CIEEP Procedures Manual may only be waived or modified by written agreement of both Parties. Any such agreement shall be attached hereto and incorporated herein for all purposes.

ARTICLE IV – PROJECT SPONSOR AND CUSTOMER AGREEMENT AND CUSTOMER CERTIFICATION

- 4.1 Project Sponsor will be solely responsible for entering into a Project Sponsor and Customer Agreement with the Customer as appropriate for implementation of the Project. A Customer acting as its own Project Sponsor will be required to provide a Customer Agreement. The Project Sponsor and Customer Agreement must be executed by the Project Sponsor and the Customer prior to Project Sponsor beginning installation of Measures at the Project Site. To the extent possible, Project Sponsor and Customer Agreements will be kept confidential.
- 4.2 Project Sponsor agrees to disclose to Customer any potential adverse environmental or health effects associated with the Measures to be installed at the Project Site. The Project Sponsor and Customer Agreement includes the following provisions:
 - (a) Customer agrees, upon five (5) business days' prior oral notice, to provide SWEPCO and the independent measurement and verification expert selected by the APSC with full and complete access to the Project Site for any purpose related to the CIEEP.

The right of access will be subject to Customer's reasonable access requirements and, unless otherwise agreed, must occur within the Customer's normal business hours.

- (b) Customer acknowledges that any review, inspection, or acceptance by SWEPCO of the Project Site or of the design, construction, installation, operation or maintenance of the Measures is solely for the information of SWEPCO and that, in performing any such inspection or review or in accepting the Measures, SWEPCO makes no representation or warranty whatsoever as to the economic or technical feasibility, capability, safety or reliability of the Measures, their installation by Project Sponsor, or their compatibility with the Customer's facilities.
- (c) Customer acknowledges that Project Sponsor is an independent contractor with respect to SWEPCO and the CIEEP and that Project Sponsor is not authorized to make representations or incur obligations on behalf of SWEPCO.
- (d) Customer acknowledges that Project Sponsor and Customer are solely responsible for performance thereunder.
- (e) Customer acknowledges that SWEPCO makes no warranty or representation regarding the qualifications of Project Sponsor, and that the Customer is solely responsible for the selection of Project Sponsor.
- (f) Customer acknowledges that the Customer may file a complaint with the APSC concerning Project Sponsor, but that SWEPCO will play no role in resolving any disputes that arise between the Customer and Project Sponsor.

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~~(g) CUSTOMER AGREES TO RELEASE SWEPCO AND ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH SWEPCO AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES AND EMPLOYEES FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS, AND LEGAL LIABILITY INCLUDING, BUT NOT LIMITED TO 1) INJURY OR DEATH OF PERSONS, 2) DAMAGE TO NATURAL RESOURCES, 3) VIOLATION OF ANY LOCAL, STATE, OR FEDERAL LAW OR REGULATION INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL AND HEALTH AND SAFETY LAWS OR REGULATIONS, 4) STRICT LIABILITY IMPOSED BY ANY LAW OR REGULATION, 5) EQUIPMENT MALFUNCTIONS, OR 6) ENERGY SAVINGS SHORTFALLS ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE PROJECT. THIS PROVISION SHALL NOT APPLY TO CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS AND LEGAL LIABILITY TO THE EXTENT CAUSED BY THE NEGLIGENCE OF SWEPCO IN THE CONDUCT OF SWEPCO'S ON-SITE INSPECTION OF THE PROJECT SITE.~~

- 4.3 Project Sponsor must obtain a completed Customer Acknowledgement Form from each Customer indicating that the Measures contracted for were installed at the Project Site. The completed Customer Acknowledgement Form should be submitted to SWEPCO with the Installation Report described in Section 5.3 below. Final payment of incentives will not be made unless and until a completed Customer Acknowledgement Form or inspection by SWEPCO has been completed in accordance with the terms of the Contract Documents.

ARTICLE V – PROJECT IMPLEMENTATION

- 5.1 Project Sponsor agrees on and after the Effective Date to use all reasonable efforts to implement the Project without undue delay and otherwise in accordance with the terms of the Contract Documents. To the extent of any conflict between this Agreement and other Contract Documents, the terms of this Agreement shall prevail.
- 5.2 Measures shall be designed, constructed and installed in a good and workmanlike manner only with materials and equipment of appropriate quality, and, in any event, in accordance with Prudent Electrical Practices. Installation of Measures at all Project Sites shall be completed and an Installation Report, as defined below, shall be submitted to SWEPCO within six (6) months of the Effective Date. Project Sponsor may apply, in writing, for an extension of this time period. The extension may be granted to Project Sponsor for this Project at SWEPCO's sole discretion. Any extension will be for a period of no more than three (3) months beyond the initial six (6) month period. If granted, the extension must be made in writing as an amendment to this Agreement. Such amendment will be attached hereto and become a part of the Contract Documents. Furthermore, if an extension is granted, the term of this Agreement will be extended by the length of the extension.
- 5.3 Within fifteen (15) business days of completing installation of Measures at a Project Site, Project Sponsor shall so notify SWEPCO by submitting a report for review and approval documenting the Measures actually installed (the "Installation Report"). The Installation Report shall be submitted to SWEPCO pursuant to the notice provisions of Section 15.1. Within thirty (30) business days of receipt of the Installation Report, SWEPCO may complete an inspection of all or some of the Measure installations at the Project Site. This inspection shall be used to determine whether the Measures were installed and are capable of performing their intended function of producing Energy Savings and Peak Demand Savings. Approval of the Installation Report shall be granted if SWEPCO reasonably determines that the Measures at the Project Site have been installed, tested and inspected to the extent required by SWEPCO and found to be capable of providing Energy Savings and Peak Demand Savings in material compliance with the Contract Documents. If Measures are rejected, SWEPCO will set forth the written reasons for such rejection and Project Sponsor may attempt to remedy the deficiencies and resubmit its Installation Report. If any Measure is rejected a second time, SWEPCO will consider it a material breach of this Agreement and will not pay any incentive for such Measure. The Estimated Savings attributable to the Measures documented in the approved Installation Report will be used for purposes of calculating the Installation Payment in Section 7.3.

- 5.4 Project Sponsor acknowledges that any review, inspection, or acceptance by SWEPCO of any Project Site or of the design, construction, installation, operation and maintenance of the Measures is solely for the information of SWEPCO. In performing any such inspection or review or in accepting the Measures, SWEPCO makes no representation or warranty whatsoever as to the economic or technical feasibility, capability, safety or reliability of the Measures, their installation by Project Sponsor or their compatibility with the Customer's facilities.
- 5.5 Within thirty (30) business days of the conclusion of the Performance Period, Project Sponsor shall submit a report to SWEPCO documenting the Measured Energy Savings and Measured Peak Demand Savings for the Performance Period (the "Savings Report"). If the Savings Report is deficient, SWEPCO will provide, in writing, notice of the deficiency, and Project Sponsor shall revise and resubmit the Savings Report until it is approved by SWEPCO. Any necessary revisions shall be performed in the time-period specified by SWEPCO in the notice of deficiency.

ARTICLE VI – MEASUREMENT AND VERIFICATION

Project Sponsor shall document the measurement and verification of the Energy Savings or Peak Demand Savings, or both, that result from the Measures installed as a part of the Project as set forth in the Measurement and Verification Plan found in the Final Application, which is attached hereto as Exhibit B. The measurement and verification activities shall be performed by Project Sponsor.

ARTICLE VII – INCENTIVE PAYMENTS

- 7.1 SWEPCO agrees to make incentive payments to Project Sponsor based upon the sum of the documented Deemed Savings and Measured Savings derived from the Project. The total incentive payments due to Project Sponsor will be calculated by multiplying the Deemed Savings and Measured Savings by the applicable "Incentive Rate" specified in Section 7.2.
- 7.2 The Incentive Rate applicable to each type of measure is set forth in Table 1:

Measure Name	Incentive (\$/kW)	Incentive (\$/kWh)
Air Compressors	\$ 194.50	\$ 0.0750
Chillers	\$ 288.60	\$ 0.0888
Freezer Glass Door $0 < V < 15$	\$50/unit	
Freezer Glass Door $15 < V < 30$	\$75/unit	
Freezer Glass Door $30 < V < 50$	\$100/unit	
Freezer Glass Door $V = 50$	\$125/unit	
Geothermal	\$ 321.10	\$ 0.0988
HVAC (DX, split, packaged)	\$ 244.92	\$ 0.0754
Lighting Controls	\$20/unit	

Lighting Screw-In CFL (11W to 40W)	\$2/unit	
Lighting Screw-In CFL (41W to 200W)	\$4/unit	
Lighting Linear Fluorescent Fixtures	\$ 175.00	\$ 0.0650
Lighting Modular Fluorescent Fixtures	\$ 175.00	\$ 0.0650
LED Fixture Lighting	\$ 220.00	\$ 0.1200
LED Recessed Down Light Fixture*	\$20.00/unit	
LED 5W to 25W Screw-In Replacement*	\$10.00/unit	
LED 1W to 4W Screw-In Replacement*	\$5.00/unit	
LED Exit Signs	\$10.00/unit	
Motors, VFD (Pumps/Fans)	\$ 244.92	\$ 0.0754
Refrigerator Glass Door 0 < V < 15	\$50/unit	
Refrigerator Glass Door 15 < V < 30	\$75/unit	
Refrigerator Glass Door 30 < V < 50	\$100/unit	
Refrigerator Glass Door V = 50	\$125/unit	
Solar PV	\$ 450.00	\$ 0.3500
Solar Water Heating	\$ 244.92	\$ 0.0754
Wind Generation	\$ 179.00	\$ 0.0501
Anti-Sweat Heater Controls – Medium Temperature Application	\$29.50 / controlled linear foot	
Anti-Sweat Heater Controls – Low Temperature Application	\$68.50 / controlled linear foot	
Demand Control Ventilation – commercial hoods	\$ 0.00	\$0.13
PC Power Management Software	\$0.00	\$0.10
Other	Case By Case Basis	

* Must be DesignLights Consortium or ENERGY STAR® approved

Table 1 2014 CIEEP Incentive Rates

- 7.3 Upon completion of Measure installation and approval of the Installation Report, Project Sponsor shall submit an invoice for review and approval to SWEPCO for the first installment of the incentive payment (the "Installation Payment"). SWEPCO will make the Installation Payment within thirty (30) business days of its approval of the invoice. The Installation Payment will be one hundred percent (100%) of the incentive payment due for Deemed Savings plus forty percent (40%) of the total incentive payment due based upon the Estimated Savings set forth in an approved Installation Report. Individual Measures will be eligible for incentive payments based on either a Deemed Savings basis or an Estimated/Measured Savings basis, but not both. The amount of the Installation Payment will be calculated using the following formula:

$$IP = DIP + EIP$$

$$DIP = [(DES \times MI) + (DDS \times MI)]$$

ARTICLE VIII – AUDIT AND RECORDS

- 8.1 Project Sponsor or its assignee shall keep and maintain accurate and detailed records and documentation relating to the Project and its associated Energy Savings and Peak Demand Savings under this Agreement for a period of not less than three (3) years beyond the termination of this Agreement. During the retention period, such records shall be made available, upon reasonable notice, for inspection during normal business hours by SWEPCO or any governmental agency having jurisdiction over the CIEEP or any portion of the Project.
- 8.2 Project Sponsor understands that the APSC may request or require an audit of the matters addressed in this Agreement or commence an investigation or other regulatory proceeding. Project Sponsor agrees to cooperate with any such process and make available detailed records and documentation relating to the Project, upon reasonable notice by SWEPCO or any governmental agency having jurisdiction over the CIEEP.

ARTICLE IX – INSURANCE

Project Sponsor represents and agrees that it and its subcontractors will carry all statutorily required insurance for the protection of its employees and that each of its subcontractors will carry such insurance for the protection of their respective employees.

ARTICLE X – INDEMNITY

10.1 ~~EACH PARTY SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS, TO THE FULLEST EXTENT PERMITTED BY LAW, THE OTHER PARTY AND ITS AFFILIATES, AS WELL AS ITS RESPECTIVE DIRECTORS, OFFICERS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LIABILITIES, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS, ARISING OUT OF THIRD PARTY CLAIMS TO THE EXTENT CAUSED BY OR RESULTING FROM ANY NEGLIGENT, WRONGFUL OR WILLFUL ACT OR OMISSION OF THE INDEMNIFYING PARTY OR OF ANY OFFICER, AGENT, OR EMPLOYEE OF THE INDEMNIFYING PARTY IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT.~~

- 10.2 The representations, warranties, covenants, indemnities, and other obligations or protections provided by Project Sponsor pursuant to this Article X shall not be limited by time and shall survive the completion of the Project or any other completion, expiration or termination of this Agreement.

ARTICLE XI – PERMITS, LICENSES AND COMPLIANCE WITH LAWS

- 11.1 Project Sponsor represents and warrants that prior to beginning installation of Measures, Project Sponsor will, at its own cost and expense, obtain all permits and other authorizations from governmental authorities as then may be required to install, construct, operate and maintain the Measures in question and to perform its obligations hereunder. During the term hereof, Project Sponsor will, at its own cost and expense, obtain all such additional

$$\text{EIP} = 0.40 \times [(\text{EES} \times \text{MI}) + (\text{EDS} \times \text{MI})]$$

Where:

IP is the total Incentive Payment

DIP is the portion of the incentive payment attributable to Savings

EIP is the portion of the incentive payment attributable to Estimated Savings

DES is the amount of Deemed Energy Savings;

DDS is the amount of Deemed Peak Demand Savings;

EES is the amount of Estimated Energy Savings; and

EDS is the amount of Estimated Peak Demand Savings.

MI is the measure Incentive Rate

- 7.4 At the conclusion of the Performance Period and upon SWEPCO's approval of the Savings Report, Project Sponsor shall submit an invoice for review and approval to SWEPCO for the second installment of the incentive payment (the "Performance Payment"). Subject to the limitation in Section 7.1, the Performance Payment will be the remaining amount of the total incentive payment due based upon the Measured Savings. The amount of the Performance Payment shall be calculated using the following formula:

$$\text{Performance Payment} = [(\text{MES} \times \text{MI}) + (\text{MDS} \times \text{MI})] - \text{EIP}$$

Where:

MES is the amount of Measured Energy Savings (not including DES);

MDS is the amount of Measured Peak Demand Savings (not including DDS); and

EIP is the portion of the Installation Payment attributable to Estimated Savings as calculated and paid pursuant to Section 7.3; and

MI is the measure Incentive Rate.

SWEPCO will make the Performance Payment within thirty (30) business days of its approval of the invoice. In the event that the above formula results in a negative Performance Payment, then Project Sponsor will refund that amount to SWEPCO within thirty (30) business days of receipt of notification of SWEPCO's approval of the invoice.

- 7.5 In the event that the final kW and kWh savings or the number of units installed results in an incentive payment higher than the reserved amount, SWEPCO will only pay up to 110% of the reserved amount on the Final Application.

governmental permits, licenses, and other authorizations when required with respect to any of the Measures under this Agreement. If requested by SWEPCO, Project Sponsor shall furnish to SWEPCO copies of each such permit, license or other approval promptly following receipt thereof. Project Sponsor shall maintain in full force and effect all such governmental permits, licenses and other authorizations as may be necessary for the construction, operation or maintenance of the Measures in accordance herewith. Failure to maintain licenses, permits and other authorizations required to perform the work detailed in this Agreement constitutes a material breach of Project Sponsor's obligations under this Agreement.

- 11.2 Project Sponsor shall be responsible for all royalties, fees, or claims for any licensed, copyrighted or similarly protected intellectual property, device, process or procedure used installed, or provided by it. Project Sponsor shall defend any suit that may be brought against SWEPCO and shall hold SWEPCO and any individual, corporation, partnership, limited liability company, association, trust, or other business organization of any kind directly or indirectly controlling, controlled by, or under common control with SWEPCO and its and their respective shareholders, members, partners, officers, directors, managers, trustees, incorporators, agents, attorneys, consultants, servants, representatives, and employees harmless from any liability or infringement of any such intellectual property used by Project Sponsor in the implementation of the Project.
- 11.3 All work performed by Project Sponsor in connection with the implementation of the Project and all Measures installed or maintained by Project Sponsor shall conform to all applicable laws, statutes, ordinances, rules, regulations, and decrees of any governmental or administrative body having jurisdiction over the CIEEP or any portion of the Project, including without limitation, the Occupational Safety and Health Administration (OSHA) regulations, the National Electric Safety Code (NESC), the National Electric Code (NEC) and Sections 11-5-301 through 11-5-309 of the Arkansas Code Annotated. Handling of hazardous waste must be in compliance with all applicable federal, state and local laws, rules and regulations.

ARTICLE XII – DEFAULT AND REMEDIES

- 12.1 Each of the following events will be deemed to be an Event of Default hereunder:
- (a) failure of Project Sponsor to perform its responsibilities in a timely manner or implement the Project in compliance with the CIEEP Procedures Manual and other Contract Documents;
 - (b) failure of Project Sponsor to provide SWEPCO and/or its contractors with sufficient access to the Project Sites for the purposes of conducting inspections, observations, or measurement and verification activities;
 - (c) failure of Project Sponsor to obtain or maintain any necessary permits, licenses or insurance required pursuant to the Contract Documents;

- (d) Project Sponsor's assignment or subcontracting of all or part of the duties required under the Contract Documents without the prior written consent of SWEPCO;
- (e) Project Sponsor's submission to SWEPCO of any false, misleading or inaccurate information or documentation with respect to implementation of the Project or Project Sponsor's performance hereunder, when Project Sponsor knew or reasonably should have known that such information was false, misleading or inaccurate; or
- (f) failure of either Party in a material fashion to perform or observe any of the material terms, conditions or provisions of this Agreement not otherwise described in this Section 12.1, which failure materially adversely affects the other Party and continues after notice and a thirty (30) day period to cure, or, if such failure cannot reasonably be cured within thirty (30) days, after notice and such period to cure in excess of thirty (30) days as may be reasonably required (provided that the non-performing Party commences action to cure within an initial period of thirty (30) days after notice and thereafter pursues such cure with reasonable diligence).

12.2 If an Event of Default occurs, the non-defaulting Party shall be entitled to exercise any and all remedies provided for by this Agreement, by law or in equity, including, but not limited to, the right to immediately terminate this Agreement upon written notice to the other Party. Termination shall be effective upon the receipt of properly served notice. Termination of this Agreement will not relieve the defaulting Party of any obligations accruing prior to the event of termination.

ARTICLE XIII — LIMITATION OF LIABILITY

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~~13.1 SWEPCO AND ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER BUSINESS ORGANIZATION OF ANY KIND DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH SWEPCO AND ITS AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, TRUSTEES, INCORPORATORS, AGENTS, ATTORNEYS, CONSULTANTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES SHALL NOT BE LIABLE TO PROJECT SPONSOR OR ANY CUSTOMER FOR ANY LOSSES, COSTS, INJURIES, LIABILITIES, EXPENSES (INCLUDING ATTORNEY'S FEES), OR CLAIMS FOR INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE CONNECTED WITH OR RESULTING FROM~~

- ~~(i) NEGOTIATION, EXECUTION, OPERATION, OR TERMINATION OF THIS AGREEMENT;~~
- ~~(ii) PERFORMANCE OR NON PERFORMANCE OF ANY COMMITMENT TO A CUSTOMER; OR~~

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~~(iii) ANY ACTS, OMISSIONS, OR REPRESENTATIONS MADE BY PROJECT
SPONSOR IN CONNECTION WITH SOLICITING CUSTOMERS OR
PERFORMING ANY OTHER FUNCTIONS,~~

~~INCLUDING WITHOUT LIMITATION, CLAIMS IN THE NATURE OF LOST REVENUES,
INCOME OR PROFITS, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BASED
UPON WARRANTY, NEGLIGENCE, STRICT LIABILITY, CONTRACT, OPERATION OF
LAW OR OTHERWISE AND PROJECT SPONSOR SHALL PROTECT, INDEMNIFY AND
HOLD SWEPCO HARMLESS FROM SAME.~~

~~13.2 BOTH PARTIES AGREE THAT, IN THE EVENT OF (i) ANY DISPUTE THAT ARISES OUT
OF THE NEGOTIATION, EXECUTION, OPERATION, OR TERMINATION OF THIS
AGREEMENT AND ITS SUBJECT MATTER, WHETHER THE DISPUTE SOUNDS IN
CONTRACT OR TORT, OR AS A RESULT OF A CLAIMED STATUTORY OR
REGULATORY VIOLATION, OR (ii) ANY OTHER CLAIM THAT MAY ARISE OUT OF
THE RELATIONSHIP OF THE PARTIES, THE PREVAILING PARTY SHALL BE
ENTITLED TO RECOVER REASONABLE ATTORNEYS' FEES, EXPERT WITNESS
FEES, LITIGATION EXPENSES, AND COSTS OF COURT AND/OR ALTERNATIVE
DISPUTE RESOLUTION FROM THE LOSING PARTY.~~

ARTICLE XIV – INDEPENDENT CONTRACTOR

Project Sponsor will act as and be deemed to be an independent contractor, and nothing in this Agreement shall be construed to create the relationship of employer and employee, master and servant, principal and agent or joint venturers. Project Sponsor will be solely responsible for and have the sole right to control and directly supervise the method, manner and details of the Project providing it is in accordance with the Contract Documents. SWEPCO shall have no responsibility with respect to withholding, deductions or payment of any federal or state tax on behalf of Project Sponsor or any of Project Sponsor's employees. Project Sponsor agrees to pay and comply with and hold SWEPCO harmless from and against the payment of all contributions, taxes and premiums which may be payable by Project Sponsor under federal, state or local laws arising out of the performance of this Agreement and all other taxes of whatever nature levied or assessed against Project Sponsor arising out of this Agreement, including any interest or penalties, and Project Sponsor hereby waives any and all claims for additional compensation because of any increase in the aforementioned taxes.

ARTICLE XV – NOTICES

15.1 All notices from one Party to the other will be deemed to have been delivered if hand delivered or sent by United States mail to the following addresses:

Southwestern Electric Power Company

Name: Gregory Perkins
Address: 101 W. Township
Fayetteville, AR
Phone: (479) 973-2435
E-mail: gaperkins@aep.com

Project Sponsor

Name: City of Fayetteville
Address: 113 W. Mountain St.
Fayetteville, AR 72701
Phone: (479) 575-8330
E-mail: mayor@fayetteville-ar.gov

- 15.2 Either Party may change its address by written notice to the other in accordance with this Article XV.

ARTICLE XVI – AMENDMENT

No amendment or modification of this Agreement shall be binding on either Party unless it is in writing and signed by both Parties. Amendments to this Agreement will be attached hereto and made a part hereof for all purposes.

ARTICLE XVII – ARKANSAS FREEDOM OF INFORMATION ACT

- 17.1 SWEPCO agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such documents, SWEPCO will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

ARTICLE XVIII – FORCE MAJEURE

- 18.1 The term "Force Majeure" as used herein means causes beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, including, but not limited to, acts of God, labor disputes, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, change in laws or applicable regulations subsequent to the date hereof and action or inaction by any federal, state or local legislative, executive, administrative or judicial agency or body, which, in any of the foregoing cases, by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it is unable to overcome.

18.2 The term "Force Majeure" shall not include any of the following:

- (a) Any removal, reduction, curtailment or interruption of operation of any or all Measures whether in whole, or in part, which removal, reduction, curtailment or interruption is caused by or arises from the action or inaction of the Customer or any third party, including without limitation, any vendor or supplier to Project Sponsor or SWEPCO, unless, and then only to the extent that, any such action or inaction was beyond the reasonable control of, and occurred without the fault or negligence of such third party, and such third party, by exercise of due foresight, could not reasonably have been expected to avoid such action or inaction;
- (b) Any outage, whether or not due to the fault or negligence of SWEPCO or Project Sponsor, of the Measures or SWEPCO's system attributable to a defect or inadequacy in the manufacture, design or installation of the Measures that prevents, curtails, interrupts or reduces the ability of the Measures to provide Peak Demand Savings and/or Energy Savings; or
- (c) Any reduction in Measured Peak Demand Savings and/or Measured Energy Savings caused by or resulting from a Customer's termination or reduction of electrical distribution service received from SWEPCO and the substitution therefor of electric service from any other source.

18.3 The Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if, and to the extent that, they are unable to so perform or are prevented from performing by an event of Force Majeure, provided that:

- (a) The non-performing Party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than fourteen (14) days thereafter, gives the other Party written notice describing the particulars of the occurrence;
- (b) The suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure;
- (c) The non-performing Party uses its best efforts to remedy its inability to perform; and
- (d) As soon as the non-performing Party is able to resume performance of its obligations excused as a result of the occurrence, it shall give prompt written notification thereof to the other Party.

ARTICLE XIX – NONDISCLOSURE

19.1 If either Party hereto provides confidential information to the other in writing and identified as such, the receiving Party shall protect the confidential information from disclosure to third parties. Neither Party shall be required to hold confidential any information which (i) becomes publicly available other than through the recipient; (ii) is required to be disclosed by a governmental or judicial order, rule or regulation; (iii) is independently developed by the

receiving Party as evidenced by written records; or (iv) becomes available to the receiving Party without restriction from a third party. These obligations shall survive expiration or termination of this Agreement.

- 19.2 Should any person or entity seek to legally compel a receiving Party (by oral questions, interrogations, requests for information or documents, subpoena, civil investigative demands, regulation, statute or otherwise) to disclose any confidential information, the receiving Party will provide the disclosing Party prompt written notice so that the disclosing Party may seek a protective order or other appropriate remedy (including participating in any proceeding to which the receiving Party is a party, which receiving Party will use its reasonable business and legal efforts to permit). If, in the absence of a protective order, the receiving Party is, in the opinion of its legal counsel, compelled to disclose the confidential information, the receiving Party may disclose only such of the confidential information to the person or entity compelling disclosure as is required by applicable law, order, regulation or rule.

ARTICLE XX – MISCELLANEOUS

- 20.1 Project Sponsor will not assign, transfer or otherwise dispose of any of its obligations or duties without the prior written approval of SWEPCO. No assignment of this Agreement shall relieve Project Sponsor of any of its obligations under this Agreement. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee. Any assignment or transfer made without the express written approval of SWEPCO will be null and void. No part of the work contemplated under this Agreement may be performed by subcontractors without the prior written approval of SWEPCO.
- 20.2 The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance or otherwise. No waiver by the Parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any other breach of the same or any other term, condition or covenant contained herein.
- 20.3 The Contract Documents constitute the entire Agreement between the Parties with respect to the subject matter hereof and there are no express or implied warranties or representations upon which any party may rely beyond those set forth therein. The execution of this Agreement supersedes all previous agreements, discussions, communications and correspondence with respect to such subject matter.
- 20.4 In the event any provision of this Agreement is held to be void, unlawful, or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.

- 20.5 This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Arkansas excluding any conflict or choice of law rules that direct the application of the laws of another jurisdiction, irrespective of the place of execution or of the order in which the signature of the Parties hereto are affixed or of the place or places of performance. Except for matters and disputes with respect to which the APSC is the sole proper venue for dispute resolution pursuant to applicable law or this Agreement, the Parties agree that the proper venue and jurisdiction for any cause of action relating to the Agreement will be in Washington County, Arkansas and the Parties hereto submit to the exclusive jurisdiction of the federal and state courts located in such county with respect to such matters and disputes.
- 20.6 The duties, obligations, and liabilities of the Parties hereto are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be liable individually and severally for its own obligations under this Agreement.
- 20.7 Project Sponsor shall not use SWEPCO's corporate name, trademark, trade name, logo, identity or any affiliation for any reason, including soliciting customers for participation in its project, without SWEPCO's prior written consent.
- 20.8 The Parties expressly agree that time is of the essence for all portions of this Agreement. In no event shall the arbitration of any controversy or the settlement thereof delay the performance of this Agreement.
- 20.9 The descriptive headings of the various sections of this Agreement have been inserted for convenience of reference only and shall in no way define, modify, or restrict any of the terms and provisions thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.



Southwestern Electric Power Company

Project Sponsor

Name: Phillip Watkins

Name: _____

Signature: *Phillip Watkins*

Signature: _____

Title: Manager, Consumer Programs

Title: _____

Date: 1-14-2015

Date: _____

[CIEEP Final Project Application 20140616.docx]

Budget Year	Division: Transportation Services	Adjustment Number
2015	Dept.: Transportation Services	
	Requestor: Ginny Gundlach	

This budget adjustment is to recognize revenue resulting from an agreement with Southwestern Electric Power Company (SWEPCO) as an incentive for the Dickson Street Lighting Retrofit project. The project goal is to replace the existing lighting fixtures and install new lighting fixtures that will save the City of Fayetteville money, use less energy and light the street better.

RESOLUTION/ORDINANCE

[illegible]



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0034

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 13

SWEPCO OF FAYETTEVILLE UTILITY WORK AGREEMENT:

A RESOLUTION TO APPROVE A UTILITY WORK AGREEMENT WITH SWEPCO OF FAYETTEVILLE, ARKANSAS FOR UTILITY RELOCATIONS AS PART OF THE HIGHWAY 112 WIDENING PROJECT BETWEEN RAZORBACK ROAD AND GARLAND AVENUE, WITH THE AMOUNT TO BE PAID BY THE CITY OF FAYETTEVILLE NOT TO EXCEED \$91,878.59

WHEREAS, the widening of Highway 112 between Razorback Road and Garland Avenue necessitated the relocation of electrical utilities owned by SWEPCO of Fayetteville, Arkansas with 80% of the cost covered by federal-aid funding; and

WHEREAS, Ordinance No. 5439, which was passed and approved on September 20, 2011, waives the requirement of formal bidding on "all such projects necessitated by any road reconstruction or widening projects with AEP/SWEPCO within Fayetteville."

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 utility work agreement with SWEPCO of Fayetteville, Arkansas with the amount to be paid by the City of Fayetteville not to exceed \$91,878.59 for the relocation of electrical utilities associated with the Highway 112 widening project between Razorback Road and Garland Avenue.

City of Fayetteville Staff Review Form

2015-0034

Legistar File ID

2/3/2015

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

Chris Brown

1/16/2015

Engineering /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of an Agreement with SWEPCO for Utility Relocations on Highway 112 (Maple Street) between Razorback Road and Garland Avenue

Budget Impact:

06035.9555.5809.00		Sales Tax 2013 Street Improvements	
Account Number		Fund	
06035		Transportation Bond Street Improvements	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ 16,571,673.55
		Funds Obligated	\$ -
		Current Balance	\$ 16,571,673.55
Does item have a cost?	No	Item Cost	
		Budget Adjustment	
		Remaining Budget	\$ 16,571,673.55
Budget Adjustment Attached?			
#			

V20140710

Previous Ordinance or Resolution # 15-03; 16-03

Original Contract Number:

Approval Date:

Comments: Payment for this work will be made to the AHTD, not directly to SWEPCO, per the agreement with AHTD approved by Resolution 15-03. No funds should be encumbered in favor of SWEPCO for this item.

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council

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

FROM: Chris Brown, City Engineer

DATE: January 15, 2015

SUBJECT: Agreement with SWEPCO for Utility Relocations on Highway 112 (Maple Avenue) Between Razorback Road and Garland Avenue

RECOMMENDATION:

Staff recommends approval of an agreement with SWEPCO for utility relocations on Highway 112 as part of the widening project between Razorback Road and Garland Avenue. This agreement will be paid with federal aid funds (80%) and City matching funds (20%).

BACKGROUND:

City Council passed Resolution No. 15-03 on February 4, 2003, approving an Agreement Of Understanding with the Arkansas Highway and Transportation Department (AHTD) to design and construct Highway 112 (Razorback Road and Maple St.) from MLK Jr. Blvd. to Garland Avenue. The Council also passed Resolution 16-03 authorizing the Mayor to sign any agreements necessary to further the project. This project will provide 4 travel lanes, with turning lanes at major intersections, and three new signals. Sidewalks will be provided on both sides. The original agreement was for a federal aid funding amount of \$1 million. The agreement has been amended twice to add additional funding through the Surface Transportation Program-Attributable Funds (STP-A). The current funding allocation, in the amount of \$2.4 million in federal aid funds matched by \$600,000 in local funds, is for the Maple Street portion, between Razorback Road and Garland Avenue.

DISCUSSION:

The AHTD has presented the City with contracts for relocation of utilities, based on their Utility Accommodation Policy. Their policy provides for reimbursement to utility companies when they are located within private easements, outside of the highway right of way. Any facilities within the right of way must be relocated at the utility's expense. With this particular contract, approximately 89% of the relocations are outside of the right of way; therefore the reimbursement percentage is 89.14%. This reimbursable amount is estimated to be \$459,392.94.

BUDGET/STAFF IMPACT:

As noted above, federal aid funding is providing 80% of the funding for this work; therefore, the City's share in the \$459,392.94 reimbursable amount is \$91,878.59. The reimbursable amount of the contract will be paid to the University of Arkansas by the AHTD, and the City will pay our share to the AHTD at the time of construction bids for the widening work. Payment for this work is included in the \$600,000 matching requirement for the project. Therefore, no funds should be encumbered at this time for this item.

Attachments:

SWEPCO Agreement

Resolution 15-03

Resolution 16-03

AHTD STIP Amendment (Federal Aid Funding Approval)

CITY-UTILITY RELOCATION AGREEMENT
Between
The City of Fayetteville
And
SWEPCO

Project No. 040582 Location Razorback Rd. – Garland
FAP STPU-9142(35) Ave. (Hwy. 112)(Fayetteville)(S)

THIS AGREEMENT, made and entered into 16th day of January, 20 15, by and between the **City of Fayetteville, Arkansas**, acting by and through its duly authorized officials, hereinafter referred to as the "City", and the **SWEPCO of Fayetteville, Arkansas** acting by and through its duly authorized representatives, hereinafter referred to as the "Owner".

The City proposes to make highway improvements as specified under the above referenced job number, and the Owner will adjust or relocate its existing facilities as set out in the attached plans and cost estimate.

The City has requested that the Arkansas State Highway and Transportation Department assist the City by providing technical assistance for cost estimate and plan approval, for making the contractual arrangements between City and Owner, and for processing payment for reimbursement.

This agreement is governed by all applicable State and Federal laws, rules, and regulations including the Arkansas State Highway Commission Utility Accommodation Policy adopted by Commission Minute Order 2010-146 as amended and supplemented, the Federal Aid Program Guide on Utility Adjustments and Accommodation on Federal Aid Highway Projects as amended and supplemented, and the provisions of 23 CFR § 645 as amended and supplemented.

DESCRIPTION OF WORK: See Exhibit A on Page 4

The required adjustment is 89.14% eligible for reimbursement for the **actual cost** which is estimated to be \$515,361.16 of which \$459,392.94 is to be paid by the City/Department and \$55,968.22 is to be borne by Owner.

(1) FHWA PORTION 80.00% (2) CITY PORTION 20.00%
(3) STATE PORTION 0.00%

Owner will not commence work until authorized by the City/Department and will then endeavor to begin within 60 days and complete within 90 days thereafter.

On completion of said work, Owner is responsible for the cleanup and restoration of the work area including the disposal of surplus materials and debris.

(1) Expenses incurred under an actual cost agreement may be billed to the City/Department monthly in increments of \$5,000.00 or more.

(2) Payment will be 100% of lump sum bills and actual cost bills, at the discretion of the Department a 10% retainage can be withheld and released upon completion of an audit review. All final bills for utility relocation are subject to review and audit by state and/or federal auditors.

(3) Final billing must include all supporting detail. Owner shall also submit one (1) set of as-built drawings at this time.

Owner must maintain cost records and accounts to support the agreed adjustment/relocation work. Said records to be retained and available for inspection for a period of three (3) years from date of final payment.

Owner shall be responsible for any and all hazards to persons, property, and traffic.

With respect to traffic control, Owner shall adhere to the requirements of the Manual of Uniform Traffic Control Devices as amended and supplemented.

To the extent applicable to this agreement, the Owner shall comply with the Buy America requirements (as specified in 23 U.S.C. 313 and 23 CFR 635.410). The Owner is not required to change its existing standards for materials as long as the Buy America requirements are met. Buy America requirements take precedence over regulations pertaining to the accommodation or regulation of the Owner's facilities (as specified in 23 CFR 645) on contracts and agreements involving Federal-Aid Highway Program funding and precedence over regulations which allow the Owner to furnish materials from company stock (as specified on 23 CFR 645.117(e)). Company Stock materials that do not meet Buy America requirements may not be permanently incorporated into a Federal-Aid Highway Program funded project. The Owner must provide a definitive statement that all products permanently incorporated into the project are covered under the Buy America requirements. This requirement is fulfilled via proper signature and submission of the statement of charges form. In some circumstances, a waiver of the Buy America requirements may be granted by the Federal Highway Administration, to be determined on a project-by-project basis.

Owner shall save the City/Department, its officers and employees harmless in all circumstances.

Notwithstanding anything hereinbefore written, neither the Owner nor the City by execution of this agreement waives or relinquishes any rights which either may legally have within the limits of the Law or Constitution, either State or Federal.

City of Fayetteville

SWEPCO

Name

John Hopwood

Name

Title

Manager Distribution System

Title

EXHIBIT A

Adjust power facilities to clear highway construction by abandoning 14 poles complete with attachments and approximately 2,024 linear feet of underground power complete with appurtenances, for a total of approximately 1,437 linear feet of power facilities. Restore service by installing 17 poles complete with attachments and approximately 1,562 linear feet of underground power complete with appurtenances.

Of the 1,437 linear feet of power facilities to be abandoned, 1,281 linear feet is located on private easement; therefore, this work is $1,281 / 1,437 = 89.14\%$ reimbursable. This work is to be accomplished with company and continuing contract forces.

Summary of Cost

Material	\$ 187,949.73
Salvage Credit	(\$ 2,844.83)
Labor, Company Forces	\$ 17,843.68
Labor, Contract Forces	\$ 139,815.93
Overhead	\$ 172,596.65
TOTAL COST	\$ 515,361.16

Reimbursable Cost $\$515,361.16 \times 89.14\% = \$459,392.94$

RESOLUTION NO. 15-03

A RESOLUTION TO APPROVE THE AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF FAYETTEVILLE AND THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT FOR COST SHARING FOR THE PRELIMINARY ENGINEERING WORK TO WIDEN RAZORBACK ROAD

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 Agreement of Understanding between the City of Fayetteville and the Arkansas Highway and Transportation Department (attached as Exhibit A) relative to widening Razorback Road and requiring an initial payment of \$35,000 for preliminary engineering work by the Arkansas Highway and Transportation Department.

PASSED and APPROVED this the 4th day of February, 2003.



ATTEST:

By: Sondra Smith
Sondra Smith, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration (FHWA)

RELATIVE TO

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4th day of

February, ~~2002~~
2003

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director of Highways and Transportation

CITY OF
FAYETTEVILLE

Dan Coody
Mayor

**GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES**

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

file w/Res
15-03

MICROFILMED
ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



May 5, 2003

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

RECEIVED
MAY 07 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Job 040418
F.A.P. STP-9142(14)
Hwy. 180-Garland Ave.
(Hwy. 112) (Fayetteville) (S)
Washington County

Dear Mayor Coody:

As referenced above, State and Federal-aid numbers have been assigned for the City's Federal-aid project. Enclosed is your copy of the executed Agreement of Understanding.

As previously discussed, due to the backlog of projects programmed and limited funding, it will be several years before construction can begin. We will postpone requesting the City's initial deposit of \$35,000 until prior to beginning preliminary engineering.

If you have any questions, please contact Steve Morgan in our Programs and Contracts Division at (501) 569-2261.

Yours truly,

Robert L. Walters
Chief Engineer

Enclosure

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration (FHWA)

RELATIVE TO

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WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

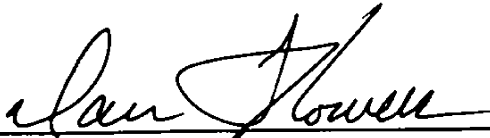
1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

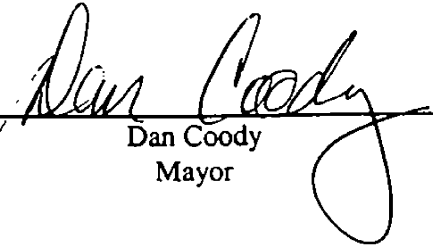
IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4th day of February, 2002.
2003

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT



Dan Flowers
mn Director of Highways and Transportation

CITY OF
FAYETTEVILLE



Dan Coody
Mayor

**GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES**

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

Resolution No. 15-03[illegible][illegible]

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Jim Beavers
Engineering Division

From: Clarice Buffalohead-Pearman 
City Clerk's Division

Date: 2/18/2003

Re: **Res. 15-03**

Attached you will find an executed copy of the above referenced resolution, passed by the City Council on February 4, 2003 approving the Agreement of Understanding with the AHTD for preliminary engineering services to widen Razorback Road. Also attached you will find the Agreement of Understanding with the mayor's signature. Please obtain Mr. Flowers' signature on the agreement. Upon the return of the agreement please make your division a copy of the agreement and return the original agreement to the city clerk's office.

Thank you for your cooperation, if anything else is needed please let the city clerk's office know.

/cbp

Attachments

cc: Nancy Smith, Internal Auditor

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of February 4, 2003

FROM:

<u>Jim Beavers</u>	<u>Engineering</u>	<u>CPE Services</u>
Name	Division	Department

ACTION REQUIRED:

1. Approval of a resolution to a cost share with the University of Arkansas to fund the preliminary engineering agreement with the Arkansas Highway and Transportation Department for preliminary engineering services relative to Razorback Road (Highway 112) from 6th Street (Highway 180) to Garland/Maple (Highway 112). The total costs of the agreement shall be \$35,000.00 with the City's share to be one-half totaling \$17,500.00.
2. Approval of the "Agreement of Understanding Between the City of Fayetteville and The Arkansas Highway and Transportation Department".
3. Approval of the "Federal-Aid Project Resolution" as submitted as "Attachment B" by the Arkansas Highway and Transportation Department.

COST TO CITY:

<u>\$ 17,500</u>	<u>\$350,000</u>	<u>Street Impvmt</u>
Cost of this Request	Category/Project Budget 2003	Category/Project Name
<u>4470.9470.5809.00</u>	<u>\$0</u>	<u>Cost Shares</u>
Account Number	Funds Used To Date 2003	Program Name
<u>02116 - 10</u>	<u>\$332,500</u>	<u>Sales Tax</u>
Project Number	Remaining Balance 2003	Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
Budget Manager

Finance and Internal Services Director

CONTRACT/GRANT/LEASE REVIEW:

Maisha Fattig 1/17/03
Accounting Manager Date

W. P. Whitaker 1/17/03
City Attorney Date

P. Ulice 1/17/03
Purchasing Officer Date

GRANTING AGENCY:

Darryl Smith 1/17/03
Internal Auditor Date

ADA Coordinator Date

Grant Coordinator Date

STAFF RECOMMENDATION: Approval

Jim Beavers 01-17-03
Division Head Date

Department Director Date

A. P. S. O. 1-21-03
Finance and Internal Services Director

Michael Garrett 1-21-03
Chief Administrative Officer Date

Dan Coody 2/8/03
Mayor Date

Cross Reference

New Item: Yes X No

Prev Ord/Res #:
Date

Orig Contract Date:
Orig Contract No:

STAFF REVIEW FORM

Page 2

Description Razorback Road Agreement of Understanding

Meeting Date February 4, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Grant Coordinator

RESOLUTION NO. 16-03

A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID
MONIES FOR THE FOLLOWING CITY PROJECT: WIDENING
HIGHWAY 112 (RAZORBACK ROAD) FROM HIGHWAY 180
(6TH STREET) TO GARLAND AVENUE

WHEREAS, the City of Fayetteville understands Federal-aid Surface Transportation
Program funds are available for certain local projects at the following federal participating ratios:

<u>Work Phase</u>	<u>Federal Share</u>	<u>State Share</u>	<u>City Share</u>
Preliminary Engineering	0%	100%	0%
Right-of-way	80%	0%	20%
Utilities	80%	0%	20%
Construction	80%	0%	20%
Construction Engineering	80%	0%	20%

City projects programmed
but not let to contract

Right-of-way	0%	0%	100%
Utilities	0%	0%	100%

**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 agrees
that the City will participate in accordance with its designated responsibilities in this project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby
authorizes Mayor Dan Coody or his designee to execute all appropriate agreements and contracts
necessary to expedite the construction of this project.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby pledges
the City's full support and hereby authorizes the Arkansas State Highway and Transportation
Department to initiate action to implement this project.

PASSED and APPROVED this the 4th day of February, 2003.



APPROVED:

By: Dan Coody
DAN COODY, Mayor

By: Sondra Smith
Sondra Smith, City Clerk



Resolution No. 16-03[illegible][illegible]

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Jim Beavers
Engineering Division

From: Clarice Buffalohead-Pearman *cbp*
City Clerk's Division

Date: 2/18/2003

Re: Res. 16-03

Attached you will find an executed copy of the above referenced resolution, passed by the City Council on February 4, 2003, expressing the city's willingness to utilize federal-aid monies for widening Razorback Road.

If anything else is needed please let the city clerk's office know.

/cbp

Attachments

cc: Nancy Smith, Internal Auditor

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of February 4, 2003

FROM:

Jim Beavers
Name

Engineering
Division

CPE Services
Department

ACTION REQUIRED:

1. Approval of a resolution to a cost share with the University of Arkansas to fund the preliminary engineering agreement with the Arkansas Highway and Transportation Department for preliminary engineering services relative to Razorback Road (Highway 112) from 6th Street (Highway 180) to Garland/Maple (Highway 112). The total costs of the agreement shall be \$35,000.00 with the City's share to be one-half totaling \$17,500.00.
2. Approval of the "Agreement of Understanding Between the City of Fayetteville and The Arkansas Highway and Transportation Department".
3. Approval of the "Federal-Aid Project Resolution" as submitted as "Attachment B" by the Arkansas Highway and Transportation Department.

COST TO CITY:

\$ 17,500
Cost of this Request

4470.9470.5809.00
Account Number

02116 - 10
Project Number

\$350,000
Category/Project Budget 2003

\$0
Funds Used To Date 2003

\$332,500
Remaining Balance 2003

Street Impvt
Category/Project Name

Cost Shares
Program Name

Sales Tax
Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
Budget Manager

Finance and Internal Services Director

CONTRACT/GRANT/LEASE REVIEW:

Masha Fattig 1/17/03
Accounting Manager Date

W. P. Whitel 1/17/03
City Attorney Date

P. Ulice 1/17/03
Purchasing Officer Date

GRANTING AGENCY:

Danny Smith 1/17/03
Internal Auditor Date

ADA Coordinator Date

Grant Coordinator Date

STAFF RECOMMENDATION: Approval

Jim Beaver 01-17-03
Division Head Date

Department Director Date

ATTS 1-21-03
Finance and Internal Services Director

Cross Reference

New Item: Yes x No

Prev Ord/Res #:
Date

Orig Contract Date:

Orig Contract No:

Hugh Burnett 1-21-03
Chief Administrative Officer Date

Dan Coody 2/8/03
Mayor Date

STAFF REVIEW FORM

Page 2

Description Razorback Road Agreement of Understanding

Meeting Date February 4, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Grant Coordinator

FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. _____

**A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF FAYETTEVILLE
TO UTILIZE FEDERAL-AID MONIES
FOR THE FOLLOWING CITY PROJECT:**

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue

WHEREAS, the City of Fayetteville understands Federal-aid Surface Transportation Program funds are available for certain local projects at the following federal participating ratios:

	<u>Work Phase</u>	<u>Federal Share</u>	<u>State Share</u>	<u>City Share</u>
	Preliminary Engineering	0%	100%	0%
	Right-of-Way	80%	0%	20%
	Utilities	80%	0%	20%
	Construction	80%	0%	20%
	Construction Engineering	80%	0%	20%
City projects programmed but not let to contract	Right-of-Way	0%	0%	100%
	Utilities	0%	0%	100%

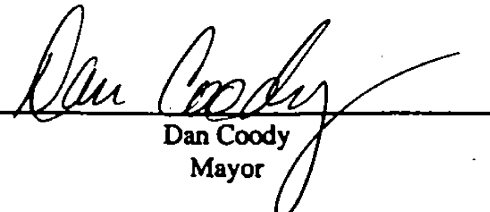
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS, THAT:**

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: Mayor Dan Coody or his designee is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this project.

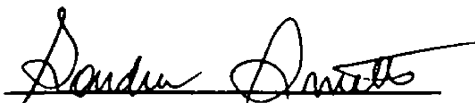
SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this 4th day of February, 2002.
2003



Dan Coody
Mayor

ATTEST:



(SEAL)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE/PUBLIC WORKS DEPARTMENT

TO: FAYETTEVILLE STREET COMMITTEE
Bob Davis, Chairman; Lioneld Jordan, Alderman; Don Marr,
Alderman; Robert Reynolds, Alderman

COPY: Mayor Dan Coody, Jim Beavers, Heather Woodruff, Hugh
Earnest, Terry Gulley, Tim Conklin

FROM: Greg Boettcher, Public Works Director

DATE: January 15, 2003

RE: Razorback Road Improvement Project
Federal-aid Surface Transportation Program

BACKGROUND

Representatives of the University of Arkansas met with Fayetteville City Administration in early 2002 to discuss the concept of improving Razorback Road from South Street north to the intersection of Garland Avenue and Maple Street. The University had developed a preliminary schematic of widening and wished to collaborate with the City on such capital improvement project. Since this improvement would connect two pending improvement projects (Razorback Road improvements from 15th to 6th Street and Garland Avenue Improvements from Wedington to Maple), it was deemed an essential link in a major transportation corridor. Also, since the road was under the jurisdiction of the Arkansas State Highway and Transportation Department (AHTD) as Highway 180, the improvement project could be eligible for state/federal assistance.

Mayor Coody has requested the AHTD to consider funding of this critical road improvement project due to its connectivity to other major corridors. On July 9, 2002, the AHTD responded to this request by forwarding an "Agreement of Understanding between the City of Fayetteville and the Arkansas State Highway and Transportation Department". On July 30, 2002, Mayor Coody advised the University of Arkansas of the AHTD participation agreement and requested that the University of Arkansas financially participate in and support this activity. A fax was received from the University on August 2, 2002 from Mr. Pederson confirming the 50-50 cost share on the preliminary engineering cost of \$35,000.00. Copies of the correspondence are attached.

RECOMMENDATION

It is recommended that the Fayetteville Street Committee approve the preliminary engineering activities on Razorback Road Improvement Project with the net cost to the City of Fayetteville being \$17,500.00. This agreement shall need to then proceed to the City Council for approval and authorization of the mayor's execution of the Agreement of Understanding.

FAYETTEVILLE

KAZORBACK RD

THE CITY OF FAYETTEVILLE, ARKANSAS

March 27, 2002

Mr. Dan Flowers, P.E.
Arkansas State Hwy. & Transportation Dept.
P.O. Box 2261
Little Rock, AR 72209

RE: Surface Transportation Program (STP)
Razorback Road (State Hwy. 265)
Fayetteville, Washington County, Arkansas

Dear Mr. Flowers,

Fayetteville's surface transportation system is becoming increasingly inadequate for the public's transportation needs. Continued community growth coupled with the unique demands of the University of Arkansas campus require infrastructure improvement projects that exceed local resources. To alleviate a pressing local transportation system deficiency, the City requests funding assistance for the improvement of Razorback Road, beginning at Sixth St. and continuing north to Garland Avenue. It is understood that the \$4 - 6 million project may obtain financial assistance under Arkansas Highway and Transportation Program (STP). Incorporation of the Razorback Road Project into the STP work plan is requested. In addition to providing a critically needed interior transportation corridor, this activity may provide long-term benefits by becoming an institutional drive of the University of Arkansas. Discussions with Don Pederson, Vice Chancellor of Finance at the University of Arkansas have confirmed this project to be a high priority for them, as it is for the City.

The construction of this segment of Razorback Road is a crucial link between other transportation projects, and is essential for realization of full benefits from other projects. North of this project, the improvement of Garland Avenue, from Maple Street to Wedington Drive is nearing start of construction. South of this project, improvement of Razorback Road from Sixth Street to Fifteenth St. is scheduled; completion expected in the next two to three years. Full function and benefit of these transportation projects depends upon completion of the requested Razorback Road Improvements (see attached location map).

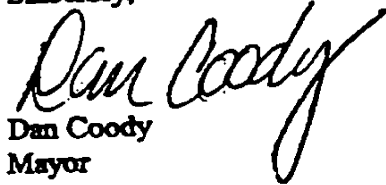
Fayetteville has placed a strong emphasis on local transportation needs and is securing a consultant to perform a comprehensive traffic study. This expected traffic

Dan Flowers
Arkansas Highway & Transportation Dept.
Page 2

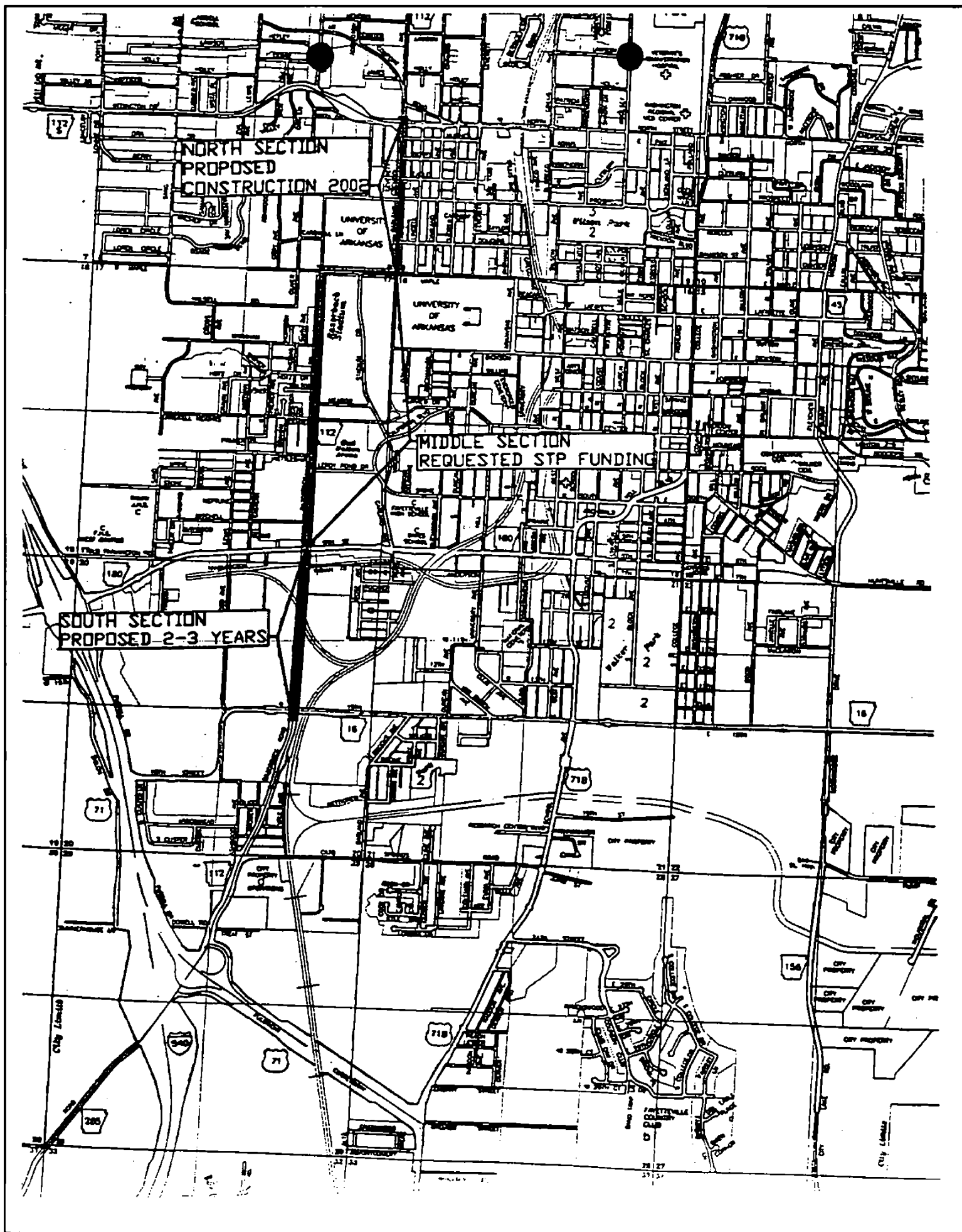
analysis will further validate the need for Razorback Road Improvements as well as identify and prioritize other needs. It is requested that the Arkansas State Highway and Transportation Department include this middle segment of Razorback Road Improvements in its STP funding schedule, granting this need a high priority.

Should there be any questions, or if additional information is needed, please don't hesitate to contact me at 479-575-8330.

Sincerely,


Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Don Pederson, University of Arkansas
Jonathan Barnett, Arkansas State Highway Commission



ARKANSAS STATE HIGHWAY COMMISSION

JOHN "M" LIPTON, CHAIRMAN
WARREN

J.W. "BUDDY" BENAFIELD, VICE CHAIRMAN
HICKORY PLAINS

MARY P. "PRISSY" HICKERSON
TEXARKANA



JONATHAN BARNETT
SILOAM SPRINGS

RECEIVED CARL S. ROSENBAUM
LITTLE ROCK

JUL 15 2002

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
TELEPHONE No. (501) 569-2000
FAX No. (501) 569-2400
July 9, 2002

CITY OF FAYETTEVILLE
CITY ENGINEER'S OFFICE

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

Reference is made to your most recent letter requesting that we program a Federal-aid Surface Transportation Program (STP) City project to widen Highway 112 (Razorback Road) from Highway 180 (6th Street) to Garland Avenue in Fayetteville.

Enclosed is an Agreement of Understanding for the project that includes a sample resolution (Attachment B) for your City Council to pass. Once the resolution is passed, please sign the Agreement and return it with a signed and sealed copy of the resolution to the Department. We will then execute the Agreement and return a copy to you.

If you have any questions, please advise.

Sincerely,

Dan Flowers
Director of Highways
and Transportation

Enclosure

c: Commissioner Jonathan Barnett
Chief Engineer

FAYETTEVILLE

RAZORBACK RD

THE CITY OF FAYETTEVILLE, ARKANSAS

July 30, 2002

Mr. Donald O. Pederson
Vice Chancellor for Finance and Administration
University of Arkansas
406 Administration Building
Fayetteville, AR 72701

RE: Razorback Road Improvement Project
Highway 180 (6th Street) to Garland Avenue
Federal-aid Surface Transportation Program

Dear Mr. Pederson,

Following our meeting earlier this year to discuss improvement concepts for Razorback Road, I have pursued possible funding avenues for such a project. One such option was the use of the Federal-aid Surface Transportation Program (STP) to cover a portion of the road improvement project costs. In response to this request, the Arkansas Highway and Transportation Department has tendered an Agreement of Understanding for this project. In essence, the project scope involves the improvement of Razorback Road between 6th Street and Garland Avenue. It has been indicated that the University of Arkansas is interested in the improvement of this road segment due to its connectivity with the campus. Similarly, the City of Fayetteville has interest in the road improvement due to its potential to improve the public transportation network. It appears that there are shared benefits from this proposed project that accrue equally to the University of Arkansas and the City of Fayetteville.

Under the STP program, this project would be eligible for 80% federal aid towards allowable elements with a funding ceiling of \$1,000,000.00. The 20% local match, ineligible project activities and project costs above \$1,000,000.00 must all be secured to complete this project's financing program. At this time, the amount of local matching funds needed is not known as first the preliminary engineering must be completed. Once this preliminary design is available, a project budget will be developed and funding sources secured. It is evident that this Razorback Road Improvement Project will have a cost far exceeding the \$1,000,000.00, therefore, local match funding must be secured. Also, with the current economic conditions and the limited capital improvement funding in the municipal budget, the use of municipal resources alone may not be feasible for completion of the project's financing program.

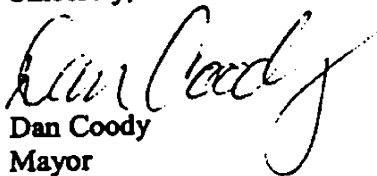
Donald Pederson
University of Arkansas
Page 2

In view of the University of Arkansas's interests in and benefits from this project, would a funding partnership be possible with the University and City being equal partners in the local match requirements? With respect to municipal utility relocation, the City of Fayetteville's Water & Sewer Division would bear the costs, and with respect to additional rights-of-way, the University would provide easements/right-of-way at no cost to the project. These cooperative participations may bring the local share of the project costs within our collective resources. I would appreciate the University's consideration of this partnership as this represents the only viable financing program for the Razorback Road Improvement Project.

While it is important that these arrangements be confirmed, these are not an immediate priority. It is considerably more important that the "Agreement of Understanding" be approved enabling the Arkansas Highway and Transportation Department to place the preliminary engineering design on its schedule. At such time as the preliminary design enters the work flow, a payment of \$35,000.00 will be required. To confirm the University of Arkansas's interest in this project and its intent to partner with the City on such improvement, it is requested that the University of Arkansas agree to fund 50% of the preliminary engineering costs, or \$17,500.00.

If you wish to meet to discuss this matter, please do not hesitate to contact me at 575-8331. In order that this matter may be presented to the City Council at its August 20, 2002 meeting, I will need to complete our arrangements no later than Friday, August 2, 2002.

Sincerely,


Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Steve Davis, Budget Manager



RAZORBACK RD

UNIVERSITY of ARKANSAS

1871

University of Arkansas, Fayetteville
Office of the Vice Chancellor for Finance & Administration
406 Administration Building
Fayetteville, AR 72701
Fax #479-575-5400

Number of pages including cover: 2 Date: 8-2-02

Company sent to:

Company name:

City of Fay.

ATTN:

Don Cordy

FAX Number:

() 575-8257

Phone Number:

()

Sent from:

Sender's name:

Don Pederson

Phone Number:

(479) 575-5828

Message/Notes:

Is this sufficient?Don Pederson

If you have problems with this transmission, please call (479) 575-5828

Donald Pederson
University of Arkansas
Page 2

In view of the University of Arkansas's interests in and benefits from this project, would a funding partnership be possible with the University and City being equal partners in the local match requirements? With respect to municipal utility relocation, the City of Fayetteville's Water & Sewer Division would bear the costs, and with respect to additional rights-of-way, the University would provide easements/right-of-way at no cost to the project. These cooperative participations may bring the local share of the project costs within our collective resources. I would appreciate the University's consideration of this partnership as this represents the only viable financing program for the Razorback Road Improvement Project.

While it is important that these arrangements be confirmed, these are not an immediate priority. It is considerably more important that the "Agreement of Understanding" be approved enabling the Arkansas Highway and Transportation Department to place the preliminary engineering design on its schedule. At such time as the preliminary design enters the work flow, a payment of \$35,000.00 will be required. To confirm the University of Arkansas's interest in this project and its intent to partner with the City on such improvement, it is requested that the University of Arkansas agree to fund 50% of the preliminary engineering costs, or \$17,500.00. *agreed*

D. J. Pederson
If you wish to meet to discuss this matter, please do not hesitate to contact me at 575-8331. In order that this matter may be presented to the City Council at its August 20, 2002 meeting, I will need to complete our arrangements no later than Friday, August 2, 2002. *8/2/02*

Sincerely,

Dan Coody
Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Steve Davis, Budget Manager

RESOLUTION NO. 15-03

A RESOLUTION TO APPROVE THE AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF FAYETTEVILLE AND THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT FOR COST SHARING FOR THE PRELIMINARY ENGINEERING WORK TO WIDEN RAZORBACK ROAD

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 Agreement of Understanding between the City of Fayetteville and the Arkansas Highway and Transportation Department (attached as Exhibit A) relative to widening Razorback Road and requiring an initial payment of \$35,000 for preliminary engineering work by the Arkansas Highway and Transportation Department.

PASSED and APPROVED this the 4th day of February, 2003.



By: Sondra Smith
Sondra Smith, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration (FHWA)

RELATIVE TO

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4th day of

February, ~~2002~~
2003

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director of Highways and Transportation

CITY OF
FAYETTEVILLE

Dan Coody
Mayor

**GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES**

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

file w/Res
15-03

MICROFILMED
ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



May 5, 2003

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

RECEIVED
MAY 07 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Job 040418
F.A.P. STP-9142(14)
Hwy. 180-Garland Ave.
(Hwy. 112) (Fayetteville) (S)
Washington County

Dear Mayor Coody:

As referenced above, State and Federal-aid numbers have been assigned for the City's Federal-aid project. Enclosed is your copy of the executed Agreement of Understanding.

As previously discussed, due to the backlog of projects programmed and limited funding, it will be several years before construction can begin. We will postpone requesting the City's initial deposit of \$35,000 until prior to beginning preliminary engineering.

If you have any questions, please contact Steve Morgan in our Programs and Contracts Division at (501) 569-2261.

Yours truly,

Robert L. Walters
Chief Engineer

Enclosure

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration (FHWA)

RELATIVE TO

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

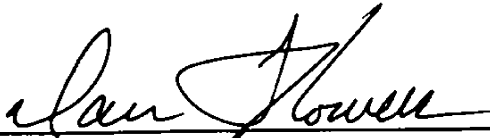
1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

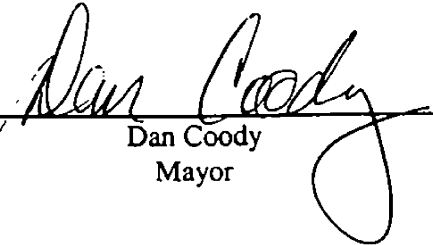
IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4th day of February, 2002.
2003

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT



Dan Flowers
mn Director of Highways and Transportation

CITY OF
FAYETTEVILLE



Dan Coody
Mayor

**GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES**

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

Resolution No. 15-03[illegible][illegible]

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Jim Beavers
Engineering Division

From: Clarice Buffalohead-Pearman 
City Clerk's Division

Date: 2/18/2003

Re: **Res. 15-03**

Attached you will find an executed copy of the above referenced resolution, passed by the City Council on February 4, 2003 approving the Agreement of Understanding with the AHTD for preliminary engineering services to widen Razorback Road. Also attached you will find the Agreement of Understanding with the mayor's signature. Please obtain Mr. Flowers' signature on the agreement. Upon the return of the agreement please make your division a copy of the agreement and return the original agreement to the city clerk's office.

Thank you for your cooperation, if anything else is needed please let the city clerk's office know.

/cbp

Attachments

cc: Nancy Smith, Internal Auditor

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of February 4, 2003

FROM:

Jim Beavers
Name

Engineering
Division

CPE Services
Department

ACTION REQUIRED:

1. Approval of a resolution to a cost share with the University of Arkansas to fund the preliminary engineering agreement with the Arkansas Highway and Transportation Department for preliminary engineering services relative to Razorback Road (Highway 112) from 6th Street (Highway 180) to Garland/Maple (Highway 112). The total costs of the agreement shall be \$35,000.00 with the City's share to be one-half totaling \$17,500.00.
2. Approval of the "Agreement of Understanding Between the City of Fayetteville and The Arkansas Highway and Transportation Department".
3. Approval of the "Federal-Aid Project Resolution" as submitted as "Attachment B" by the Arkansas Highway and Transportation Department.

COST TO CITY:

\$ 17,500
Cost of this Request

4470.9470.5809.00
Account Number

02116 - 10
Project Number

\$350,000
Category/Project Budget 2003

\$0
Funds Used To Date 2003

\$332,500
Remaining Balance 2003

Street Impvmt
Category/Project Name

Cost Shares
Program Name

Sales Tax
Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
Budget Manager

Finance and Internal Services Director

CONTRACT/GRANT/LEASE REVIEW:

Maisha Fattig 1/17/03
Accounting Manager Date

W. P. Whitaker 1/17/03
City Attorney Date

P. Ulice 1/17/03
Purchasing Officer Date

GRANTING AGENCY:

Danny Smith 1/17/03
Internal Auditor Date

ADA Coordinator Date

Grant Coordinator Date

STAFF RECOMMENDATION: Approval

Jim Beavers 01-17-03
Division Head Date

Department Director Date

A. P. S. O. 1-21-03
Finance and Internal Services Director

Michael Garrett 1-21-03
Chief Administrative Officer Date

Don Coody 2/8/03
Mayor Date

Cross Reference

New Item: Yes X No

Prev Ord/Res #:
Date

Orig Contract Date:
Orig Contract No:

STAFF REVIEW FORM

Page 2

Description Razorback Road Agreement of Understanding

Meeting Date February 4, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Grant Coordinator

RESOLUTION NO. 14-03

A RESOLUTION TO APPROVE A COST SHARE IN THE AMOUNT OF \$17,500.00 WITH THE UNIVERSITY OF ARKANSAS TO FUND THE PRELIMINARY ENGINEERING SERVICES FOR RAZORBACK ROAD IMPROVEMENT

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 cost share with the University of Arkansas to pay the Arkansas Highway Department \$35,000.00 for preliminary engineering services for Razorback Road improvement. The City of Fayetteville's share shall be \$17,500.00.

PASSED and APPROVED this the 4th day of February, 2003.



ATTEST:

By: Sondra Smith
Sondra Smith, City Clerk

APPROVED:

By:

Dan Coody
DAN COODY, Mayor



AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration (FHWA)

RELATIVE TO

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4th day of February, ~~2002~~
2003

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director of Highways and Transportation

CITY OF
FAYETTEVILLE

Dan Coody
Dan Coody
Mayor

**GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES**

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If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. 14-03

**A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF FAYETTEVILLE
TO UTILIZE FEDERAL-AID MONIES
FOR THE FOLLOWING CITY PROJECT:**

Widening Hwy. 112 from Hwy. 180 (6th Street) to Garland Avenue

WHEREAS, the City of Fayetteville understands Federal-aid Surface Transportation Program funds are available for certain local projects at the following federal participating ratios:

	<u>Work Phase</u>	<u>Federal Share</u>	<u>State Share</u>	<u>City Share</u>
	Preliminary Engineering	0%	100%	0%
	Right-of-Way	80%	0%	20%
	Utilities	80%	0%	20%
	Construction	80%	0%	20%
	Construction Engineering	80%	0%	20%
City projects programmed	Right-of-Way	0%	0%	100%
but not let to contract	Utilities	0%	0%	100%

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

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

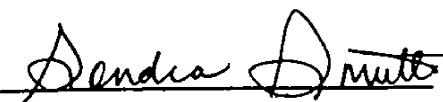
SECTION II: Mayor Dan Coody or his designee is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this project.

SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this 4th day of February, 2002.
2003



Dan Coody
Mayor

ATTEST: 

(SEAL)

Resolution No. 14-03[illegible][illegible]

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Jim Beavers
Engineering Division

From: Clarice Buffalohead-Pearman *cbp*
City Clerk's Division

Date: 2/18/2003

Re: Res. 14-03

Attached you will find an executed copy of the above referenced resolution passed by the City Council on February 4, 2003, approving a cost share with the University of Arkansas to pay the Arkansas Highway Department \$35,000.00 for preliminary engineering service for the Razorback Road Improvement with the city's share in the amount of \$17,500.00. Also attached you will find the Agreement of Understanding signed by the mayor. Please obtain Mr. Flower's signature on the agreement. Upon AHTD return of an executive agreement, please make yourself a copy and return the original to the city clerk's office.

Thank you for your cooperation, if anything else is needed please let the city clerk's office know.

/cbp

Attachments

cc: Nancy Smith, Internal Auditor

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of February 4, 2003

FROM:

Jim Beavers
Name

Engineering
Division

CPE Services
Department

ACTION REQUIRED:

1. Approval of a resolution to a cost share with the University of Arkansas to fund the preliminary engineering agreement with the Arkansas Highway and Transportation Department for preliminary engineering services relative to Razorback Road (Highway 112) from 6th Street (Highway 180) to Garland/Maple (Highway 112). The total costs of the agreement shall be \$35,000.00 with the City's share to be one-half totaling \$17,500.00.
2. Approval of the "Agreement of Understanding Between the City of Fayetteville and The Arkansas Highway and Transportation Department".
3. Approval of the "Federal-Aid Project Resolution" as submitted as "Attachment B" by the Arkansas Highway and Transportation Department.

COST TO CITY:

\$ 17,500
Cost of this Request

4470.9470.5809.00
Account Number

02116 - 10
Project Number

\$350,000
Category/Project Budget 2003

\$0
Funds Used To Date 2003

\$332,500
Remaining Balance 2003

Street Impvmt
Category/Project Name

Cost Shares
Program Name

Sales Tax
Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
Budget Manager

Finance and Internal Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fetting 1/17/03
Accounting Manager Date

W. J. Whitaker 1/17/03
City Attorney Date

P. Ulice 1/17/03
Purchasing Officer Date

GRANTING AGENCY:

Danny Smith 1/17/03
Internal Auditor Date

ADA Coordinator Date

Grant Coordinator Date

STAFF RECOMMENDATION: Approval

Jim Beavers 01-17-03
Division Head Date

Department Director Date

Steve [Signature] 1-21-03
Finance and Internal Services Director

Cross Reference

New Item: Yes ☒ No

Prev Ord/Res #:
Date

Orig Contract Date:

Orig Contract No:

Hugh Garnett 1-21-03
Chief Administrative Officer Date

Dan Corby 2/8/03
Mayor Date

STAFF REVIEW FORM

Page 2

Description Razorback Road Agreement of Understanding

Meeting Date February 4, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Grant Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Engineering Division

To: Dan Coody, Mayor
Fayetteville City Council

Thru: Staff Review

From: Jim Beavers, Engineering *Jim Beavers*

Date: January 17, 2002

Re: City Council Meeting February 4, 2003
Proposed agreement with the Arkansas Highway and Transportation Department relative to preliminary engineering for Razorback Road from 6th Street to Garland/Maple.

Please find attached the proposed agreement and supporting documentation.

The project scope is Razorback Road (State Highway 112) from 6th Street (State Highway 180) north and east to the Garland/Maple intersection.

The total costs are \$35,000.00 which will be shared "50/50" with the University of Arkansas. The City's costs for the preliminary study will be \$17,500.00.

This agreement and authorization for the cost share was approved by the City of Fayetteville Council Street Committee on January 15, 2003.

Enclosures:

1. "Agreement Of Understanding Between The City Of Fayetteville And The Arkansas State Highway And Transportation Department . . . relative to widening Hwy 112 from Hwy. 180 (6th Street) to Garland Avenue"

Such Agreement includes as additional formal Resolution as Attachment B.

2. Memorandum from Greg Boettcher, P.E., to the City of Fayetteville Street Committee dated January 15, 2003.

3. Letter from Mayor Coody to Dan Flowers (AHTD) dated March 27, 2002.
4. Letter from Dan Flowers (AHTD) to Mayor Coody dated July 9, 2002.
5. Letter from Mayor Coody to Donald Pederson (University of Arkansas) dated July 30, 2002.
6. Fax response from Donald Pederson (U of A) to Mayor Coody dated August 2, 2002 with agreement to the cost share of \$17,500.00.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE/PUBLIC WORKS DEPARTMENT

TO: FAYETTEVILLE STREET COMMITTEE
Bob Davis, Chairman; Lioneld Jordan, Alderman; Don Marr,
Alderman; Robert Reynolds, Alderman

COPY: Mayor Dan Coody, Jim Beavers, Heather Woodruff, Hugh
Earnest, Terry Gulley, Tim Conklin

FROM: Greg Boettcher, Public Works Director

DATE: January 15, 2003

RE: Razorback Road Improvement Project
Federal-aid Surface Transportation Program

BACKGROUND

Representatives of the University of Arkansas met with Fayetteville City Administration in early 2002 to discuss the concept of improving Razorback Road from South Street north to the intersection of Garland Avenue and Maple Street. The University had developed a preliminary schematic of widening and wished to collaborate with the City on such capital improvement project. Since this improvement would connect two pending improvement projects (Razorback Road improvements from 15th to 6th Street and Garland Avenue Improvements from Wedington to Maple), it was deemed an essential link in a major transportation corridor. Also, since the road was under the jurisdiction of the Arkansas State Highway and Transportation Department (AHTD) as Highway 180, the improvement project could be eligible for state/federal assistance.

Mayor Coody has requested the AHTD to consider funding of this critical road improvement project due to its connectivity to other major corridors. On July 9, 2002, the AHTD responded to this request by forwarding an "Agreement of Understanding between the City of Fayetteville and the Arkansas State Highway and Transportation Department". On July 30, 2002, Mayor Coody advised the University of Arkansas of the AHTD participation agreement and requested that the University of Arkansas financially participate in and support this activity. A fax was received from the University on August 2, 2002 from Mr. Pederson confirming the 50-50 cost share on the preliminary engineering cost of \$35,000.00. Copies of the correspondence are attached.

RECOMMENDATION

It is recommended that the Fayetteville Street Committee approve the preliminary engineering activities on Razorback Road Improvement Project with the net cost to the City of Fayetteville being \$17,500.00. This agreement shall need to then proceed to the City Council for approval and authorization of the mayor's execution of the Agreement of Understanding.

FAYETTEVILLE

RAZORBACK RD

THE CITY OF FAYETTEVILLE, ARKANSAS

March 27, 2002

Mr. Dan Flowers, P.E.
Arkansas State Hwy. & Transportation Dept.
P.O. Box 2261
Little Rock, AR 72209

RE: Surface Transportation Program (STP)
Razorback Road (State Hwy. 265)
Fayetteville, Washington County, Arkansas

Dear Mr. Flowers,

Fayetteville's surface transportation system is becoming increasingly inadequate for the public's transportation needs. Continued community growth coupled with the unique demands of the University of Arkansas campus require infrastructure improvement projects that exceed local resources. To alleviate a pressing local transportation system deficiency, the City requests funding assistance for the improvement of Razorback Road, beginning at Sixth St. and continuing north to Garland Avenue. It is understood that the \$4 - 6 million project may obtain financial assistance under Arkansas Highway and Transportation Program (STP). Incorporation of the Razorback Road Project into the STP work plan is requested. In addition to providing a critically needed interior transportation corridor, this activity may provide long-term benefits by becoming an institutional drive of the University of Arkansas. Discussions with Don Pederson, Vice Chancellor of Finance at the University of Arkansas have confirmed this project to be a high priority for them, as it is for the City.

The construction of this segment of Razorback Road is a crucial link between other transportation projects, and is essential for realization of full benefits from other projects. North of this project, the improvement of Garland Avenue, from Maple Street to Wedington Drive is nearing start of construction. South of this project, improvement of Razorback Road from Sixth Street to Fifteenth St. is scheduled; completion expected in the next two to three years. Full function and benefit of these transportation projects depends upon completion of the requested Razorback Road Improvements (see attached location map).

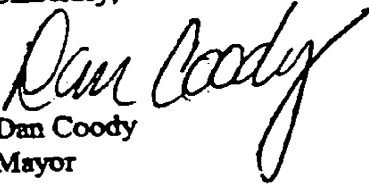
Fayetteville has placed a strong emphasis on local transportation needs and is securing a consultant to perform a comprehensive traffic study. This expected traffic

Dan Flowers
Arkansas Highway & Transportation Dept.
Page 2

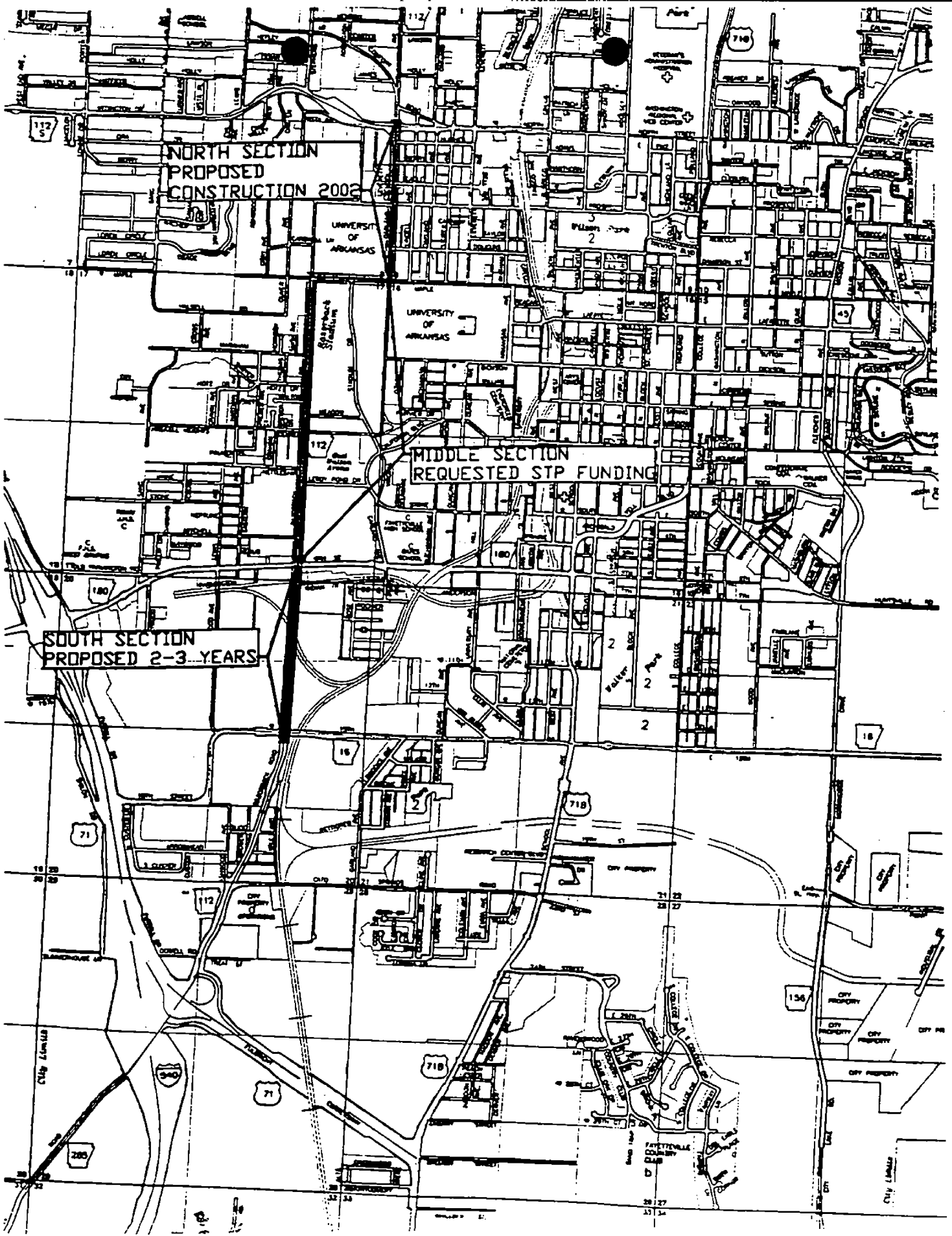
analysis will further validate the need for Razorback Road Improvements as well as identify and prioritize other needs. It is requested that the Arkansas State Highway and Transportation Department include this middle segment of Razorback Road Improvements in its STP funding schedule, granting this need a high priority.

Should there be any questions, or if additional information is needed, please don't hesitate to contact me at 479-575-8330.

Sincerely,


Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Don Pederson, University of Arkansas
Jonathan Barnett, Arkansas State Highway Commission



NORTH SECTION
PROPOSED
CONSTRUCTION 2002

MIDDLE SECTION
REQUESTED STP FUNDING

SOUTH SECTION
PROPOSED 2-3 YEARS

UNIVERSITY
OF
ARKANSAS

UNIVERSITY
OF
ARKANSAS

FAYETTEVILLE
COUNTRY
CLUB

ARKANSAS STATE HIGHWAY COMMISSION

JOHN "M" LIPTON, CHAIRMAN
WARREN

J.W. "BUDDY" BENAFIELD, VICE CHAIRMAN
HICKORY PLAINS

MARY P. "PRISSY" HICKERSON
TEXARKANA



JONATHAN BARNETT
SILOAM SPRINGS

RECEIVED CARL S. ROSENBAUM
LITTLE ROCK

JUL 15 2002

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-9860
CITY OF FAYETTEVILLE
CITY MANAGER'S OFFICE
TELEPHONE No. (501) 569-2000
FAX No. (501) 569-2400
July 9, 2002

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

Reference is made to your most recent letter requesting that we program a Federal-aid Surface Transportation Program (STP) City project to widen Highway 112 (Razorback Road) from Highway 180 (6th Street) to Garland Avenue in Fayetteville.

Enclosed is an Agreement of Understanding for the project that includes a sample resolution (Attachment B) for your City Council to pass. Once the resolution is passed, please sign the Agreement and return it with a signed and sealed copy of the resolution to the Department. We will then execute the Agreement and return a copy to you.

If you have any questions, please advise.

Sincerely,

Dan Flowers
Director of Highways
and Transportation

Enclosure

c: Commissioner Jonathan Barnett
Chief Engineer

FAYETTEVILLE

RAZORBACK RD

THE CITY OF FAYETTEVILLE, ARKANSAS

July 30, 2002

Mr. Donald O. Pederson
Vice Chancellor for Finance and Administration
University of Arkansas
406 Administration Building
Fayetteville, AR 72701

RE: Razorback Road Improvement Project
Highway 180 (6th Street) to Garland Avenue
Federal-aid Surface Transportation Program

Dear Mr. Pederson,

Following our meeting earlier this year to discuss improvement concepts for Razorback Road, I have pursued possible funding avenues for such a project. One such option was the use of the Federal-aid Surface Transportation Program (STP) to cover a portion of the road improvement project costs. In response to this request, the Arkansas Highway and Transportation Department has tendered an Agreement of Understanding for this project. In essence, the project scope involves the improvement of Razorback Road between 6th Street and Garland Avenue. It has been indicated that the University of Arkansas is interested in the improvement of this road segment due to its connectivity with the campus. Similarly, the City of Fayetteville has interest in the road improvement due to its potential to improve the public transportation network. It appears that there are shared benefits from this proposed project that accrue equally to the University of Arkansas and the City of Fayetteville.

Under the STP program, this project would be eligible for 80% federal aid towards allowable elements with a funding ceiling of \$1,000,000.00. The 20% local match, ineligible project activities and project costs above \$1,000,000.00 must all be secured to complete this project's financing program. At this time, the amount of local matching funds needed is not known as first the preliminary engineering must be completed. Once this preliminary design is available, a project budget will be developed and funding sources secured. It is evident that this Razorback Road Improvement Project will have a cost far exceeding the \$1,000,000.00, therefore, local match funding must be secured. Also, with the current economic conditions and the limited capital improvement funding in the municipal budget, the use of municipal resources alone may not be feasible for completion of the project's financing program.

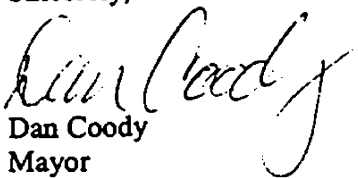
Donald Pederson
University of Arkansas
Page 2

In view of the University of Arkansas's interests in and benefits from this project, would a funding partnership be possible with the University and City being equal partners in the local match requirements? With respect to municipal utility relocation, the City of Fayetteville's Water & Sewer Division would bear the costs, and with respect to additional rights-of-way, the University would provide easements/right-of-way at no cost to the project. These cooperative participations may bring the local share of the project costs within our collective resources. I would appreciate the University's consideration of this partnership as this represents the only viable financing program for the Razorback Road Improvement Project.

While it is important that these arrangements be confirmed, these are not an immediate priority. It is considerably more important that the "Agreement of Understanding" be approved enabling the Arkansas Highway and Transportation Department to place the preliminary engineering design on its schedule. At such time as the preliminary design enters the work flow, a payment of \$35,000.00 will be required. To confirm the University of Arkansas's interest in this project and its intent to partner with the City on such improvement, it is requested that the University of Arkansas agree to fund 50% of the preliminary engineering costs, or \$17,500.00.

If you wish to meet to discuss this matter, please do not hesitate to contact me at 575-8331. In order that this matter may be presented to the City Council at its August 20, 2002 meeting, I will need to complete our arrangements no later than Friday, August 2, 2002.

Sincerely,


Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Steve Davis, Budget Manager



RAZORBACK RD

UNIVERSITY of ARKANSAS

1871

University of Arkansas, Fayetteville
Office of the Vice Chancellor for Finance & Administration
406 Administration Building
Fayetteville, AR 72701
Fax #479-575-5400

Number of pages including cover: 2 Date: 8-2-02

Company sent to:

Company name:

City of Fay.

ATTN:

Don Coady

FAX Number:

() 575-8257

Phone Number:

()

Sent from:

Sender's name:

Don Pederson

Phone Number:

(479) 575-5828

Message/Notes:

Is this sufficient?Don Pederson

If you have problems with this transmission, please call (479) 575-5828

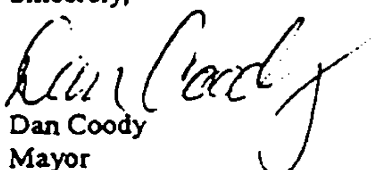
Donald Pederson
University of Arkansas
Page 2

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Sincerely,


Dan Coody
Mayor

cc: Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Steve Davis, Budget Manager

agreed
D. J. Pederson

8/2/02

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
Statewide Transportation Improvement Program (STIP) Amendment Approval Request

Date: January 17, 2014

In order to comply with the Statewide Planning Requirements as set forth in the MAP-21, the following item(s) have been added to the applicable TIP.

Northwest Arkansas Regional Transportation Study

Job (Item) Number	County	Route	Termini / Length	Type / Phase of Work	Estimated Cost Funding Breakdown (x1000)	Agency Responsible for:		Estimated Scheduling (FFY)	
						Providing Matching Funds	Carrying Out the Project		
090385	Benton	County Road	Illinois River Fisher Ford Bridge	Right-of-Way	13.15 - Total 10.52 - STP-A 2.63 - Local	Local	State	2014	Increase Funding
040582	Washington	112	Maple Street Impvts. and Traffic Signal at Maple and Razorback Road	Major Widening	3,000 - Total 2,400 - STP-A 600 - Local	Local	State	2014	Add to STIP
040642	Washington	45	Hwy. 45/Old Wire Rd. Traffic Signal and Intersection Improvements	Intersec. Impvts.	1,500 - Total 850 - STP-A 350 - STP 300 - Local	Local	State	2014	Add to STIP
090---	Benton	City Street	South Dixieland Road Extension	PE and Environmenal	450 - Total 360 - STP-A 90 - Local	Local	Local	2014	Add to STIP
012---	Benton/ Washington	N/A	NARTStudy Area	Planning	125 - Total 100 - STP-A 25 - Local	Local	Local	2014	Add to STIP
090---	Benton	N/A	Lake Springdale Trailhead	Construction	600 - Total 200 - TAP 400 - Local	Local	Local	2014	Add to STIP
090---	Benton	N/A	Walton Blvd. Multi-use Trail	Construction	717 - Total 226 - TAP 491 - Local	Local	Local	2014	Add to STIP
040---	Washington	N/A	Gordon Long Park Trailhead - Razorback Regional Greenway	Construction	262 - Total 22 - TAP 240 - Local	Local	Local	2014	Add to STIP
090---	Benton	N/A	New Hope Bridge - Razorback Regional Greenway	Construction	1250 - Total 225 - TAP 1025 - Local	Local	Local	2015	Add to STIP
040---	Washington	N/A	Drake Street Cycle Track and Trail	Construction	325 - Total 260 - TAP 65 - Local	Local	Local	2015	Add to STIP

Recommended by:

Paul Scrim
Metropolitan Planning Coordinator

MPO Approval Date:

1-3-14

Submitted by:

Hemi Hunter
Engineer of Programs and Contracts Division

Date:

1-21-14

(For Federal Highway Administration Use Only)

Approved by:

Sam DeWitt

Date:

2/19/14

RECEIVED

FEB 20 2014

Programs & Contracts
AHTD



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0020

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 14

GRANT THORNTON LLP CONTRACT:

A RESOLUTION TO APPROVE A CONTRACT WITH GRANT THORNTON LLP IN THE AMOUNT OF \$87,500.00 TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Grant Thornton LLP in the amount of \$87,500.00 to provide independent audit services to the City of Fayetteville. A copy of the engagement letter for services is attached to this Resolution and made a part hereof.

City of Fayetteville Staff Review Form

2015-0020

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Marsha Hertweck

1/13/2015

Accounting & Audit /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of the engagement of Grant Thornton for the City's 2014 annual audit. The 2014 audit cost has been budgeted in the 2015 budget.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Current Budget

\$ -

Funds Obligated

\$ -

Current Balance

\$ -

Does item have a cost? Yes

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

\$ -

Remaining Budget

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

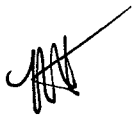
Approval Date:

Comments:



To: Mayor Lioneld Jordan and the Fayetteville City Council

Thru: Paul Becker, Finance Director

From: Marsha Hertweck, Accounting Director 

Date: January 12, 2015

Subject: Annual Audit

Recommendation

Approval of the third year of a five year contract with Grant Thornton for annual audit services for the 2014 audit.

Discussion

The City is required, under Arkansas statutes and applicable bond issues, to have an annual financial audit conducted by either Legislative Audit or a Certified Public Accounting firm licensed in Arkansas. Because of the requirements of bond indentures, the City has for the past thirty plus years utilized the services of a private CPA firm to perform these mandated financial audits.

Grant Thornton was selected by the City following the applicable rules and regulations concerning the procurement of auditing services for a five year contract beginning with the 2012 audit. Under this contract Grant Thornton will provide an annual audit of the City's financial statements and a review of the City's internal control system as required by state law. In addition to the financial audit, Grant Thornton will issue a report on internal control and compliance requirements for major federal award programs as required by the Single Audit Act. The single audit is the primary mechanism used by federal agencies to ensure accountability for federal awards to non-federal entities.

Finally, Grant Thornton will also provide technical assistance to the City in producing the Comprehensive Annual Financial Report (CAFR). The CAFR includes the City's financial statements as well as statistical information required by the City's bond covenants.

Budget Impact

The cost of the 2014 audit is \$87,500. The audit has been budgeted in General Fund and various other funds in the 2015 budget.



January 7, 2015

Mr. Lioneld Jordan
City Administration Building – City Hall
113 West Mountain Street
Fayetteville, Arkansas 72701

Grant Thornton LLP
1717 Main Street, Suite 1800
Dallas, TX 75201-4667
T 214.561.2300
F 214.561.2370
GrantThornton.com
[linkd.in/GrantThorntonUS](https://www.linkedin.com/company/GrantThorntonUS)
twitter.com/GrantThorntonUS

Dear Mr. Jordan:

This letter (the “Engagement Letter”) documents our mutual understanding of the arrangements for the services described herein.

Scope of services

Grant Thornton LLP (“Grant Thornton”) will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the City’s basic financial statements (“financial statements”) of the City of Fayetteville, Arkansas (collectively, the “City”), as of and for the year ended December 31, 2014.

Our financial statement audit will be conducted in accordance with auditing standards generally accepted in the United States of America (“US GAAS”) established by the American Institute of Certified Public Accountants (“AICPA”) and the standards for financial audits of the U.S. Government Accountability Office’s (“GAO”) *Government Auditing Standards* (“GAGAS”) issued by the Comptroller General of the United States. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall financial statement presentation.

In assessing the risks of material misstatement, an auditor considers internal control relevant to the City’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstance. GAGAS further requires us to perform tests of the City’s compliance with laws, regulations, and provisions of contracts or grant agreements, in which noncompliance could have a direct and material effect on the determination of financial statement amounts. However, a financial statement audit is not designed to provide assurance on compliance or internal control over financial reporting or to identify immaterial instances of noncompliance or internal control deficiencies.

When conducting an audit, the auditor is required to obtain reasonable assurance about whether the financial statements are free from material misstatement, whether due to fraud or error, to enable the auditor to express an opinion on whether the financial statements are presented fairly, in all material respects, in

accordance with accounting principles generally accepted in the United States of America. Although not absolute assurance, reasonable assurance is, nevertheless, a high level of assurance. However, an audit is not a guarantee of the accuracy of the financial statements. Even though the audit is properly planned and performed in accordance with professional standards, an unavoidable risk exists that some material misstatements or noncompliance with laws, regulations, and provisions of contracts or grant agreements may not be detected due to the inherent limitations of an audit, together with the inherent limitations of internal control. Also, an audit is not designed to detect errors or fraud that is immaterial to the financial statements.

It should be noted that because the determination of abuse is subjective, we have no responsibility to design the audit to provide reasonable assurance of detecting abuse. Abuse is distinct from fraud and noncompliance. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances.

Pursuant to the Single Audit Act Amendments of 1996 and the provisions of U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* ("OMB Circular A-133"), we will also audit the City's compliance with the types of compliance requirements described in the *OMB Circular A-133 Compliance Supplement* that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2014. We will conduct our compliance audit in accordance with US GAAS, GAGAS, and OMB Circular A-133. Those standards and OMB Circular A-133 require the auditor to plan and perform the compliance audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements that could have a direct and material effect on each major federal program occurred, to enable the auditor to express an opinion on the City's compliance with these requirements in all material respects. A compliance audit includes determining major programs, examining, on a test basis, evidence about the City's compliance with those requirements, and performing such other procedures as we considered necessary in the circumstances, including performing tests of internal control to evaluate the effectiveness of the design and operation of controls considered relevant to preventing, or detecting and correcting, material noncompliance with requirements applicable to major programs. Absolute assurance is not attainable because the compliance audit is conducted on a test basis and compliance with the specific program requirements is subject to the inherent limitations of internal control over compliance, which may not prevent or detect intentional or unintentional noncompliance. Accordingly, material noncompliance may remain undetected. Also, a compliance audit is not designed to detect noncompliance, whether intentional or unintentional, that is immaterial. Our compliance audit does not provide a legal determination of the City's compliance with those requirements.

Upon the completion of the foregoing financial statement and compliance audits and subject to their findings, we will render our reports on the City's financial statements and on the City's compliance with the requirements referred to above that are applicable to each of its major federal programs and will communicate our findings in accordance with US GAAS, GAGAS, and OMB Circular A-133. Our report on the City's compliance will include our findings on internal control over compliance; however, no opinion will be expressed on internal control over compliance.

As required by GAGAS, we will also render a report that includes our findings on the City's internal control over financial reporting and compliance with laws, regulations, and provisions of contracts or grant agreements, and other matters based on our financial statement audit. Such report will be considered integral to the basic financial statements and will be referred to in our report thereon. However, providing an opinion

on internal control over financial reporting or on compliance with those provisions is not an objective of our financial statement audit, and accordingly, we will not express such an opinion.

It is possible that circumstances may arise in which our reports may differ from their expected form and content, resulting in a modified report or disclaimer of opinion. Further, if in our professional judgment the circumstances necessitate, we may resign from the engagement prior to completion.

Required supplementary information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and schedules of funding progress for the pension plan and other postemployment benefit plan be presented to supplement the basic financial statements. Such information, although not a required part of the basic financial statements, is required by the Governmental Accounting Standards Board ("GASB") who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. This required supplementary information is the responsibility of management. We will apply certain limited procedures to the required supplementary information in accordance with US GAAS. These limited procedures consist of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtain during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures will not provide us with sufficient evidence to express an opinion or provide any assurance.

Other information

Management is responsible for providing us with other information that will be included in an annual report or similar document containing audited financial statements and our auditor's report thereon, including the introductory and statistical sections presented to fulfill the requirements of the Government Finance Officers' Association Comprehensive Annual Financial Report ("CAFR"). Management should provide the information prior to the release of our auditor's report. Our responsibility for such information does not extend beyond the financial information identified in our report. We do not perform any procedures to corroborate the other information contained in these documents. Professional standards require us to read the other information and consider whether the other information, or the manner of its presentation, is materially inconsistent with information appearing in the financial statements. We will bring to management's attention any information that we believe is a material misstatement of fact.

Responsibilities of those charged with governance

Effective two-way communication with the City Council and Audit Committee (referred to as "those charged with governance") assists us in obtaining information relevant to the audit and also assists those charged with governance in fulfilling their responsibility to oversee the financial reporting process. Those charged with governance play an important role in the City's internal control over financial reporting by setting a positive tone at the top and challenging the City's activities in the financial arena. Accordingly, it is important for those charged with governance to communicate to us matters they believe are relevant to our engagement. As indicated below, management also has a responsibility to communicate certain matters to those charged with governance and to Grant Thornton.

In connection with our engagement, professional standards require us to communicate certain matters that come to our attention to those charged with governance, such as the following:

- fraud involving senior management and fraud that causes a material misstatement
- illegal acts, unless clearly inconsequential
- violations of provisions of contracts or grant agreements and abuse that causes a material misstatement
- non-compliance with the provisions of a major federal financial assistance program
- failure to report fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse to specified external parties when required by law or regulation. We may also be required to report such matters directly to the external party.
- significant deficiencies and material weaknesses in internal control over financial reporting and federal financial assistance
- disagreements with management and other serious difficulties encountered
- qualitative aspects of significant accounting practices, including accounting policies, estimates, and disclosures
- audit adjustments and uncorrected misstatements, including missing disclosures.

Management responsibilities

As you are aware, the financial statements are the responsibility of management. Management is responsible for preparing and fairly presenting the financial statements in accordance with accounting principles generally accepted in the United States of America, which includes adopting sound accounting practices and complying with changes in accounting principles and related guidance. Management is also responsible for:

- providing us with access to all information of which they are aware that is relevant to the preparation and fair presentation of the financial statements, including all financial records, documentation of internal control over financial reporting and federal financial assistance and related information, and any additional information that we may request for audit purposes
- providing us with unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence
- making us aware of any significant vendor relationships in which the vendor has the responsibility for program compliance
- ensuring that the City identifies and complies with all laws, regulations, contracts, and grant agreements applicable to its activities and for informing us of any known violations. The City should identify and disclose to us all laws, regulations, and provisions of contracts and grant agreements that have a direct and material effect on the determination of financial statement amounts or other significant financial data.
- taking timely and appropriate steps to remedy fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report
- designing, implementing, and maintaining effective internal control over financial reporting and federal financial assistance, which includes adequate accounting records and procedures to safeguard the City's

assets, and for informing us of all known significant deficiencies and material weaknesses in, and significant changes in, internal control over financial reporting and federal financial assistance

- informing us of their views about the risk of fraud within the City and their awareness of any known or suspected fraud and the related corrective action proposed
- adjusting the financial statements, including disclosures, to correct material misstatements and for affirming to us in a representation letter that the effects of any uncorrected misstatements, including missing disclosures, aggregated by us during the current engagement, including those pertaining to the latest period presented, are immaterial, both individually and in the aggregate, to the financial statements as a whole
- establishing and maintaining a process to address and track the status of our findings, conclusions, and recommendations, including providing management's views on such matters as well as planned corrective actions to be included in the report, in a timely manner. This includes informing us of findings and recommendations from previous audits, attestation engagements, or other studies that could have a material effect on the financial statements and whether any related recommendations were implemented.
- informing us of any events occurring subsequent to the date of the financial statements through the date of our auditor's report that may affect the financial statements or the related disclosures
- informing us of any subsequent discovery of facts that may have existed at the date of our auditor's report that may have affected the financial statements or the related disclosures
- taking corrective action on any reported findings or questioned costs reported to them and preparing a summary schedule of prior audit findings and a corrective action plan, if applicable, as required by OMB Circular A-133
- submitting the reporting package (including financial statements, schedule of expenditures of federal awards, auditor's reports and, if applicable, a summary schedule of prior audit findings and a corrective action plan) along with the Data Collection Form to the designated federal clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for the audit.
- distributing the report(s), including the financial statements, any supplementary information, and the report(s) thereon, to those officials and organizations requiring them.

To assist those charged with governance in fulfilling their responsibility to oversee the financial reporting process, management should discuss with those charged with governance the:

- adequacy of internal control over financial reporting and federal financial assistance and the identification of any significant deficiencies or material weaknesses, including the related corrective action proposed

- significant accounting policies, alternative treatments, and the reasons for the initial selection of, or change in, significant accounting policies
- process used by management in formulating particularly sensitive accounting judgments and estimates and whether the possibility exists that future events affecting these estimates may differ markedly from current judgments
- basis used by management in determining that uncorrected misstatements, including missing disclosures, are immaterial, both individually and in the aggregate, including whether any of these uncorrected misstatements could potentially cause future financial statements to be materially misstated.

We will require management's cooperation to complete our services. In addition, we will obtain, in accordance with professional standards, certain written representations from management, which we will rely upon.

Use of our reports

The inclusion, publication, or reproduction by the City of any of our reports in documents such as bond offerings, regulatory filings, and OMB Circular A-133 Data Collection Forms containing information in addition to financial statements may require us to perform additional procedures to fulfill our professional or legal responsibilities. Accordingly, our reports should not be used for any such purposes without our prior permission. In addition, to avoid unnecessary delay or misunderstanding, it is important that the City give us timely notice of its intention to issue any such document.

The report on compliance with laws, regulations, and provisions of contracts or grant agreements and internal control over financial reporting and the report on compliance and internal control over compliance related to major programs issued in accordance with OMB Circular A-133 will each include a statement that describes the purpose of the communication, which is to describe the scope of our testing of internal control over financial reporting, internal control over compliance, and the result of that testing. Accordingly, these reports are not suitable for any other purpose.

Other services

Supplementary information

Management is responsible for separately preparing the schedule of expenditures of federal awards for the year ended December 31, 2014 in accordance with OMB Circular A-133 and the combining and individual fund statements and schedules in accordance with the requirements of the Government Finance Officers' Association Comprehensive Annual Financial Report ("CAFR"). Such supplementary information, which will be presented for purposes of additional analysis and is not a required part of the financial statements, will be subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures. These procedures will include comparing and reconciling the supplementary information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with US GAAS. The purpose of our procedures will be to form and express an opinion as to whether the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.

In connection with our procedures, management is responsible for informing us about:

- the methods of measurement and presentation of the supplementary information
- whether those methods have changed from the methods used in the prior period and the reasons for the change, if any
- any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management will present the supplementary information with the audited financial statements. Management is responsible for including our report on the supplementary information in any document that contains the supplementary information and that indicates we reported on it.

We will require management to provide us with certain written representations related to their responsibilities described above, including whether management believes the supplementary information (including its form and content) is fairly presented in accordance with OMB Circular A-133 and CAFR and/or the applicable criteria, as appropriate.

Other services

Any other services that you request will constitute a separate engagement that will be subject to our acceptance procedures. Professional standards, laws, and regulations may prescribe limitations on non-audit services we may perform without impairing our independence.

Fees

Standard billings

Our billings for the services set forth in this Engagement Letter, which will not exceed \$82,500 with additional out-of-pocket expenses not to exceed \$5,000, will be rendered on an estimated basis in accordance with the enclosed Schedule of Standard Billings and are payable within 20 days of receipt.

<u>Billing date</u>	<u>Fees</u>
January 31, 2015	\$12,500 – A-133 procedures
March 30, 2015	\$20,000
April 15, 2015	\$20,000
May 1, 2015	\$35,000

Adoption of new accounting standards

Professional and regulatory bodies frequently issue new accounting standards and guidance. Sometimes, standards are issued and become effective in the same period, providing a limited implementation phase and preventing us from including the impact in our estimated fees. In such circumstances, we will discuss with you the additional audit procedures and related fees, including matters such as the retrospective application of accounting changes and changes in classification.

Other costs

Except with respect to a dispute or litigation between Grant Thornton and the City, our costs and time spent in legal and regulatory matters or proceedings arising from our engagement, such as subpoenas, testimony, or consultation involving private litigation, arbitration, industry or government regulatory inquiries, whether made at the City's request or by subpoena, will be billed to the City separately.

Professional standards impose additional responsibilities regarding the reporting of illegal acts that have or may have occurred. To fulfill our responsibilities, we may need to consult with the City's counsel or counsel of our choosing about any illegal acts that we become aware of. Additional fees, including legal fees, will be billed to the City. The City agrees to ensure full cooperation with any procedures that we may deem necessary to perform.

Right to terminate services for nonpayment

In the event of nonpayment, we retain the right to (a) suspend the performance of our services, (b) change the payment conditions under this Engagement Letter, or (c) terminate our services. If we elect to suspend our services, such services will not be resumed until your account is paid as agreed. Alternatively, if we elect to terminate our services for nonpayment, the City will be obligated to compensate us for all time expended and to reimburse us for all expenses through the date of termination.

Other matters**Relationship to Grant Thornton International Ltd**

Grant Thornton is the U.S. member firm of Grant Thornton International Ltd ("GTIL"), an organization of independently owned and managed accounting and consulting firms. References to GTIL are to Grant Thornton International Ltd. GTIL and the member firms are not a worldwide partnership. Services are delivered independently by the member firms. These firms are not members of one international partnership or otherwise legal partners with each other internationally, nor is any one firm responsible for the services or activities of any other firm.

Use of third-party service providers and affiliates

Grant Thornton may use third-party service providers, such as independent contractors, specialists, or vendors, to assist in providing our professional services. We may also use GTIL member firms, other affiliates, or other accounting firms. Such entities may be located within or outside the United States.

Grant Thornton intends to use the technology and resources of the following entity to assist us as follows:

- Capital Confirmation, Inc. – electronic bank confirmation services

You hereby consent and authorize us to disclose City information to the above named entity for the purpose described above.

Peer review report

GAGAS requires that we provide you with a copy of our most recent triennial quality control review report. Accordingly, our May 31, 2014 Peer Review Report accompanies the Engagement Letter.

Privacy

Grant Thornton is committed to protecting personal information. We will maintain such information in confidence in accordance with professional standards and governing laws. Therefore, any personal information provided to us by the City will be kept confidential and not disclosed to any third party unless expressly permitted by the City or required by law, regulation, legal process, or professional standards. The City is responsible for obtaining, pursuant to law or regulation, consents from parties that provided the City with their personal information, which will be obtained, used, and disclosed by Grant Thornton for its required purposes.

Documentation

The documentation for this engagement is the property of Grant Thornton and constitutes confidential information. We have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention.

Pursuant to law or regulation, we may be requested to make certain documentation available to regulators, governmental agencies, or their representatives ("Regulators"). If requested, access to the documentation will be provided to the Regulators under our supervision. We may also provide copies of selected documentation, which the Regulators may distribute to other governmental agencies or third parties. You hereby acknowledge we will allow and authorize us to allow the Regulators access to, and copies of, the documentation in this manner.

Electronic communications

During the course of our engagement, we may need to electronically transmit confidential information to each other and to third-party service providers or other entities engaged by either Grant Thornton or the City. Electronic methods include telephones, cell phones, e-mail, and fax. These technologies provide a fast and convenient way to communicate. However, all forms of electronic communication have inherent security weaknesses, and the risk of compromised confidentiality cannot be eliminated. The City agrees to the use of electronic methods to transmit and receive information, including confidential information.

Standards of performance

We will perform our services in conformity with the terms expressly set forth in this Engagement letter, including all applicable professional standards. Accordingly, our services shall be evaluated solely on our substantial conformance with such terms and standards. Any claim of nonconformance must be clearly and convincingly shown.

With respect to the services and this Engagement Letter, in no event shall the liability of Grant Thornton and its present, future, and former partners, principals, directors, employees, agents, and contractors for any claim, including but not limited to Grant Thornton's own negligence, exceed the fees it receives for the portion of the work giving rise to such liability. This limitation shall not apply to the extent that it is finally determined that any claims, losses, or damages are the result of Grant Thornton's gross negligence or willful misconduct. In addition, Grant Thornton shall not be liable for any special, consequential, incidental, or exemplary damages or loss (nor any lost profits, interest, taxes, penalties, loss of savings, or lost business opportunity) even if Grant Thornton was advised in advance of such potential damages. This paragraph and the paragraph directly below shall apply to any type of claim asserted, including contract, statute, tort, or strict liability, whether by the City, Grant Thornton, or others.

Further, the City shall, upon receipt of written notice, indemnify, defend, and hold harmless Grant Thornton and its present, future, and former partners, principals, directors, employees, agents, and contractors from and against any liability and damages (including punitive damages), fees, expenses, losses, demands, and costs (including defense costs) associated with any claim arising from or relating to the City's knowing misrepresentations or false or incomplete information provided to Grant Thornton. In the event of any controversy or claim against Grant Thornton arising from or related to the services described herein, Grant Thornton shall be entitled, at its option, to defend itself from such controversy or claim and to participate in any settlement, administrative, or judicial proceedings.

If because of a change in the City's status or due to any other reason, any provision in this Engagement letter would be prohibited by laws, regulations, or published interpretations by governmental bodies, commissions, state boards of accountancy, or other regulatory agencies, such provision shall, to that extent, be of no further force and effect and the Engagement Letter shall consist of the remaining portions.

Dispute resolution

Any controversy or claim arising out of or relating to the services, related fees, or this Engagement Letter shall first be submitted to mediation. A mediator will be selected by agreement of the parties, or if the parties cannot agree, a mediator acceptable to all parties will be appointed by the American Arbitration Association ("AAA"). The mediation will proceed in accordance with the customary practice of mediation. In the unlikely event that any dispute or claim cannot be resolved by mediation, we both recognize that the matter will probably involve complex business or accounting issues that would be decided most equitably to us both by a judge hearing the evidence without a jury. Accordingly, to the extent now or hereafter permitted by applicable law, the City and Grant Thornton agree to waive any right to a trial by jury in any action, proceeding, or counterclaim arising out of or relating to our services or this Engagement Letter.

If the above jury trial waiver is determined to be prohibited by applicable law, then the parties agree that the dispute or claim shall be settled by binding arbitration. The arbitration proceeding shall take place in the city in which the Grant Thornton office providing the relevant services is located, unless the parties mutually agree to a different location. The proceeding shall be governed by the provisions of the Federal Arbitration Act ("FAA") and will proceed in accordance with the then current Arbitration Rules for Professional Accounting and Related Disputes of the AAA, except that no pre-hearing discovery shall be permitted unless specifically authorized by the arbitrator. The arbitrator will be selected from AAA, JAMS, the Center for Public Resources, or any other internationally or nationally-recognized organization mutually agreed upon by the parties. Potential arbitrator names will be exchanged within 15 days of the parties' agreement to settle the dispute or claim by binding arbitration, and arbitration will thereafter proceed expeditiously. The arbitration will be conducted before a single arbitrator, experienced in accounting and auditing matters. The arbitrator shall have no authority to award non-monetary or equitable relief and will not have the right to award punitive damages. The award of the arbitration shall be in writing and shall be accompanied by a well-reasoned opinion. The award issued by the arbitrator may be confirmed in a judgment by any federal or state court of competent jurisdiction. Each party shall be responsible for their own costs associated with the arbitration, except that the costs of the arbitrator shall be equally divided by the parties. The arbitration proceeding and all information disclosed during the arbitration shall be maintained as confidential, except as may be required for disclosure to professional or regulatory bodies or in a related confidential arbitration. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim would be barred under the applicable statute of limitations.

Authorization

This Engagement Letter sets forth the entire understanding between the City and Grant Thornton regarding the services described herein and supersedes any previous proposals, correspondence, and understandings, whether written or oral. If any portion of this Engagement Letter is held invalid, it is agreed that such invalidity shall not affect any of the remaining portions.

Please confirm your acceptance of this Engagement Letter by signing below and returning one copy to us in the enclosed self-addressed envelope. In addition, please provide the signed copies of the Engagement Letter to the City's Finance Director, Paul Becker, in order for management to acknowledge the terms herein. We appreciate the opportunity to continue to work with the City and assure you that this engagement will be given our closest attention.

Sincerely,

GRANT THORNTON LLP



Dan Barrón
Partner

cc: Paul Becker, Finance Director
Enc: May 31, 2014 Peer Review Report

Agreed and accepted by:

CITY OF FAYETTEVILLE, ARKANSAS

Lioneld Jordan, Mayor

Date: _____

Attest by:

City Clerk/Treasurer

Date: _____

System Review Report

To the Partners of
Grant Thornton LLP
and the National Peer Review Committee
of the American Institute of Certified
Public Accountants Peer Review Board

We have reviewed the system of quality control for the accounting and auditing practice of Grant Thornton LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2014. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*, audits of employee benefit plans, audits performed under FDICIA, audits of carrying broker-dealers and examinations of service organizations [Service Organizations Control (SOC) 1 engagements.]

In our opinion, the system of quality control for the accounting and auditing practice of Grant Thornton LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2014, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Grant Thornton LLP has received a peer review rating of *pass*.

BKD, LLP

December 1, 2014



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan
City Council**

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **January 20, 2014**

RE: **Contract with Grant Thornton, LLP for 2014 audit**

The proposed agreement with Grant Thornton, LLP regarding the 2014 audit contains language that is contrary to city policy IC-02. This memo serves only to bring your attention to those sections so you can make an informed decision about the proposed contracts.

Page 10 of the contract requires any dispute to be submitted to mediation. IC-2.8 states that "there should be no reference to mediation or arbitration within the contract." Further, if the mediation is unsuccessful, the contract requires the City to waive its right to a jury trial. While the City could ultimately determine that a bench trial is more appropriate given a set of particular facts, the City might not want to bind itself to that up front.

This language has appeared in other Grant Thornton contracts that were approved by the City Council in the past.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2014-0268

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Resolution

Agenda Number: A. 15

TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT:

A RESOLUTION TO DESIGNATE APPROXIMATELY 14.2 ACRES OF CITY PROPERTY AS TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT

WHEREAS, the Fayetteville Fire Department does not have dedicated training grounds to safely practice the skills needed for rescues, fireground operations and other emergency responses and has to send personnel to Rogers, Springdale and Lincoln to receive that training; and

WHEREAS, the City currently owns a 14.2 acre tract of land near Boric Drive and the White River that is undesirable for industrial or other institutional use because of its proximity to the designated flood plain; and

WHEREAS, the property will be used as training grounds for wildland firefighting, trench rescue, confined space entry, emergency vehicle driving, structural collapse, live burns, heavy equipment, construction site rescues, and hazardous materials, as well as swift water rescue training because of its proximity to the White River.

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 designates approximately 14.2 acres of general fund property located near Boric Drive and the White River, which is identified on the map attached to this Resolution, as training grounds for the Fayetteville Fire Department.

City of Fayetteville Staff Review Form

2014-0268

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

David Dayringer

1/13/2015

Fire /
Fire Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends authorization to designate city owned land at Industrial Park Parcel #765-19956-000 for the Fayetteville Fire Department Training Grounds.

Budget Impact:

4470.9470.5400.00

Sales Tax Capital Improvements

Account Number

Fund

02006.1

Fire Facility Maintenance

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 125,000.00

Funds Obligated \$ 6,654.46

Current Balance \$ 118,345.54

Does item have a cost? No

Item Cost \$ -

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 118,345.54

V20140610

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments: This project can be accomplished using the current Fire Department Capital Improvement Project funding for Fire Facility Maintenance. A sign, a fence and gate, a driveway and pad for boat launching, and a sheltered gathering and rest area are all that is needed to get us started. The City of Fayetteville currently owns this piece of property. If the Fayetteville Fire Department were given authorization to utilize this land, the City could stop paying property tax on it.



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Mayor and City Council

FROM: David Dayringer, Fire Chief

DATE: January 13, 2015

SUBJECT: Authorization to designate city owned land at Industrial Park
Parcel #765-19956-000 for the Fayetteville Fire Department Training Grounds.

RECOMMENDATION:

Staff recommends authorization to designate City owned land at Industrial Park Parcel #765-19956-000 for the Fayetteville Fire Department Training Grounds.

BACKGROUND:

The Fire Department does not have dedicated training grounds to safely practice the skills needed for rescues and fireground operations and other emergency responses. Currently, the Fire Department sends personnel to Rogers, Springdale, and Lincoln for training that could be accomplished in Fayetteville.

DISCUSSION:

The City has a 14.2 acre parcel of General Fund land at the east end of Boric Drive between Superior Wheel and the White River. The land is bordered on 3 sides with the designated flood plain, which actually encroaches onto portions of the property (see map). This makes the land somewhat undesirable for industrial use. There is no plan for expansion into this area by Superior Wheel. The surrounding businesses are agreeable to the Fire Department locating their training center on this land as determined by the Fayetteville Chamber of Commerce. To the north and east of the property is Combs Park, which lies completely in the flood plain. While the Fire Department needs to access the White River across the Park land, it can be done via an utility easement. Any training on Combs Park property will be done with the permission of the Parks and Recreation Department and/or the Parks Board.

With the access to the river, this property is ideal for Fire Department training purposes. Fire Department personnel can begin using the property immediately for swift water rescue training. In addition, the property can be used for wildland fire training, trench rescue, confined space entry, emergency vehicle driving, structural collapse, live burns, heavy equipment, construction site rescues, and hazardous materials training would be possible at this property location.

The Fire Department can put together training props on the site over time using current funding. This property will fit the need for a Firefighting and Rescue training ground site, with room to expand far into the future. This facility will create a realistic environment for

training, which will result in lives and property saved, as well as reduced Firefighter injuries on emergency scenes.

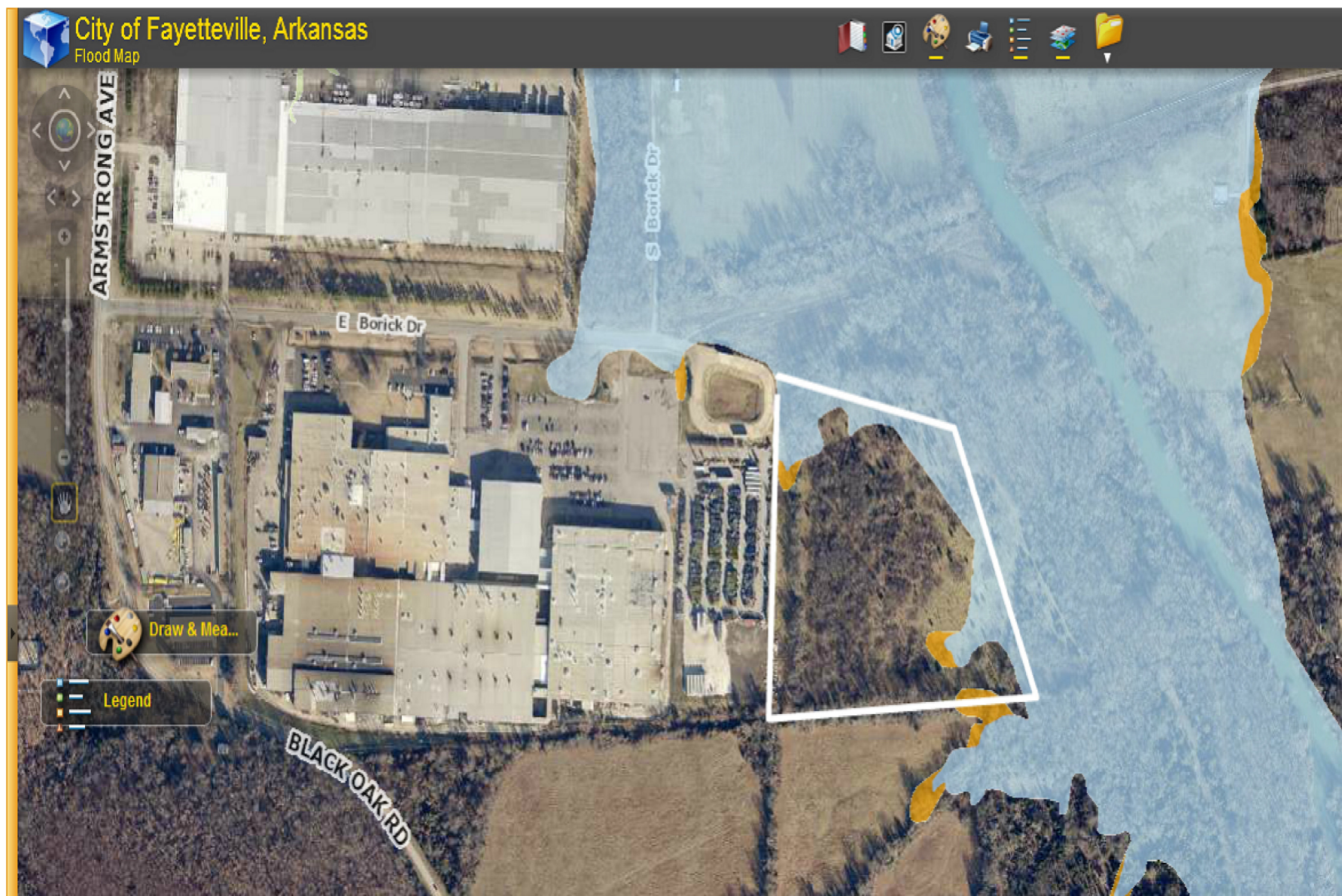
BUDGET/STAFF IMPACT:

This project can be accomplished using the current Fire Department Capital Improvement Project funding for Fire Facility Maintenance. A sign, a fence and gate, a driveway and pad for boat launching, and a sheltered gathering and rest area are all that is needed to get us started.

The City of Fayetteville currently owns this piece of property. If the Fayetteville Fire Department were given authorization to utilize this land, the City could stop paying property tax on it.

Attachments:

See attached Maps of Industrial Park Parcel #765-19956-000 Property





ARMSTRONG AVE

S Borick Dr

E Borick Dr

FFD Training Grounds

BLACK OAK RD

S Cobalt Ave

E Peaceful Dr

E Royal Dr

S Sugarbush Ave

E History St

DEAD HORSE MOUNTAIN RD



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2014-0572

Agenda Date: 2/3/2015

Version: 1

Status: Second Reading

In Control: City Council

File Type: Ordinance

Agenda Number: B. 1

RZN 14-4864 KOUTROUMBIS APPEAL:

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26 ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RSF-4, Residential Single Family, 4 Units Per Acre, to RMF-24, Residential Multi-Family, 24 Units Per Acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

From: Taylor Raine [<mailto:trainek2012@gmail.com>]

Sent: Tuesday, December 02, 2014 11:26 AM

To: Smith, Sondra; Terry Parker

Subject: Rezone Reauest Appeal

Hi,

My name is Taylor Koutroumbis and I am writing to you in reference to a recent proposal to rezone a lot on ash street in Fayetteville. This proposal, RZN 14-4864 (232 Ash St/Koutroumbis, 367), was denied by the Planning Commission on November 24, 2014. We would like to appeal this decision to the city council. Please let me know when we are on the agenda and if there is anything else required for this appeal. Thank you.

Taylor Koutroumbis
501-249-5233



CITY COUNCIL AGENDA MEMO

MEETING OF JANUARY 6, 2015

TO: Fayetteville City Council

THRU: Andrew Garner, Planning Director

FROM: Quin Thompson, Current Planner

DATE: December 19, 2014

SUBJECT: **RZN 14-4864: Rezone (232 W. ASH ST./KOUTROUMBIS, 367):**
Submitted by PARKER & ASSOCIATES for property located at 232 W. ASH ST. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.26 acres. The request is to rezone the property to RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE.

RECOMMENDATION:

The Planning Commission and City Planning Staff recommend denial of an ordinance to rezone the property to RMF-24, Residential Multi-Family. The applicant has appealed the Planning Commission decision.

BACKGROUND:

The subject property is located at 232 W. Ash Street, mid-block between Gregg Avenue and Woolsey Avenue and contains approximately 0.26 acres within the RSF-4 zoning district. The property is developed with a single-family residence and out-building, dating to 1955.

Land Use Compatibility: The proposal to rezone the property to RMF-24 will allow development of residential use that, in scale and building type, will be inconsistent and incompatible with surrounding land uses. The property is situated on a boundary between multi-family residential on a high speed arterial street and a quiet single-family residential neighborhood, where encroachment of multi-family developments would allow the introduction of height and density incompatible with the surrounding neighborhood to the north, east and south. Further, this property is the first interior lot away from Gregg Avenue and faces Ash Street, a local street, making this lot the logical and natural place to transition the zoning from multi-family to single-family residential use, as is the case under the current zoning.

Land Use Plan Analysis: The City Plan 2030 Future Land Use Map designates this area as **Residential Neighborhood Area**. Staff finds the proposed zoning inconsistent with the Residential Neighborhood designation even though it does allow (where appropriate) a mix of residential types. Guiding Policy "E" for Residential Areas encourages a development scale to maintain compatibility, use, and proportionality between land uses. The proposed RMF-24 zoning district could allow a large multi-family building to encroach further into an area of the neighborhood with much smaller buildings and lower intensity. The development scale allowed

would not be proportional to surrounding smaller structures to the east and south. Guiding Policy “G” discusses that traffic on minor residential streets should be minimized while providing connections between neighborhoods. The proposed RMF-24 zoning would encourage a higher density project and its associated traffic further onto Ash Street, a minor residential street, in conflict with this policy.

DISCUSSION:

On November 24, 2014 the Planning Commission recommended denial with a vote of 6-3-0, with commissioners Winston, Hoskins, and Noble voting ‘no’. Two members of the public representing an elderly family member directly adjacent to the east, spoke against the rezoning.

BUDGET/STAFF IMPACT:

N/A

Attachments:

Applicant’s appeal letter

CC Ordinance

Exhibit A

Exhibit B

Planning Commission Staff Report

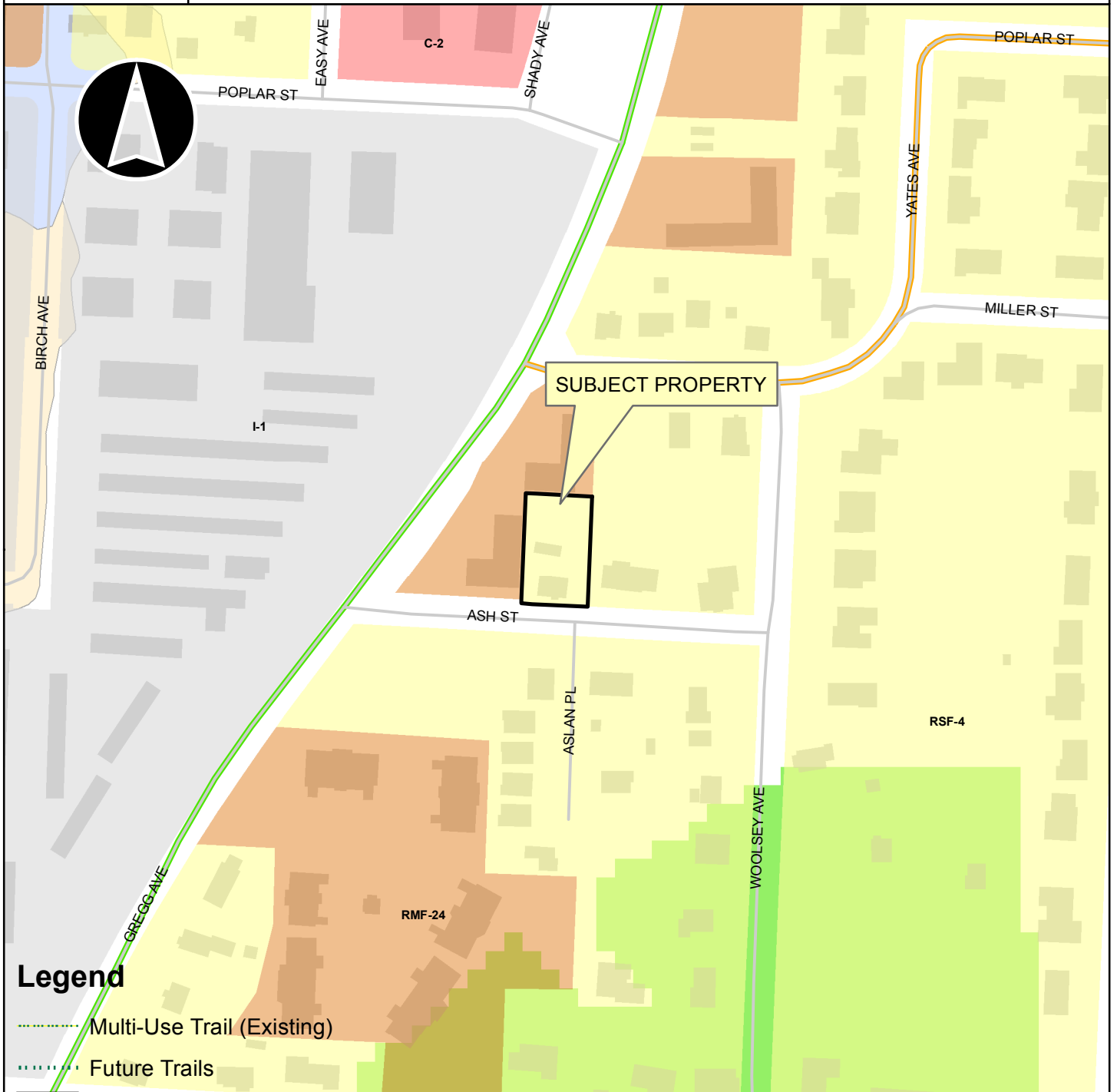
EXHIBIT 'A'

14-4864

RZN14-4864

Close Up View

KOUTROUMBIS



Legend

- Multi-Use Trail (Existing)
- Future Trails

Overview

RZN14-4864

Fayetteville City Limits

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Planning Area

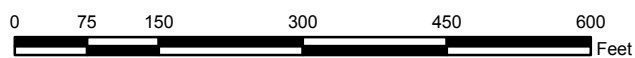


EXHIBIT 'B'
14-4864

Lot Numbered 4 in Block Numbered 1 Revised Plat of Lots 3 to 9 inclusive, Block Numbered 6 Parker's Plat of Valley View Acres, as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

A 15 foot strip of land of equal and uniform width off of the East side of Lot 5 Block 1 Revised Plat of Lots 3 to 9 inclusive, in Block 6 in Parker's Plat of Valley View Acres, as per plan on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, Planning Director

FROM: Quin Thompson, Current Planner

MEETING DATE: ~~November 24, 2014~~ **UPDATED NOVEMBER 25, 2014**

SUBJECT: **RZN 14-4864: Rezone (232 W. ASH ST./KOUTROUMBIS, 367):**
Submitted by PARKER & ASSOCIATES for property located at 232 W. ASH ST. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.26 acres. The request is to rezone the property to RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends denial of **RZN 14-4864**.

BACKGROUND:

November 10, 2014 Planning Commission: This item was tabled at the applicant's request at the 11-10-2014 PC meeting. The applicant has not presented any additional information to staff since that meeting.

The subject property is located at 232 W. Ash Street, mid-block between Gregg Avenue and Woolsey Avenue and contains approximately 0.26 acres within the RSF-4 zoning district. The property is developed with a single-family residence and out-building, dating to 1955. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-family/24 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-family, 4 units per acre
East	Two-Family Residential	RSF-4, Residential Single-family, 4 units per acre
West	Multi-Family Residential	RMF-24, Residential Multi-family/24 Units per Acre

Request: The request is to rezone the property from RSF-4, Residential Single-family / 4 Units per Acre to RMF-24, Residential Multi-family / 24 Units per Acre. The applicant has stated that the rezoning will allow the property to be re-developed in the future.

Public Comment: Staff has not received public comment.

INFRASTRUCTURE:

- Streets:** The subject parcel has access to Ash Street. Ash Street currently has storm drainage, curb and gutter and limited sidewalk. Any required improvements of these streets will be determined at time of development.
- Water:** Public water is accessible to the site. A 1.5" water main exists in the right of way of Ash Street adjacent to the subject parcel.
- Sewer:** Sanitary sewer is available to the parcel. A 6" sewer main exists in the right of way of Ash Street.
- Drainage:** Any additional improvements or requirements for drainage will be determined at time of development. This property is not affected by the 100-year floodplain or the Streamside Protection Ordinance.
- Fire:** This development will be protected by Engine 2 located at 708 N Garland. It is 2 miles from the station with an anticipated response time of 3 minutes to the beginning of the development. The Fayetteville Fire Department does not feel this development will negatively affect calls for service or response times.
- Police:** The Police Department did not express any concerns with this request.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan* designates this site as **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family, multifamily and rowhouses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.

FINDINGS OF THE STAFF

RECOMMENDATION: Staff recommends denial of RZN 14-4864, finding that the proposed zoning allows development incompatible with the existing single-family neighborhood.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>November 24, 2014</u>	☐ Tabled	☐ Forwarded	☒ Denied
Motion: CHESSER	Second: AUTRY	Vote: 6-3-0	
WINSTON, HOSKINS, NOBLE VOTED 'NO'			
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>December 16, 2014</u>	☐ Approved	☐ Denied	

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: Land Use Compatibility: This property is currently developed with a single family residence. The proposal to rezone the property to RMF-24 will allow development of residential use inconsistent and incompatible with surrounding land uses. The property is situated on a boundary between multi-family residential on a high speed arterial street and a quiet single-family residential neighborhood, where encroachment of multi-family developments would allow the introduction of height and density incompatible with the surrounding neighborhood to the north, east and south. Further, this property is the first interior lot away from Gregg Avenue and faces Ash Street, a local street, making this lot the logical and natural place to transition the zoning from multi-family to single-family residential use, as is the case under the current zoning.

Land Use Plan Analysis: The City Plan 2030 Future Land Use Map designates this area as Residential Neighborhood Area. Staff finds the proposed zoning inconsistent with the Residential Neighborhood designation even though it does allow (where appropriate) a mix of residential types. Guiding Policy "E" for Residential Areas encourages a development scale to maintain compatibility, use, and proportionality between land uses. The proposed RMF-24 zoning district could allow a large multi-family building to encroach further into an area of the neighborhood with much smaller buildings and lower intensity. The development scale allowed would not be proportional to surrounding smaller structures to the east and south. Guiding Policy "G" discusses that traffic on minor residential streets should be minimized while providing connections between neighborhoods. The proposed RMF-24 zoning would encourage a higher density project and its associated traffic further onto Ash Street, a minor residential street, in conflict with this policy.

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 not justified, due to the fact that the area's current single-family residential zoning designation is compatible with surrounding properties and traffic patterns to the east. The property is surrounded on three sides by single-family uses and provides a buffer from the multi-family developments and high speed traffic conditions on Gregg Avenue. Further,

the proposed zoning will not allow the owner to utilize the property for multi-family development unless it is combined with an adjacent lot to the west (under ownership of the same family), as it does not meet minimum street frontage requirements for multi-family development. The RMF-24 zoning district bulk and area requirements for the existing lot would allow no more than a two-family unit to be built; a type which is allowed as a conditional use within the current zoning district.

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 West Ash Street, a partially improved two-lane local street. The proposed zoning allows uses that would increase traffic over the existing zoning, however, development allowed under the proposed zoning is unlikely to appreciably increase traffic danger or congestion, as it would allow a maximum of two units (one duplex) and would be near Gregg Avenue, which can handle large volumes of traffic. 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 single-family to multi-family use will allow for the construction of higher residential density, however that development is unlikely to 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

BUDGET/STAFF IMPACT:
None

Attachments:
Unified Development Code sections 161.07 & 161.14
Request Letter
Site Plan
Fire Comments
One Mile Map, Close Up Map, Current Land Use Map, Future Land Use Map

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family	Two-family dwellings
--	---------------	----------------------

	dwellings	
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Maximum	Height	45 ft.
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Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

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 Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.

Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 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	30/45/60ft.*
Maximum	

*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, 6-18-13; Ord. 5664, 2-18-14)

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

Rezoning Checklist:

- (5) a. Owners: Stelios Koutroumbis
985 W. Hughes Street
Fayetteville, AR 72701
310-422-8915

Taylor Koutroumbis
985 W. Hughes Street
Fayetteville, AR 72701
501-249-5233

There are no proposed or pending property sales.

- b. The reason for requesting the zoning changes is that the owners want to redevelop the property.
- c. The proposed rezoned property would be of a similar character to the adjacent properties on N. Gregg Avenue and on W. Ash Street. The proposed and existing structures will be scaled to be compatible with the existing residential neighborhood and will designed in a “craftsman style” with sloping roofs and stone and wood siding.
- d. Water and sewer lines are present and available on the property.
- e. The subject lot is adjacent to existing properties on N. Gregg Avenue of a similar nature and the proposed development will be designed to fit in with the predominate residential style and character of the existing neighborhood. The proposed zoning would therefore be consistent with the planning objectives, zoning and land use plans in the area.
- f. The proposed zoning is justified and needed to allow the owners to develop the property.
- g. The proposed zoning will not appreciably increase traffic danger and congestion in the area due to the small size of the project and due to the adjacency of a major access roadway (N. Gregg Avenue).
- h. Population density and the load on public services will not be significantly increased due to the small scale of the proposed development.
- i. The subject property is in a transitional area and requires a rezoning from the existing zoning in order to develop a multi-family project.



1 inch = 92 feet

0 45 90 180 270 360

Feet

Date: 11/4/2014



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

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

To: Engineering Services, Quin Thompson
From: Will Beeks Assistant Fire Marshal
Date: October 27, 2014
Re: 14-4875

This development will be protected by Engine 2 located at 708 N Garland.

It is 2 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.

The Fire Department anticipates 45 calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 - 18 months, after the development is started, before maximum build-out and the service impact to occur.

The Fayetteville Fire Department feels this development could affect our calls for service or our response times.

If you have any questions please feel free to contact me.

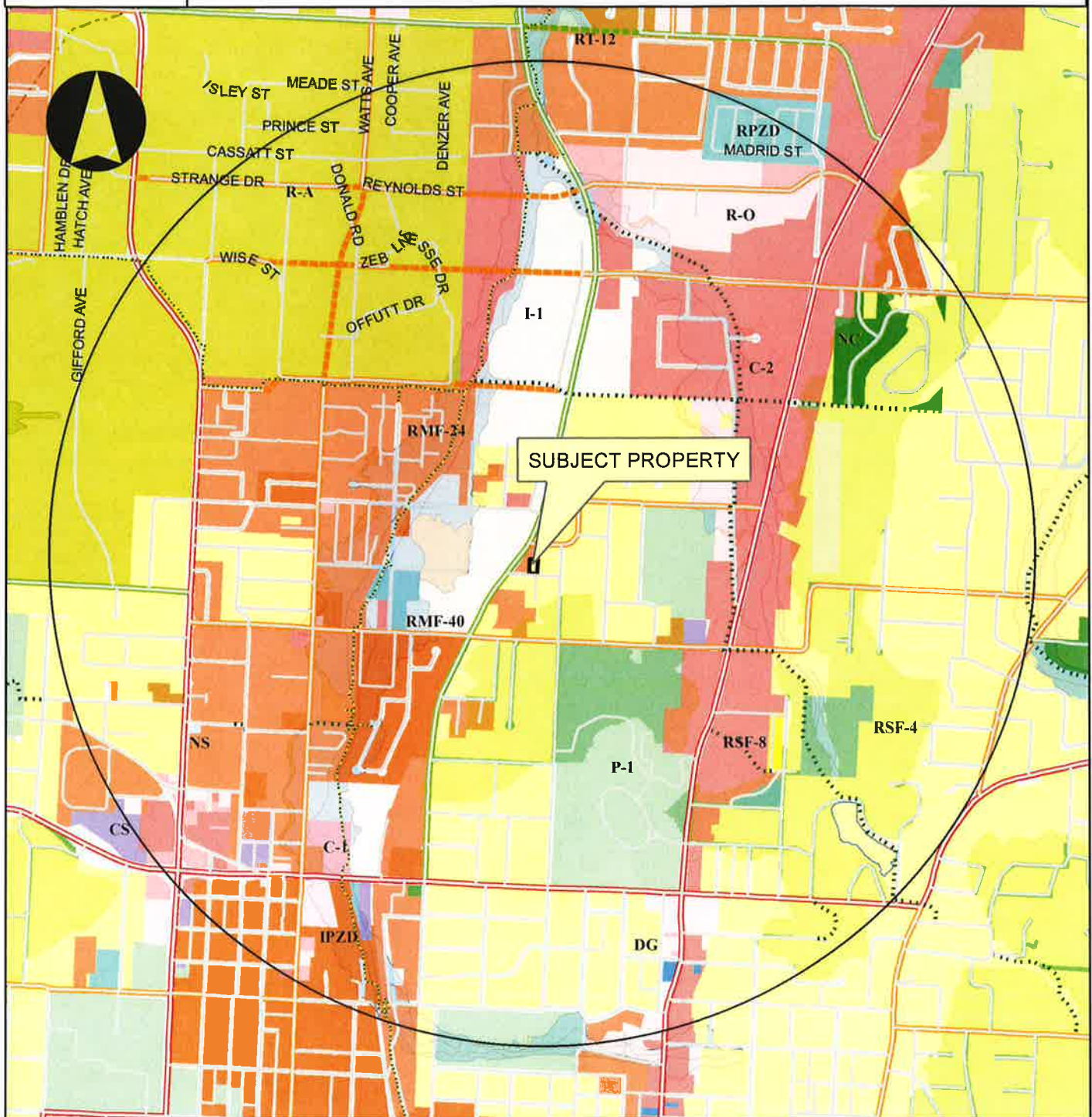
Captain Will Beeks
Assistant Fire Marshal
Fayetteville Fire Department

Honor, Commitment, Courage;
Our people make the difference!

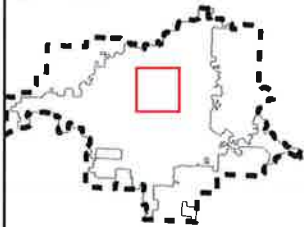
RZN14-4864

One Mile View

KOUTROUMBIS



Overview



Legend

Subject Property

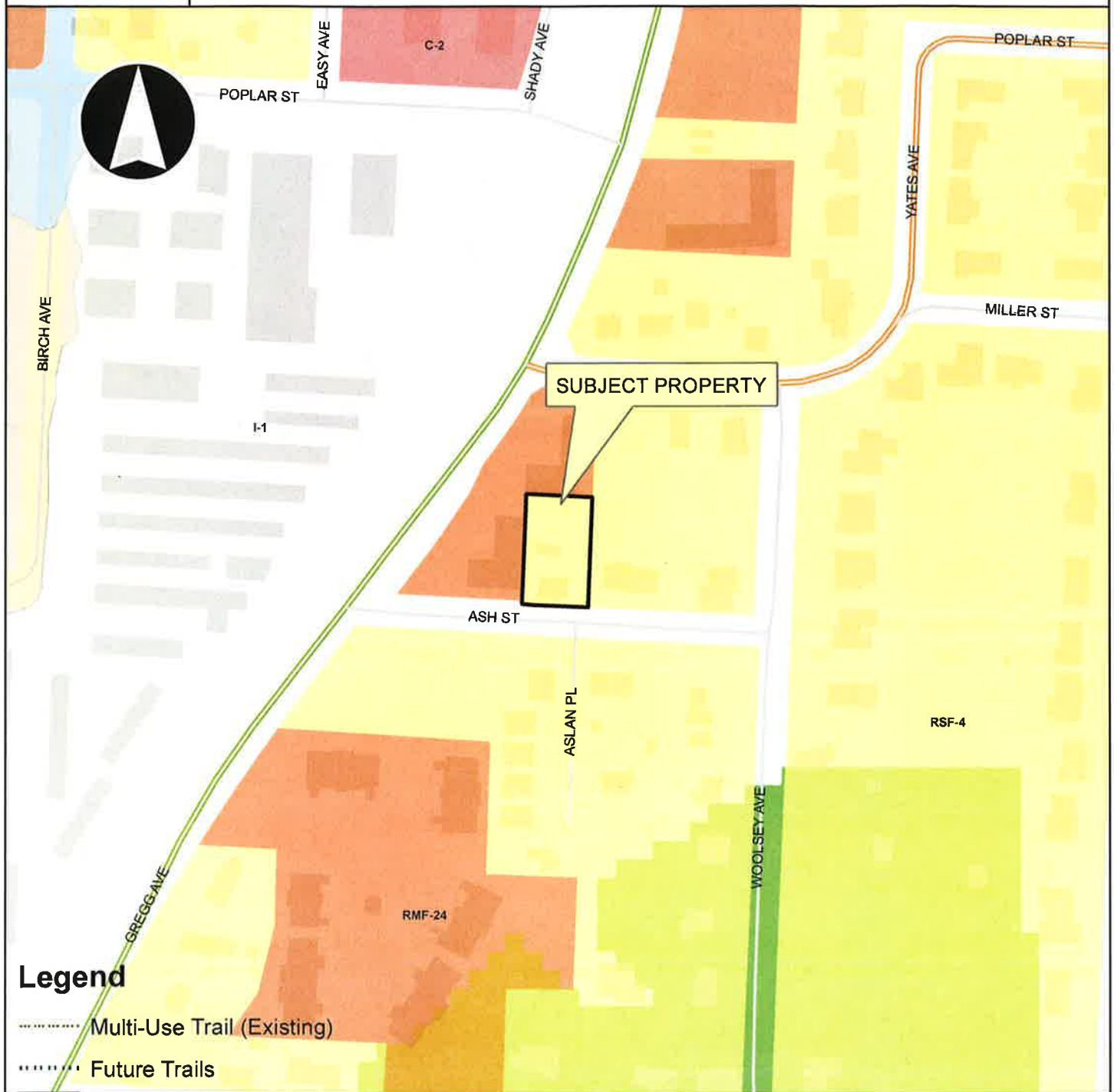
Boundary

0 0.25 0.5 1 Miles

RZN14-4864

Close Up View

KOUTROUMBIS



Legend

- Multi-Use Trail (Existing)
- Future Trails

Overview RZN14-4864

- Fayetteville City Limits
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area



RZN14-4864

Current Land Use

KOUTROUMBIS



Legend

- Multi-Use Trail (Existing)
- Future Trails

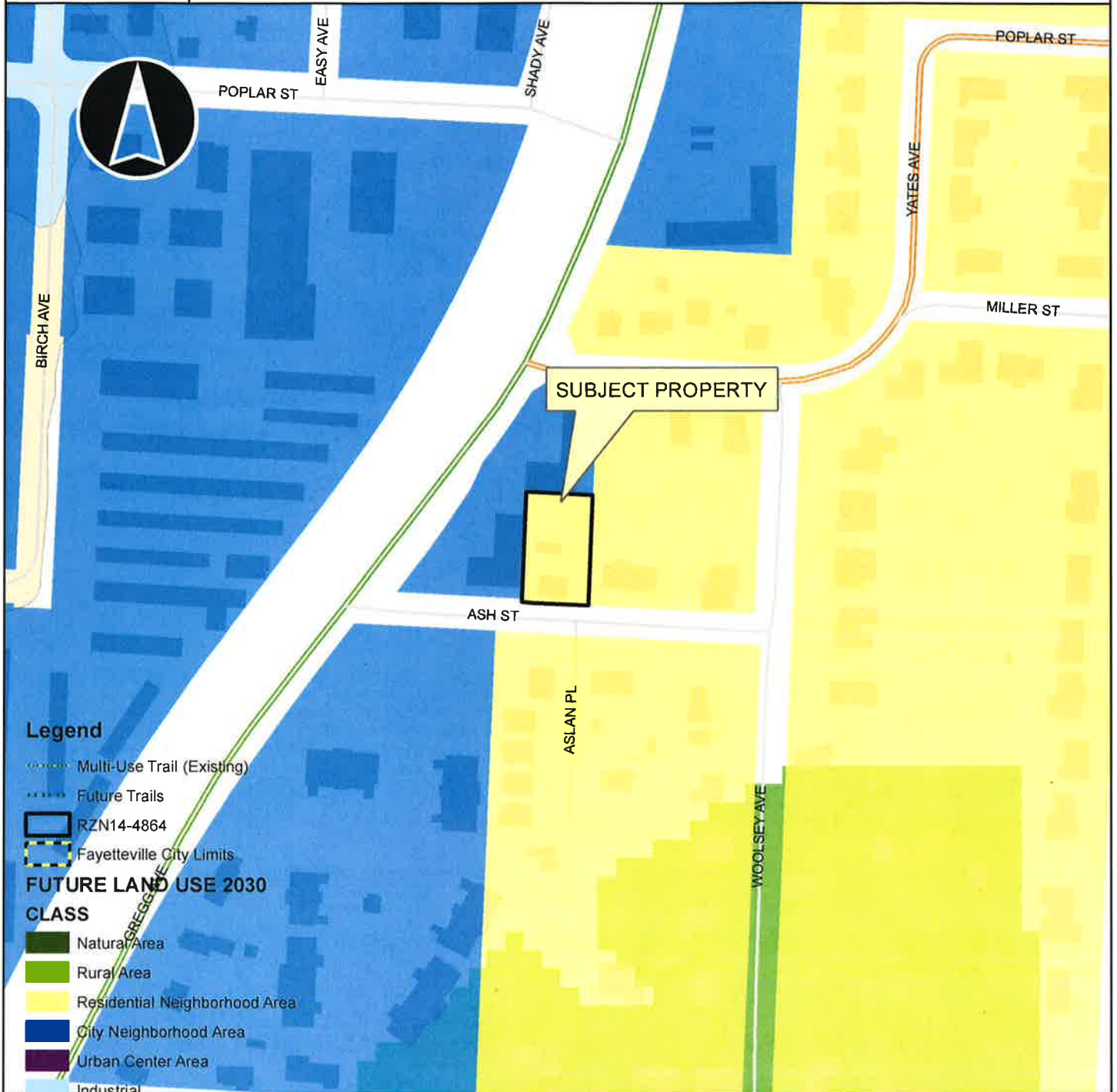
- Overview
- RZN14-4864
- Fayetteville City Limits
- Footprints 2010
- Design Overlay District
- Planning Area



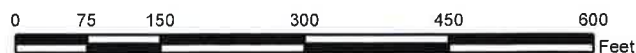
RZN14-4864

Future Land Use

KOUTROUMBIS



- Complete Neighborhood Plan
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- Design Overlay District
- Design Overlay District
- Planning Area



ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26 ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RSF-4, Residential Single Family, 4 Units Per Acre, to RMF-24, Residential Multi-Family, 24 Units Per Acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2015.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0003

Agenda Date: 2/3/2015

Version: 1

Status: First Reading

In Control: City Council

File Type: Ordinance

Agenda Number: B. 2

REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND CHAPTER 51 AND CHAPTER 10:

AN ORDINANCE TO REPEAL AND REPLACE TITLE V PUBLIC WORKS, ARTICLE III **DISCHARGE AND PRETREATMENT REGULATIONS**; TO AMEND § 51.137 **MONTHLY SEWER RATES**; TO AMEND § 51.138 **DEFINITIONS PERTAINING TO WATER AND SEWER RATES**; TO AMEND § 51.999 **PENALTY**; AND TO AMEND § 10.99 **GENERAL PENALTY OF THE FAYETTEVILLE CODE**

WHEREAS, the permit issued by the Arkansas Department of Environmental Quality for operation of the Paul R. Noland Wastewater Treatment Plant requires the City of Fayetteville to update its discharge and pretreatment regulations to comply with changes adopted in the Code of Federal Regulations; and

WHEREAS, the proposed modifications have been submitted to and approved by the Arkansas Department of Environmental Quality.

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 Title V Public Works, Article III Discharge and Pretreatment Regulations, §§ 51.070-51.087 of the Fayetteville Code and enacts a replacement Title V Public Works, Article III Discharge and Pretreatment Regulations, §§ 51.070-51.087 as shown on Exhibit "A" attached hereto.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 51.137(E) *Extra Strength Surcharge* and enacts a replacement (E) as shown on Exhibit "B" attached hereto.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts § 51.137(G) *Hauled Wastewater Fees* as shown below:

(G) *Hauled Wastewater Fees.*

(1) Application fee. An application to discharge hauled domestic waste must be accompanied by a fee of \$100.00.

(2) Discharge fee. A fee of \$50.00 must be paid for each hauled domestic waste load discharged.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby enacts § 51.137(H) *Industrial Wastewater Discharge Permit Fee* as shown below:

(H) *Industrial Wastewater Discharge Permit Fee.*

(1) Application fee. An application for an industrial wastewater discharge permit must be accompanied by a fee of \$500.00.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.138(K) *Treatment works* by replacing the word “sludge” with the word “biosolids.”

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.999(D) by striking the phrase “or an industrial wastewater discharge permit.”

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts §10.99(A)(4) as shown below:

(4) Notwithstanding the foregoing, violations of City of Fayetteville discharge and pretreatment regulations, codified at §§ 51.070 - 51.087, shall be subject to potentially higher penalties as provided in § 51.083 **Administrative Enforcement Remedies** and § 51.084 **Judicial Enforcement Remedies**, as required by federal law.

City of Fayetteville Staff Review Form

2015-0003

Legistar File ID

1/20/2015

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

Billy Ammons

1/2/2015

Wastewater Treatment Plant /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of modifications to the Code of Ordinances, Article III, Discharge and Pretreatment Regulations and Related Modifications to Article V, Rates and Charges.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget
Funds Obligated

Current Balance

\$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF JANUARY 20, 2015

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water, Sewer & Solid Waste Committee

FROM: Billy Ammons, CH2M HILL

DATE: January 2, 2015

SUBJECT: Approval of Modifications to the Code of Ordinances, Article III, Discharge and Pretreatment Regulations and Related Modifications to Article V, Rates and Charges.

RECOMMENDATION:

City Administration recommends approval of modifications to the Code of Ordinances, Article III, Discharge and Pretreatment Regulations and related modifications to Article V, Rates and Charges.

BACKGROUND:

The City of Fayetteville Paul R. Noland Wastewater Treatment Plant ADEQ Permit Number AR0020010 required the City to submit Sewer Use Ordinance modifications to come into compliance with current 40 CFR 403 regulations within twelve (12) months of the effective date (March 1, 2013) of the permit. The proposed modifications were submitted to ADEQ as required. ADEQ has reviewed and approved the modifications.

DISCUSSION:

Modifications to the Discharge and Pretreatment Regulations ordinance were made to come into compliance with 40 CFR 403, to simplify language, use newer terminology, to more closely match EPA model ordinance language, or to incorporate language recommended by ADEQ. ADEQ approval is not required for Extra Strength Surcharge requirements and fees, hauled wastewater fees, and industrial wastewater discharge permit fees. These items were moved from Article III, Discharge and Pretreatment Regulations to Article V, Rates and Charges. This will simplify any future changes.

BUDGET/STAFF IMPACT:

Staff will make changes to the ADEQ-approved Pretreatment Program document to incorporate ordinance modifications and submit for ADEQ approval. No Budget Impact.

Attachments:

Staff Review Form
Modified Article III
Modified Article V



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan
City Council

THRU: Kit Williams, City Attorney

FROM: Blake Pennington, Assistant City Attorney 

DATE: January 6, 2015

RE: Penalties for Violations of Discharge and Pretreatment Regulations

Included in the changes required by the Code of Federal Regulations to our discharge and pretreatment regulations is a requirement that fines for violations must be up to \$1,000.00. This conflicts with Fayetteville Code § 10.99 **General Penalties**, which provides that no ordinance may allow a penalty greater than \$500.00 and any ordinance that includes a higher fine must be reduced to the lower amount when judgment for a violation is entered by the court. Therefore, along with the changes noted in the Staff Review Memo, I have also included a new § 10.99(A)(4), which provides as follows:

Notwithstanding the foregoing, violations of City of Fayetteville discharge and pretreatment regulations, codified at §§ 51.070 – 51.087, shall be subject to potentially higher penalties as provided in § 51.083 **Administrative Enforcement Remedies** and § 51.084 **Judicial Enforcement Remedies**, as required by federal law.

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

**ARTICLE III
DISCHARGE AND
PRETREATMENT REGULATIONS**

51.070 Purpose

This article sets forth standards and requirements for users of the Water Resource Recovery Facility (WRRF) for the City of Fayetteville and enables the city to comply with all applicable federal and state laws, including Clean Water Act (33 U.S.C. §1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are:

- (A) To prevent the introduction of pollutants into the WRRF that will interfere with its operation or contaminate its resulting biosolids;
- (B) To prevent the introduction of pollutants into the WRRF which will pass through the WRRF, inadequately treated, into receiving waters or otherwise be incompatible with the WRRF;
- (C) To protect both WRRF personnel who may be affected by wastewater and biosolids in the course of their employment and the general public;
- (D) To improve opportunities for reuse and recycling of wastewater and biosolids from the WRRF;
- (E) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the WRRF;
- (F) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other federal or state laws to which the WRRF is subject; and
- (G) To provide for penalties for violations of the regulations established herein.
- (H) To encourage pollution prevention through waste minimization, source reduction, reuse practices, recycling, and water and energy conservation.

This article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 3965, 5-7-96; Ord. No. 4088, §1, 4-7-98; Code 1991, §51.070)

51.071 Applicability

This article shall apply to all users of the WRRF.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, 4-7-98; Code 1991, §51.071)

51.072 Administration

Except as otherwise provided herein, the City, as defined in this article, shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the City may be delegated by the City to his/her authorized representative.

(Code 1991, §51.072)

51.073 Abbreviations

The following abbreviations shall have the designated meanings:

See table.

BOD	Biochemical oxygen demand
BMP	Best Management Practice
CFR	<i>Code of Federal Regulations</i>
CIU	Categorical Industrial User
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
NPDES	National Pollutant Discharge Elimination System
NAICS	North American Industrial Classification System
RCRA	Resource Conservation and Recovery Act
TSS	Total suspended solids
SIU	Significant Industrial User
SNC	Significant Noncompliance
U.S.C.	United States Code
WRRF	Water Resource Recovery Facility

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.073)

51.074 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Act or the Act. The Federal Water Pollution

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.

Approval Authority. Arkansas Department of Environmental Quality.

Authorized signatory or authorized or duly authorized representative of the user.

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: A general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility: A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 51.075(B) (1) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration of milligrams per liter (mg/l).

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Article N, Parts 405-471.

Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City. The mayor or his/her duly authorized representative, or the City of Fayetteville, the Fayetteville City Council or its duly authorized representative. The City is the Control Authority as defined in 40 CFR 403.3(f)(1).

Control Authority. The City.

Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the City.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic waste. Liquid and water-carried waste

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

generated by a typical household or waste comprised of waste equivalent to that generated by a typical household - human excrement and gray water (household showers, dishwashing operations, etc.). This does not include waste from commercial or industrial processes whether generated at a household or other premises.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or its authorized representative.

Existing source. Any source of discharge that is not a "New Source."

Grab sample. An individual sample collected over a period of time not to exceed 15 minutes.

Hauled Wastewater. Wastewater that is loaded to a tanker truck, a portable tank or other container and conveyed to another location for discharge. Hauled wastewater includes, but is not limited to, septic tank waste and portable toilet waste.

Indirect discharge or discharge. The introduction of pollutants into the WRRF from any nondomestic source.

Industrial user. A discharger into the WRRF of nondomestic wastewater.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WRRF, its treatment processes or operations or its biosolids processes, use or disposal and therefore, is a cause of a violation of the City's NPDES permit or a cause of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Instantaneous limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and

(b).

May. Discretionary or permissive.

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System (NPDES) permit. A permit issued to a WRRF or other discharger pursuant to §402 of the Act.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

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- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of §(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous onsite construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS was developed under the auspices of the Office of Management and Budget (OMB) and adopted in 1997 to replace the Standard Industrial Classification (SIC) system.

Pass through. A discharge which exits the WRRF into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES

permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pharmaceutical drug. Also referred to as medicine, medication or medicament, can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, biosolids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor).

Pollution Prevention (P2). Waste reduction prior to recycling, treatment, or disposal. Pollution prevention means "source reduction" as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources by conservation, or use of less toxic alternatives.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the WRRF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements. Any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, narrative BMPs, and local limits.

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Prohibited discharge standards or prohibited discharges. Prohibitions against the discharge of certain substances; these prohibitions appear in §51.075(B) of this article.

Qualified professional. A person who is proven to be competent or suited for a specific position or task.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. Mandatory.

Significant industrial user.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the WRRF (excluding sanitary, noncontract cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the WRRF treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the WRRF's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in (2) has no reasonable potential for adversely affecting the WRRF's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40 CFR 403.8(f)(6) determine that such user should not be considered a significant industrial user.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this article or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the City's regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code. A

classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

State. State of Arkansas.

Storm water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge. A service charge in addition to the normal monthly rate which shall be assessed to the significant industrial users who discharge into the city system wastewater having an average BOD concentration in excess of 300 milligrams per liter or an average TSS concentration in excess of 300 milligrams per liter.

Total suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under §307 (33 U.S.C. §1317) of the Act.

Treatment plant's effluent. The discharge from the wastewater treatment plant into the receiving stream.

User. Any person who contributes or permits the contribution of wastewater into the WRRF.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions.

Wastewater treatment plant. That portion of the WRRF which is designed to provide treatment of municipal sewage and compatible industrial waste.

Water Resource Recovery Facility (WRRF). A "treatment works," as defined by §212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The WRRF is the Publicly Owned Treatment Works or POTW as defined in 40 CFR 403.3(q).

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §2, 4-7-98; Code 1991, §51.074)

51.075 General Sewer Use Requirements

(A) Wastewater generated by development located in

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100-year floodplain not to be transported or treated by facilities constructed under EPA Project No. C-050366-01 for 50 years.

(1) For the purpose of this section area of existing development shall mean an area which, at the EPA issued a finding of no significant impact for EPA Project No. C-050366-01 was:

- (a) Occupied by existing structures or facilities;
- (b) Substantially surrounded by existing structures or facilities and which serves no significant independent natural floodplain function; or
- (c) Characterized by substantial investment in public infrastructure but which is only partially occupied by structures or facilities.

(2) No wastewater generated by development located in the 100-year floodplain shall be transported or treated by facilities constructed under EPA Project No. C-050366-01 for a period of 50 years from January 1, 1987, except that service may be provided to:

- (a) Areas of existing development in a floodplain;
- (b) Commercial or public facilities which by nature must be located in a floodplain;
- (c) Areas of projected growth if the environmental information document for EPA Project No. C-050366-01 demonstrates that proposed development will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of the Federal Emergency Management Agency (FEMA) and will have no significant impacts on natural functions and values of the floodplain; or
- (d) An area of projected growth if an environmental impact statement demonstrates that there is no practicable alternative to such growth, that such growth will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of FEMA, and that the benefits of such growth outweigh its environmental costs.

(B) *Prohibited discharge standards.*

(1) *General prohibitions.* No person shall introduce or cause to be introduced into the WRRF any pollutant or wastewater which causes, or has the potential to cause, pass through or interference. These general prohibitions apply to all users of the WRRF whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

(2) *Specific Prohibitions.* No person shall introduce or cause to be introduced into the WRRF the following pollutants, substances, or wastewater:

- (a) Pollutants which create a fire or explosive hazard in the WRRF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° Fahrenheit (60° C) using the test methods specified in 40 CFR 261.21;
- (b) Wastewater having a pH less than 5.0 or more than 12.4, or otherwise causing corrosive structural damage to the WRRF or equipment;
- (c) Solid or viscous substances including, but not limited to, fats, oil or grease of animal or vegetable in amounts which will cause obstruction of the flow in the WRRF resulting in interference but in no case solids greater than one-half inch in any dimension;
- (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the WRRF;
- (e) Wastewater having a temperature greater than 150° Fahrenheit (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° Fahrenheit (40° C);
- (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within

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- the WRRF in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the City in accordance with §51.076(D) of this article;
 - (i) Any liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
 - (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal or state regulations and approved by the City;
 - (l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the City;
 - (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - (n) Medical wastes or pharmaceutical drugs, except as specifically authorized by the City;
 - (o) Wastewater causing, alone or in conjunction with other sources, the WRRF to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
 - (p) Any substance which may cause the WRRF's effluent or other product of the WRRF such as residues, biosolids or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
 - (q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the WRRF;
 - (r) Any material into a manhole through its top unless specifically authorized by the City.
 - (s) Non-flushable wipes, non-dispersible wipes, and non-biodegradable wipes including, but not limited to, baby wipes, paper towels, dusting wipes, cleaning wipes, and disposable mop heads.
- Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WRRF.
- (C) *Categorical pretreatment standards or categorical standards.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. Users must comply with the categorical pretreatment standards. Categorical pretreatment standards are hereby incorporated.
- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
 - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 - (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 - (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (D) *Local limits.* To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the WRRF any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the City as

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required by Part III in City of Fayetteville NPDES permits No. AR0020010 and AR0050288 authorized by 40 CFR 403.5 (c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Part 2. At the discretion of the City, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the City, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The City may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, the City will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3).

- (E) *Right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WRRF.
- (F) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The City may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 3965, §§2, 3, Exh. A, 5-7-96; Ord. No. 4088, §3, 4-7-98; Code 1991, §51.075)

51.076 Pretreatment of Wastewater

- (A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in §51.075(B) of this article within the time limitations specified by EPA, the state, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review, and shall be acceptable by the City before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the

responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this article.

(B) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the City may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocated and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WRRF and determine the user's compliance with the requirements of this article.
 - (2) The City may require any person discharging into the WRRF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
 - (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the City and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.
 - (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
 - (5) At the City's discretion and when deemed necessary the industrial user shall have a licensed wastewater treatment operator on duty at all times when treating and discharging regulated wastewater to the City's collection system. Said operator shall meet the license or level of operator qualifications deemed necessary for proper treatment per Arkansas Pollution Control and Ecology Commission's Regulation #3.
- (C) *Accidental discharge/slugs control plans.* The City shall evaluate whether each significant industrial user needs an accidental discharge/slugs control plan or other action to control slug discharges.

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The City may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the City may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the City of any accidental or slug discharge, as required by §51.079(F) of this article. Such notification must also be given for any discharge which would violate any of the prohibited discharges in §51.075(B) of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(D) *Hauled wastewater.*

Hazardous waste will not be accepted by truck or liquid waste hauler at the WRRF.

- (1) Domestic waste haulers are required to submit an application to discharge liquid wastes. This application must be accompanied by a fee in accordance with §51.137(G). Hauled domestic waste may be introduced into the WRRF only at locations approved by the City and at such times as are established by the City. Such wastes shall not violate §51.075 of this article or any other requirements established by the City. A fee must be paid for each domestic waste load in accordance with §51.137(G). The City may require the domestic waste haulers to obtain wastewater discharge permits.
- (2) The City may require haulers of industrial waste to obtain wastewater discharge permits. The City may require generators of hauled industrial waste to obtain wastewater discharge permits. The City also may prohibit the disposal of hauled industrial waste. The

discharge of hauled industrial waste is subject to all other requirements of this article.

- (3) If the industrial waste is from a categorical user, the hauled wastewater must include waste analysis proving it meets the required limitations of its respective category.
- (4) Domestic waste haulers and industrial waste haulers may only discharge loads at locations designated by the City. No load may be discharged without prior consent of the City. The City may collect samples of each hauled load to ensure compliance with applicable standards. The City may require the hauler to provide a waste analysis of any load prior to discharge.
- (5) Domestic waste and industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. For industrial waste, the form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (6) Any waste not deemed domestic by the City will be handled on a case by case basis at the discretion of the City.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.076)

51.077 Wastewater Discharge Permit Application

(A) *Wastewater analysis.* When requested by the City, a user must submit information on the nature and characteristics of the user's wastewater within thirty (30) days of request, unless otherwise specified. The City is authorized to prepare a form for this purpose and may periodically require users to submit or update the information.

(B) *Wastewater discharge permit requirement.*

- (1) No significant industrial user shall discharge wastewater into the WRRF without first obtaining a wastewater discharge permit from the City, except a significant industrial user that has filed a timely application pursuant to §51.077(C) of this article may continue to discharge for the time period specified therein.

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- (2) The City may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in §51.082 through §51.084 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.
- (C) *Wastewater discharge permitting; existing connections.* Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the WRRF prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the City for a wastewater discharge permit in accordance with §51.077(E) of this article, and shall not cause or allow discharges to the WRRF to continue after 180 days of the effective date of this article except in accordance with a wastewater discharge permit issued by the City.
- (D) *Wastewater discharge permitting; new connections.* Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the WRRF must obtain such permit prior to the beginning or recommending of such discharge. An application for this wastewater discharge permit, in accordance with §51.077(E) of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.
- (E) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application accompanied by a fee in accordance with 51.137(H). The City may require a user to submit as part of an application the following information:
- (1) The information required by §51.079(A)(2) of this article;
 - (2) A comprehensive description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals (not just trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WRRF. A qualified professional must certify to the accuracy of this process narrative;
 - (3) Number of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge. A qualified professional must certify to the accuracy of this schematic(s);
 - (7) Time, average gallons per day discharged and duration of discharges; and
 - (8) Any other information as may be deemed necessary by the City to evaluate the wastewater discharge permit application.
 - (9) Pollution Prevention (P2) activities such as source reduction, waste minimization, environmental management systems, water and energy conservation, and use of less toxic alternatives.
- Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
- (F) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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(G) *Wastewater discharge permit decisions.* The City will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the City will determine whether or not to issue a wastewater discharge permit. The City may deny any application for a wastewater discharge permit.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.077)

51.078 Wastewater Discharge Permit Issuance Process

(A) *Wastewater discharge permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the City. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(B) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the City to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate biosolids management and disposal, and protect against damage to the WRRF.

(1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
- (b) A statement that the wastewater discharge permit is nontransferable except in accordance with §51.078 (E).
- (c) Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
- (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable

compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(f) Requirements to control Slug Discharge, if determined by the City to be necessary.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (c) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WRRF;
- (e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (g) Other conditions as deemed appropriate by the City to ensure compliance with this article, and federal and state laws, rules, and regulations.
- (h) A licensed wastewater operator as deemed necessary on duty at all times

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of treatment and discharge of regulated wastewater discharge to the City's collection system (per §51.076(B)(5)).

(C) *Wastewater discharge permit appeals.* A permittee may petition the City to reconsider the terms of a wastewater discharge permit within 30 days of notice of issuance of the discharge permit.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alterative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the City fails to act within 30 days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

(D) *Wastewater discharge permit modification.* The City may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the WRRF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating the permitted discharge poses a threat to the WRRF, WRRF personnel, the receiving waters, or threats to the WRRF's beneficial biosolids use;
- (5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit;

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with 51.078(E).

(E) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator if the permittee gives at least seven days advance notice to the City, provides a copy of the existing permit to the new owner or operator, and the City approves the wastewater discharge permit transfer. The notice to the City must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(F) *Wastewater discharge permit revocation.* The City may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the City of changed conditions pursuant to §51.079(E) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

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- (4) Falsifying self-monitoring or other reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the City timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

- (G) *Wastewater discharge permit re-Issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with §51.077(E) of this article, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.
- (H) *Regulation of waste received from other jurisdictions.*

- (1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the WRRF, the City shall enter into an interjurisdictional agreement with the contributing jurisdiction; enter into an agreement with, or permit, users located in another jurisdiction; or both. Certain hauled wastewater may be exempted from the requirements of this paragraph with specific authorization by the City.
- (2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:
 - (a) A requirement for the contributing jurisdiction to adopt a sewer use

ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in §51.075(D) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and/or local limits;

- (b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
- (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the City; and which of these activities will be conducted jointly by the contributing jurisdiction and the City;
- (d) A requirement for the contributing jurisdiction to provide the City with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
- (e) A provision insuring the City access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City; and
- (f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §§4, 5, 4-7-98; Code 1991, §51.078)

51.079 Reporting Requirements

(A) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the WRRF shall submit to the City a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to

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the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (2) Users described above shall submit the information set forth below.

(a) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(b) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(c) *Description of operations.* A comprehensive narrative description of the nature, average rate of production, all applicable NAICS and standard industrial classifications of the operation(s) carried out by such user. This description should include a comprehensive schematic process diagram which indicates points of discharge to the WRRF from the regulated processes. A qualified professional must certify to the accuracy of this process narrative and wastewater flow schematics.

(d) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the WRRF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) *Measurement of pollutants.*

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily

maximum, and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §51.079(J) of this article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable standards to determine compliance with the standard.

(iii) Sampling must be performed in accordance with procedures set out in §51.079(K) of this article.

(f) *Certification.* A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

(g) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §51.079(B) of this article.

(h) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with §51.077(F) of this article.

(B) *Compliance schedule progress report.* The following conditions shall apply to the compliance schedule required by §51.079(A)(2)(g) of this article:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable

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pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation);

- (2) No increment referred to above shall exceed nine months;
- (3) The user shall submit a progress report to the City not later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine months elapse between such progress reports to the City.

(C) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WRRF, any user subject to such pretreatment standards and requirements shall submit to the City a report containing the information described in §51.079(A)(2)(d) through (f) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §51.077(F) of this article.

(D) *Periodic compliance reports.*

- (1) All significant industrial users shall, at a frequency determined by the City but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the

user must submit documentation required by the City or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with §51.077(F) of this article.

- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the City, using the procedures prescribed in §51.079(J) and §51.079(K) of this article, the results of this monitoring shall be included in the report.

(E) *Report of changed conditions.* Each user must notify the City of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The City may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §51.077(E) of this article.
- (2) The City may issue a wastewater discharge permit under §51.077(G) of this article or modify an existing wastewater discharge permit under §51.078(D) of this article in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow changes of 20% or greater, and the discharge of any previously unreported pollutants.

(F) *Reports of potential problems.*

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the WRRF (including a violation of the prohibited discharge standards in §51.075(B)

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of this article), the user shall immediately telephone and notify the City of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

- (2) Within five business days following such discharge, the user shall, unless waived by the City, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WRRF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed pursuant to this article.
 - (3) If required by the City, a notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
 - (4) Significant industrial users are required to notify the City immediately of any changes at its facility affecting the potential for a slug discharge.
- (G) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the City.
- (H) *Notification of violation/repeat sampling and reporting.*
- (1) If sampling performed by a user indicates a violation, the user must notify the City as soon as possible but no later than 24 hours after becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the City within the time period specified by the City but at no time later than 30 days after becoming aware of the violation. The user may not be required to resample if the City samples between the user's initial sampling and when the user receives the results of this sampling.
 - (2) If the City performed the sampling and analysis in lieu of the industrial user, the City will perform the repeat sampling and analysis

unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(I) *Notification of the discharge of hazardous waste.*

- (1) Any person who commences the discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) of any discharge into the WRRF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the WRRF, the notification shall also contain the following information to the extent such information is known and readily available to the user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications to the City must be made prior to the commencement of the discharge. Notifications of changed conditions must be submitted under Section §51.079(E) of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections §51.079(A), (C), and (D) of this ordinance.
- (2) In the case of any new regulations under §3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the City, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (3) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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- (4) This reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

- (J) *Certification of Permit Applications and User Reports.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section §51.077; users submitting baseline monitoring reports under Section §51.079(A); users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section §51.079(C); users submitting periodic compliance reports required by Section §51.079(D) (1)-(3). The following certification statement must be signed by an Authorized Representative as defined in Section §51.074:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (J) *Analytical requirements.*

- (1) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (2) All independent laboratories performing analyses for users, including, but not limited to, self-monitoring, periodic reports on continuing compliance, baseline monitoring reports and/or split sample verification, shall be certified by the ADEQ Laboratory Certification Program for the specific analysis being performed. The City reserves the right

to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

- (K) *Sample collection.*

- (1) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (2) Except as indicated in subsection (3) and (4), below, the user must collect wastewater samples using 24-hr flow-proportional composite collection techniques. In the event flow proportional sampling is infeasible, the City may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (3) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- (4) For sampling required in support of baseline monitoring and 90-day compliance reports required in §§51.079(A) and (C), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by §51.079(D), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

- (L) *Date of Receipt of Reports.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

- (M) *Record keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any

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monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under 51.075(D). Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the U.S. EPA, state, or City.

(Code 1991, §51.079; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §6, 4-7-98)

51.080 Compliance Monitoring

(A) *Right of entry; inspection and sampling.* The City shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The City shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The City may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to

the City upon request.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (3) Unreasonable delays in allowing the City access to the user's premises shall be a violation of this article.
- (B) *Search warrants.* If the City has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of a search warrant from the city district court.

(Code 1991, §51.080)

51.081 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Code 1991, §51.081)

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51.082 Publication of Users in Significant Noncompliance

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City's WRRF, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in 51.074;
- (B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 51.074 multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- (C) Any other violation of a pretreatment standard or requirement as defined by 51.074 (daily maximum, long term average, instantaneous limit, or narrative standard) that the City determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city or WRRF personnel or the general public;
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within forty five (45) after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on

compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation(s), which may include a violation of Best Management Practices, which the City determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1991, §51.082; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §8, 4-7-98)

51.083 Administrative Enforcement Remedies

- (A) *Notice of violation.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City shall serve upon such user either an informal warning or a written notice of violation. Within five business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a notice of violation.
- (B) *Consent orders.* The City may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §51.083(D) and §51.083(E) of this article and shall be judicially enforceable.
- (C) *Show cause hearing.* The City may order a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show

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cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(D) *Compliance orders.* When the City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance ordinances may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(E) *Cease and desist orders.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(F) *Administrative charges.*

- (1) When the City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may charge such user in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. The City may add the costs of administrative enforcement actions, such as notices and orders, to the charge.
- (2) Users desiring to dispute such charges must file a written request with the City Clerk within ten (10) working days of being notified of the charge. The Sewer Committee shall convene a hearing on the matter. In the event the charge is upheld by the Sewer Committee, the City may also add the costs of the appeal, such as notices and orders, to the charge.
- (3) Issuance of an administrative charge shall not be a bar against, or a prerequisite for, taking any other action against the user.

(G) *Emergency suspensions.* The City may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WRRF, or which presents or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the WRRF, its receiving stream, or endangerment to any individuals. The City may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in §51.083(H) of this article are initiated against the user.

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- (2) If necessary, severance of the sewer connection or water service may occur without notice.
- (3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City within five business days.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

- (H) *Termination of discharge.* Any user that violates the conditions in §51.078(F) of this article is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §51.083(C) of this article why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 1991, §51.083; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.084 Judicial Enforcement Remedies

- (A) *Injunctive relief.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the appropriate court through the City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

- (B) *Civil penalties.*

- (1) A user which has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a

monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

- (2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

- (C) *Criminal penalties.*

- (1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day.

- (2) A user who willfully or negligently introduces any substance into the WRRF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- (D) *Cost recovery.* The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost

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of any actual damages or fines incurred by the City.

- (E) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan within the City's Pretreatment Program. However, the City may take other action against any user, including but not limiting to, misdemeanor and felony fines and imprisonment when the circumstances warrant.

(Code 1991, §51.084; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.085 Affirmative Defenses to Discharge Violations

(A) *Upset.*

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the user can identify the cause(s) of the upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The user has submitted the following information to the City as soon as possible but no later than 24 hours after becoming aware of the upset. If this information is provided orally, a written submission must be provided within five

business days:

- (i) A description of the indirect discharge and cause of noncompliance;
- (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
- (iv) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- (4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- (5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

- (B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in §51.075(B)(1) of this article or the specific prohibitions in §51.075(B)(2)(c) through (r), except for §51.075(B)(2)(h), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of

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interference, was in compliance with applicable biosolids use or disposal requirements.

(C) *Bypass.*

(1) For the purposes of this section:

- (a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

(3) Notice.

- (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City, at least ten business days before the date of the bypass, if possible.
- (b) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five business days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Bypass Prohibited; Exceptions.

- (a) Bypass is prohibited, and the City may take an enforcement action against a user for a bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (3) of this section.
- (b) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

(Code 1991, §51.085; Ord. No. 3965, §2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §7, 4-7-98)

51.086 Miscellaneous Provisions

(A) *Pretreatment charges and fees.* The City may adopt reasonable fees for reimbursement of the costs of development and administration of the City's pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and

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- (5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties, chargeable by the City.
- (B) *Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
- (C) *Conflicts.* All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article, are hereby repealed to the extent of the inconsistency or conflict.

(Code 1991, §51.086; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.087 Surcharge

- (A) Any significant industrial user generating discharge which exhibits none of the characteristics of wastes prohibited in §51.075 but which has an average concentration of surcharge parameters in 51.137(E) in excess of the allowed strengths in 51.137(E) during a 24-hour period, may be required to obtain a discharge permit. Such discharge may, however, be accepted by the WRRF for treatment in accordance with Extra Strength Surcharge requirements in 51.137(E).
- (B) The City reserves the right to review and approve any waters or industrial waste entering the city's sewer system or proposed to be discharged into the system having an average daily flow greater than 10% of the design flow capacity of the plant which will treat the waste. In the event the city's measurement discloses such flow in excess of such capacity, the city shall be under no obligation to receive such flow in excess of 10% of designed capacity and the city's published rate shall not apply to such excess. An owner affected hereby shall be promptly notified of such determination by the City. A special contract, at the city's option, may be made with the user to accommodate such excess flow.

(Code 1991, §51.087)

51.088-51.109 Reserved

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51.137 Monthly Sewer Rates

(A) *Monthly sewer rates.*

(1) All monthly sewer charges shall be calculated from the customer's monthly water usage. The following monthly rates are hereby fixed as rates to be charged for sewer services:

Table D-1 Monthly Sewer Rates Per 1,000 Gallons Before January 1, 2009		
Class	Usage Rate (In Gallons)	Cost per 1,000 gallons
Residential	First 2,000 gallons	\$3.10
	Greater than 2,000 gallons	3.10
Non-Residential	All Usage	2.42
Major Industrial	All Usage	2.42
Farmington	All Usage	4.66
Outside city	All Usage	4.66
Elkins	85% of metered water usage	2.81
	Usage above 85% of metered water usage	1.98

Table D-2 Monthly Sewer Rates Per 1,000 Gallons After December 31, 2008		
Class	Usage Rate (In Gallons)	Cost per 1,000 gallons
Residential	First 2,000 gallons	\$3.00
	Greater than 2,000 gallons	4.00
Non-Residential	All Usage	3.02
Major Industrial	All Usage	3.03
Farmington	All Usage	5.13
Outside city	All Usage	5.57
Elkins	85% of metered water usage	3.53
	Usage above 85% of metered water usage	1.85

Table D-3 Monthly Sewer Rates Per 1,000 Gallons After December 31, 2009		
Class	Usage Rate (In Gallons)	Cost per 1,000 gallons
Residential	First 2,000 gallons	\$3.07
	Greater than 2,000 gallons	4.10
Non-Residential	All Usage	3.10
Major Industrial	All Usage	3.21
Farmington	All Usage	5.28
Outside city	All Usage	5.74
Elkins	85% of metered water usage	3.64
	Usage above 85% of metered water usage	1.91

Table D-4 Monthly Sewer Rates Per 1,000 Gallons After December 31, 2010		
Class	Usage Rate (In Gallons)	Cost per 1,000 gallons
Residential	First 2,000 gallons	\$3.14
	Greater than 2,000 gallons	4.18
Non-Residential	All Usage	3.18
Major Industrial	All Usage	3.40
Farmington	All Usage	5.44
Outside city	All Usage	5.91
Elkins	85% of metered water usage	3.75
	Usage above 85% of metered water usage	1.96

(2) Beginning January 1, 2012, all monthly sewer quantity charge- usage rates per 1,000 gallons shall be increased by 3% per year.

(3) Sewer related fees levied by the Cities of Farmington or Greenland shall be added to the wastewater utility bill at the request of Farmington or Greenland. These fees may be calculated on a per-thousand volumetric usage or a per month basis.

(B) *Monthly sewer service charge.*

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- (1) In addition to the above, each customer shall pay a monthly sewer service charge in accordance with the following schedule:

Table E-1 Monthly Sewer Service Charge Prior to January 1, 2009			
Meter Size	Inside City	Outside City†	Farmington†
5/8" x 3/4 "	\$ 10.36	\$ 10.35	\$ 10.35
1 inch	13.47	19.35	19.35
1½ inch	21.99	34.33	34.33
2 inch	31.44	49.32	49.32
3 inch	73.01	104.40	104.40
4 inch	120.26	171.97	171.97
6 inch	238.37	340.87	340.87
8 inch	356.48	509.76	509.76

Table E-2 Monthly Sewer Service Charge After December 31, 2008			
Meter Size	Inside City	Outside City†	Farmington†
5/8" x 3/4"	\$ 12.45	\$ 12.40	\$ 11.40
1 inch	16.20	23.10	21.30
1½ inch	26.45	41.10	37.80
2 inch	37.80	54.30	50.00
3 inch	87.75	125.50	115.30
4 inch	144.50	206.60	189.85
6 inch	286.45	409.60	376.40
8 inch	428.40	612.60	563.00

Table E-3 Monthly Sewer Service Charge After December 31, 2009			
Meter Size	Inside City	Outside City†	Farmington†
5/8" x 3/4 "	\$ 12.80	\$ 12.80	\$ 11.70
1 inch	16.65	23.80	21.90
1½ inch	27.15	42.30	38.90
2 inch	38.85	55.90	51.50
3 inch	90.20	129.25	118.75
4 inch	148.60	212.80	195.55
6 inch	294.50	421.88	387.70
8 inch	440.45	631.00	579.90

Table E-4 Monthly Sewer Service Charge After December 31, 2010			
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Meter Size	Inside City	Outside City†	Farmington†
5/8" x 3/4"	\$ 13.20	\$ 13.20	\$ 12.10
1 inch	17.15	24.50	22.60
1½ inch	28.00	43.60	40.10
2 inch	40.05	57.60	53.05
3 inch	93.00	133.10	122.30
4 inch	153.25	219.20	201.50
6 inch	303.70	434.50	400.00
8 inch	454.20	650.00	597.30

†Cost of Service Methodology required by contract.

- (2) Beginning January 1, 2012, all monthly sewer service charges shall be increased by 3% per year.
- (C) *Determination of sewer quantity charge for residential customers.*

- (1) In the case of residential customers residing in a single family home, duplex, triplex, and/or fourplex, the average monthly water consumption for the preceding months of December, January, and February shall be computed separately for each customer, and a uniform monthly charge for each customer shall be determined by applying the schedule of rates set out in subsection (A) of this section to such average monthly water consumption. In the case of a residential user for whom a uniform monthly charge has been established and who moves to a new location the same uniform monthly charge shall apply at the new location. In the case of new residential customers, sewer averages shall be established based on the number of individuals residing within the dwelling unit, at a rate of 2,100 gallons per customer per month. This methodology of sewer averaging shall not apply to multi-family structures containing five (5) or more units in a contiguous building.
- (2) In the case of sewer customers who do not have a water meter provided by a public water utility, the sewer usage volume billed shall be the average volume of all users in the sewer system in like dwellings from the most recent system-wide sewer average calculation.

- (D) *Determination of charge for non-residential and major industrial customers.* In the case of non-residential and/or major industrial customers, the monthly sewer charge shall be determined by applying the schedule of rates prescribed in subsection (A) of this section to the monthly water

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usage of such customers. In the event that a non-residential or major industrial customer discharging waste into the city's sanitary sewer system produces evidence to the Water and Wastewater Director demonstrating that a substantial portion of the total amount of water from all sources used for all purposes does not reach the sanitary sewer which is in excess of the factors used in establishing the rates in subsection (A) of this section, an estimated percentage of total water consumption to be used in computing charges may be established by the Water and Wastewater Director. The factors used in establishing said rates are on file in the office of the Water and Wastewater Director and are incorporated herein by reference thereto. Any rate so adjusted by the Water and Wastewater Director shall be effective for a 12-month period beginning with the billing for the month when rates adjudged hereby go into effect.

(E) *Extra Strength Surcharge.*

- (1) For all significant industrial users as defined in §51.074, whose wastewater discharge is greater than 300 mg/l of BOD₅ and/or TSS, the City shall levy an Extra Strength Surcharge for each parameter in accordance with the following unit charges:

Table F3 Extra Strength Surcharges	
	After 12/1/2011
Extra Strength BOD ₅	\$0.3145 per pound
Extra Strength TSS	\$0.2209 per pound

- (2) Starting after December 31, 2011, Extra Strength Surcharges shall be increased by 3% per year.
- (3) Extra Strength Surcharges shall be billed monthly and shall be computed on the basis of water meter reading (wastewater discharge volume).
- (4) All sampling and analyses of the wastewater characteristics shall be performed in accordance with U.S. Environmental Protection Agency 40 Code of Federal Regulations Part 136 approved methods.
- (5) The volume of flow used in computing surcharge shall be based upon metered water consumption as shown in the records of meter readings maintained by the city's business office. In the event that a user discharging waste into the city sanitary sewer system produces evidence to the city demonstrating

that a portion of the total amount of water used for all purposes is not discharged into the sanitary sewer, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon its request, to measure only that portion of the total flow being discharged into the city sewer system. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.

- (6) Any person discharging industrial waste into the sanitary sewers of the city who procures any part or all of the user's water supply from sources other than the city, all or part of which is discharged into the sanitary sewer, shall install and maintain at the user's expense water meters of the type approved by the city for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meter will be read monthly and tested for accuracy when deemed necessary by the city. Where it can be shown that a portion of the water measured by the aforesaid meter or meters does not enter the sanitary sewer system of the city, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon its request, to measure only that portion of the total flow being discharged into the city sewer system. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.

- (7) Computation of extra strength surcharges shall be based on the following formula:

(a) Extra strength surcharge:

$$S = V \times 8.34 \times [\text{BOD Unit Charge (BOD - 300)} + \text{SS Unit Charge (TSS - 300)}]$$

(b) Where:

$$S = \text{Surcharge in dollars}$$

$$V = \text{Sewer volume in million gallons}$$

$$8.34 = \text{Pounds per gallon of water}$$

$$\text{BOD Unit} = \text{Unit charge for BOD in dollars per pound}$$

$$\text{BOD} = \text{BOD strength in parts per million}$$

$$300 = \text{Allowed BOD strength in parts per million}$$

$$\text{TSS Unit} = \text{Unit charge for suspended}$$

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Charge		solids in dollars per pound
TSS	=	Suspended solids strength in parts per million
300	=	Allowed TSS Strength in parts per million

7-1-86; Ord. No. 3285, 8-4-87; Ord. No. 3398, 1-3-89; Ord. No. 3491, 7-17-90; Ord. No. 3637, §§1, 2, 8-18-92; Ord. No. 4059, §2, 10-7-97; Code 1991, §51.137; Ord. No. 4530, 12-02-03; Ord. No. 4803, 12-20-05; Ord. 4998, 4-3-07; Ord. 5129, 4-15-08; Ord. 5438, 9-20-11)

51.138 Definitions Pertaining to Water and Sewer Rates

For the purpose of the sections pertaining to water and sewer rates, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(F) *Elkins sewer charges.*

- (1) Elkins' payment for wastewater treatment shall be based on 85% of the metered water purchased. The volume of wastewater received by Fayetteville at the "Point of Connection" shall be measured by the installed wastewater meter. Volumes of wastewater below or above the agreed upon percentage (85%) of metered water, as measured by the wastewater meter, shall be recorded on a monthly basis, with a reconciliation of the net difference to occur semiannually in June and December. If the reconciliation volume is over the agreed upon percentage, this amount shall be billed to Elkins in June and December at the actual computed cost of wastewater collection to and treatment at the Noland Wastewater Treatment Plant, not including the calculated rate of return and not including depreciation charges, but including any capacity surcharge, based on the most recent rate as determined in paragraph B of this Contract. If the reconciliation volume is below the agreed upon percentage, the actual amount billed for the difference shall be refunded to Elkins in June and December
- (2) Elkins impact fee charges. The City of Elkins shall pay an additional \$0.25 per 1,000 gallons of wastewater, for all wastewater volume charges including both the 85% of metered water volume and for wastewater in excess of the 85% of the metered water purchased billed volume.

(G) *Hauled Wastewater Fees.*

- (1) Application fee. An application to discharge hauled domestic waste must be accompanied by a fee of \$100.00.
- (2) Discharge fee. A fee of \$50.00 must be paid for each hauled domestic waste load discharged.

(H) *Industrial Wastewater Discharge Permit Fee.*

- (1) Application fee. An application for an industrial wastewater discharge permit must be accompanied by a fee of \$500.00.

(Code 1965, §21-26; Ord. No. 1165, 4-18-58; Ord. No. 3197,

(A) *City of Farmington customer.* Customer whose structure being served for water and/or wastewater is physically located within the incorporated limits of the City of Farmington, Arkansas, who is served by the City of Fayetteville for water and/or sewer service.

(B) *Inside City customer.* Customer whose structure being served for water and/or wastewater is physically located inside the incorporated limits of the City of Fayetteville, AR.

(C) *Infiltration/inflow.* The total quantity of water other than wastewater from both infiltration and inflow without distinguishing the source from defective pipes, pipe joints, connections, manholes, roof down spouts, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, storm sewer cross connections, catch basins, cooling towers, storm waters, surface runoffs, street wash water, or drainage. Infiltration and Inflow are specifically prohibited from being intentionally allowed into the sanitary sewer system.

(D) *Irrigation users.* Irrigation users include meters installed which serve primarily landscape irrigation systems and include city-owned meters which directly connect to the city water system (water only) or privately owned meters located downstream of a city-owned meter (exempt meters). Meters which serve park properties, golf courses, commercial nurseries and/or land agricultural uses shall be classified as irrigation except for meters at these locations which serve exclusively non-irrigation uses. Exempt meters which serve uses other than landscape irrigation systems shall also be considered irrigation and shall not be considered commercial.

(E) *Major industrial user.* An industrial customer who uses an average of 5,000,000 gallons or more of metered water per month in the previous calendar year for non-irrigation use at a common facility/building. This does not apply to combined or consolidated sets of bills for non-irrigation use

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at separate facilities/buildings.

- (F) *Municipality.* A city, town, county, parish, district, association, or other public body (including an inter-municipal agency of two or more of the foregoing entities) created under state law having jurisdiction over disposal of sewage, industrial waste or other waste. The definition includes special districts such as water, sewer, sanitary, utility, drainage, transport, or disposal of liquid waste of the general public in a particular geographic area.
- (G) *Non-residential customer or user.* All customers that do not meet the specific definitions of residential customers, irrigation users, or major industrial users. Non-residential customers include but are not limited to retail establishments, restaurants, office buildings, laundries, governmental, educational, social, charitable, religious, medical, penal institutions, poultry houses, other private business and service establishments. It also includes industrial users using less than an average of 5,000,000 gallons per month in the previous calendar year.
- (H) *Operation and maintenance.* Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (I) *Replacement.* Expenditures for obtaining and installing components, equipment and appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (J) *Residential customer or user.* Any contributor of wastewater to the city's treatment works whose dwelling in a single family home, duplex, triplex, fourplex and/or any individually metered dwelling unit that is used for domestic dwelling purposes only.
- (K) *Treatment works.* Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions improvement; remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate

disposal of residues resulting from such treatment (including land for composting biosolids, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

- (L) *Useful life.* The estimated period during which a treatment works will be operated.
- (M) *User charge.* That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.
- (N) *Water meter.* A water volume measuring and recording device, furnished and installed by the water department of the city. In some bulk water cases, primarily for construction uses where a standard water meter cannot be used due to large volume or water velocity requirements, the water shall be measured using a pitot gauge and a timer.

(Code 1965, §21-26.1; Ord. No. 1760, 9-9-70; Ord. No. 2913, 4-19-83; Ord. No. 2972, 1-17-84; Ord. No. 3197, 7-1-86; Ord. No. 3491, 7-17-90; Ord. No. 3637, §3, 8-18-92; Ord. No. 4059, §3, 10-7-97; Code 1991, §51.138; Ord. 5124, 4-1-08)

51.139 Reviews of Water and Sewer Rates, Notification to User

- (A) *Periodic review by city; revision of rates.* The city shall review the charges periodically and revise the rates as necessary to ensure that adequate revenues are generated to pay the cost of operation, maintenance, and replacement, and that the system continues to provide for the proportional distribution of operation, maintenance, and replacement costs among users and user classes.
- (B) *Notification of user.* The city shall notify each user at least annually, in conjunction with a regular bill, of the rates being charged for operation, maintenance and replacement of the wastewater treatment works.

(Code 1965, §21-27; Ord. No. 1103, 2-20-56; Code 1991, §51.139; Ord. 5125, 4-1-08)

State law reference(s)--Cities of the first class - Sale or purchases of water to other municipalities, A.C.A. §14-234-108; Cities of the first class - Sale of water to certain persons; A.C.A. §14-234-109; Waterworks operated in governmental

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capacity - Services to nonresident consumers, A.C.A. §14-234-110; Service to adjacent areas-Municipalities generally, A.C.A. §14-234-111.

51.140 Water Billing Procedure

(A) *Water service bills.* All bills for water services shall be rendered in the net amount due. Water bills are due and payable on or before the 20th day following the billing date stated on the water bill. Water bills not paid on or before the due date shall be considered delinquent and an additional charge of 10% of the total bill shall be paid; provided said penalty may be waived for elderly or handicapped utility customers pursuant to a penalty waiver program approved by the City Council.

(B) *Termination of service.* The city shall disconnect utility service in accordance with the following policies:

(1) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and deposit required has been made. It is the policy of the city to terminate service to customers for reason of nonpayment of bills only after they have been given notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

- (a) That all bills are due and payable on or before the date set forth on the bill; and
- (b) That if any bill is not paid by or before that date, notice will be mailed advising the customer that if the bill is not paid within 28 days following the billing date stated on the water bill service will be disconnected, and the customer's deposit will be forfeited in an amount sufficient to cover the gross amount of his due bill. The forfeiture of the deposit shall take place if the customer has not paid the delinquent bill plus all applicable service charges within seven days after disconnection; and
- (c) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the city official in

charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified.

(3) Before service may be re-established following disconnection or forfeiture of a service deposit, the consumer must pay any bill due the city for water service not liquidated by the forfeited deposit. Said consumer must also make a new service deposit in accordance with §51.135(l) and pay an additional service charge of \$35.00.

(4) Definition of 'customer'

(a) For purposes of this section a 'customer' shall mean a person or the spouse of the person in whose name water service from the City of Fayetteville has been obtained. A 'customer' shall also mean the trustee or any beneficiary of a trust which is the owner of any property which has received water service from the City of Fayetteville. Furthermore, a person who is a member of a Limited Liability Company, partnership, or similar entity which received water service in the entity's name or a principal shareholder or director of a corporation which has received water service shall be considered a 'customer'.

(b) Unless the mayor determines it would be unfair and create an undue hardship on any such customer or other person, the failure of such customer to fully pay the customer's city utility bill for any city utility account shall justify the discontinuance of utility service to all of the customer's properties and accounts. The mayor may exempt from discontinuance of service a particular customer's utility account to prevent unfairness and undue hardship.

(5) If the water meter has not been shut off, there shall be a service charge of \$5.00 for collection of a water bill made in the field by a service person.

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(Code 1991, §51.141)

(C) *Billing adjustments.* All water consumers will be required to pay the full amount of the bill calculated by the city, except in those instances where the water meter concerned, or other water plant property, has been shown to be defective and has resulted in an excessive charge to the customer's account.

- (1) Where the consumer has not been negligent by his failure to repair known leaks or causes of excess water consumption, an adjustment may be made to the consumer's bill if in the opinion of the water and wastewater director, or his official representative, an adjustment is justified.
- (2) In no event shall a billing adjustment exceed 50% of the difference between the average of the customer's prior billings and the amount of the disputed billing.
- (3) In no event will a billing adjustment amounting to less than \$1.00 be made.
- (4) If the problem with the bill is due to leakage or some problem other than a misread or a malfunction of city equipment, the consumer shall pay a service charge of \$5.00.
- (5) Permanent house numbers, visible from the street, if possible shall be prominently displayed before a meter check or service call is made.

(Code 1965, §21-28--21-28.2; Ord. No. 1165, 4-18-58; Ord. No. 1731, 2-2-70; Ord. No. 2144, 9-25-75; Ord. No. 2330, 5-3-77; Ord. No. 2675, 11-4-80; Ord. No. 3193, 6-18-86; Ord. No. 3436, 7-5-89; Ord. No. 4223, 2-15-00; Code 1991, §51.140; Ord. 5219, 2-3-09)

51.141 Sewer Billing Procedure

- (A) Bills for sewer service shall be rendered monthly. Sewer bills are due and payable on or before the 20th day following the billing date stated on the sewer bills. Sewer bills not paid on or before the due date shall be considered delinquent and an additional charge of 10% of the total bill shall be added, and if any bill not paid within 30 days after the bill shall be due, suit may be brought to collect the amount due, together with the expenses of collection and a reasonable attorney's fee.
- (B) In the case of the sewer customers outside the city limits, if the monthly service charges are not paid within the prescribed time, sewer service to the customer will be discontinued in the same manner and subject to the same provisions as prescribed for discontinuance of service under §51.140(B).

51.142 Reduction Of Rates

The city hereby covenants and agrees that the rates established by this article shall never be reduced while any waterworks and sewer revenue bonds issued pursuant to Ordinance No. 1166, passed and approved April 18, 1958, are outstanding, unless there is obtained from an independent certified public accountant a certificate that the net revenues of the system for each of the two preceding fiscal years (net revenues being defined as gross revenues less the reasonable expenses of operation and maintenance of the system, including all expense items properly attributable to operation and maintenance under generally accepted accounting practices applicable to municipal waterworks and sewer systems) were equal to the amount required to be set aside for a depreciation fund by Ordinance No. 1166, plus at least 150% of the maximum amount that will become due in any year for principal, interest, and service charges on all waterworks and sewer revenue bonds then outstanding, together with a written opinion from such independent certified public accountant that the proposed new rate will produce sufficient net revenue, as above defined, to make the required deposit into such depreciation fund and to leave a balance equal to at least 150% of the maximum amount that will become due in any year for principal, interest and service charges on all waterworks and sewer revenue bonds then outstanding.

(Code 1965, §21-30; Ord. No. 1165, 4-18-58; Code 1991, §51.142)

51.143 Turning-On Of Water; Fees

- (A) All consumer requests for same day turn on service shall pay a \$15.00 turn on fee in advance.
- (B) Before water service shall be turned on, permanent house numbers visible from the street, if possible, must be prominently displayed on the property. In the event water service cannot be turned on because the house numbers have not been prominently displayed or are inaccurate, the customer shall pay a \$15.00 service charge for each trip to the property made by a service person for the purpose of turning on the water; provided there shall be no charge for the first two trips. For existing water services which do not have permanent house numbers prominently displayed on the property, the consumer shall be given written notice by certified mail that if his permanent house numbers are not prominently displayed within seven days from the date of the notice, water service shall be disconnected and shall not be reconnected until a \$15.00 service charge is paid.

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- (C) In the event water service cannot be left on because of water running on the customer's side of the meter, a notice shall be left on the property stating that the water was left off because of the running water. In the event the service person is required to make more than one additional trip to turn on the water, or if the trip is made after normal working hours as defined in §51.140(B)(2) there shall be an additional service charge of \$10.00 per trip.

(Code 1965, §§21-31--21-33; Ord. No. 2144, 9-2-75; Ord. No. 2675, 11-4-80; Code 1991, §51.143)

51.144 Filling Water Tanks On Commercial Trucks; Rates

- (A) Water rates for consumers that purchase water for the purpose of filling water tanks on commercial trucks shall be as follows:

Table I
Water Rates for Commercial Water Trucks

Volume	Rate
First 1,000 gallons	A minimum of \$9.00 (\$5.00 labor plus \$4.00 water/tax).
Greater than 1,000 gallons	\$4.00 per 1,000 gallons

- (B) Rates are charged on a per-trip basis. The initial labor charge shall be paid upon each arrival at the fill site.

(Ord. No. 3478, 4-3-90; Ord. No. 3491, 7-17-90; Ord. No. 4059, §4, 10-7-97; Code 1991, §51.144; Ord. 5126, 4-1-08)

51.145 Address Number Requirements

- (A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Permanent numbers.* Address numbers that are raised numbers, made of metal, wood, or plastic and are nailed or screwed into the building. These numbers are those assigned to the building by the city.
- (2) *Stick-on numbers.* Address numbers that have an adhesive backing that are designed, or were originally designed, to stick onto the building.
- (3) *Temporary numbers.* Address numbers that are raised numbers, made of metal, wood, or plastic and are nailed or screwed onto a board, and staked into the ground and rise from three

to four feet above the ground. Temporary numbers may also be painted onto a board and staked into the ground.

- (B) *Permanent address numbers required.*

- (1) Permanent numbers must be nailed or screwed into the building and must be clearly visible from the street.
- (2) All numbers shall be installed at the expense of the owner and shall be maintained at the owner's expense.
- (3) No "stick-on" numbers shall be accepted.
- (4) All numbers must be made of metal, plastic, or wood.
- (5) All numbers must be at least 3: inches in height.
- (6) All numbers must be contrasting in color to the building.
- (7) Numbers must be displayed on the front of the building, or on the side that faces the street and easily visible from the street.
- (8) Commercial establishments must have permanent numbers nailed or screwed into the building. Commercial establishments with glass fronts may have painted numbers on the glass, but only if there is nowhere possible to nail or screw permanent numbers into the building.
- (9) Commercial establishments that have individual suites must have permanent numbers on the building (building number) and also permanent numbers on each suite (suite number).
- (10) Mobile homes must have permanent address numbers nailed or screwed into the trailer. The numbers must be affixed to the side or end of the trailer that faces the street.
- (11) Mobile home parks must have the park address number displayed at the entrance to the park (may have permanent numbers or painted numbers affixed to park entrance sign), and must also have permanent, individual space numbers affixed to each mobile home.
- (12) Apartment buildings must have the building number permanently affixed to each building, and must also have individual apartment numbers permanently affixed to each

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apartment.

- (13) Buildings not visible from the street must have permanent numbers nailed or screwed into a board and posted at the entrance of the driveway (either on a post or on a tree); numbers must raise from three to four feet above the ground, and be clearly visible from the street. If two or more buildings are on the same drive, permanent numbers must also be nailed or screwed into each individual building, as well as both numbers posted at the entrance of the driveway.

- (14) Construction sites, where the building is not complete enough to affix permanent address numbers, must display temporary numbers at the construction site where they are clearly visible from the street.

- (15) Locations where there is a water meter for purposes of irrigating, watering stock, chicken houses, and the like where there is no building to affix numbers, must be permanently nailed or screwed onto a board and posted at the entrance of the driveway; numbers must rise from three to four feet above the ground, and be clearly visible from the street. If there is no driveway to the property, the board must be posted near the water meter box.

Any variations from this policy must have the prior written consent of the water and sewer services superintendent.

(C) *Service requests.*

- (1) Permanent numbers must be displayed before any service calls will be made by the city.
- (2) Permanent numbers must be displayed before a meter check or billing adjustment is made by the Water and Sewer Division.
- (3) Permanent numbers must be displayed before water service is turned on at the address.
- (4) In the event a service call is made and the address number is not displayed in the above manner, the property owner shall be assessed a fee of \$15.00 for each trip to the property made by a service person provided there shall be no charge for the first two trips. There shall be a \$25.00 fee assessed for any service calls made after normal working hours (weekdays between 4:00 p.m. and 8:00 a.m., on holidays, or on weekends).
- (5) For existing water services which do not have permanent numbers prominently displayed,

the consumer shall be given written notice by certified mail that if his permanent numbers are not prominently displayed within 21 days from the date of the notice, water service shall be disconnected and shall not be reconnected until permanent numbers have been properly displayed and a \$15.00 service charge is paid.

(Ord. No. 3569, 10-1-91; Code 1991, §51.145)

51.146 Backflow Prevention

(A) *Purpose.* The purpose of this section is as follows:

- (1) To protect the public water supply of the city from the possibility of contamination or pollution from backflow into the public water system.
- (2) To promote the elimination or control of cross connections, actual or potential, between the customer's potable water system(s) and nonpotable water systems, plumbing fixtures, and industrial piping systems.
- (3) To contain at the service connection any actual or potential pollution or contamination within the customer's premises.
- (4) To provide a continuous, systematic, and effective program of cross-connection control.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Backflow* shall mean a hydraulic condition, caused by a difference in pressures, in which non-potable water or other fluids flow into a potable water system.
- (2) *Backflow preventer* shall mean a testable assembly to prevent backflow.
- (3) *Cross connection* means any actual or potential connection between the public water system and a source of contamination or pollution.
- (4) *Double-check valve assembly (DC)* means a complete assembly meeting AWWA Standard C510 and the requirements of the *Arkansas State Plumbing Code* consisting of two internally loaded, independently operating check valves between two tightly closing resilient-seated shutoff valves, with four properly placed resilient seated test cocks.
- (5) *Reduced-pressure principle backflow*

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prevention assembly (RP) means a complete assembly meeting AWWA *Standard C511* and the requirements of the *Arkansas State Plumbing Code* consisting of a hydraulically operating, mechanically independent differential relief valve located between two independently operating, internally loaded check valves that are located between two tightly closing resilient seated shutoff valves with four properly placed resilient-seated test cocks.

- (6) *Air gap (AG)* means a physical separation between two piping systems.

(C) *Handbook of Policies and Procedures.* There is hereby adopted by the City Council, by reference thereto, the provisions set forth in the *City of Fayetteville Cross-Connection Control Program: Handbook of Policies and Procedures*, as may from time to time hereafter be amended.

(D) *Applicability.*

- (1) The requirements and standards set forth herein shall apply to industrial and commercial establishments.
- (2) Single-family, residential dwelling units, unless involved in commercial operations, are exempt from the requirements of this section except where they fall under the purview of the *Arkansas State Plumbing Code* and/or the *City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures*.
- (3) These standards are supplemental to and do not supersede or modify the *Arkansas State Plumbing Code (ASPC)* and its latest revisions under which the city operates.

(E) *Administration.* The Water and Sewer Division of the city shall be responsible for administration of this section and evaluating the hazards inherent in supplying a customer's water system.

(F) *Backflow prevention.*

- (1) *Evaluation of hazards.* The Water and Sewer Division shall determine whether solid, liquid, or gaseous pollutants or contaminants are, or may be, handled and/or used on the customer's premises in such a manner as to possibly contaminate the public water system.
- (2) *Customer installation of BFP.* When a hazard or potential hazard to the public water system is found on the customer's premises, the customer shall be required to install an

approved backflow prevention assembly (BFP), or an air gap, at each public water service connection to the premises.

(3) *Type of BFP.*

- (a) The type of BFP required shall depend on the degree of hazard involved.
- (b) Any backflow prevention assembly required herein shall be an approved type which is in compliance with requirements of the *City of Fayetteville's Cross-Connection Control Program: Handbook of Policies and Procedures*.

(4) *Degree of hazard.* The degree of hazard shall be as determined as set forth in AWWA M-14 manual or as described below:

- (a) In the case of any premises where there is an auxiliary water supply connected to the plumbing system, the public water system shall be protected from the possibility of backflow by a reduced-pressure principle backflow prevention assembly (RP) at the service connection.
- (b) In the case of any premises where substances are handled and/or used that are objectionable, but not hazardous to human health, and the likelihood exists of it being introduced into the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or approved double check valve assembly (DC).
- (c) In the case of any premises where there is any material hazardous to human health, which is handled and/or used in such a fashion as to create an actual or potential threat to the public water system by virtue of a backflow occurrence, the public water system shall be protected by an air gap or an approved reduced - pressure principle backflow prevention assembly (RP).
- (d) In the case of any premises where there are unprotected cross-connections, either actual or potential, the public water system shall be protected by an approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection.
- (e) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is

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impossible or impractical to make a complete cross-connection survey, the public water system shall be protected by the installation of an approved reduced-pressure principle backflow prevention assembly (RP) or an air gap at the service connection.

(G) *Noncompliance/emergencies.*

(1) *Violation/notice.* Upon discovery of any protective device required by this section which has not been installed, or is defective, or has been removed, or altered, or relocated, or bypassed, (except emergency situations), written notice shall be given to the customer. Such notice shall set forth the violation, the remedy required, and the time frame in which the violation shall be remedied.

(2) *Water service discontinued.*

(a) If violations are not corrected by the date and time as stated on the notice, the water supply will be discontinued by the Water and Sewer Division.

(b) Discontinued water service shall not be resumed until conditions at the customer's premises have been abated or corrected to the satisfaction of the Water and Sewer Division.

(3) *No water service connection.* No water service connection shall be installed on the premises of any customer unless the public potable water system is protected as required by this section.

(4) *Emergency.* In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination, the water service shall be discontinued by the water and sewer division immediately without notice.

(H) *Right of entry.* For the purpose of making any inspections or discharging the duties imposed by this section, the Water and Sewer Division of the city, the state health department, and/or plumbing inspector shall have the right to enter upon the premises of any customer. Each customer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premises by the Water and Sewer Division of the city, the state health department, and/or plumbing inspector for the purpose stated herein.

(I) *Ownership.* Backflow prevention assemblies required by this section will be installed downstream of the water meter and are owned by, and are the responsibility of the customer of the water utility.

(J) *Installation and costs.* Customers of the city water utility requiring backflow prevention assemblies shall pay all costs associated with installation of the appropriate size and type of backflow preventer under private contract. Backflow prevention assemblies shall be installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures*. The Water and Sewer Division shall review and approve all plans for placement of backflow preventers prior to installation. Backflow prevention assemblies not installed in accordance with the requirements of the city's *Cross-Connection Control Program: Handbook of Policies and Procedures* shall be corrected at the customer's expense.

(K) *Testing and maintenance.* The customer or the contractor responsible for the installation of the backflow prevention assembly will notify the Water and Sewer Division immediately after installation of the assembly so that it can be tested and inspected. The Water and Sewer Division will inspect and test the backflow prevention assembly within ten days of the installation date and annually thereafter. In instances where the Water and Sewer Division, the City of Fayetteville, and/or the plumbing inspector deems the hazard to be great enough, testing may be required at more frequent intervals. All costs of testing shall be paid by the customer. Any repairs required as a result of inspections or testing shall be arranged for and paid by the customer through private contract with a certified assembly repair technician. Records of inspections, testing, and/or repairs to backflow preventers shall be kept by the Water and Sewer Division and/or the city and made available to the state health department upon request.

(L) *New construction.* All new construction within the city be effected upon the passage of this section. All existing customer premises shall be in compliance with this section in accordance with the notification by the water utility.

(M) *Thermal expansion.* It is the responsibility of the customer to eliminate possible hazards caused by thermal expansion if a closed system has been created by the installation of a backflow assembly.

(Ord. No. 4140, §1, 2-2-99; Code 1991, §51.146)

51.147-51.998 Reserved

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51.999 Penalty

- (A) The use or withdrawal of water by any person when prohibited under the terms of §51.001 is declared to be a misdemeanor punishable by a fine of not more than \$25.00; however, if the violation of said sections is continuous in respect to time, the penalty for the continuation thereof shall not exceed \$15.00 for each day that the same is continued.
- (B) It is hereby declared to be a misdemeanor for any person to fail, neglect, or refuse to connect to a city sewer line within the time prescribed by §51.110. Said misdemeanor shall be punishable by a fine in the amount of \$25.00 for the first offense, and shall be punishable by a fine of \$15.00 for each day that such violation continues.
- (C) Any user who is found to have violated an order of the City Council under this chapter (except as set forth in (A) or (B) above), or who violates or knowingly fails to comply with any provision of this chapter or the orders, rules, regulations, and/or permits issued hereunder, shall, upon conviction, be fined as set forth in §10.99 for such offense. Each day on which a violation shall occur or continue shall be deemed a separate or distinct offense. In addition to the penalties provided herein, the city may recover the expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.
- (D) Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished by a fine as set forth in §10.99.

(Code 1965, §§21-1.9, 21-5.1(c), 21-144; Ord. No. 1742, 6-1-70; Ord. No. 1757, 8-17-70; Ord. No. 2095, 4-1-75; Ord. No. 3250, 3-17-87; Code 1991, §51.999)

State law reference(s)—Powers of authority generally, A.C.A. §14-143-109.

Exhibit A

FAYETTEVILLE CODE OF ORDINANCES TITLE V PUBLIC WORKS

ARTICLE III DISCHARGE AND PRETREATMENT REGULATIONS

51.070 Purpose

This article sets forth standards and requirements for users of the Water Resource Recovery Facility (WRRF) for the City of Fayetteville and enables the city to comply with all applicable federal and state laws, including Clean Water Act (33 U.S.C. §1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are:

- (A) To prevent the introduction of pollutants into the WRRF that will interfere with its operation or contaminate its resulting biosolids;
- (B) To prevent the introduction of pollutants into the WRRF which will pass through the WRRF, inadequately treated, into receiving waters or otherwise be incompatible with the WRRF;
- (C) To protect both WRRF personnel who may be affected by wastewater and biosolids in the course of their employment and the general public;
- (D) To improve opportunities for reuse and recycling of wastewater and biosolids from the WRRF;
- (E) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the WRRF;
- (F) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other federal or state laws to which the WRRF is subject; and
- (G) To provide for penalties for violations of the regulations established herein.
- (H) To encourage pollution prevention through waste minimization, source reduction, reuse practices, recycling, and water and energy conservation.

This article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 3965, 5-7-96; Ord. No. 4088, §1, 4-7-98; Code 1991, §51.070)

51.071 Applicability

This article shall apply to all users of the WRRF.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, 4-7-98; Code 1991, §51.071)

51.072 Administration

Except as otherwise provided herein, the City, as defined in this article, shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the City may be delegated by the City to his/her authorized representative.

(Code 1991, §51.072)

51.073 Abbreviations

The following abbreviations shall have the designated meanings:

See table.

BOD	Biochemical oxygen demand
BMP	Best Management Practice
CFR	<i>Code of Federal Regulations</i>
CIU	Categorical Industrial User
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
NPDES	National Pollutant Discharge Elimination System
NAICS	North American Industrial Classification System
RCRA	Resource Conservation and Recovery Act
TSS	Total suspended solids
SIU	Significant Industrial User
SNC	Significant Noncompliance
U.S.C.	United States Code
WRRF	Water Resource Recovery Facility

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.073)

51.074 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Act or the Act. The Federal Water Pollution

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Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.

Approval Authority. Arkansas Department of Environmental Quality.

Authorized signatory or authorized or duly authorized representative of the user.

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: A general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility: A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 51.075(B) (1) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration of milligrams per liter (mg/l).

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Article N, Parts 405-471.

Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City. The mayor or his/her duly authorized representative, or the City of Fayetteville, the Fayetteville City Council or its duly authorized representative. The City is the Control Authority as defined in 40 CFR 403.3(f)(1).

Control Authority. The City.

Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the City.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic waste. Liquid and water-carried waste

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generated by a typical household or waste comprised of waste equivalent to that generated by a typical household - human excrement and gray water (household showers, dishwashing operations, etc.). This does not include waste from commercial or industrial processes whether generated at a household or other premises.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or its authorized representative.

Existing source. Any source of discharge that is not a "New Source."

Grab sample. An individual sample collected over a period of time not to exceed 15 minutes.

Hauled Wastewater. Wastewater that is loaded to a tanker truck, a portable tank or other container and conveyed to another location for discharge. Hauled wastewater includes, but is not limited to, septic tank waste and portable toilet waste.

Indirect discharge or discharge. The introduction of pollutants into the WRRF from any nondomestic source.

Industrial user. A discharger into the WRRF of nondomestic wastewater.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WRRF, its treatment processes or operations or its biosolids processes, use or disposal and therefore, is a cause of a violation of the City's NPDES permit or a cause of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Instantaneous limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and

(b).

May. Discretionary or permissive.

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System (NPDES) permit. A permit issued to a WRRF or other discharger pursuant to §402 of the Act.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

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- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of §(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous onsite construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS was developed under the auspices of the Office of Management and Budget (OMB) and adopted in 1997 to replace the Standard Industrial Classification (SIC) system.

Pass through. A discharge which exits the WRRF into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES

permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pharmaceutical drug. Also referred to as medicine, medication or medicament, can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, biosolids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor).

Pollution Prevention (P2). Waste reduction prior to recycling, treatment, or disposal. Pollution prevention means "source reduction" as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources by conservation, or use of less toxic alternatives.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the WRRF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements. Any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, narrative BMPs, and local limits.

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Prohibited discharge standards or prohibited discharges. Prohibitions against the discharge of certain substances; these prohibitions appear in §51.075(B) of this article.

Qualified professional. A person who is proven to be competent or suited for a specific position or task.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. Mandatory.

Significant industrial user.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the WRRF (excluding sanitary, noncontract cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the WRRF treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the WRRF's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in (2) has no reasonable potential for adversely affecting the WRRF's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40 CFR 403.8(f)(6) determine that such user should not be considered a significant industrial user.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this article or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the City's regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code. A

classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

State. State of Arkansas.

Storm water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge. A service charge in addition to the normal monthly rate which shall be assessed to the significant industrial users who discharge into the city system wastewater having an average BOD concentration in excess of 300 milligrams per liter or an average TSS concentration in excess of 300 milligrams per liter.

Total suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under §307 (33 U.S.C. §1317) of the Act.

Treatment plant's effluent. The discharge from the wastewater treatment plant into the receiving stream.

User. Any person who contributes or permits the contribution of wastewater into the WRRF.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions.

Wastewater treatment plant. That portion of the WRRF which is designed to provide treatment of municipal sewage and compatible industrial waste.

Water Resource Recovery Facility (WRRF). A "treatment works," as defined by §212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The WRRF is the Publicly Owned Treatment Works or POTW as defined in 40 CFR 403.3(q).

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §2, 4-7-98; Code 1991, §51.074)

51.075 General Sewer Use Requirements

(A) Wastewater generated by development located in

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100-year floodplain not to be transported or treated by facilities constructed under EPA Project No. C-050366-01 for 50 years.

(1) For the purpose of this section area of existing development shall mean an area which, at the EPA issued a finding of no significant impact for EPA Project No. C-050366-01 was:

- (a) Occupied by existing structures or facilities;
- (b) Substantially surrounded by existing structures or facilities and which serves no significant independent natural floodplain function; or
- (c) Characterized by substantial investment in public infrastructure but which is only partially occupied by structures or facilities.

(2) No wastewater generated by development located in the 100-year floodplain shall be transported or treated by facilities constructed under EPA Project No. C-050366-01 for a period of 50 years from January 1, 1987, except that service may be provided to:

- (a) Areas of existing development in a floodplain;
- (b) Commercial or public facilities which by nature must be located in a floodplain;
- (c) Areas of projected growth if the environmental information document for EPA Project No. C-050366-01 demonstrates that proposed development will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of the Federal Emergency Management Agency (FEMA) and will have no significant impacts on natural functions and values of the floodplain; or
- (d) An area of projected growth if an environmental impact statement demonstrates that there is no practicable alternative to such growth, that such growth will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of FEMA, and that the benefits of such growth outweigh its environmental costs.

(B) *Prohibited discharge standards.*

(1) *General prohibitions.* No person shall introduce or cause to be introduced into the WRRF any pollutant or wastewater which causes, or has the potential to cause, pass through or interference. These general prohibitions apply to all users of the WRRF whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

(2) *Specific Prohibitions.* No person shall introduce or cause to be introduced into the WRRF the following pollutants, substances, or wastewater:

- (a) Pollutants which create a fire or explosive hazard in the WRRF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° Fahrenheit (60° C) using the test methods specified in 40 CFR 261.21;
- (b) Wastewater having a pH less than 5.0 or more than 12.4, or otherwise causing corrosive structural damage to the WRRF or equipment;
- (c) Solid or viscous substances including, but not limited to, fats, oil or grease of animal or vegetable in amounts which will cause obstruction of the flow in the WRRF resulting in interference but in no case solids greater than one-half inch in any dimension;
- (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the WRRF;
- (e) Wastewater having a temperature greater than 150° Fahrenheit (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° Fahrenheit (40° C);
- (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within

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- the WRRF in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the City in accordance with §51.076(D) of this article;
 - (i) Any liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
 - (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal or state regulations and approved by the City;
 - (l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the City;
 - (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - (n) Medical wastes or pharmaceutical drugs, except as specifically authorized by the City;
 - (o) Wastewater causing, alone or in conjunction with other sources, the WRRF to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
 - (p) Any substance which may cause the WRRF's effluent or other product of the WRRF such as residues, biosolids or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
 - (q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the WRRF;
 - (r) Any material into a manhole through its top unless specifically authorized by the City.
 - (s) Non-flushable wipes, non-dispersible wipes, and non-biodegradable wipes including, but not limited to, baby wipes, paper towels, dusting wipes, cleaning wipes, and disposable mop heads.
- Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WRRF.
- (C) *Categorical pretreatment standards or categorical standards.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. Users must comply with the categorical pretreatment standards. Categorical pretreatment standards are hereby incorporated.
- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
 - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 - (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 - (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (D) *Local limits.* To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the WRRF any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the City as

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required by Part III in City of Fayetteville NPDES permits No. AR0020010 and AR0050288 authorized by 40 CFR 403.5 (c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Part 2. At the discretion of the City, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the City, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The City may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, the City will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3).

- (E) *Right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WRRF.
- (F) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The City may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 3965, §§2, 3, Exh. A, 5-7-96; Ord. No. 4088, §3, 4-7-98; Code 1991, §51.075)

51.076 Pretreatment of Wastewater

- (A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in §51.075(B) of this article within the time limitations specified by EPA, the state, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review, and shall be acceptable by the City before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the

responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this article.

(B) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the City may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocated and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WRRF and determine the user's compliance with the requirements of this article.
 - (2) The City may require any person discharging into the WRRF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
 - (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the City and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.
 - (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
 - (5) At the City's discretion and when deemed necessary the industrial user shall have a licensed wastewater treatment operator on duty at all times when treating and discharging regulated wastewater to the City's collection system. Said operator shall meet the license or level of operator qualifications deemed necessary for proper treatment per Arkansas Pollution Control and Ecology Commission's Regulation #3.
- (C) *Accidental discharge/slugs control plans.* The City shall evaluate whether each significant industrial user needs an accidental discharge/slugs control plan or other action to control slug discharges.

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The City may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the City may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the City of any accidental or slug discharge, as required by §51.079(F) of this article. Such notification must also be given for any discharge which would violate any of the prohibited discharges in §51.075(B) of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(D) *Hauled wastewater.*

Hazardous waste will not be accepted by truck or liquid waste hauler at the WRRF.

- (1) Domestic waste haulers are required to submit an application to discharge liquid wastes. This application must be accompanied by a fee in accordance with §51.137(G). Hauled domestic waste may be introduced into the WRRF only at locations approved by the City and at such times as are established by the City. Such wastes shall not violate §51.075 of this article or any other requirements established by the City. A fee must be paid for each domestic waste load in accordance with §51.137(G). The City may require the domestic waste haulers to obtain wastewater discharge permits.
- (2) The City may require haulers of industrial waste to obtain wastewater discharge permits. The City may require generators of hauled industrial waste to obtain wastewater discharge permits. The City also may prohibit the disposal of hauled industrial waste. The

discharge of hauled industrial waste is subject to all other requirements of this article.

- (3) If the industrial waste is from a categorical user, the hauled wastewater must include waste analysis proving it meets the required limitations of its respective category.
- (4) Domestic waste haulers and industrial waste haulers may only discharge loads at locations designated by the City. No load may be discharged without prior consent of the City. The City may collect samples of each hauled load to ensure compliance with applicable standards. The City may require the hauler to provide a waste analysis of any load prior to discharge.
- (5) Domestic waste and industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. For industrial waste, the form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (6) Any waste not deemed domestic by the City will be handled on a case by case basis at the discretion of the City.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.076)

51.077 Wastewater Discharge Permit Application

(A) *Wastewater analysis.* When requested by the City, a user must submit information on the nature and characteristics of the user's wastewater within thirty (30) days of request, unless otherwise specified. The City is authorized to prepare a form for this purpose and may periodically require users to submit or update the information.

(B) *Wastewater discharge permit requirement.*

- (1) No significant industrial user shall discharge wastewater into the WRRF without first obtaining a wastewater discharge permit from the City, except a significant industrial user that has filed a timely application pursuant to §51.077(C) of this article may continue to discharge for the time period specified therein.

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- (2) The City may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in §51.082 through §51.084 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.
- (C) *Wastewater discharge permitting; existing connections.* Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the WRRF prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the City for a wastewater discharge permit in accordance with §51.077(E) of this article, and shall not cause or allow discharges to the WRRF to continue after 180 days of the effective date of this article except in accordance with a wastewater discharge permit issued by the City.
- (D) *Wastewater discharge permitting: new connections.* Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the WRRF must obtain such permit prior to the beginning or recommending of such discharge. An application for this wastewater discharge permit, in accordance with §51.077(E) of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.
- (E) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application accompanied by a fee in accordance with 51.137(H). The City may require a user to submit as part of an application the following information:
- (1) The information required by §51.079(A)(2) of this article;
 - (2) A comprehensive description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals (not just trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WRRF. A qualified professional must certify to the accuracy of this process narrative;
 - (3) Number of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge. A qualified professional must certify to the accuracy of this schematic(s);
 - (7) Time, average gallons per day discharged and duration of discharges; and
 - (8) Any other information as may be deemed necessary by the City to evaluate the wastewater discharge permit application.
 - (9) Pollution Prevention (P2) activities such as source reduction, waste minimization, environmental management systems, water and energy conservation, and use of less toxic alternatives.
- Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
- (F) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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(G) *Wastewater discharge permit decisions.* The City will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the City will determine whether or not to issue a wastewater discharge permit. The City may deny any application for a wastewater discharge permit.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.077)

51.078 Wastewater Discharge Permit Issuance Process

(A) *Wastewater discharge permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the City. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(B) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the City to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate biosolids management and disposal, and protect against damage to the WRRF.

(1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
- (b) A statement that the wastewater discharge permit is nontransferable except in accordance with §51.078 (E).
- (c) Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
- (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable

compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(f) Requirements to control Slug Discharge, if determined by the City to be necessary.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (c) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WRRF;
- (e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (g) Other conditions as deemed appropriate by the City to ensure compliance with this article, and federal and state laws, rules, and regulations.
- (h) A licensed wastewater operator as deemed necessary on duty at all times

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of treatment and discharge of regulated wastewater discharge to the City's collection system (per §51.076(B)(5)).

(C) *Wastewater discharge permit appeals.* A permittee may petition the City to reconsider the terms of a wastewater discharge permit within 30 days of notice of issuance of the discharge permit.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the City fails to act within 30 days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

(D) *Wastewater discharge permit modification.* The City may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the WRRF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating the permitted discharge poses a threat to the WRRF, WRRF personnel, the receiving waters, or threats to the WRRF's beneficial biosolids use;
- (5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit;

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with 51.078(E).

(E) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator if the permittee gives at least seven days advance notice to the City, provides a copy of the existing permit to the new owner or operator, and the City approves the wastewater discharge permit transfer. The notice to the City must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(F) *Wastewater discharge permit revocation.* The City may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the City of changed conditions pursuant to §51.079(E) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

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- (4) Falsifying self-monitoring or other reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the City timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

- (G) *Wastewater discharge permit re-issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with §51.077(E) of this article, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.
- (H) *Regulation of waste received from other jurisdictions.*

- (1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the WRRF, the City shall enter into an interjurisdictional agreement with the contributing jurisdiction; enter into an agreement with, or permit, users located in another jurisdiction; or both. Certain hauled wastewater may be exempted from the requirements of this paragraph with specific authorization by the City.
- (2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:
 - (a) A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent

as this article and local limits which are at least as stringent as those set out in §51.075(D) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and/or local limits;

- (b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
- (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the City; and which of these activities will be conducted jointly by the contributing jurisdiction and the City;
- (d) A requirement for the contributing jurisdiction to provide the City with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
- (e) A provision insuring the City access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City; and
- (f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §§4, 5, 4-7-98; Code 1991, §51.078)

51.079 Reporting Requirements

(A) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the WRRF shall submit to the City a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical

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standard, shall be required to submit to the City a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(b) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(c) *Description of operations.* A comprehensive narrative description of the nature, average rate of production, all applicable NAICS and standard industrial classifications of the operation(s) carried out by such user. This description should include a comprehensive schematic process diagram which indicates points of discharge to the WRRF from the regulated processes. A qualified professional must certify to the accuracy of this process narrative and wastewater flow schematics.

(d) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the WRRF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) *Measurement of pollutants.*

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average

concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §51.079(J) of this article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable standards to determine compliance with the standard.

(iii) Sampling must be performed in accordance with procedures set out in §51.079(K) of this article.

(f) *Certification.* A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

(g) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §51.079(B) of this article.

(h) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with §51.077(F) of this article.

(B) *Compliance schedule progress report.* The following conditions shall apply to the compliance schedule required by §51.079(A)(2)(g) of this article:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events

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include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation);

- (2) No increment referred to above shall exceed nine months;
- (3) The user shall submit a progress report to the City not later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine months elapse between such progress reports to the City.

(C) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WRRF, any user subject to such pretreatment standards and requirements shall submit to the City a report containing the information described in §51.079(A)(2)(d) through (f) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §51.077(F) of this article.

(D) *Periodic compliance reports.*

- (1) All significant industrial users shall, at a frequency determined by the City but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the

user must submit documentation required by the City or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with §51.077(F) of this article.

- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the City, using the procedures prescribed in §51.079(J) and §51.079(K) of this article, the results of this monitoring shall be included in the report.

(E) *Report of changed conditions.* Each user must notify the City of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The City may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §51.077(E) of this article.
- (2) The City may issue a wastewater discharge permit under §51.077(G) of this article or modify an existing wastewater discharge permit under §51.078(D) of this article in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow changes of 20% or greater, and the discharge of any previously unreported pollutants.

(F) *Reports of potential problems.*

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the WRRF (including a violation of the prohibited discharge standards in §51.075(B)

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of this article), the user shall immediately telephone and notify the City of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

- (2) Within five business days following such discharge, the user shall, unless waived by the City, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WRRF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed pursuant to this article.
- (3) If required by the City, a notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
- (4) Significant industrial users are required to notify the City immediately of any changes at its facility affecting the potential for a slug discharge.

(G) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the City.

(H) *Notification of violation/repeat sampling and reporting.*

- (1) If sampling performed by a user indicates a violation, the user must notify the City as soon as possible but no later than 24 hours after becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the City within the time period specified by the City but at no time later than 30 days after becoming aware of the violation. The user may not be required to resample if the City samples between the user's initial sampling and when the user receives the results of this sampling.
- (2) If the City performed the sampling and analysis in lieu of the industrial user, the City will perform the repeat sampling and analysis

unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(I) *Notification of the discharge of hazardous waste.*

- (1) Any person who commences the discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) of any discharge into the WRRF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the WRRF, the notification shall also contain the following information to the extent such information is known and readily available to the user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications to the City must be made prior to the commencement of the discharge. Notifications of changed conditions must be submitted under Section §51.079(E) of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections §51.079(A), (C), and (D) of this ordinance.
- (2) In the case of any new regulations under §3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the City, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (3) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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- (4) This reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

- (J) *Certification of Permit Applications and User Reports.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section §51.077; users submitting baseline monitoring reports under Section §51.079(A); users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section §51.079(C); users submitting periodic compliance reports required by Section §51.079(D) (1)-(3). The following certification statement must be signed by an Authorized Representative as defined in Section §51.074:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (J) *Analytical requirements.*

- (1) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (2) All independent laboratories performing analyses for users, including, but not limited to, self-monitoring, periodic reports on continuing compliance, baseline monitoring reports and/or split sample verification, shall be certified by the ADEQ Laboratory Certification Program for the specific analysis being performed. The City reserves the right

to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

- (K) *Sample collection.*

- (1) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (2) Except as indicated in subsection (3) and (4), below, the user must collect wastewater samples using 24-hr flow-proportional composite collection techniques. In the event flow proportional sampling is infeasible, the City may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (3) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- (4) For sampling required in support of baseline monitoring and 90-day compliance reports required in §§51.079(A) and (C), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by §51.079(D), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

- (L) *Date of Receipt of Reports.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

- (M) *Record keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any

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monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under 51.075(D). Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the U.S. EPA, state, or City.

(Code 1991, §51.079; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §6, 4-7-98)

51.080 Compliance Monitoring

(A) *Right of entry; inspection and sampling.* The City shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The City shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The City may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to

the City upon request.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (3) Unreasonable delays in allowing the City access to the user's premises shall be a violation of this article.
- (B) *Search warrants.* If the City has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of a search warrant from the city district court.

(Code 1991, §51.080)

51.081 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Code 1991, §51.081)

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51.082 Publication of Users in Significant Noncompliance

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City's WRRF, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in 51.074;
- (B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 51.074 multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- (C) Any other violation of a pretreatment standard or requirement as defined by 51.074 (daily maximum, long term average, instantaneous limit, or narrative standard) that the City determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city or WRRF personnel or the general public;
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within forty five (45) after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on

compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation(s), which may include a violation of Best Management Practices, which the City determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1991, §51.082; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §8, 4-7-98)

51.083 Administrative Enforcement Remedies

- (A) *Notice of violation.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City shall serve upon such user either an informal warning or a written notice of violation. Within five business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a notice of violation.
- (B) *Consent orders.* The City may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §51.083(D) and §51.083(E) of this article and shall be judicially enforceable.
- (C) *Show cause hearing.* The City may order a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show

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cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(D) *Compliance orders.* When the City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance ordinances may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(E) *Cease and desist orders.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(F) *Administrative charges.*

- (1) When the City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may charge such user in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. The City may add the costs of administrative enforcement actions, such as notices and orders, to the charge.
- (2) Users desiring to dispute such charges must file a written request with the City Clerk within ten (10) working days of being notified of the charge. The Sewer Committee shall convene a hearing on the matter. In the event the charge is upheld by the Sewer Committee, the City may also add the costs of the appeal, such as notices and orders, to the charge.
- (3) Issuance of an administrative charge shall not be a bar against, or a prerequisite for, taking any other action against the user.

(G) *Emergency suspensions.* The City may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WRRF, or which presents or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the WRRF, its receiving stream, or endangerment to any individuals. The City may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in §51.083(H) of this article are initiated against the user.

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- (2) If necessary, severance of the sewer connection or water service may occur without notice.
- (3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City within five business days.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

- (H) *Termination of discharge.* Any user that violates the conditions in §51.078(F) of this article is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §51.083(C) of this article why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 1991, §51.083; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.084 Judicial Enforcement Remedies

- (A) *Injunctive relief.* When the City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the appropriate court through the City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) *Civil penalties.*

- (1) A user which has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a

monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

- (2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) *Criminal penalties.*

- (1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day.

- (2) A user who willfully or negligently introduces any substance into the WRRF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- (D) *Cost recovery.* The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost

FAYETTEVILLE CODE OF ORDINANCES
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of any actual damages or fines incurred by the City.

- (E) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan within the City's Pretreatment Program. However, the City may take other action against any user, including but not limiting to, misdemeanor and felony fines and imprisonment when the circumstances warrant.

(Code 1991, §51.084; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.085 Affirmative Defenses to Discharge Violations

(A) *Upset.*

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the user can identify the cause(s) of the upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The user has submitted the following information to the City as soon as possible but no later than 24 hours after becoming aware of the upset. If this information is provided orally, a written submission must be provided within five

business days:

- (i) A description of the indirect discharge and cause of noncompliance;
- (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
- (iv) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- (4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- (5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

- (B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in §51.075(B)(1) of this article or the specific prohibitions in §51.075(B)(2)(c) through (r), except for §51.075(B)(2)(h), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

interference, was in compliance with applicable biosolids use or disposal requirements.

(C) *Bypass.*

(1) For the purposes of this section:

- (a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

(3) Notice.

- (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City, at least ten business days before the date of the bypass, if possible.
- (b) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five business days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Bypass Prohibited; Exceptions.

- (a) Bypass is prohibited, and the City may take an enforcement action against a user for a bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (3) of this section.
- (b) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

(Code 1991, §51.085; Ord. No. 3965, §2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §7, 4-7-98)

51.086 Miscellaneous Provisions

(A) *Pretreatment charges and fees.* The City may adopt reasonable fees for reimbursement of the costs of development and administration of the City's pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and

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- (5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties, chargeable by the City.
- (B) *Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
- (C) *Conflicts.* All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article, are hereby repealed to the extent of the inconsistency or conflict.

(Code 1991, §51.086; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.087 Surcharge

- (A) Any significant industrial user generating discharge which exhibits none of the characteristics of wastes prohibited in §51.075 but which has an average concentration of surcharge parameters in 51.137(E) in excess of the allowed strengths in 51.137(E) during a 24-hour period, may be required to obtain a discharge permit. Such discharge may, however, be accepted by the WRRF for treatment in accordance with Extra Strength Surcharge requirements in 51.137(E).
- (B) The City reserves the right to review and approve any waters or industrial waste entering the city's sewer system or proposed to be discharged into the system having an average daily flow greater than 10% of the design flow capacity of the plant which will treat the waste. In the event the city's measurement discloses such flow in excess of such capacity, the city shall be under no obligation to receive such flow in excess of 10% of designed capacity and the city's published rate shall not apply to such excess. An owner affected hereby shall be promptly notified of such determination by the City. A special contract, at the city's option, may be made with the user to accommodate such excess flow.

(Code 1991, §51.087)

51.088-51.109 Reserved

Exhibit B

(E) Extra Strength Surcharge.

- (1) For all significant industrial users as defined in §51.074, whose wastewater discharge is greater than 300 mg/l of BOD₅ and/or TSS, the City shall levy an Extra Strength Surcharge for each parameter in accordance with the following unit charges:

Table F3 Extra Strength Surcharges	
	After 12/1/2011
Extra Strength BOD ₅	\$0.3145 per pound
Extra Strength TSS	\$0.2209 per pound

- (2) Starting after December 31, 2011, Extra Strength Surcharges shall be increased by 3% per year.
- (3) Extra Strength Surcharges shall be billed monthly and shall be computed on the basis of water meter reading (wastewater discharge volume).
- (4) All sampling and analyses of the wastewater characteristics shall be performed in accordance with U.S. Environmental Protection Agency 40 Code of Federal Regulations Part 136 approved methods.
- (5) The volume of flow used in computing surcharge shall be based upon metered water consumption as shown in the records of meter readings maintained by the city's business office. In the event that a user discharging waste into the city sanitary sewer system produces evidence to the city demonstrating that a portion of the total amount of water used for all purposes is not discharged into the sanitary sewer, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon its request, to measure only that portion of the total flow being discharged into the city sewer system. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.
- (6) Any person discharging industrial waste into the sanitary sewers of the city who procures any part or all of the user's water supply from sources other than the city, all or part of which is discharged into the sanitary sewer, shall install and maintain at the user's expense water meters of the type approved by the city for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meter will be read monthly and tested for accuracy when

deemed necessary by the city. Where it can be shown that a portion of the water measured by the aforesaid meter or meters does not enter the sanitary sewer system of the city, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon its request, to measure only that portion of the total flow being discharged into the city sewer system. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.

- (7) Computation of extra strength surcharges shall be based on the following formula:

(a) Extra strength surcharge:

$$S = V \times 8.34 \times [\text{BOD Unit Charge (BOD - 300)} + \text{SS Unit Charge (TSS - 300)}]$$

(b) Where:

$$S = \text{Surcharge in dollars}$$

$$V = \text{Sewer volume in million gallons}$$

$$8.34 = \text{Pounds per gallon of water}$$

$$\text{BOD Unit Charge} = \text{Unit charge for BOD in dollars per pound}$$

$$\text{BOD} = \text{BOD strength in parts per million}$$

$$300 = \text{Allowed BOD strength in parts per million}$$

$$\text{TSS Unit Charge} = \text{Unit charge for suspended solids in dollars per pound}$$

$$\text{TSS} = \text{Suspended solids strength in parts per million}$$

$$300 = \text{Allowed TSS Strength in parts per million}$$



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0008

Agenda Date: 2/3/2015

Version: 1

Status: First Reading

In Control: City Council

File Type: Ordinance

Agenda Number: B. 3

ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS:

AN ORDINANCE TO ENACT ARTICLE III **PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS** OF CHAPTER 36: **ELECTIONS** INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

WHEREAS, Amendment 7 of the Arkansas Constitution (now codified as **Article 5 § 1**) states: "Municipalities may provide for the exercise of the initiative and referendum as to their local legislation;" and

WHEREAS, the State Legislature has been granted express authority to provide "for the exercise of the initiative and referendum as to counties," (**Amendment 7 of the Arkansas Constitution**) and has enacted A.C.A. § 14-14-917 **Initiative and referendum elections** to provide for the proper exercise of the initiative and referendum for county ordinances; and

WHEREAS, the lack of clarity for proper municipal referendum procedure led to litigation against Mayor Jordan, the City Council and City Clerk Sondra Smith after she certified the last referendum petition for a special election; and

WHEREAS, this litigation can be avoided in the future if the City enacts proper procedures modeled upon long established state law for state and county initiatives and referendums.

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 Article III **Procedure To Exercise Initiative and Referendum Rights** of Chapter 36: **Elections** into the Fayetteville Code to clarify the proper procedure for the citizens' right of the initiative and referendum for municipal legislation as follows:

"Article III Procedure To Exercise Initiative And Referendum Rights

§ 36.20 Initiative and Referendum Petitions

Pursuant to **Article 5 § 1 of the Arkansas Constitution**, the City establishes the following procedure for

the exercise of the citizens' right of the initiative and referendum of city legislation.

(a) Petitions Must Be Submitted To City Attorney For Certification Or Correction.

Before any initiative or referendum petition ordering a vote upon any municipal legislation shall be circulated to obtain signatures, the sponsor shall submit the original draft of the petition with the attached legislation to the City Attorney with any proposed legislative or ballot title.

(b) Review And Certification Or Correction Within Two Business Days.

(1) Within two business days, the City Attorney shall approve and certify or shall substitute and certify a more suitable and correct petition and/or ballot title.

(2) The City Attorney shall ensure the form of any initiative petition complies with A.C.A. § 7-9-104.

(3) The City Attorney shall ensure the form of any referendum petition complies with A.C.A. § 7-9-105.

(4) The City Attorney shall ensure that any ballot title conforms with A.C.A. § 14-14-917 (d) and A.C.A. § 7-9-107 (c) so as not to be misleading to voters.

(c) Appeal To Circuit Court.

If the City Attorney fails to act within two business days after receipt of the proposed initiative or referendum petition or if the sponsors feel aggrieved by the City Attorney's actions or proposal, they may immediately file suit in the Washington County Circuit Court.

(d) Extension Of Time For Petitioners May Be Granted By Circuit Court.

If the Circuit Court grants the sponsors their requested relief related to the proper form of the petition or ballot title, the time when the referendum petitions must be filed shall be extended until 31 days after the Court's decision is announced as long as **Article 5 § 1 of the Arkansas Constitution's** provision of a maximum 90 days after the passage of the legislature is not violated."

AGENDA REQUEST FORM

FOR: City Council Meeting of January 20, 2015

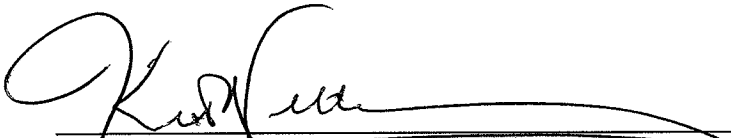
FROM:

City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO ENACT ARTICLE III PROCEDURE TO EXERCISE
INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS
INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE
FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

APPROVED FOR AGENDA:


City Attorney Kit Williams

January 2, 2015
Date

Paul a. Becker
Paul Becker, Finance Director

JANUARY 5, 2015
Date

Don Marr
Don Marr, Chief of Staff

1/5/2015
Date

Lionel Jordan
Mayor Lioneld Jordan

1/6/15
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor
City Council

FROM: Kit Williams, City Attorney

DATE: December 23, 2014

RE: **Avoiding future litigation over ballot language for initiated or referred local legislation**

Prior to the recent referendum concerning the Civil Rights Administration ordinance, Fayetteville had not been forced into any litigation over a referendum's or initiative's proposed ballot language. Referral of the Road Impact Fee and Smoking Ordinance complied with the tests set forth for state legislation referendums and initiatives {A.C.A. § 7-9-107 (c)} and the forms set forth for county ordinances {A.C.A. § 14-14-917 (d)}. However, neither of these statutes are controlling over the referendum or initiative of city ordinance because Amendment 7, now codified as **Article 5 § 1** of the **Arkansas Constitution** places procedural power in the City Council.

"Municipalities may provide for the exercise of the initiative and referendum as to their local legislation."

This is only a general grant of procedural power to municipalities which must still follow other provisions of the **Arkansas Constitution** regarding how many signatures of local voters need to be obtained and the time period for the petition sponsors to gather such signatures. Other constitutional procedures including submission of the petitions of the City Clerk, the Clerk's examination and decision regarding the petition's

sufficiency and the granting of additional time to the sponsors must be followed and cannot be varied by local legislation.

In order to avoid future litigation, to bring our procedure in line with state and county referendums and initiatives, and to eliminate potentially misleading wording in referendums rejected by state law {A.C.A. § 7-9-107 (c)}, I have drafted a proposed new section to be enacted into **Chapter 36: Elections of the Fayetteville Code**. This proposal is attached to this memo.

This proposed ordinance is one of the rare times that I believe it is appropriate to have any legislation proposed by an elected official other than an Aldermen or the Mayor (through his staff). I believe I am empowered to present such ordinance because it concerns a legal issue for the **Fayetteville Code** and especially because it generated litigation in which Fayetteville was recently sued by opponents of a referendum in Circuit Court. That suit brought to my attention the need for local legislation as authorized by **Article 5 § 1** of the **Arkansas Constitution** to clarify proper procedure and wording of any initiative or referendum of local legislation.

As you see, I placed a difficult, but obtainable burden on myself and my successors as Fayetteville City Attorney to quickly examine, analyze and either certify or correct any proposed initiative or referendum petition within two business days. Such rapid analysis is always necessary for referendum petitions and could be necessary for initiative petitions.

Please review my proposed ordinance and let me know if you believe changes, additions or deletions would be advisable. I plan to submit this with the Tentative Agenda for the January 20th City Council meeting.

§ 7-9-104. Form of initiative petition -- Sufficiency of signatures.

(a) The petition for an ordinance, act, or amendment proposed by initiative shall be on substantially the following form:

Initiative Petition

(b) The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all the information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

(c) No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

(d) (1) The signature section of the petition shall be formatted and shall contain the number of signature lines prescribed by the Secretary of State.

(2) Before the circulation of a statewide petition for signatures, the sponsor shall file a printed petition part with the Secretary of State in the exact form that will be used for obtaining signatures.

§ 7-9-105. Form of referendum petition -- Sufficiency of signatures.

(a) The petition and order of referendum for an ordinance or act shall be on substantially the following form:

Referendum Petition

(b) The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all of that information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

(c) No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

(d) (1) The signature section of the petition shall be formatted and shall contain the number of signature lines as prescribed by the Secretary of State.

(2) Before the circulation of a statewide petition for signatures, the sponsor shall file a printed petition part with the Secretary of State in the exact form that will be used for obtaining signatures.

§ 7-9-107. Approval of ballot titles and popular names of petitions prior to circulation -- Publication.

(a) Before any initiative or referendum petition ordering a vote upon any amendment or act shall be circulated for obtaining signatures of petitioners, the sponsors shall submit the original draft to the Attorney General, with a proposed legislative or ballot title and popular name.

(b) Within ten (10) days, the Attorney General shall approve and certify or shall substitute and certify a more suitable and correct ballot title and popular name for each amendment or act. The ballot title so submitted or supplied by the Attorney General shall briefly and concisely state the purpose of the proposed measure.

(c) If, as a result of his or her review of the ballot title and popular name of a proposed initiated act or a proposed amendment to the Arkansas Constitution, the Attorney General determines that the ballot title, or the nature of the issue, is presented in such manner that the ballot title would be misleading or designed in such manner that a vote "FOR" the issue would be a vote against the matter or viewpoint that the voter believes himself or herself casting a vote for, or, conversely, that a vote "AGAINST" an issue would be a vote for a viewpoint that the voter is against, the Attorney General may reject the entire ballot title, popular name, and petition and state his or her reasons therefor and instruct the petitioners to redesign the proposed measure and the ballot title and popular name in a manner that would not be misleading.

(d) If the Attorney General refuses to act or if the sponsors feel aggrieved at the Attorney General's acts in such premises, the sponsors may, by petition, apply to the Supreme Court for proper relief.

§ 14-14-917. Initiative and referendum elections.

(d) **Ballot Specifications for Initiative and Referendum Measures.** Upon receipt of any initiative or referendum measure certified as sufficient by a county clerk, it shall be the duty of the members of the county board of election commissioners to take due cognizance and to certify the results of the vote cast thereon. So that

electors may vote upon the ordinance or measure, the board shall cause the ballot title to be placed on the ballot to be used in the election, stating plainly and separately the title of the ordinance or measure so initiated or referred to the electors with these words:

"FOR PROPOSED INITIATIVE (OR
REFERRED) ORDINANCE (OR
AMENDMENT)

NO. _____

AGAINST PROPOSED INITIATIVE (OR
REFERRED) ORDINANCE (OR
AMENDMENT)

NO. _____"

In arranging the ballot title on the ballot, the commissioners shall place it separate and apart from the ballot titles of the state acts, constitutional amendments, and the like. If the board of election commissioners fails or refuses to submit a proposed initiative or referendum ordinance when it is properly petitioned and certified as sufficient, the qualified electors of the county may vote for or against the ordinance or measure by writing or stamping on their ballots the proposed ballot title, followed by the word "FOR" or "AGAINST", and a majority of the votes so cast shall be sufficient to adopt or reject the proposed ordinance.

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

CHAPTER 36: ELECTIONS

**ARTICLE I
GENERAL PROVISIONS**

**36.01 Initiative Petitions; When To Be
Filed**

All municipal initiative petitions shall be filed pursuant to Amendment 7 of the Constitution of the State of Arkansas found in Article 5 §1 of the Arkansas Constitution. These initiative petitions shall be filed no later than 83 days before the general election date.

(Code 1965, §2-22.1; Ord. No. 2472, 10-3-78; Code 1991, §36.01; Ord. 5528, 9-18-12)

State law reference(s)--Form of initiative petition--sufficiency of signatures, A.C.A. §7-9-104.

36.02-36.14 Reserved

**ARTICLE II
REFERENDUMS**

36.15 When Petition To Be Filed

All referendum petitions under Amendment 7 to the Constitution of the State of Arkansas must be filed with the City Clerk within 31 days after the passage of the ordinance to which it relates.

(Code 1965, §2-19; Ord. No. 588, 12-21-25; Code 1991, §36.15)

State law reference(s)--Form of referendum petition--sufficiency of signatures, A.C.A. §7-9-105(a).

36.16 – 36.99 Reserved

ORDINANCE NO. _____

AN ORDINANCE TO ENACT ARTICLE III **PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS** OF CHAPTER 36: **ELECTIONS** INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

WHEREAS, *Amendment 7 of the Arkansas Constitution* (now codified as **Article 5 § 1**) states: "Municipalities may provide for the exercise of the initiative and referendum as to their local legislation;" and

WHEREAS, the State Legislature has been granted express authority to provide "for the exercise of the initiative and referendum as to counties," (*Amendment 7 of the Arkansas Constitution*) and has enacted A.C.A. § 14-14-917 **Initiative and referendum elections** to provide for the proper exercise of the initiative and referendum for county ordinances; and

WHEREAS, the lack of clarity for proper municipal referendum procedure led to litigation against Mayor Jordan, the City Council and City Clerk Sondra Smith after she certified the last referendum petition for a special election; and

WHEREAS, this litigation can be avoided in the future if the City enacts proper procedures modeled upon long established state law for state and county initiatives and referendums.

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 **Article III Procedure To Exercise Initiative and Referendum Rights** of Chapter 36: **Elections** into the Fayetteville Code to clarify the proper procedure for the citizens' right of the initiative and referendum for municipal legislation as follows:

“Article III Procedure To Exercise Initiative And Referendum Rights

§ 36.20 Initiative and Referendum Petitions

Pursuant to **Article 5 § 1 of the Arkansas Constitution**, the City establishes the following procedure for the exercise of the citizens’ right of the initiative and referendum of city legislation.

(a) *Petitions Must Be Submitted To City Attorney For Certification Or Correction.*

Before any initiative or referendum petition ordering a vote upon any municipal legislation shall be circulated to obtain signatures, the sponsor shall submit the original draft of the petition with the attached legislation to the City Attorney with any proposed legislative or ballot title.

(b) *Review And Certification Or Correction Within Two Business Days.*

(1) Within two business days, the City Attorney shall approve and certify or shall substitute and certify a more suitable and correct petition and/or ballot title.

(2) The City Attorney shall ensure the form of any initiative petition complies with A.C.A. § 7-9-104.

(3) The City Attorney shall ensure the form of any referendum petition complies with A.C.A. § 7-9-105.

(4) The City Attorney shall ensure that any ballot title conforms with A.C.A. § 14-14-917 (d) and A.C.A. § 7-9-107 (c) so as not to be misleading to voters.

(c) *Appeal To Circuit Court.*

If the City Attorney fails to act within two business days after receipt of the proposed initiative or referendum petition or if the sponsors feel aggrieved by the City Attorney’s actions or proposal, they may immediately file suit in the Washington County Circuit Court.

(d) *Extension Of Time For Petitioners May Be Granted By Circuit Court.*

If the Circuit Court grants the sponsors their requested relief related to the proper form of the petition or ballot title, the time when the referendum petitions must be filed shall be extended until 31 days after the Court’s decision is

announced as long as **Article 5 § 1 of the *Arkansas Constitution***'s provision of a maximum 90 days after the passage of the legislature is not violated."

PASSED and **APPROVED** this 20th day of January, 2015.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney

DATE: January 20, 2015

RE: Need for referendum procedural ordinance

There has been some question in the press about why I would submit for your consideration an ordinance to clarify that municipal ordinance referendums should follow the same forms and procedures as county ordinance referendums and state statute referendums. It is alleged I seek to give the City government unfair control over ballot language for referendums. However, I merely think that city ordinance referendum proponents should follow the same procedures as they would to challenge a county ordinance or State Act. Is it unfair to treat city ordinances the exact same way the State Legislature has required county ordinances and State Acts be treated in a referendum?

Rather than mistreating referendum petitioners, I listened to the attorneys who represented Repeal 119. On August 23, 2014, Repeal 119's attorney, Stephanie Nichols, emailed me with questions about the referendum petition: "Do either of you know if a ballot title or popular name is required for a municipal referendum? We have not been able to get a definitive answer on that from the statutes, some of which seem to apply to municipalities and some do not." (copy of email attached).

When the City Council met on October 7, 2014 to set the special election date, Repeal 119's attorney Travis Story and I did not agree on

everything, but we did agree the law about referendums and ballot titles was "very murky."

I said: "What we agree on is that election law, especially on Municipal Referendums is really vague. There are no cases I could find where the Supreme Court has ever made any interpretation on Municipal Referendums. They make all their decisions on state actions and issues which are much better described by the statute. Maybe we could bring a little light into these referendum elections for municipal ordinances. Something needs to be done. I would ask the legislature to take another look at this and provide us some guidance like they do with counties. Counties have a very clear system about what their petitions and ballots are supposed to look like."

Then Travis Story said: "I agree with Mr. Williams that the law on this part is very murky and at this point we have agreed to disagree on the law. What we are trying to do, is do something short of throwing this into litigation. Nobody wants that."

Unfortunately, we got litigation when a citizen sued the whole City Council, Mayor Jordan and City Clerk Sondra Smith challenging the validity of Sondra's certification of the referendum petition, how the signatures were obtained and how the ballot was worded. Repeal 119 properly intervened and after motions, briefs, discovery, and depositions, Judge Lindsey conducted a trial over a two day period. I successfully defended the City Clerk's certification of the referendum petition and defeated Repeal 119's petition to force Sondra to evaluate and certify another thousand signatures which were not needed for the petitioner's certification.

I also supported the City Council's Resolution which would have worded the ballot as any county ordinance referendum would have been worded. I noted in Paragraph 40 of our Answer "that the language approved by the Election Commission does not exactly match the ballot title that was included in the certified petition," because it used a portion of the ordinance title instead of just numbers. The Judge ruled the slightly amended title proposed by the Election Commission was satisfactory.

The City might have been sued even without the “murky” nature of the law surrounding municipal ordinance referendums. However, this is the first time the City of Fayetteville has been sued over a referendum petition on ballot wording issues since I became Fayetteville City Attorney in 2001. I told you during the October 7, 2014 City Council meeting that “(s)omething needs to be done,” and, pursuant to Amendment 7, it is the City Council rather than the Legislature that has been granted the authority to “provide for the exercise of the initiative and referendum as to their local legislation.” However, I thought I should wait until the Civil Rights Ordinance issue was resolved before presenting anything to you.

Shortly after the 52/48 referendum election repealed the Civil Rights Administration Ordinance, there was some discussion about trying to amend it and reconsider that amended ordinance. I did not believe consensus could ever be achieved that way. However, I remembered Alderman Tennant’s strong statements during the November 18, 2014 City Council Meeting about not turning his back on the civil rights issue if what he termed the very flawed Civil Rights Administration ordinance was repealed. Alderman Tennant said: “I do hope that if the ordinance does not pass or if it is repealed that we will not turn away from this and we will do something that works for everyone and I intend to help with that.”

I thought that if I removed the uncertainties of new definitions and used the two decade old definitions of the Arkansas Civil Rights Act; if churches and other religious organizations were exempted even more fully than they are in the Arkansas Civil Rights Act; and if a civil enforcement measure (possible revocation of a business license) was proposed, then I could help Alderman Tennant advance his intention to “write something that is really inclusive instead of divisive.”

However, since no alderman approached me to sponsor this ordinance, my effort to find consensus has failed. I believe that Arkansas Legislature will soon remove the power of any Arkansas City to pass an ordinance to further protect its citizens from discrimination. Thus, Fayetteville will never face this civil rights issue again.

With the Civil Rights Ordinance no longer a possibility, I decided that I should still address the "very murky" law surrounding municipal ordinance referendum language. Thus, I have presented this possible code section to clarify the procedure for persons seeking to exercise their initiative or referendum rights. This code section basically says "Just follow the procedures and forms required by the State Legislature for referendums concerning state acts and county ordinances." Let's treat all referendums the same way, a level playing field, no voter surprise, no electioneering manipulation by either the government or the petitioners.

Some may think that our government treats those seeking to repeal its ordinances unfairly or tries to obstruct their referendum rights. Let me read you an email from Stephanie Nichols dated August 22, 2014 sent to City Clerk Sondra Smith and me:

"Thank you for your review. You always go above and beyond in your promptness and are one of the most easy to work with attorneys I have ever dealt with. I sincerely appreciate it and have told several Fayetteville citizens about your fairness and ease to work with. Have a great weekend! Stephanie Nichols."

The only reason I placed the responsibility to review and certify or correct a proposed referendum petition upon the City Attorney is to hopefully prevent a legally improper petition from being circulated and later being either rejected by the Court or having to be recirculated because of some mistake. As you see from Stephanie's email, Sondra and I do not try to obstruct a referendum, but instead help the applicants properly exercise their constitutional right for a referendum. We always favor democracy.

The two business day review should be a help, a boon to someone who probably has never had to prepare a referendum petition before. I am only aware of three referendum petition efforts in my fourteen years of service as City Attorney. Two were successful and one led to the repeal of an ordinance. This infrequency means that most persons, even most lawyers will have little experience. Therefore, it is fair to place this burden of review and correction on the City Attorney.

Williams, Kit

From: Williams, Kit
Sent: Monday, August 25, 2014 9:15 AM
To: Law Office of Stephanie Nichols; Smith, Sondra
Cc: Pennington, Blake
Subject: RE: Ballot Title/Popular Name?

Stephanie,

I think you have reduced the printing size of the ordinance too much and could make this a point of attack for your opponents. If the ordinance was not easily readable by every signer, the requirement of attaching the ordinance would not be achieved. I think a two sided page can contain the ordinance that would be large enough for almost anyone to read and thus, less susceptible to legal attack. It would need to be attached to each petition.

I anticipate that title of the ballot issue would tract pretty closely to the title of the ordinance. I agree that the statutes I have looked at are not nearly as clear for municipal referendums as for state referendums. I am working on other briefs that soon will be due and cannot spend too much time now researching this point.

Kit Williams

Fayetteville City Attorney
479.575.8313

From: Law Office of Stephanie Nichols [mailto:stephanie.nichols777@gmail.com]
Sent: Saturday, August 23, 2014 4:17 PM
To: Williams, Kit; Smith, Sondra
Subject: Ballot Title/Popular Name?

Kit and Sondra,

Local attorney Travis Story is working on a petition, and I am assisting him. He has revised the petition from what I sent you last night. (Thank you for the information, Sondra). Do either of you know if a ballot title and popular name is required for a municipal referendum? We have not been able to get a definitive answer on that from the statutes, some of which seem to apply to municipalities and some which do not. However, the form in the statute, which Sondra sent last night, does indicate a placement for a ballot title/popular name. Is this required, or is this something that can be left off when it is not a statewide initiative?

If it is required, does this petition drafted by Travis seem to present any problem as far as the ballot title/popular name portion? Do either of you see any other problems as well? (There are a couple of typos, but we can easily take care of that. I am just concerned with the substantive part right now). Also, is it OK to have the ordinance on one sheet behind the signature page like we have it? I can read it, but I didn't know if the smallness of the type could possibly present a problem?

Thanks,

--

Stephanie Nichols
Attorney at Law
P.O. Box 1115
Jonesboro, AR 72403
(501) 288-2927

might be the way to resolve this. Not put ourselves up as judges, but instead just do what we have done in the past, which I believe is correct. Travis believes it is not correct and another way to go. Maybe he's correct, but I don't know.

What we agree on is that election law, especially on municipal referendums is really vague. There are no cases that I could find where the Supreme Court has ever made any interpretation on municipal referendums. They make all their decisions on state actions and issues which are much better described by the statute. Maybe we could bring a little light into these referendum elections for municipal ordinances. Something needs to be done. I would ask the legislature to take another look at this and provide us some guidance like they do with counties. Counties have a very clear system about what their petitions and ballots are supposed to look like. The people that should decide are one step above us, which is the county.

Travis Story: I've spoken with the local Election Commission and members of the Election Commission for the State of Arkansas. The two things to be aware of is in November there are two referendum matters that are going to be voted on, on the Washington County ballot. Both from similar circumstances. It's people of other cities doing a petition to repeal city ordinances. There will be two petitions to repeal that have been certified now to the Election Commission for Washington County for the November General Election ballot. Both of those are laid out in a simple to repeal ordinance number, for or against repeal of that ordinance number.

I agree with Mr. Williams that the law on this part is very murky and at this point we have agreed to disagree on the law. What we are trying to do, is do something short of throwing this into litigation. Nobody wants that. We believe the residents of Fayetteville want the December 9, 2014 date. October 10, 2014 is the last day for the Election Commission to put this on the ballot. They have to have that in order to under their guidelines to be able to accomplish everything that needs to be done. We ask that what's placed in the resolution tonight would be what is on the ballot. Unfortunately for us, it's either good or bad. If someone says this is inappropriate and there is a legal challenge, then we'll have to deal with that. We ask that we don't cause the confusion which would end up having to be decided by the Election Commission and turned over to the county to deal with. We ask the only thing to be put in the resolution tonight, having anything to do with ballot language, would be exactly what we have submitted on all the petitions, that same language or something that says the language of the petition shall be the ballot language. That way we could work through the normal process. We believe it would be appropriate and allow the process to move forward smoothly at the county level so that the election could be scheduled and the will of the people to hold this election at a special election on December 9, 2014.

Alderman Adams: I understand you are a paid attorney representing this group. Are you a resident of Fayetteville?

Travis Story: I am not a resident of Fayetteville. I am a business owner in Fayetteville. This is one of those things where I wish I was a resident of Fayetteville.

Mayor Jordan: We are going to open it up for public comment. We will stay with the amendments first.

Williams, Kit

From: Law Office of Stephanie Nichols <stephanie.nichols777@gmail.com>
Sent: Friday, August 22, 2014 5:19 PM
To: Williams, Kit
Subject: Re: Final Copy of Petition

Thank you for your review. You always go above and beyond in your promptness and are one of the most easy to work with attorneys I have ever dealt with. I sincerely appreciate it and have told several Fayetteville citizens about your fairness and ease to work with.

Have a great weekend!

Stephanie Nichols

On Fri, Aug 22, 2014 at 5:12 PM, Williams, Kit <kwilliams@fayetteville-ar.gov> wrote:

I see no problems.

Kit Williams

Fayetteville City Attorney

479.575.8313

From: Law Office of Stephanie Nichols [mailto:stephanie.nichols777@gmail.com]
Sent: Friday, August 22, 2014 4:57 PM
To: Williams, Kit; Smith, Sondra
Subject: Final Copy of Petition

Kit and Sondra,

Here is my final draft of a petition re Chapter 119. Do either of you see any problems with this?

Thanks,

--



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0023

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Ordinance

Agenda Number: C. 1

RZN 14-4882 (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-PZD, Residential Planned Zoning District R-PZD 06-1884 Westside Village, to NS, Neighborhood Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

City of Fayetteville Staff Review Form

2015-0023

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jeremy Pate

1/16/2015

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 14-4882: Rezone (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE, 439): Submitted by PLANNING STAFF for property located ON THE EAST SIDE OF RUPPLE RD. NORTH OF THE BOYS AND GIRLS CLUB. The property is zoned R-PZD 06-1884, RESIDENTIAL PLANNED ZONING DISTRICT WESTSIDE VILLAGE and contains approximately 21.63 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF FEBRUARY 3, 2015

TO: Fayetteville City Council

THRU: Andrew Garner, Planning Director

FROM: Quin Thompson, Current Planner

DATE: January 16, 2015

SUBJECT: **RZN 14-4882: Rezone (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE, 439):** Submitted by PLANNING STAFF for property located ON THE EAST SIDE OF RUPPLE RD. NORTH OF THE BOYS AND GIRLS CLUB. The property is zoned R-PZD 06-1884, RESIDENTIAL PLANNED ZONING DISTRICT WESTSIDE VILLAGE and contains approximately 21.63 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

RECOMMENDATION:

The Planning Commission and City Planning Staff recommend approval of an ordinance to rezone the property to NS, Neighborhood Services.

BACKGROUND:

The subject property is located north of the Boys and Girls club at 618 Rupple Road, is zoned R-PZD, Residential Planned Zoning District / Westside Village (06-1884) and contains 21.63 acres. The PZD was approved on December 19, 2006, with a condition that Phase I receive all permits within one year, and that Phase II-V receive all permits within 8 years of City Council approval. This requirement has not been met, and the PZD expired on December 19, 2014.

The approved PZD proposed a mixed use development with 74,580 square feet of nonresidential space, 352 dwelling units (17.25 units/acre), and a total of 874 parking spaces.

The property is currently undeveloped with the exception of some drives and parking areas constructed as part of the PZD project that was never completed.

*City Plan 2030 Future Land Use Plan designates this site as the **Complete Neighborhood Plan/Wedington Corridor Plan Area**. Staff finds that the proposed zone is consistent with planning objectives, principles, and policies put forward in the Wedington Neighborhood Plan, which states that:*

"The utilization of the City's form based zoning districts will be essential to ensure that the development pattern prescribed here is walkable and urban. Form based zoning districts are also much more flexible in allowing for a variety of residential and commercial densities and intensities. This encourages a diverse mixture of

building types, scales and uses that are not separated from each other but instead are co-mingled to create a unified, sustainable and cohesive whole.”

The proposed zoning is compatible and consistent with the Wedington Corridor Plan vision for this property which calls for a variety and mix of nonresidential and residential uses.

Surrounding Land Use Compatibility: In staff’s opinion, this property is compatible with surrounding land uses. The property to the south is in use by the Boys and Girls Club. Property to the east is industrial, serving as material and equipment storage for Ozarks Electric. Across Ruppel Road, the land use is entirely single-family residential, with a density built to 10 units per acre. The NS zoning district allows residential uses and densities that will be compatible with the existing neighborhood. In the proposed zone, building heights are capped at 45 feet, and residential density is limited to 10 units per acre.

DISCUSSION:

On January 12, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

CC Ordinance

Exhibit A

Exhibit B

Planning Commission Staff Report

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Quin Thompson, Current Planner

MEETING DATE: ~~January 12, 2015~~ **UPDATED JANUARY 13, 2015**

SUBJECT: RZN 14-4882: Rezone (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE, 439): Submitted by PLANNING STAFF for property located ON THE EAST SIDE OF RUPPLE RD. NORTH OF THE BOYS AND GIRLS CLUB. The property is zoned R-PZD 06-1884, RESIDENTIAL PLANNED ZONING DISTRICT WESTSIDE VILLAGE and contains approximately 21.63 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

RECOMMENDATION:

Staff recommends forwarding of **RZN 14-4882** to the City Council with a recommendation for approval.

BACKGROUND:

The subject property is located north of the Boys and Girls club at 618 Rupple Road, is zoned R-PZD, Residential Planned Zoning District / Westside Village (06-1884) and contains 21.63 acres. The PZD was approved on December 19, 2006, with a condition that Phase I receive all permits within one year, and that Phase II-V receive all permits within 8 years of City Council approval. This requirement has not been met, and the PZD expired on December 19, 2014.

The approved PZD proposed a mixed use development with 74,580 square feet of nonresidential space, 352 dwelling units (17.25 units/acre), and a total of 874 parking spaces.

The property is currently undeveloped with the exception of some drives and parking areas constructed as part of the PZD project that was never completed. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped/Single-family Residential	R-A, Residential-Agricultural
South	Boys and Girls Club	R-A, Residential-Agricultural/P-1, Institutional
East	Undeveloped/Agricultural	R-A, Residential-Agricultural/P-1, Institutional
West	Residential	R-PZD, Residential Planned Zoning District

Request: The request is to rezone the property from R-PZD, Residential Planned Zoning District to NS, Neighborhood Services.

Public Comment: Staff has not received any public comment. The property owner was notified of the rezone request through certified mail on two occasions, first on November 26, 2014 and again on December 19, 2014. The owner has not contacted staff.

INFRASTRUCTURE:

Streets: The site has access to Ruppel Road, a fully improved city street. Improvements to Ruppel Road are planned as a part of a City Capital Improvement Project, and will include expansion to a four lane boulevard with on street parking and multi-use trail on the west side.

Water: Public water is accessible to the site. A 12" public water main exists along the eastern side of Ruppel Road.

Sewer: Sanitary sewer is NOT available to the site. Sewer is present in the vicinity and would be required to be extended to the subject parcel at time of development if sewer services are required for the proposed use.

Drainage: Any additional improvements or requirements for drainage will be determined at time of development. This property does not lie within any FEMA floodplain areas, does not contain any protected streams, and is not located within the HHOD.

Fire: The Fire Department had no comment for this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as the **Complete Neighborhood Plan/Wedington Corridor Plan Area**. The Wedington Corridor plan document and illustrative map provide a vision and a framework for transforming and taming an arterial roadway and interstate interchange while creating a more livable neighborhood that is complete and connected.*

WEDINGTON CORRIDOR PLAN: Wedington Corridor Illustrative Plan, approved March 19, 2013 by the City Council, identifies the area near the Ruppel Road and Wedington Drive intersection as the future 'heart' of the west Wedington neighborhood, and encourages a walkable residential and commercial destination that would serve as a central node in this expanding part of the City.

Wedington Corridor Plan, pg. 37:

At the [Wedington Corridor Design] charrette the public overwhelmingly expressed a desire to see a walkable urban center develop at the intersection of Wedington Drive and Ruppel Road. At this time, a number of sizable parcels of land are undeveloped northwest of this intersection. The illustrative plan envisions this area as a complete, compact and connected neighborhood with civic,

residential and commercial uses. The utilization of the City's form based zoning districts will be essential to ensure that the development pattern prescribed here is walkable and urban. Form based zoning districts are also much more flexible in allowing for a variety of residential and commercial densities and intensities. This encourages a diverse mixture of building types, scales and uses that are not separated from each other but instead are co-mingled to create a unified, sustainable and cohesive whole.

DISCUSSION:

FINDINGS OF THE STAFF

RECOMMENDATION: Staff recommends approval of **RZN 14-4882** based on the findings discussed herein, that the rezoning is compatible with existing and anticipated uses in the surrounding area and is consistent with the Future Land Use Plan.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>January 12, 2015</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>CHESSER</u>	Second: <u>COOK</u>	Vote: <u>9-0-0</u>	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>February 03, 2015</u>	☐ Approved	☐ Denied	

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: **Surrounding Land Use Compatibility:** In staff's opinion, this property is compatible with surrounding land uses. The property to the south is in use by the Boys and Girls Club. Property to the east is industrial, serving as material and equipment storage for Ozarks Electric. Across Ruppel Road, the land use is entirely single-family residential, with a density built to 10 units per acre. The NS zoning district allows residential uses and densities that will be compatible with the existing neighborhood. In the proposed zone, building heights are capped at 45 feet, and residential density is limited to 10 units per acre.

Land Use Plan Analysis: Staff finds that the proposed zone is consistent with planning objectives, principles, and policies put forward in the Wedington Neighborhood Plan, which states that:

"The utilization of the City's form based zoning districts will be essential to ensure that the development pattern prescribed here is walkable and urban. Form based zoning districts are

also much more flexible in allowing for a variety of residential and commercial densities and intensities. This encourages a diverse mixture of building types, scales and uses that are not separated from each other but instead are co-mingled to create a unified, sustainable and cohesive whole.”

The proposed zoning is compatible and consistent with the Wedington Corridor Plan vision for this property which calls for a variety and mix of nonresidential and residential uses.

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

Finding: In staff’s opinion, the requested NS zoning district is justified as this time, as the property is currently within an expired Planned Zoning Development and effectively has neither zoning nor development rights attached to it.

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

Finding: Rezoning the property NS will not likely increase traffic danger or congestion. The site has access to Ruppel Road, a designated ‘Principal Arterial Parkway’. With the City improvements to Ruppel Road over the next few years, traffic counts are expected to increase, however the proposed zoning will not significantly increase traffic danger or congestion.

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

Finding: Rezoning the property from PZD to NS will increase the potential population density, but is unlikely to undesirably increase the load on public services. The Police Department expressed no objections to the proposal. The Fire Department had no comment. The Westside Village PZD was approved with a density much higher than that allowed within the proposed zoning. Existing infrastructure in the area can accommodate increased development pressure from this site.

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

BUDGET/STAFF IMPACT: None

Attachments:

- Unified Development Code section 161.16
- Westside Village R-PZD Master Plan
- Request Letter
- Notification letters to owner
- City Plan 2030 – Future Land Use Plan map
- Current Land Use Map
- Close Up Map
- One Mile Map

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cottage Housing Development

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

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings

Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less
----------------	------------

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	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 Maximum	Height	45 ft.
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(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, 6-18-13; Ord. 5664, 2-18-14)



November 17, 2014

Airways South
PO Box 1888
Fayetteville, AR 72702
Attn: Dale Caudle

VIA: Certified Mail

Re: Re-zoning of the Expired Westside Village Zoning District Project

Dear Mr. Caudle,

The Assessor of Washington County, Arkansas lists Airways South as the owner for the subject property that is zoned by the City of Fayetteville as a Planned Zoning District (PZD). This letter notifies you that the subject PZD approval has expired. In accordance with Fayetteville Unified Development Code Section 166.20, the City has cause to revoke this PZD as development permits have not been obtained in accordance with the approved phased development schedule. Therefore, the City Development Services Department has initiated revocation of the expired PZD zoning on your property. As part of this action staff will recommend the City Council assign the property the zoning district of NS, Neighborhood Services.

This proposal to revoke the PZD and rezone your property will be first heard at a public meeting of the Planning Commission on January 11, 2015 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas 72701. You are of course welcome to speak at that meeting and/or provide written or verbal comment to City staff prior to the meeting.

Please contact my office at 479-575-8267 if you wish to set up a meeting with or speak to one of our City Planners, or you may email me at qthompson@fayetteville-ar.gov

Regards,

A handwritten signature in blue ink, appearing to read "Q. Thompson", written over a horizontal line.

Quin Thompson
Current Planner
Development Services

Att: UDC Section 161.16 Neighborhood Services

CC: Jeremy Pate, Development Services Director
Andrew Garner, City Planning Director



December 05, 2014

SENT VIA: CERTIFIED MAIL

Airways South, LLC
3849 Wedington Drive
Fayetteville, AR 72704
attn Dale Caudle

Re: Rezoning former Westside Village PZD

Dear Mr. Caudle,

This letter is in reference to your property, parcel number 765-22362-000 located east of Ruppel Road within the Wedington Corridor Neighborhood Master Plan area.

This letter notifies you that the subject PZD approval has expired, effectively leaving the property without zoning and development rights. In accordance with Fayetteville Unified Development Code Section 166.20, the City has cause to revoke this PZD as development permits have not been obtained in accordance with the approved phased development schedule. Therefore, the City Development Services Department has initiated revocation of the expired PZD zoning on your property. As part of this action staff will recommend the City Council assign the property the zoning district of NS, Neighborhood Services.

As an initial step in the process of building this vision, planning staff will bring forward a rezoning proposal to the Planning Commission on **January 12, 2014**, and propose to rezone your property (the parcel referenced above) from R-PZD (Westside Village) to NS, Neighborhood Services. Please contact Quin Thompson, Current Planner, with any questions or concerns.

Project Description:

The City of Fayetteville proposes to rezone the property described above, being within the Wedington Corridor Neighborhood Master Plan area, from R-PZD, (Westside Village) to NS, Neighborhood Services.

Public Hearings:

The first scheduled public hearing on the rezoning proposal is the Planning Commission meeting at 5:30 PM on January 12, 2014; 113 West Mountain Street (City Administration Building, Rm 219) Fayetteville, AR 72701.

Review Location:

Additional project information is available for public review at the City of Fayetteville Planning Division, 125 West Mountain Street, Fayetteville, AR 72701, Monday - Friday between 8:00 AM and 5:00 PM.

Regards,

A handwritten signature in blue ink, appearing to read "BQ Thompson", written in a cursive style.

Quin Thompson
City of Fayetteville
Phone: (479) 575-8327
Email: qthompson@fayetteville-ar.gov

Att: UDC Section 166.16 Neighborhood Services



OZARKS ELECTRIC

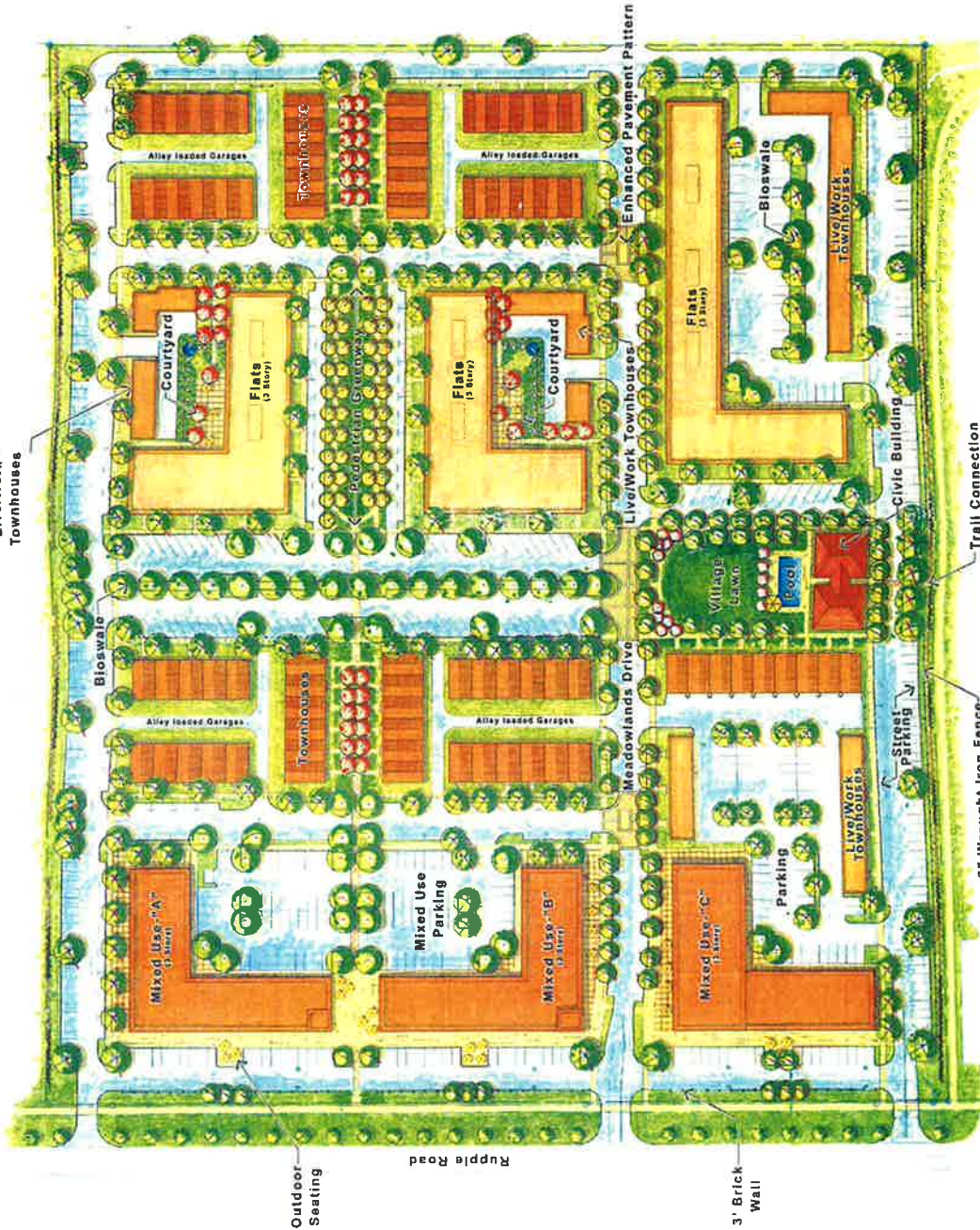
SUBJECT PROPERTY

BOYS AND GIRLS CLUB



200 100 0 200 Feet

Master Plan



VICINITY MAP
Map to Fayetteville

Westside Village is designed with ideas from Traditional Neighborhood Design (TND) through the use of connectivity of uses, and compact land consumption and automobile dependency by design. This design promotes pedestrian activity, decreased polluted storm runoff and creates a lively, walkable, sustainable and pleasant community.

Goals for Westside Village

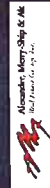
1. Create a walkable neighborhood that allows residents the option to work near their homes
2. Provide a mixed use area of shops, cafes, and restaurants to meet the basic convenience needs of residents
3. Provide a village green for gatherings, passive and active recreation
4. Encourage a walkable neighborhood by designing narrow streets throughout the development
5. Encourage a higher density population center near enough to education facilities for children to walk to and from school
6. Build a small-town feel - the mix of housing styles creates diversity
7. Encourage the active quality of the neighborhood by creating a network of alleys and side streets so that they are far less visible
8. Make neighborhoods walkable by assigning tree and landscaping to promote casual strolling
9. Ensure no more than a five minute walk to parks, gathering spaces and retail
10. Establish a discernible neighborhood center to serve as a community gathering place

DEVELOPMENT SUMMARY

Building Type	Volume	Units	Stories	Covered Parking
Apartment A	17,650 sq ft	28	3 or 4	No
Apartment B	17,650 sq ft	28	3 or 4	No
Apartment C	17,650 sq ft	28	3 or 4	No
Flats	19,200 sq ft	198	3	No
Live/Work Townhouses	19,200 sq ft	23	2 or 3	Yes
Townhouses	5,600 sq ft	0	1 or 2	No
Civic	5,600 sq ft	0	1 or 2	No
Total Bldg. Ft.	74,500 sq ft	302		
Total Density	17.25 DU/acre			
Total Acreage	21.63 acres			
Parking				
Total On-Site/Off-Site	614			
Townhouse - Live/Work	180			
Total Parking Provided	874			

Westside Village

Fayetteville, Arkansas



Critical Path Design

Engineering Planning Landscape Architecture Consulting
1000 N. University Ave., Suite 100
Fayetteville, AR 72701
Phone: (479) 482-2111
Fax: (479) 482-2111

RZN14-4882

Current Land Use

WESTSIDE VILLAGE



Overview

Fayetteville City Limits

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

0 200 400 800 1,200 1,600 Feet

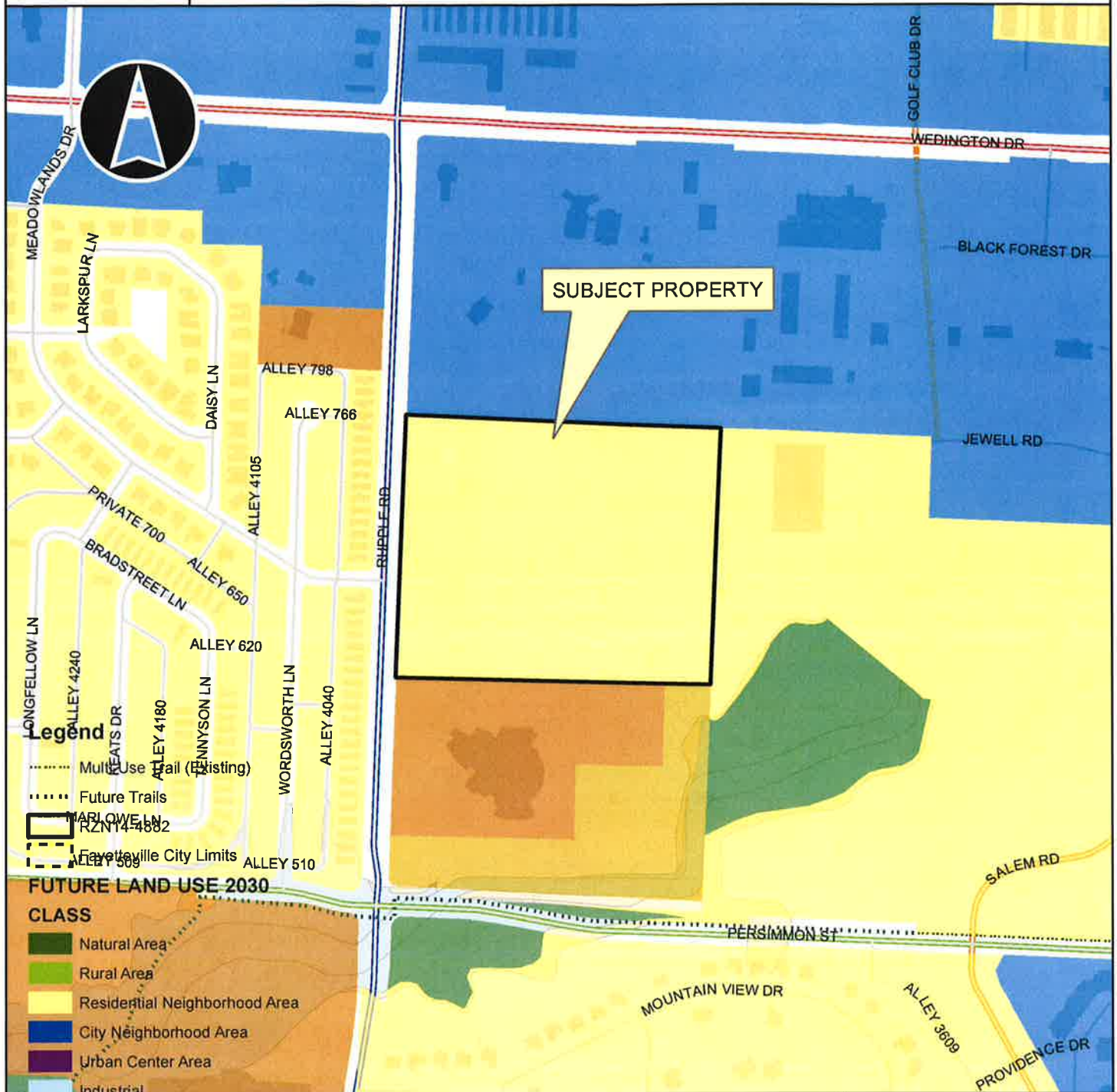
Planning Commission
January 12, 2015

Agenda Item 12
14-4882 RZN Westside Village
Page 14 of 17

RZN14-4882

WESTSIDE VILLAGE

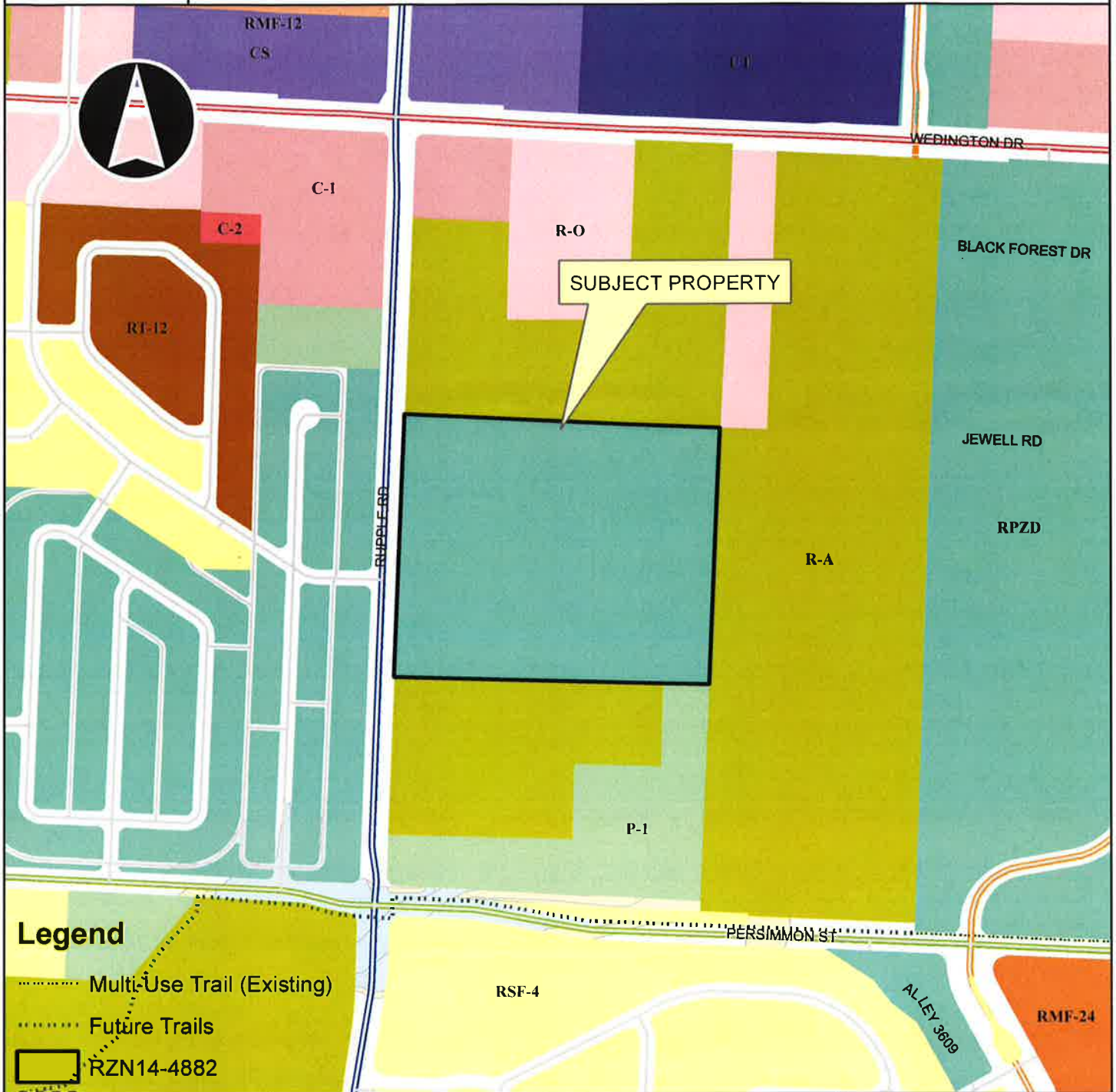
Future Land Use



RZN14-4882

WESTSIDE VILLAGE

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- RZN14-4882

Overview Fayetteville City Limits

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 200 400 800 1,200 1,600 Feet

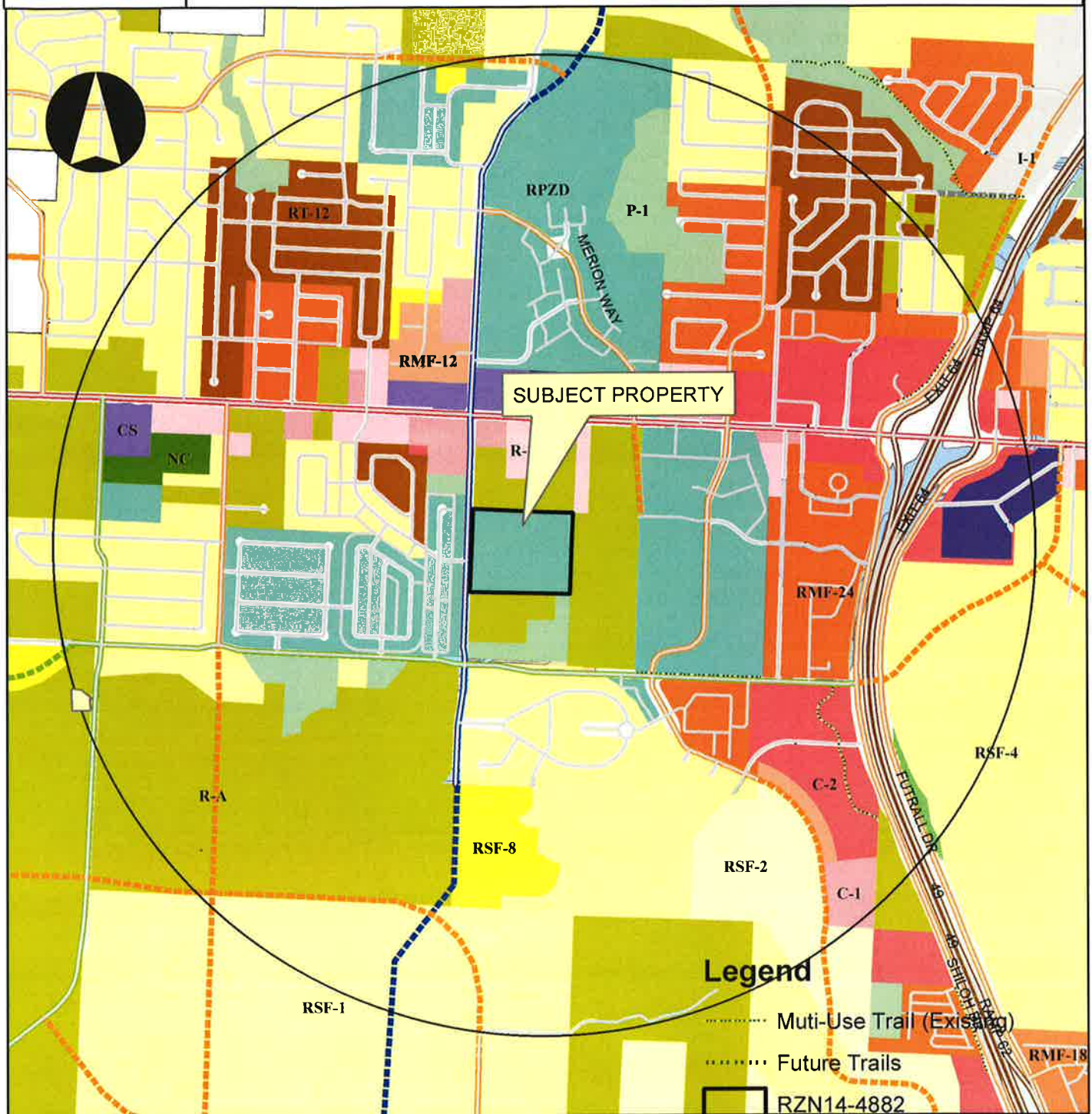
Planning Commission
January 12, 2015

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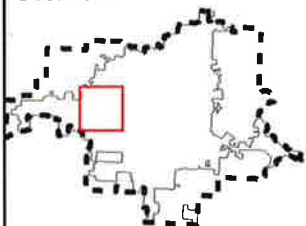
RZN14-4882

One Mile View

WESTSIDE VILLAGE



Overview



Legend

Subject Property

Boundary

0 0.25 0.5

Miles

Legend

Multi-Use Trail (Existing)

Future Trails

RZN14-4882

Hillside-Hilltop Overlay District

Design Overlay District

Planning Area

Fayetteville

Planning Commission

January 12, 2015

Agenda Item 12

14-4882 RZN Westside Village

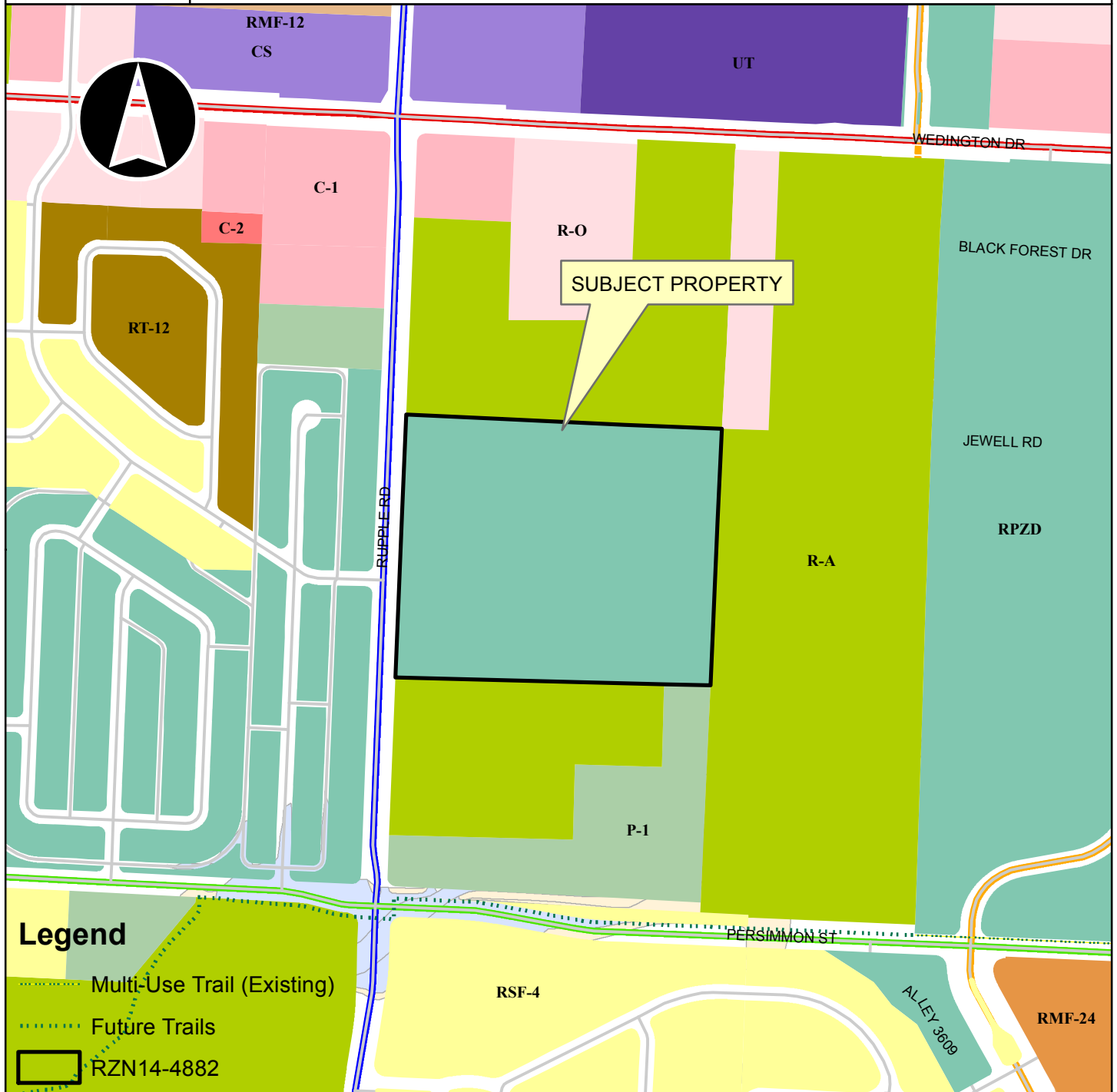
Page 17 of 17

EXHIBIT 'A'
14-4882

RZN14-4882

Close Up View

WESTSIDE VILLAGE



Overview

Fayetteville City Limits

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

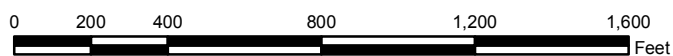


EXHIBIT 'B'

14-4882

A part of the SE 1/4 of the SE 1/4 and a part of the NE 1/4 of the SE 1/4, all in Section 12, T-16-N, R-31-W, Washington County, Arkansas, and being more particularly described as follows: Commencing at the NE corner of the NE 1/4 of the SE 1/4, thence N 88°34'51" W, 483.46 feet; thence S 01°07' 6" W, 35.95 feet; thence N 88°50'55" W, 416.00; thence S 01° 07' 06" W, 969.20 feet to the point of beginning; thence S 88° 48' 23" E, 416 feet; thence S 88° 56' 59" E, 330.00 feet; thence S 01° 05' 12" W, 870.38 feet; thence West 1081.18 feet; thence N 00° 47' 02" E, 892.59 feet; thence S 88°43'24" E, 339.71 feet to the point of beginning, containing 21.91 acres, more or less.

The above described tract also known as Tract 3, on a lot split survey shown on plat of record in plat book 17 at page 102, plat records of Washington County, Arkansas.

Subject to easements, rights-of-way, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from R-PZD, Residential Planned Zoning District R-PZD 06-1884 Westside Village, to NS, Neighborhood Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2015.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0029

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Ordinance

Agenda Number: C. 2

RZN 14-4883 (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND 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-PZD 05-1796, Residential Planned Zoning District Park West, to RSF-8, Residential Single Family, 8 Units per Acre, and 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.

City of Fayetteville Staff Review Form

2015-0029

Legistar File ID

2/3/2015

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

Jeremy Pate 

1/16/2015

City Planning /
Development Services Department
Division / Department

Submitted By

Submitted Date

Action Recommendation:

RZN 14-4883: Rezone (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST, 208/209): Submitted by PLANNING STAFF for property located at HWY. 112 NORTH OF TRUCKERS DRIVE. The property is zoned R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST and contains approximately 93.04 acres. The request is to rezone 33.38 acres to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and 59.66 acres to CS, COMMUNITY SERVICES.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Fayetteville City Council

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

DATE: January 16, 2015

SUBJECT: **RZN 14-4883: Rezone (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST, 208/209):** Submitted by PLANNING STAFF for property located at HWY. 112 NORTH OF TRUCKERS DRIVE. The property is zoned R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST and contains approximately 93.04 acres. The request is to rezone 33.38 acres to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and 59.66 acres to CS, COMMUNITY SERVICES.

RECOMMENDATION:

The Planning Commission and City Planning Staff recommend approval of an ordinance to rezone the property to RSF-8, Residential Single Family, 8 Units per Acre, and CS, Community Services.

BACKGROUND:

The subject property is located between Hwy 112 and Deane Solomon Road and contains three separate parcels. Two of the parcels are located at the southeast corner of Hwy 112 and Deane Solomon Road and contain 33.38 acres. The remaining parcel, totaling 59.66 acres, is located along Hwy 112 directly across from the 112 Drive-In. All three parcels are zoned R-PZD Park West, which was a mixed-use development approved by the City Council in 2006 by Ordinance No. 4820. The Park West development was never constructed and the project has expired.

The Park West development was planned on approximately 140 acres. Recently, however, two pieces of the project have been rezoned by the City Council. Approximately 26 acres was rezoned to CS, Community Services and last month another 20.5 acres was rezoned to RMF-12. The subject proposal will rezone the remainder of the original PZD.

*City Plan 2030 Future Land Use Plan designates this site as a **Residential Neighborhood Area and City Neighborhood Area**.*

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family and row houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.

City Neighborhood Areas are densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches and are typically located at corners and along connecting corridors.

Compatibility: In staff's opinion the two zoning districts proposed for the properties are compatible with surrounding land uses and zonings. The properties at Deane Solomon Road and Hwy 112 are surrounded on three sides by single-family residential development, so the RSF-8 zoning district will be a compatible zoning designation. This zoning allows lots as small as 5,000 square feet, but has no maximum lot size. Staff concluded that the RSF-8 zoning district was the most appropriate for these two properties, as it will allow for the development of a variety of lot sizes and home sizes.

The remaining property has a large percentage of street frontage along Hwy 112, which is a 2-lane state highway. There are plans to widen this section of roadway from Fayetteville to Bentonville to a 5-lane road section, but there is no funding for this project currently. The Community Services zoning district is a compatible and appropriate zoning designation, because of the frontage along Hwy 112, and also because it's bordered on the north by a large church facility that is currently under construction, multi-family zoning to the west, institutional facilities to the southwest, and a trucking facility to the south.

Similar to the variety of land uses that surround this property, the Community Services district allows a mixture of residential, office and commercial land uses. This should allow future development to respond to market demands by providing commercial services provided along Hwy 112 and then transitioning into multi-family and single-family development to the west where land uses are predominantly residential.

DISCUSSION:

On January 12, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

CC Ordinance

Exhibit A

Exhibit B

Planning Commission Staff Report

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

MEETING DATE: ~~January 12, 2015~~ Updated January 15, 2015

SUBJECT: **RZN 14-4883: Rezone (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST, 208/209):** Submitted by PLANNING STAFF for property located at HWY. 112 NORTH OF TRUCKERS DRIVE. The property is zoned R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST and contains approximately 93.04 acres. The request is to rezone 33.38 acres to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and 59.66 acres to CS, COMMUNITY SERVICES.

RECOMMENDATION:

Staff recommends forwarding **RZN 14-4883** to the City Council with a recommendation for approval.

BACKGROUND:

The subject property is located between Hwy 112 and Deane Solomon Road and contains three separate parcels. Two of the parcels are located at the southeast corner of Hwy 112 and Deane Solomon Road and contain 33.38 acres. The remaining parcel, totaling 59.66 acres, is located along Hwy 112 directly across from the 112 Drive-In. All three parcels are zoned R-PZD Park West, which was a mixed-use development approved by the City Council in 2006 by Ordinance No. 4820. The Park West development was never constructed and the project has expired.

The Park West development was planned on approximately 140 acres. Recently, however, two pieces of the project have been rezoned by the City Council. Approximately 26 acres was rezoned to CS, Community Services and last month another 20.5 acres was rezoned to RMF-12. The subject proposal will rezone the remainder of the original PZD. The surrounding zoning and land uses are depicted in *Table 1*.

Table 1 - Surrounding Zoning and Land Use – RSF-8 Proposal at Deane Solomon and Hwy 112

Direction from Site	Land Use	Zoning
North	Single-family/Undeveloped	RSF-4, Residential Single-family/R-A, Residential Agricultural
South	Single-family/Undeveloped	R-A, Residential Agricultural/CS, Community Services
East	Single-family/Bio-Tech Pharmacal	R-A, Residential Agricultural
West	Single-family	RSF-4, Residential Single-family/R-A, Residential Agricultural

Table 2 - Surrounding Zoning and Land Use – CS Proposal at Hwy 112

Direction from Site	Land Use	Zoning
North	Fellowship Church	CS, Community Services
South	Industrial/Undeveloped	I-1, Heavy Commercial/Light Industrial/R-A, Residential Agricultural
East	Drive-in Theatre	C-2, Thoroughfare Commercial
West	Undeveloped	R-A, Residential Agricultural/RMF-12, Residential Multi-family

Request: The request is to rezone the north 33.38 acres to RSF-8, Residential Single-family, 8 units per acre and rezone the south 59.66 acres to CS, Community Services.

Notification and Public Comment: Planning staff sent letters via certified mail to each property owner (Simmons First Bank and Legacy National Bank), summarizing staff's rezoning proposal for the specific property and noting the public hearing date, time, and location. A sample letter is included in the staff report.

Staff received a letter from a neighbor on Deane Solomon Road that supports the recommendation for RSF-8.

INFRASTRUCTURE:

Streets: The site has access to Hwy 112 (Principle Arterial) and Deane Solomon Road (Minor Arterial). Both are unimproved two-lane streets. Improvements will be determined at the time of development.

Water: Public water is accessible to the site. There is an existing 6-inch water main along the north side of Hwy 112 and a 6-inch and 36-inch line along the east side of Hwy 112.

Sewer: Sanitary sewer is available to the site. There is an existing 8-inch sewer main that crosses through all three parcels.

Drainage: Any additional improvements or requirements for drainage will be determined at time of development. This property is affected by the 100-year floodplain and the Streamside Protection Ordinance. There are some US Army Corps of Engineers designated wetlands on the southernmost parcel. Corps permitting will be determined at the time of development.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN:

*City Plan 2030 Future Land Use Plan designates this site as a **Residential Neighborhood Area and City Neighborhood Area**.*

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family and row houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.

City Neighborhood Areas are densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches and are typically located at corners and along connecting corridors.

DISCUSSION:

FINDINGS OF THE STAFF

Recommendation: Staff recommends forwarding **RZN 14-4883** to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>January 12, 2015</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Chesser	Second: Selby	Vote: 9-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>February 3, 2015</u>		☐ Approved	☐ Denied

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: In staff's opinion the two zoning districts proposed for the properties are consistent with land use planning objectives and land use plans. The properties at Deane Solomon Road and Hwy 112 are surrounded on three sides by single-family residential development, so the RSF-8 zoning district will be a compatible zoning designation. This zoning allows lots as small as 5,000 square feet, but has no maximum lot size. Staff concluded that the RSF-8 zoning district was the most appropriate for these two properties, as it will allow for the development of a variety of lot sizes and home sizes.

The remaining property has a large percentage of street frontage along Hwy 112, which is a 2-lane state highway. There are plans to widen this section of roadway from Fayetteville to Bentonville to a 5-lane road section, but there is no funding for this project currently. The Community Services zoning district is a compatible and appropriate zoning designation, because of the frontage along Hwy 112, and also because it's bordered on the north by a large church facility that is currently under construction, multi-family zoning to the west, institutional facilities to the southwest, and a trucking facility to the south.

Similar to the variety of land uses that surround this property, the Community Services district allows a mixture of residential, office and commercial land uses. This should allow future development to respond to market demands by providing commercial services provided along Hwy 112 and then transitioning into multi-family and single-family development to the west where land uses are predominantly residential.

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

Finding: In staff's opinion the rezoning is justified and needed at this time. Currently, the property is zoned R-PZD Park West, but all development rights have expired. This creates challenges for the current property owner and any future buyer, as nothing can be developed on the property without a rezoning. Several parts of the expired PZD have been rezoned by the owner, however, there are no plans that staff is aware of to rezone the remaining 93 acres.

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

Finding: The property is currently undeveloped and there are no development rights, since the PZD approval has expired. Any rezoning action will increase traffic congestion in the area. However, any new development will also create the requirement for new streets and street improvements that will help facilitate additional traffic. With adequate street connections to Deane Solomon, Hwy 112 and Truckers Drive, as well as internal connectivity between developments, traffic danger and congestion should be minimized.

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 to RSF-8 and Community Services will likely increase population density and commercial intensity. There are adequate water and sewer services along and within this property to support future development. The Fayetteville Police and Fire Departments have reviewed and commented on this rezoning request with no objections.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code sections 161.09 & 161.19
- Park West PZD documents
- Request letter
- Letter to property owners
- Fire response letter
- Public comment
- One Mile Map
- Close Up Map
- Current Land Use Map
- Future Land Use Map

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

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(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.
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(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

TITLE XV UNIFIED DEVELOPMENT CODE

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.
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(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, 6-18-13; Ord. 5664, 2-18-14)

PARK WEST R-PZD

05-1796

ORDINANCE NO. 4820

AN ORDINANCE ESTABLISHING A MASTER DEVELOPMENT PLAN ~~RESIDENTIAL PLANNED ZONING DISTRICT~~, TITLED R-PZD 05-1796, PARK WEST, LOCATED AT HWY 112 EAST OF DEANE SOLOMON ROAD, CONTAINING APPROXIMATELY ~~139.45 ACRES~~, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From R-A, Residential-Agricultural and RSF-4, Residential Single Family, 4 units per acre, to R-PZD 05-1796 as shown in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

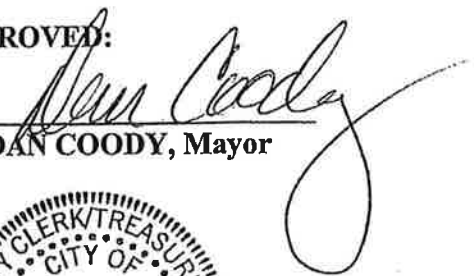
Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this 17th day of January, 2006.

APPROVED:

By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk



EXHIBIT "A"
R-PZD 05-1796

FORMERLY THE "MIKE AND BRENDA PRICE PROPERTY"

A PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ARKANSAS HIGHWAY #112; THENCE SOUTH 01° 21 ' 02 " WEST ALONG THE WEST LINE OF SAID 40 ACRE TRACT 60.40 FEET TO AN EXISTING IRON ON THE SOUTH RIGHT-OF-WAY LINE OF SAID HIGHWAY FOR THE TRUE POINT OF BEGINNING; THENCE SOUTH 88° 44 ' 20 " EAST ALONG SAID RIGHT OF WAY 636.06 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT OF WAY SOUTH 00° 40 ' 42 " EAST 565.86 FEET TO AN EXISTING IRON; THENCE SOUTH 01° 01 ' 05 " WEST 179.25 FEET TO AN EXISTING IRON AT A FENCE CORNER; THENCE SOUTH 01° 01 ' 05 " WEST 161.92 FEET TO A SET 1/2" IRON REBAR ON THE PROPOSED NORTH RIGHT OF WAY LINE OF AN UNDEVELOPED STREET AS SHOWN ON THE MASTER STREET PLAN FOR FAYETTEVILLE, ARKANSAS; THENCE NORTH 88° 33 ' 19 " WEST ALONG SAID PROPOSED RIGHT OF WAY LINE 658.07 FEET TO A SET 1/2" IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT; THENCE NORTH 01° 21 ' 02 " EAST 904.60 FEET TO THE POINT OF BEGINNING, CONTAINING 13.52 ACRES, MORE OR LESS.

FORMERLY THE "GRAVES PROPERTY"

A PART OF THE E1/2 OF THE SW1/4 AND A PART OF THE W1/2 OF THE SE1/4, ALL IN SECTION 28, T-17-N, R-30-W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF THE NE1/4 OF THE SW1/4 OF SAID SECTION 28, AND CONTINUING S 87°14'29" E ALONG THE NORTH BOUNDARY OF SAID 40 ACRE TRACT 634.01 FEET, AND THENCE S 00°11'32" W, 628.47 FEET TO AN EXISTING STEEL FENCE POST, AND THENCE S 03°03'56" W, 178.40 FEET TO AN EXISTING IRON PIN, AT A FENCE CORNER, SAID POINT BEING THE POINT OF BEGINNING; THENCE S 87°12'12" E, 1927.53 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT-OF-WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT-OF-WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTERLINE; THENCE ALONG SAID RIGHT-OF-WAY, S 02°43'05" W, 1453.41 FEET, S 02°02'13" W, 63.14 FEET, S 00°11'37" W, 51.97 FEET, S 03°04'20" E, 40.08 FEET, S 07°04'17" E, 55.68 FEET, S 11°50'57" E, 58.74 FEET, S 15°35'06" E, 71.32 FEET, AND S 18°14'06" E, 15.95 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID 80 ACRE TRACT; THENCE LEAVING SAID RIGHT-OF-WAY S 02°32'41" W, 26.08 FEET TO A FOUND ALUMINUM CAPPED IRON PIN AT THE SE CORNER OF THE SW1/4 OF THE SE1/4 OF SAID SECTION 28; THENCE N 87°09'05" W, 1322.12 FEET TO AN EXISTING FENCE CORNER AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE N 87°21'56" W, 1316.30 FEET TO AN EXISTING IRON PIN AT THE SW CORNER OF THE SE 1/4 OF THE SW1/4 OF SAID SECTION 28; THENCE N 02°31'02" E ALONG THE WEST BOUNDARY OF THE E1/2 OF THE

SW1/4, 1672.02 FEET TO A SET IRON PIN, LOCATED 965.00 FEET SOUTH OF THE NW CORNER OF THE NE1/4 OF THE NW1/4; THENCE LEAVING SAID WEST BOUNDARY S 86°57'53" E, 656.27 FEET TO A SET IRON PIN; AND THENCE N 03°03'56" E, 161.92 FEET TO THE POINT OF BEGINNING, CONTAINING 106.15 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY ARKANSAS. SUBJECT TO: EASEMENTS OF RECORD DESCRIBED AS INSTRUMENT # 9344456 & 2002 084864, AND OTHER DOCUMENTS OF RECORD NOT SHOWN HEREON.

FORMERLY THE "VAWTER PROPERTY"

A PART OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF SAID SECTION 28-17-30, THENCE S87°14'29"E 1320.14 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF (W1/2), SOUTHWEST QUARTER (SW1/4) SAID SECTION, THENCE S02°31'02"W, 34.99 FEET ALONG SAID EAST LINE TO THE SOUTHERN RIGHT-OF-WAY ARKANSAS HIGHWAY NO. 112 AND THE POINT OF BEGINNING. THENCE CONTINUING ALONG SAID EAST LINE S 02°31'02" W, 1298.63 FEET; THENCE N87°16'08"W 600.60 FEET TO THE EAST RIGHT-OF-WAY OF WASHINGTON COUNTY ROAD NO. 890, THENCE ALONG SAID RIGHT-OF-WAY N10°49'52"E 321.00 FEET, THENCE WITH SAID RIGHT-OF-WAY N07°55'08"W, 284.30 FEET, THENCE WITH SAID RIGHT-OF-WAY N25°41'08" W, 166.10 FEET, THENCE WITH SAID RIGHT-OF-WAY N14°35'08"W 576.59 FEET TO THE SOUTHERN RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 112, THENCE ALONG SAID RIGHT-OF-WAY S87°35'48"E 853.75 FEET TO THE POINT OF BEGINNING, ALL LOCATED IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND CONTAINING 19.860 ACRES, MORE OR LESS.

Exhibit B

The following pages include the requirements for each Planning Area as approved by the Planning Commission. Outlined under each Planning Area are the zoning standards as outlined in Chapter 161 of the Unified Development Code.

The proposed project booklet also outlines the zoning criteria for each Planning Area, though there are discrepancies found between the two. The applicant shall revise the project booklet to reflect those criteria approved by the Planning Commission.

Planning Area 1 (PA-1) – Single Family Residential

AREA: 26.05 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 24	Home occupations

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.*

	Single-family, Two- and Three-family dwellings
Units per acre	4 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft. (per unit)
Three-family	30 ft. (per unit)

(2) *Lot area minimum.*

Townhouse:	
Individual lot	2,500 sq. ft.
Single-family	4,000 sq. ft.
Two-family	2,400 sq. ft. (per unit)
Three-family	2,400 sq. ft. (per unit)

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.

(E) *Setback requirements.*

	Front	Side	Rear
Single-family	14' *	6'	Minimum 10' **
Two- and Three-family	14' *	0'	Minimum 10' **

* A build-to line.

** The rear building setbacks may range from 10' to 20' depending on the location of utilities. All structures shall be setback 20' from the centerline of any alley or easement.

(F) *Height.* No structure shall exceed three stories, exclusive of the basement.

(G) *Building area.*

Detached dwelling Units: On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Attached dwelling Units: On any lot the area occupied by all buildings shall not exceed 80% of the total area of such lot.

(H) *Maximum Dwelling Units:* 91

(I) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 2 (PA-2) – Town
Homes/Single Family Attached**

AREA: 12.15 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 24	Home occupations
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.*

	Single-family, Two- and Three-family dwellings
Units per acre	6 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft. (per unit)
Three and more	30 ft. (per unit)

(2) *Lot area minimum.*

Townhouse:	
Individual lot	2,700 sq. ft.
Single-family	2,700 sq. ft.
Two-family	2,700 sq. ft. (per unit)
Three or more	2,700 sq. ft. (per unit)

(3) *Land area per dwelling-unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

	Front	Side	Rear
Single-family	10' *	0'	Minimum 20'; 30' from centerline of alley or easement
Two- and Three-family	10' *	0'	Minimum 20'; 30' from centerline of alley or easement

* A build-to line, wherever possible.

(F) *Height.* Minimum two (2) stories.
Maximum 45 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 80% of the total area of such lot.

(H) *Maximum Dwelling Units:* 72

(I) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 3 (PA-3) – Plaza Condominium

AREA: 4.01 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 14	Hotel, motel, amusement facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	40 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.
Non-residential	0 ft

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-Residential	No Minimum

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
20	0'	20'

(F) *Height.* Minimum two (2) stories.
Maximum seven (7) stories.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 160

(I) *Maximum Bedrooms:* 320

(J) *Maximum Intensity:* 26,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 4 (PA-4) – Courtyard
Multi-Family**

AREA: 7.83 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	40 or less
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(E) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-Residential	No Minimum

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
16' from a public street or alley	16'	16'
10' from a private drive or access easement		

(F) *Height.* Minimum two (2) stories.
Maximum four (4) stories.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 313

(I) *Maximum Bedrooms:* 626

(J) *Maximum Intensity:* 25,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 5 (PA-5) – Multi-Family Residential

AREA: 4.79 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	36 or less
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(F) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
30' from a public street	10'	20'
10' from a private drive or access easement		

(F) *Height.* Minimum two (2) stories.
Maximum 4 stories otherwise.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 172

(I) *Maximum Bedrooms:* 344

(J) *Maximum Intensity:* 10,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 6, 7, 8, 9 (PA-6, PA-7, PA-8, PA-9) – Preserve/Botanical/Detention

AREA:

PA-6: 4.85 acres
PA-7: 1.17 acres
PA-8: 2.31 acres
PA-9: 10.47 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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(2) *Conditional uses.*

Unit 4	Cultural and recreational facilities
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(C) *Density.* None (not applicable)

(G) *Bulk and area regulations.* None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable

Planning Area 10 (PA-10) – Civic Lawn

AREA: 1.29

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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(2) *Conditional uses.*

Unit 4	Cultural and recreational facilities
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(C) *Density.* None (not applicable)

Bulk and area regulations. None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable

**Planning Area 11, 12 (PA-11, PA-12) –
Mixed Use Districts**

AREA:

PA-11: 31.82 acres

PA-12: 5.77 acres

(A) *Purpose.* See project booklet

(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 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 5	Government facilities
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 29	Dance halls
Unit 35	Outdoor music establishments

(C) Density.

Units per acre	24 or less
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(H) *Bulk and area regulations.*

(1) Lot width minimum.

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.
Non-residential	0 ft.

(2) Lot area minimum.

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-residential	0 sq. ft.

(3) Land area per dwelling unit.

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) Setback requirements.

Front	Side	Rear
8' to 12' *	20' from public or private access 0' from internal side property lines	5'

* A build-to line

(F) *Height.* Structures immediately adjacent to the civic lawn shall have a minimum height of 30'. Structures adjacent to main streets shall be a minimum two-stories in height. Maximum height of four (4) stories otherwise.

(G) *Building area.* 85% of the site

(H) Maximum Dwelling Units:

PA-11: 783

PA-12: 138

(I) Maximum Intensity:

PA-11: 520,000 sq. ft.

PA-12: 60,000 sq. ft.

(J) Architectural Design Standards:

Reference the Project Booklet

**Planning Area 13 (PA-13) –
Neighborhood Commercial**

AREA: 4.21 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Residential Use – None

Non-residential – None

(2) *Lot area minimum.*

Residential Use – None

Non-residential – None

(3) *Land area per dwelling unit.*

Townhomes or Apartments:	
•No bedroom	1,700 sq. ft.
•One bedroom	1,700 sq. ft.
•Two bedroom	2,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
50'	0'	20'
	25' when contiguous to residential district	

(F) *Height.* Maximum 4 stories

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 15

(I) *Maximum Bedrooms:* 30

(J) *Maximum Intensity:* 15,000 sq. ft.

(K) *Architectural Design Standards:*

Reference the Project Booklet

**Planning Area 14 (PA-14) –
Thoroughfare Commercial**

AREA: 15.55 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Professional offices
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities

(C) *Density.* None

(I) *Bulk and area regulations.* None.

(E) *Setback requirements.*

Front	Side	Rear
40'	0' 25' when contiguous to residential district	20' 25' when contiguous to residential district

(F) *Height.* Maximum 7 stories.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 70% of the total area of such lot.

(H) *Maximum Dwelling Units:* Not Applicable

(I) *Maximum Bedrooms:* Not Applicable

(J) *Maximum Intensity:* 200,000 sq. ft.

(J) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 15 (PA-15) – Parks and Trails

AREA: 7.18 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
--------	-------------------------

(C) *Density.* None (not applicable)

(D) *Bulk and area regulations.* None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable

Paradigm
COMPANIES

AA





www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

TDD (Telecommunications Device for the Deaf)
(479) 521-1316

PLANNING DIVISION CORRESPONDENCE

December 2, 2014

City of Fayetteville, Development Services
Fayetteville, AR 72701

Tracy Hoskins, Chair
Fayetteville Planning Commission
City of Fayetteville, Arkansas
113 W. Mountain Street
Fayetteville, AR 72701

Re: Rezone Request – Park West PZD

Dear Planning Commission,

Please accept this letter as formal request to allow the rezoning of property located between Hwy 112 and Deane Solomon Road, known as the Park West PZD, from R-PZD 05-1796 Park West, to RSF-8, Residential Single-family, 8 units per acre and CS, Community Services.

The property consists of three large parcels owned by Simmons First Bank and Legacy National Bank. Approximately 26 acres of the original PZD was recently purchased by Fellowship Church.

Staff is initiating the rezoning request, because the Park West PZD was not initiated and consequently expired in 2011. The property is still zoned R-PZD, but all development rights expired with the PZD expiration in 2012. Rezoning the property will reestablished development rights to the property and allow current or future owners to develop the property.

Staff evaluated the approved Park West PZD, surrounding land uses and zoning, the Future Land Use Map (FLUM), City Plan 2030 goals, and the overall context of this area of the City to determine appropriate zoning classifications for the subject properties. However, staff's recommendations are not the only zoning designations that could be appropriate and it's possible that future property owners may request zoning changes.

In staff's opinion, rezoning the two parcels at the southeast corner of Hwy 112 and Deane Solomon Road to RSF-8 is compatible with surrounding residential developments, the FLUM designation as a Neighborhood Residential Area, and the Park West concept to develop single-family housing on thee approximately 33.40 acres. Further, the RSF-8 zoning district does not require small-lot development, but provides a developer the option to plat relatively small single-family lots, or large estate lots. Hopefully, there will be a variety of lot and home sizes.

The remainder of the Park West PZD contained approximately 106 acres. However, Fellowship Church recently purchased 26 acres, and there is a request to rezone another 20.54 acres (RZN 14-4875) that will likely be sold to another party. Staff is recommending that the remaining portion of property, approximately 50.46 acres be rezoned to CS, Community Services. In staff's opinion, the CS district will allow future development of a variety of uses that will transition between a variety of land uses and street classifications.

There is an existing 8 inch sewer line that runs south to north across all of the properties in question. There is an existing 6 inch water main along Hwy 112 (north side) and an existing 6 inch and 36 inch line along Hwy 112 (east side).

The property is currently undeveloped, so any future development will increase traffic congestion in the area. The extension of W. Van Asche Drive is under construction and will provide a valuable route to regional shopping destinations to the east without the need to access I-49. There are also discussions to widen Hwy 112 north from I-49. Future connections to Dean Solomon Road will also provide for traffic distribution and reduce congestion at major intersections.

Development of the property will increase population density. Utility services providers have been made aware of the rezoning request.

Currently there are no development rights on this property, so a rezoning must occur to allow use of the property. While there are a number of zoning districts that could be appropriate for the property, it is staff's opinion that the RSF-8 and CS zoning districts provide future land owners a great deal of flexibility in development, while also providing compatibility with adjacent properties and consistency with land use goals.

Sincerely,

Jesse Fulcher, AICP
Senior Planner
City of Fayetteville
479.575.8308



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

DEVELOPMENT SERVICES DEPARTMENT

125 West Mountain

Fayetteville, AR 72701

Phone (479) 444-3443

November 17, 2014

Simmons First Bank of NWA
117 Boyer Avenue
Lincoln, AR 72744-8915

VIA: CERTIFIED MAIL

Legacy National Bank
P.O. Box 6490
Springdale, Arkansas 72766-6490

Re: Re-zoning of the Expired Park West Planned Zoning District Project

Dear Property Owner:

The Assessor of Washington County, Arkansas lists you as the owner for the subject property that is zoned by the City of Fayetteville as a Planned Zoning District (PZD). This letter notifies you that the subject PZD approval has expired. In accordance with Ordinance No. 4820 for Park West PZD, the City has cause to revoke this PZD as development permits have not been obtained in accordance with the approved phased development schedule. Therefore, the City Development Services Department has initiated revocation of the expired PZD zoning on your property. As part of this action staff will recommend the City Council assign the property the zoning district of CS, Community Services. This proposal to revoke the PZD and rezone your property will be first heard at a public meeting of the Planning Commission on January 12, 2015 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas 72701. You are welcome to speak at that meeting and/or provide written or verbal comment to City staff prior to the meeting.

Please contact my office at 479-444-3443 if you would like to discuss this proposal, or you may email me at jfulcher@fayetteville-ar.gov.

Best Regards,

Jesse Fulcher
Senior Planner

Cc: Legacy National Bank
Cc: Simmons First Bank of NWA
Attached: Zoning regulations for CS, Community Services

Fulcher, Jesse

From: ronald young <RONDYOUNG@COX.NET>
Sent: Monday, December 29, 2014 10:48 AM
To: Fulcher, Jesse
Subject: Park West PZD

To whom it may concern:

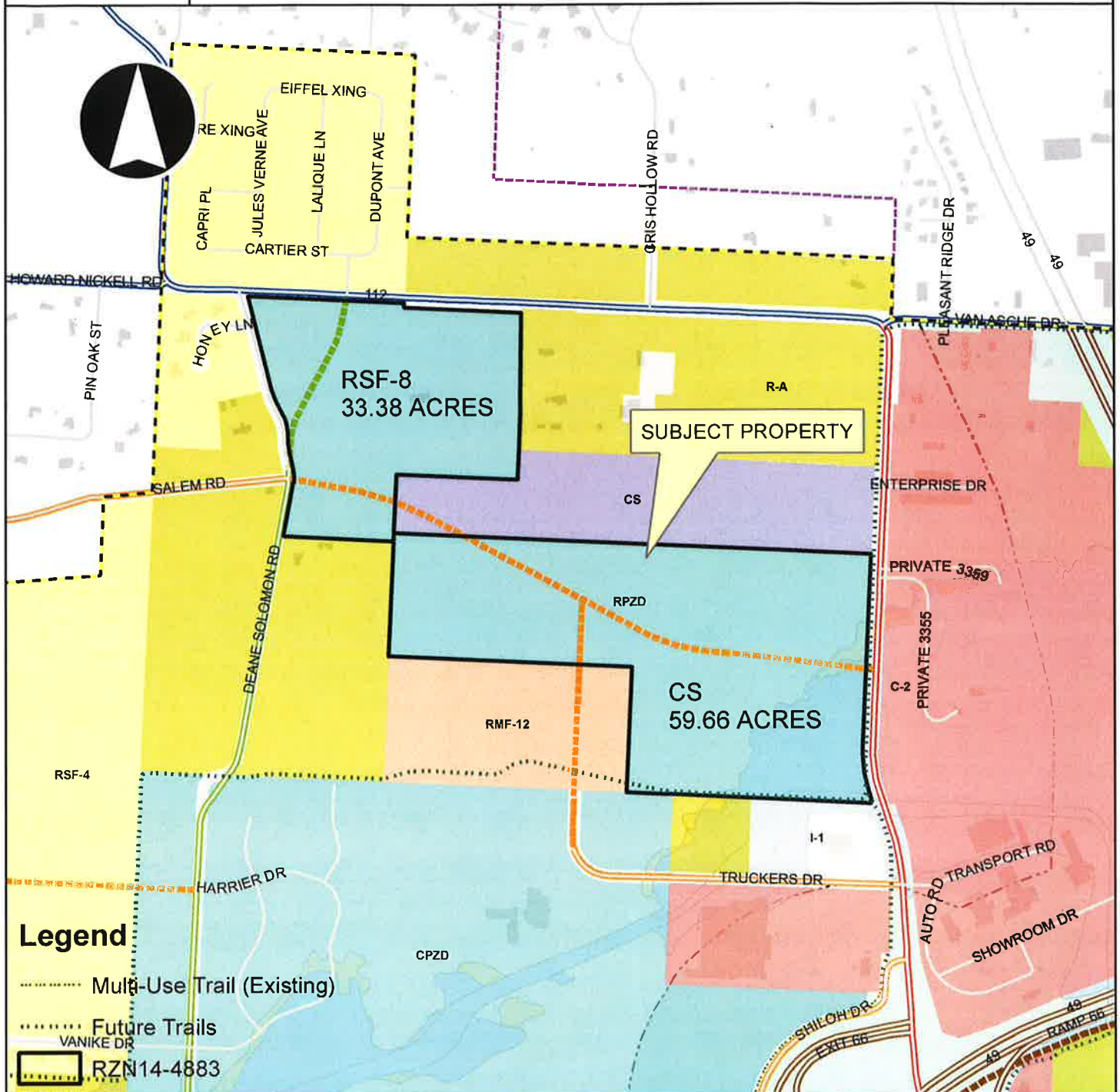
I live at 3481 N Deane Solomon Rd, Fayetteville across the street from the two parcels of the Park West PZD which are at the southeast corner of Hwy 112 and Deane Solomon RD that Staff is recommending be zoned for residential use. I support Staff's recommendation and respectfully encourage the Commission to adopt the recommendation. I also suggest that when those parcels are developed, because of high traffic counts on Deane Solomon and the dangerous intersection of Deane Solomon and Hwy 112, that Deane Solomon Rd be rerouted consistent with the Park West PZD.

Ronald D Young
479-236-4717
3481 N Deane Solomon RD
Fayetteville, AR 72704

RZN14-4883

PARKWEST

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- RZN14-4883

Overview Fayetteville City Limits

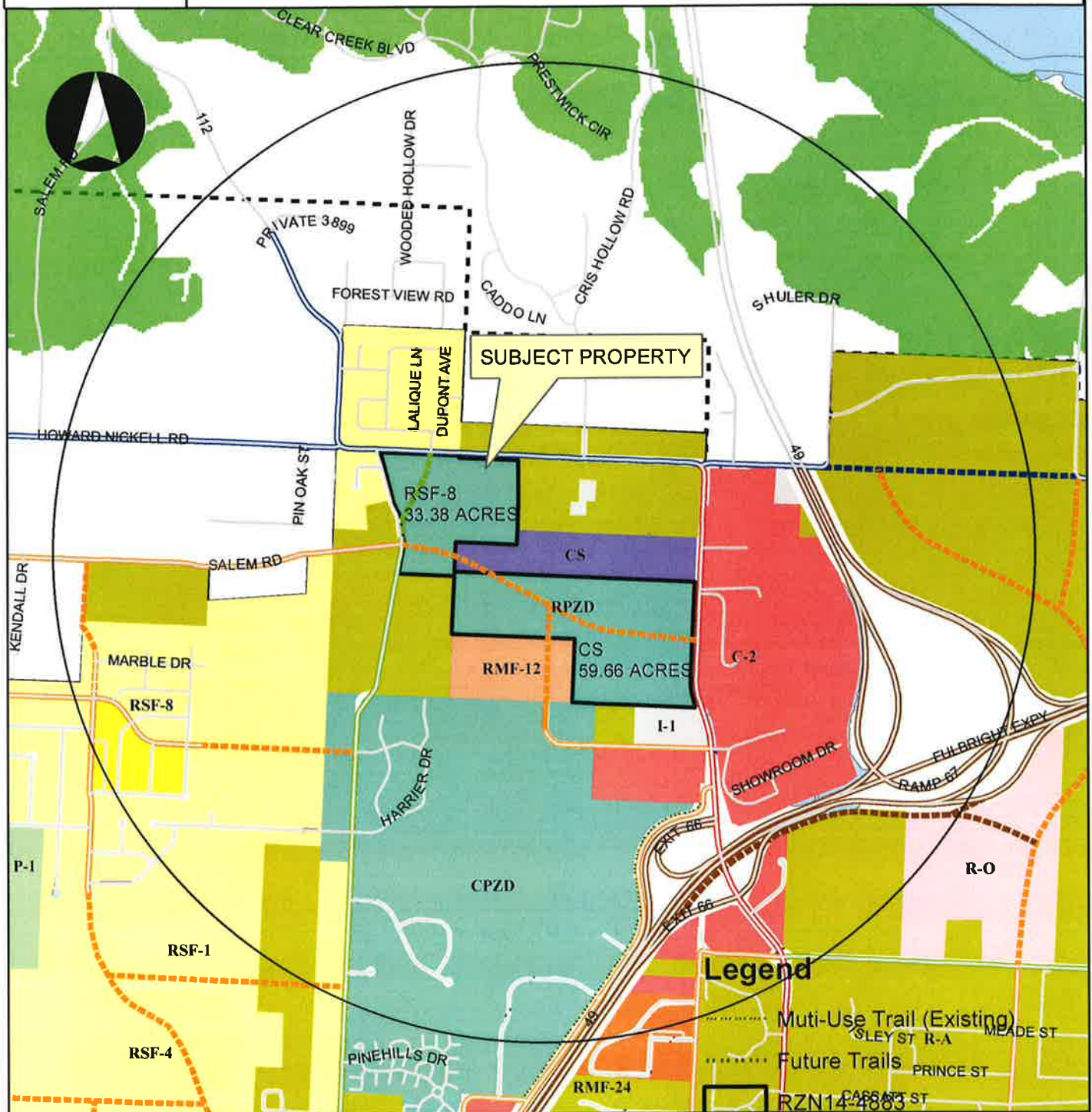
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 300 600 1,200 1,800 2,400 Feet

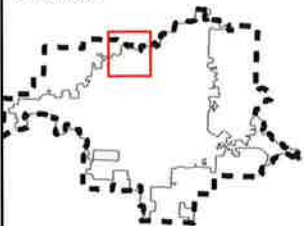
RZN14-4883

One Mile View

PARK WEST



Overview



Legend

Subject Property

Boundary

0

0.25

0.5

1

Miles

- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

RZN14-4883

Current Land Use

PARKWEST



Legend

- Multi-Use Trail (Existing)
- Future Trails

Overview RZN14-4883

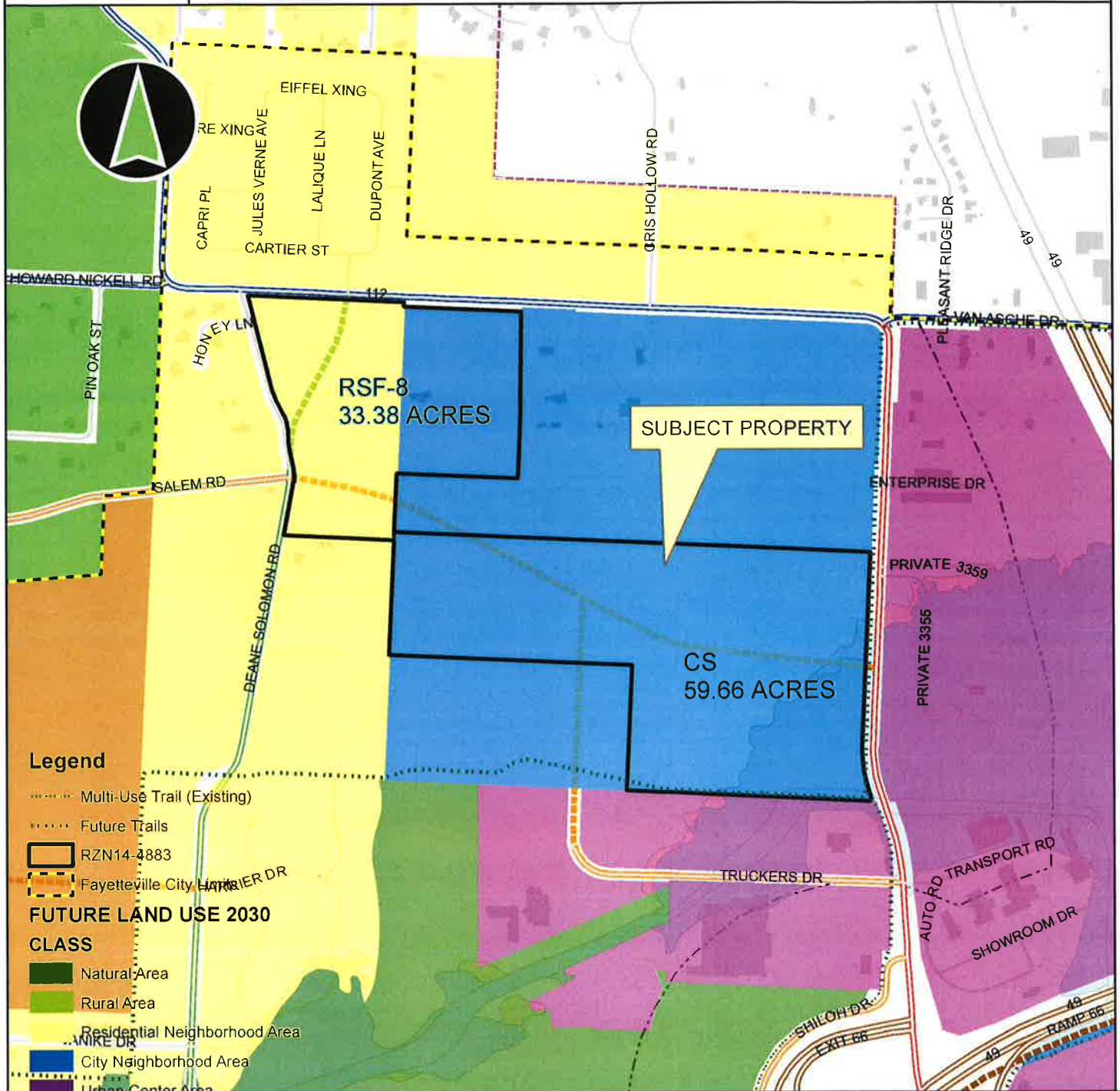
- Fayetteville City Limits
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area

0 300 600 1,200 1,800 2,400 Feet

RZN14-4883

PARKWEST

Future Land Use



Legend

Multi-Use Trail (Existing)

Future Trails

RZN14-4883

Fayetteville City Limit

FUTURE LAND USE 2030

CLASS

Natural Area

Rural Area

Residential Neighborhood Area

City Neighborhood Area

Urban Center Area

Industrial

Complete Neighborhood Plan

Civic and Private Open Space/Parks

Civic Institutional

Non-Municipal Government

ROW

Design Overlay District

Planning Area

0 300 600 1,200 1,800 2,400 Feet

EXHIBIT 'A'

RZN14-4883

PARKWEST

Close Up View

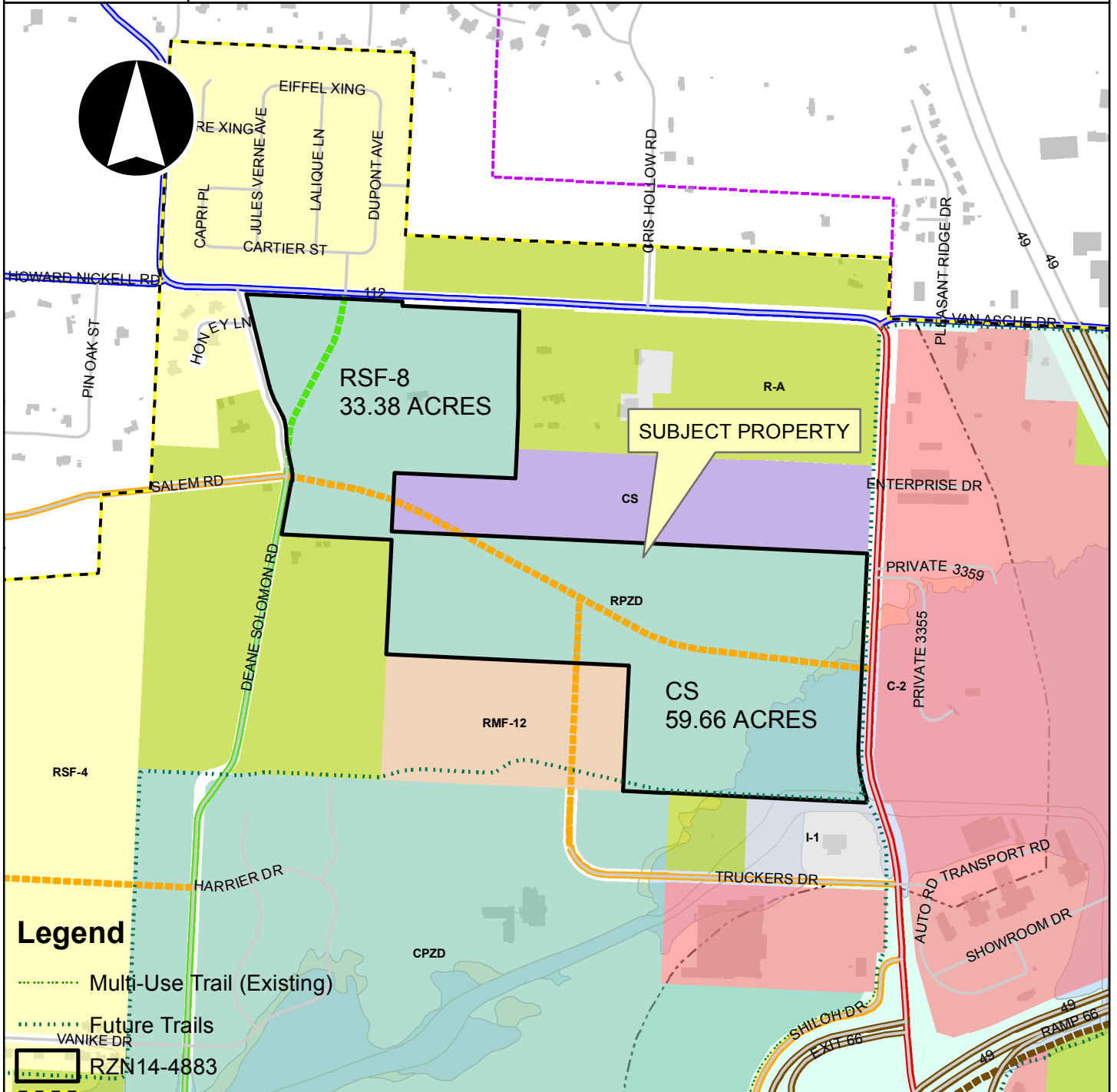


EXHIBIT 'B'

765-15832-000 (RSF-8)

A part of the W $\frac{1}{2}$, of the SW $\frac{1}{4}$. of Section 28, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows:
beginning at the intersection of the south right-of-way of Arkansas State Highway No. 112 and the East right-of-way of a gravel dirt road, said point lying South 85 degrees 39 minutes 30 seconds East 460.60 feet from the NW corner of said 80.00 acre tract, and running thence South 89 degrees 51 minutes 00 seconds East 858.70 feet with the South right-of-way line of Highway No. 112 to the East line of said 80.00 acre tract; thence South 00 degrees 07 minutes 00 seconds East with said East line 1,300.60 feet to a point North 00 degrees 07 minutes 00 seconds West 1,303.60 feet from the SE corner of said 80.00 acre tract; thence West 606.60 feet to the East right-of-way line of the previously mentioned gravel road; thence North 08 degrees 06 minutes 00 seconds East with said East line 321.00 feet; thence North 10 degrees 39 minutes 00 seconds West with said East line 284.30 feet; thence North 28 degrees 25 minutes 00 seconds West with said East line 166.10 feet; thence North 17 degrees 19 minutes 00 seconds West with said East line 586.00 feet to the point of beginning, containing 20.00 acres, more or less.

Now more accurately described by a plat of survey by Milholland Company dated May 10, 2004, designated as drawing No. E-688 as follows:

A part of the West Half (W $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$.) of Section Twenty-eight (28). Township Seventeen (17) North, Range Thirty (30) West, described as follows: commencing at the northwest corner of the SW $\frac{1}{4}$ of said Section 28, Township 17 North, Range 30 West, thence South 87 degrees 14 minutes 29 seconds East 1320.14 feet to a point on the East line of the West Half (W $\frac{1}{2}$), Southwest Quarter (SW $\frac{1}{4}$) said Section, thence South 02 degrees 31 minutes 02 seconds West 34.99 feet along said East line to the southern right-of-way Arkansas No.112 and the point of beginning, thence continuing along said East line South 02 degrees 31 minutes 02 seconds West 1298.63 feet, thence North 87 degrees 16 minutes 08 seconds West 600.60 feet to the East right-of-way of Washington County Road No. 890, thence along said right-of-way North 10 degrees 49 minutes 52 seconds East 321.00 feet, thence with said right-of-way North 07 degrees 55 minutes 08 seconds West 284.30 feet, thence with said right-of-way North 25 degrees 41 minutes 08 seconds West 166.10 feet, thence with said right-of-way North 14 degrees 35 minutes 08 seconds West 576.59 feet to the Southern right-of-way of Arkansas Highway No. 112, thence along said right-of-way South 87 degrees 35 minutes 48 seconds East 853.75 feet to the point of beginning, all located in Fayetteville, Washington County, Arkansas, and containing 19.860 acres, more or less.

765-15930-003 (RSF-8)

A part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty eight (28), Township Seventeen (17) North, Range Thirty (30) West, being more particularly described as follows:

Commencing at the Northwest corner of said 40 acre tract, said point being in Arkansas Highway 112; thence South 01 degrees 21 minutes 02 seconds West along the West line of said 40 acre tract 60.40 feet to an existing iron on the South right-of-way line of said Highway for the true point of beginning; thence South 88 degrees 44 minutes 20 seconds East along said right of way 636.06 feet to an existing iron; thence leaving said right of way South 00 degrees 40 minutes 42 seconds East 565.86 feet to an existing iron; thence South 01 degrees 01 minutes 05 seconds West 179.25 feet to an existing iron at a fence corner; thence South 01 degrees 01 minute 05 seconds West 161.92 feet to a set $\frac{1}{2}$ " iron rebar on the proposed north right of way line of an undeveloped street as shown on the master street plan for Fayetteville, Arkansas; thence North 88 degrees 33 minutes 19 seconds West along said proposed right of way line 658.07 feet to a set $\frac{1}{2}$ " iron rebar on the West line of said 40 acre tract; thence North 01 degrees 21 minutes 02 seconds East 904.60 feet to the point of beginning, containing 13.52 acres, more or less.

EXHIBIT 'B'

765-15830-000 (CS, Community Services)

TRACT 1 (REMAINING TRACT) SURVEY DESCRIPTION:

A PART OF THE EAST HALF (E ½) OF THE SOUTHWEST QUARTER (SW ¼) AND A PART OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼), ALL IN SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SAID SECTION 28 BEING A FOUND MAGNAIL IN ASPHALT ROADWAY; THENCE ALONG THE WEST LINE OF SAID NE 1/4, S02°34'52"W A DISTANCE OF 1283.11 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439" AND THE POINT OF BEGINNING; THENCE S87°19'58"E A DISTANCE OF 2582.01 FEET TO THE WESTERN RIGHT OF WAY OF HIGHWAY 112 FOR U.S. HIGHWAY 112 BEING FIFTY-FIVE (55) FEET WEST OF CENTERLINE, BEING A FOUND IRON PIN WITH CAP "PLS 1439"; THENCE ALONG SAID WESTERN RIGHT OF WAY THE FOLLOWING EIGHT (8) CALLS, S02°43'18"W A DISTANCE OF 978.38 FEET TO A POINT; THENCE S02°02'26"W A DISTANCE OF 63.14 FEET TO A POINT; THENCE S00°11'50"W A DISTANCE OF 51.97 FEET TO A POINT; THENCE S03°04'07"E A DISTANCE OF 40.08 FEET TO A POINT; THENCE S07°04'04"E A DISTANCE OF 55.68 FEET TO A POINT; THENCE S11°50'44"E A DISTANCE OF 58.74 FEET TO A POINT; THENCE S15°34'53"E A DISTANCE OF 71.32 FEET TO A POINT; THENCE S18°13'53"E A DISTANCE OF 15.95 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, S02°32'54"W A DISTANCE OF 26.08 FEET TO A FOUND ALUMINUM CAPPED IRON PIN AT THE SOUTHEAST CORNER OF THE SW 1/4 OF THE SE ¼ OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF THE SW ¼ OF THE SE ¼, N87°08'52"W A DISTANCE OF 1322.12 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439", BEING THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE LEAVING SAID SOUTH LINE, N02°32'22"E A DISTANCE OF 680.63 FEET TO A SET IRON PIN WITH CAP "PLS 1439"; THENCE N87°26'22"W A DISTANCE OF 1315.59 FEET TO THE WEST BOUNDARY OF THE EAST HALF (E ½) OF THE SW ¼ BEING A SET IRON PIN WITH CAP "PLS 1439"; THENCE ALONG SAID WEST LINE, N02°34'52"E A DISTANCE OF 671.33 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINING 59.66 ACRES (2,598,809 SQUARE FEET), MORE OR LESS.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND 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-PZD 05-1796, Residential Planned Zoning District Park West, to RSF-8, Residential Single Family, 8 Units per Acre, and 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 , 2015.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0030

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Ordinance

Agenda Number: C. 3

RZN 14-4916 (956 RAY AVENUE/HODOUS):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-24, Residential Multi Family, 24 Units per Acre, to NS, Neighborhood Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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

City of Fayetteville Staff Review Form

2015-0030

Legistar File ID

2/3/2015

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

Jeremy Pate

1/16/2015

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 14-4916: Rezone (956 RAY AVENUE/HODOUS, 565): Submitted by KIM HODOUS for property located at 956 RAY AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 0.32 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Fayetteville City Council

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

DATE: January 16, 2015

SUBJECT: **RZN 14-4916: Rezone (956 RAY AVENUE/HODOUS, 565):** Submitted by KIM HODOUS for property located at 956 RAY AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 0.32 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES

RECOMMENDATION:

The Planning Commission and City Planning Staff recommend approval of an ordinance to rezone the property to NS, Neighborhood Services.

BACKGROUND:

The subject property is located one lot south of the southeast corner of Huntsville Road and Ray Avenue. The property is developed with an approximately 2,000 square foot office building that was constructed in 1970, according to County records.

The property is currently zoned RMF-24, Residential Multi-family. However, according to the current property owner the building has always been used for office/commercial purposes, and the County Assessor lists the primary occupancy as "office building – commercial." In researching City records, there is evidence that this property was previously zoned C-1, Neighborhood Commercial. Attached are several City records dated from the 1980's and 1990's that reference the subject property as C-1, Commercial.

The City of Fayetteville adopted a digital zoning map in 2003 after having used hand-drawn paper maps since the 1970's.

*City Plan 2030 Future Land Use Plan designates this site as a **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family and row houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.*

Compatibility: The Future Land Use Map designates the property as a Residential Neighborhood Area. These areas are primarily residential, but low-intensity, non-residential uses can be appropriate. The subject property is one lot south of Huntsville Road, a 5-lane state highway, and bordered on the north and west by property zoned C-1, Neighborhood Commercial. Rezoning the property to NS, Neighborhood Services, which limits non-residential buildings to a maximum size of 3,000 square feet, provides an appropriate transition between the high volume roadway and commercial properties to the north and west and the residential properties to the south. Rezoning the property to Neighborhood Services is compatible with surrounding land uses and zoning districts.

DISCUSSION:

On January 12, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

CC Ordinance

Exhibit A

Exhibit B

Planning Commission Staff Report

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

MEETING DATE: January 12, 2015 Updated January 15, 2015

SUBJECT: **RZN 14-4916: Rezone (956 RAY AVENUE/HODOUS, 565):** Submitted by KIM HODOUS for property located at 956 RAY AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 0.32 acres. The request is to rezone the property to NS, NEIGHBORHOOD SERVICES.

RECOMMENDATION:

Staff recommends forwarding **RZN 14-4916** with a recommendation for approval.

BACKGROUND:

The subject property is located one lot south of the southeast corner of Huntsville Road and Ray Avenue. The property is developed with an approximately 2,000 square foot office building that was constructed in 1970, according to County records.

The property is currently zoned RMF-24, Residential Multi-family. However, according to the current property owner the building has always been used for office/commercial purposes, and the County Assessor lists the primary occupancy as "office building – commercial." In researching City records, there is evidence that this property was previously zoned C-1, Neighborhood Commercial. Attached are several City records dated from the 1980's and 1990's that reference the subject property as C-1, Commercial.

The City of Fayetteville adopted a digital zoning map in 2003 after having used hand-drawn paper maps since the 1970's.

The surrounding zoning and land uses are depicted in *Table 1*.

Table 1 - Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Undeveloped	C-1, Neighborhood Commercial
South	Single-family	RSF-4, Residential Single-family
East	Undeveloped	RMF-24, Residential Multi-family
West	Undeveloped	C-1, Neighborhood Commercial

Request: The request is to rezone the property to NS, Neighborhood Services. The property has long been used for nonresidential purposes, but the current zoning of RMF-24 makes the use of the building an existing non-conforming use. Additionally, any change in commercial use requires Planning Commission approval of a conditional use permit.

Public Comment: Staff has not received any public comment.

INFRASTRUCTURE:

Streets: The site has access to Ray Avenue (Local Street), which is an unimproved two-lane street. Improvements to Ray Avenue will be determined at the time of development.

Water: Public water is accessible to the site. There is an existing 8-inch water main along Ray Avenue.

Sewer: Sanitary sewer is available to the site. There is an existing 6-inch along Ray Avenue.

Drainage: Any additional improvements or requirements for drainage will be determined at time of development. This property is not affected by the 100-year floodplain, or the Streamside Protection Ordinance.

Fire: This development will be protected by Engine 3 located at 1102 S. Happy Hollow Road. It is ¼ mile from the station with an anticipated response time of 1 minute 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.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN:

*City Plan 2030 Future Land Use Plan designates this site as a **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family and row houses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.*

DISCUSSION:

FINDINGS OF THE STAFF

Recommendation: Staff recommends forwarding **RZN 14-4916** with a recommendation for approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>January 12, 2015</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Chesser</u>	Second: <u>Honchell</u>	Vote: 9-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>February 3, 2015</u>	☐ Approved	☐ Denied	

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: The Future Land Use Map designates the property as a Residential Neighborhood Area. These areas are primarily residential, but low-intensity, non-residential uses can be appropriate. The subject property is one lot south of Huntsville Road, a 5-lane state highway, and bordered on the north and west by property zoned C-1, Neighborhood Commercial. Rezoning the property to NS, Neighborhood Services, which limits non-residential buildings to a maximum size of 3,000 square feet, provides an appropriate transition between the high volume roadway and commercial properties to the north and west and the residential properties to the south. Rezoning the property to Neighborhood Services is consistent with land use planning objectives and zoning plans.

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

Finding: In staff's opinion the rezoning is justified and needed. According to the property owner, the property has been used for non-residential uses since it was constructed in 1970. Staff has found documentation that proves that the building has in fact been used several times for commercial purposes, since at least the 1980's. Further, it appears that the property was zoned C-1, Neighborhood Commercial until at least 1994 and potentially until 2003 when the official zoning map was re-adopted. Staff has found no evidence of the property being rezoned from commercial.

The current residential zoning doesn't permit commercial uses by right. Currently, the commercial use of the building is nonconforming and the owner could lose this "grandfathered" use if it is determined there has been an "abandonment of use" for more than six consecutive months. Further, any change in commercial use requires Planning Commission approval of a conditional use permit. This constrains the use of the building.

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

Finding: The property has been used for a variety of non-residential uses for over 40 years and it doesn't appear that this has increased traffic danger or congestion to any noticeable degree. Rezoning the property to Neighborhood Services will allow a greater variety of non-residential uses, some of which could generate more traffic. However, the square footage limitation required by the Neighborhood Services district will prevent the property from being developed with a large commercial structure, which could appreciably increase traffic and congestion.

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

Finding: Rezoning the property to Neighborhood Services should not create an undesirable increase on public services. The property has been used historically for non-residential uses. The Fayetteville Police and Fire Departments have reviewed and commented on this rezoning request with no objections.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code sections 161.14 & 161.16
- Fire response letter
- Request letter
- Property Background
- One Mile Map
- Close Up Map
- Current Land Use Map
- Future Land Use Map

TITLE XV UNIFIED DEVELOPMENT CODE

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.* -

Units per acre	24 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.

Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 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.

TITLE XV UNIFIED DEVELOPMENT CODE

161.16 Neighborhood Services

(A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*

(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cottage Housing Development

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

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less
----------------	------------

(D) *Bulk and Area*

(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	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, 6-18-13; Ord. 5664, 2-18-14)

Written Description of Request for Re-Zoning:

- A. The property is currently owned by RASA, LLC. The sole trustees are Robert and Kimberly Hodous, 1675 Arthurs Ct, Fayetteville, AR 72701. The property has been for sale in the past and will be put back on the market when re-zoning is complete.
- B. We are requesting zoning as it was purchased as a commercial property and has a history of being a commercial space prior to our purchase of it.
- C. There will be no changes to surrounding properties in terms of land use, traffic, appearance and signage once re-zoning is complete.
- D. There currently is a 6" sewer line and 8" water line.
- E. The proposed zoning is consistent with the current use of the property. Since it was built in 1970 it has been used in a multitude of commercial instances – from a medical office to the Head Start office to the corporate headquarters for SUDS carwash.
- F. The proposed zoning is justified given the history of the building. Right now it is restricted to office use only as that is what is grandfathered in.
- G. There will be no change in traffic or congestion with the proposed zoning.
- H. The change in zoning will in no way alter the population density and in no way increase the load on public services.
- I. The building is a commercial building so it's existing zoning of RMF 24 to be used as a multi-family residential unit is completely impractical.

Planning Commission Meeting
 March 9, 1981
 Page 7

Don Hunnicutt stated that General Bruce Kendall of the County Planning Board had no problem with this subdivision as long as easements as requested are dedicated.

Hunnicutt moved to approve the preliminary plat for Cato Springs Estates subject to Plat Review Committee comments. Newton Hailey seconded.

The motion to approve passed (8-0).

The sixth item of business was the public hearing on Rezoning Petition R80-32, The Gardener Company, Inc. to rezone property located South of Highway 16 East, East of Ray Avenue, and North of Lee Street from C-1, Neighborhood Commercial District, to C-2, Thoroughfare Commercial District. Tabled at the January 12, 1981 Planning Commission meeting at the request of the petitioner.

REZONING PETITION NO. R80-32
 GARDENER COMPANY, INC.
 WATSON ADDITION

There was no one present to represent.

The Chairman asked for a report from the Planning Consultant, Larry Wood.

Mr. Wood stated that he would like the Planning Commission to consider a change to C-2 for three reasons:

1. The property is already zoned C-1 District, and the additional uses allowed in C-2 District would not substantially change the character of this area.
2. A building already exists on the property suitable for the use intended.
3. There remains sufficient land East of this location to establish a transition pattern at some future date.

Wood said that originally, the request to rezone was submitted so that a veterinary hospital could be located on the tract which is not allowed in the present C-1 zoning.

There being no one present in favor of the request, the Chairman entertained comments from the audience in opposition to the rezoning.

Raymond Logue, 1967 Huntsville Road addressed the Commission. He stated he is in opposition to the request because of the uses that the property could be put to if it were C-2, he stated a night club or beer joint could be placed on the property, and he did not want either next door to him.

He stated that the present C-1 zoning had been implicated without notification of property owners around it. He further stated that the neighbors all around are very much against the proposed rezoning. He felt that C-1 was a sufficient intensity.

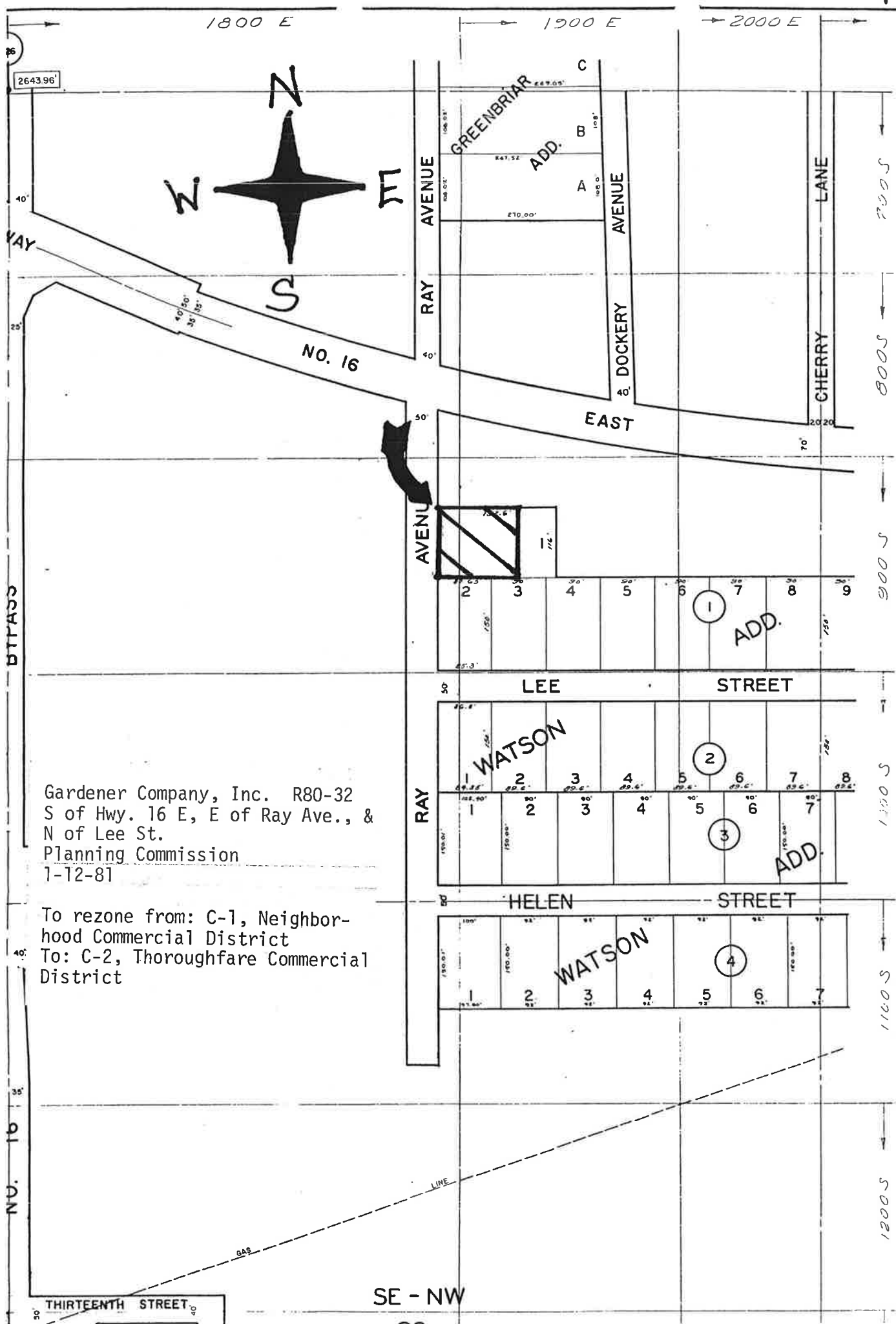
Logue presented the Chairman with a letter from the Ridgeview Baptist Church, which is directly across the street from this tract, stating opposition to the proposed rezoning by the Pastor.

Ernest Jacks stated that notification could have been in the paper, rather than individually.

Newton Hailey asked the Planning Consultant why he was recommending C-2, when the future land use is projected as R-0. Wood replied that the R-0 does not apply since the property is already C-1. Jacks asked when the property was zoned C-1. Bobbie Jones replied it was zoned C-1 prior to 1970.

1981

DATE APRIL 24, 1957
REVISED:
JANUARY 22, 1963
JULY 27, 1965
12-6-74
DEC. 5, 1975
FEB. 11, 1976



Gardener Company, Inc. R80-32
S of Hwy. 16 E, E of Ray Ave., &
N of Lee St.
Planning Commission
1-12-81

To rezone from: C-1, Neighbor-
hood Commercial District
To: C-2, Thoroughfare Commercial
District

1988



BUILDING PERMIT
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS

B 19473

CERT. OF OCCUPANCY NO. N/A

DATE January 28, 1988

THIS IS TO CERTIFY THAT A BUILDING PERMIT IS ISSUED FOR ERECTING ☐ FOR REMODELING ☒ TO DEMOLISH ☐
A. COMMERCIAL DAMAGE REPAIR

TO BE LOCATED ON LOT _____ BLOCK _____ OF THE _____ ADDITION
OR DESCRIBED AS BEING A PART OF _____

LOCATED 956 South Ray IN A C-2 Throughfare ZONE.

☐ PLANS AND SPECIFICATIONS HAVE BEEN SUBMITTED.

BUILDING OR REMODELING COST \$ 12,050

REMARKS repairing fire damage to Dr. Abernathy's office DIMENSIONS 62 x 32
BUILDING FLOOR AREA 1984 SQ. FT.

ALL WORK AND ALL SET-BACKS WILL CONFORM TO THE ORDINANCES OF THE CITY OF FAYETTEVILLE NOW IN EFFECT.

NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING OR AIR CONDITIONING. THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS COMMENCED. THIS PERMIT IS VALID FOR 9 MONTHS.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT, THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

FEE PAID

PERMIT	\$ <u>47.00</u>
CERT. OF OCCUPANCY	\$ _____
PLAN CK FEE	\$ _____
CURB CUT	\$ _____
DRIVEWAY	\$ _____
SIDEWALK	\$ _____
MICROFILM	\$ _____
TOTAL	\$ <u>47.00</u>

OWNER Gardner & CO

THIS PERMIT IS IN ADD. TO PERMIT _____

CASHIER NO. 1-29189

APPLICANT [Signature]

DATE ISSUED _____

DATE 1-28-88

BUILDING OFFICIAL [Signature]

BUILDING OFFICIAL'S SIGNATURE CERTIFIES THAT THE APPLICATION HAS BEEN EXAMINED AND PERMIT HAS BEEN ISSUED.

STREET FILE

1991



SIGN PERMIT
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS

S- No 4848

DATE 30 July 1991

LOCATED 956 Ray Avenue

THIS IS TO CERTIFY THAT A SIGN PERMIT IS ISSUED FOR ☐ ERECTING ☐ REMODELING ☐ REPAIRING A
☒ ON SITE SIGN ☐ WALL SIGN ☐ FREE STANDING SIGN ☐ PROJECTING SIGN
☐ OFF SITE SIGN

TO BE LOCATED ON LOT _____ BLOCK _____ OF THE _____ ADDITION
OR DESCRIBED AS BEING A PART OF Sect. 23, T16N, R30W

PROPERTY IS ZONED AS C-1 Neighborhood Commercial DISTRICT
AREA OF PROPOSED SIGN (ONE FACE ONLY IF DOUBLE FACED) 24 SQUARE FEET
ESTIMATE COST OF ERECTION PLUS COST OF SIGN \$

REMARKS Washington County Head Start

ALL WORK AND ALL SET-BACKS WILL CONFORM TO THE ORDINANCES OF THE CITY OF FAYETTEVILLE NOW IN EFFECT.

THIS PERMIT EXPIRES SIX MONTHS FROM DATE
OF ISSUE IF CONSTRUCTION IS NOT COMPLETED

SEE APPLICATION ON FILE FOR SETBACKS ETC.
PLOT PLAN

PERMIT FEE

BASE RATE \$10.00
PLUS
\$.10 PER SQUARE
FOOT OF SIGN FACE
TOTAL FEE DUE \$ 12.40

CASHIER NO. 16365
DATE 30 July 1991

Sign Permit Revocable - All
rights and privileges acquired
under the provisions of this
ordinance or any amendment
thereto are mere licenses
revocable at any time by the
Fayetteville City Board of
Directors and all such permits
shall contain this provision.

OWNER OF FACILITY

SIGNED

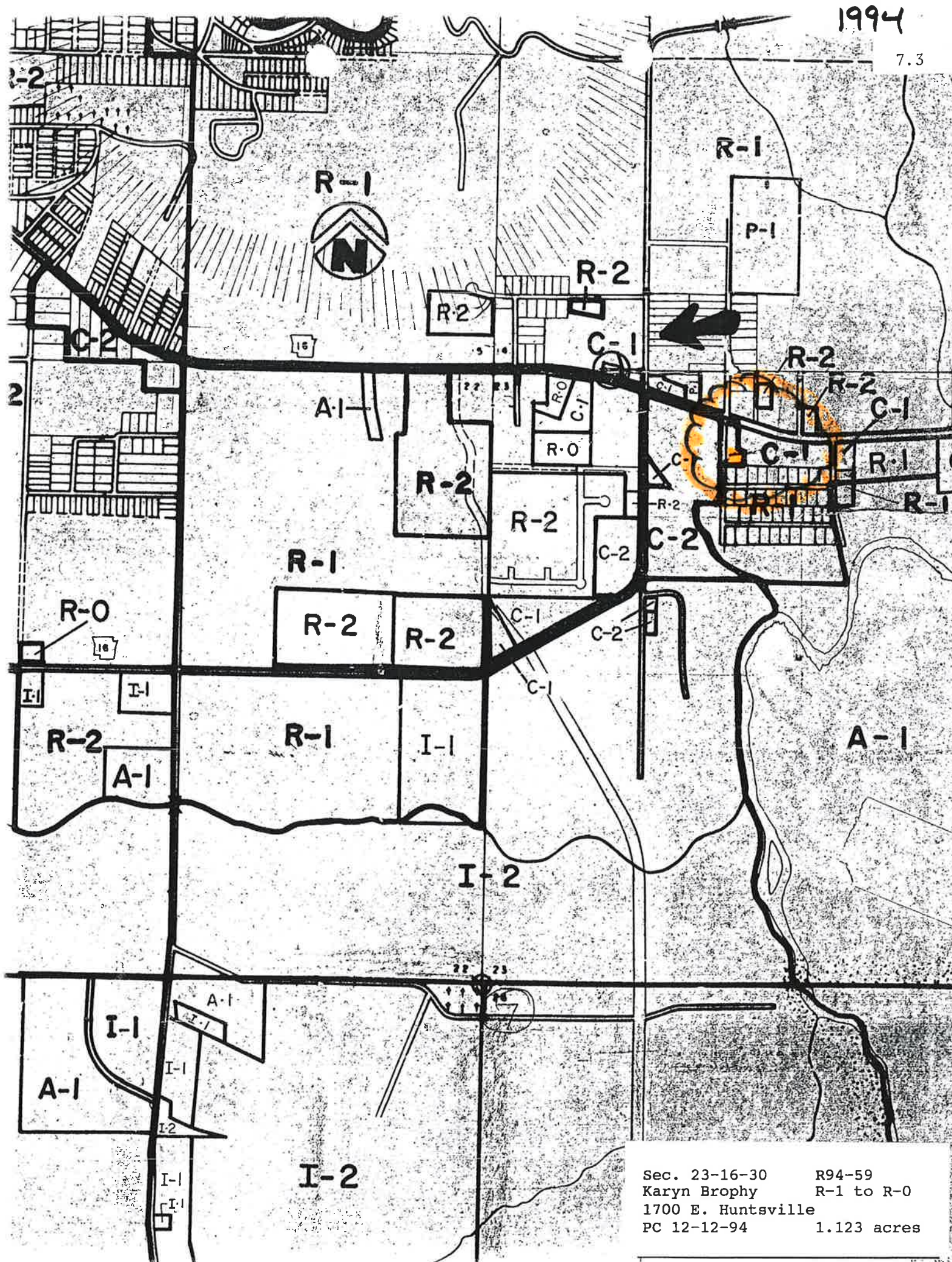
BUILDING OFFICIAL Richard Wilson 17 AUGUST 1991

BUILDING OFFICIAL'S SIGNATURE CERTIFIES THAT THE APPLICATION HAS BEEN EXAMINED AND PERMIT HAS BEEN ISSUED.

25x10

1994

7.3



Sec. 23-16-30 R94-59
 Karyn Brophy R-1 to R-0
 1700 E. Huntsville
 PC 12-12-94 1.123 acres



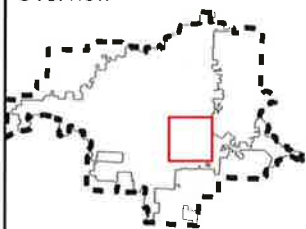
RZN14-4916

One Mile View

HODOUS



Overview



Legend

Subject Property

Boundary

0 0.25 0.5

1 Miles

Hillside-Hilltop Overlay District

Design Overlay District

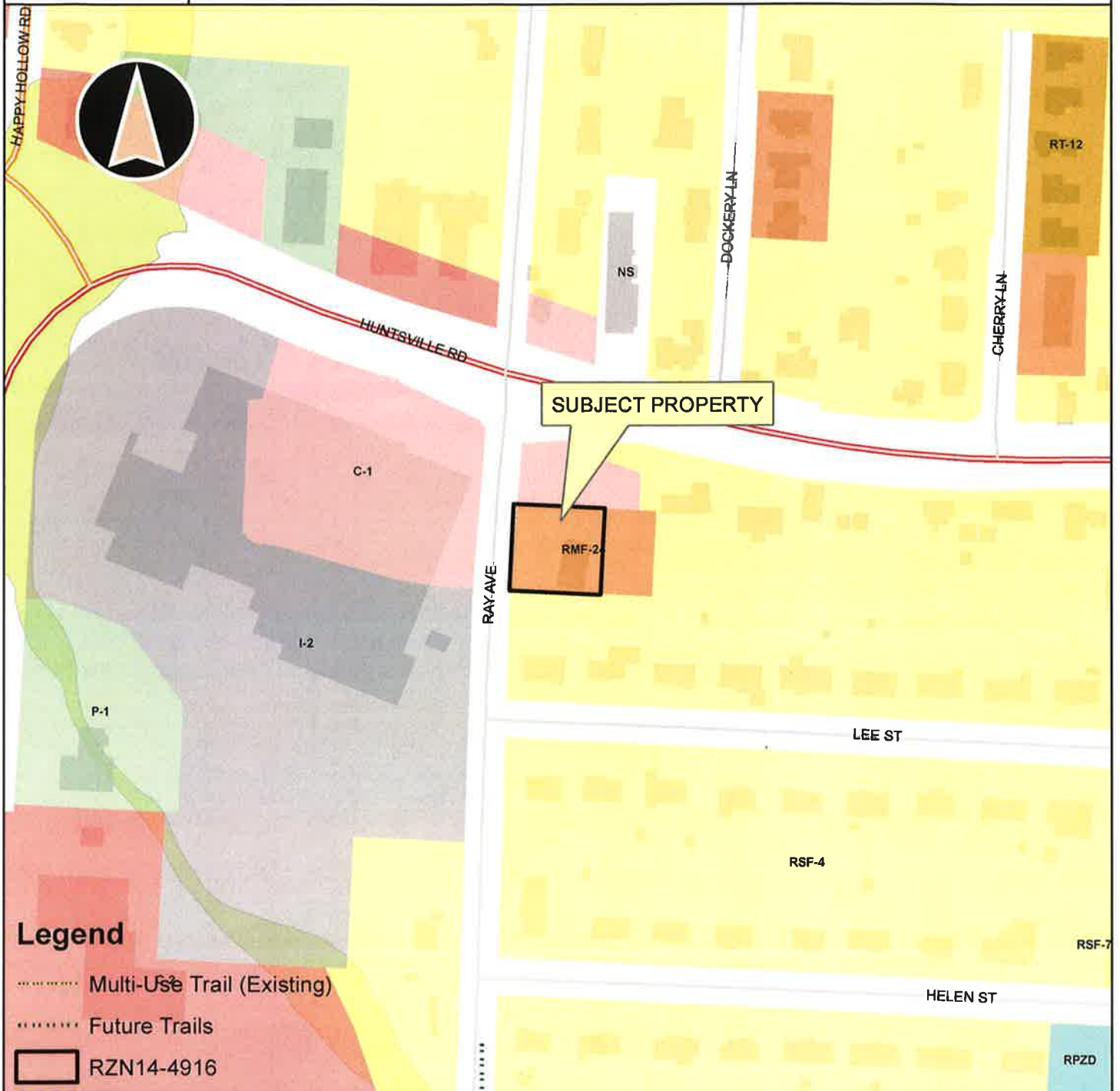
Planning Area

Fayetteville

RZN14-4916

HODOUS

Close Up View



Overview

- Fayetteville City Limits
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600 Feet

RZN14-4916

Current Land Use

HODOUS



Overview Fayetteville City Limits

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

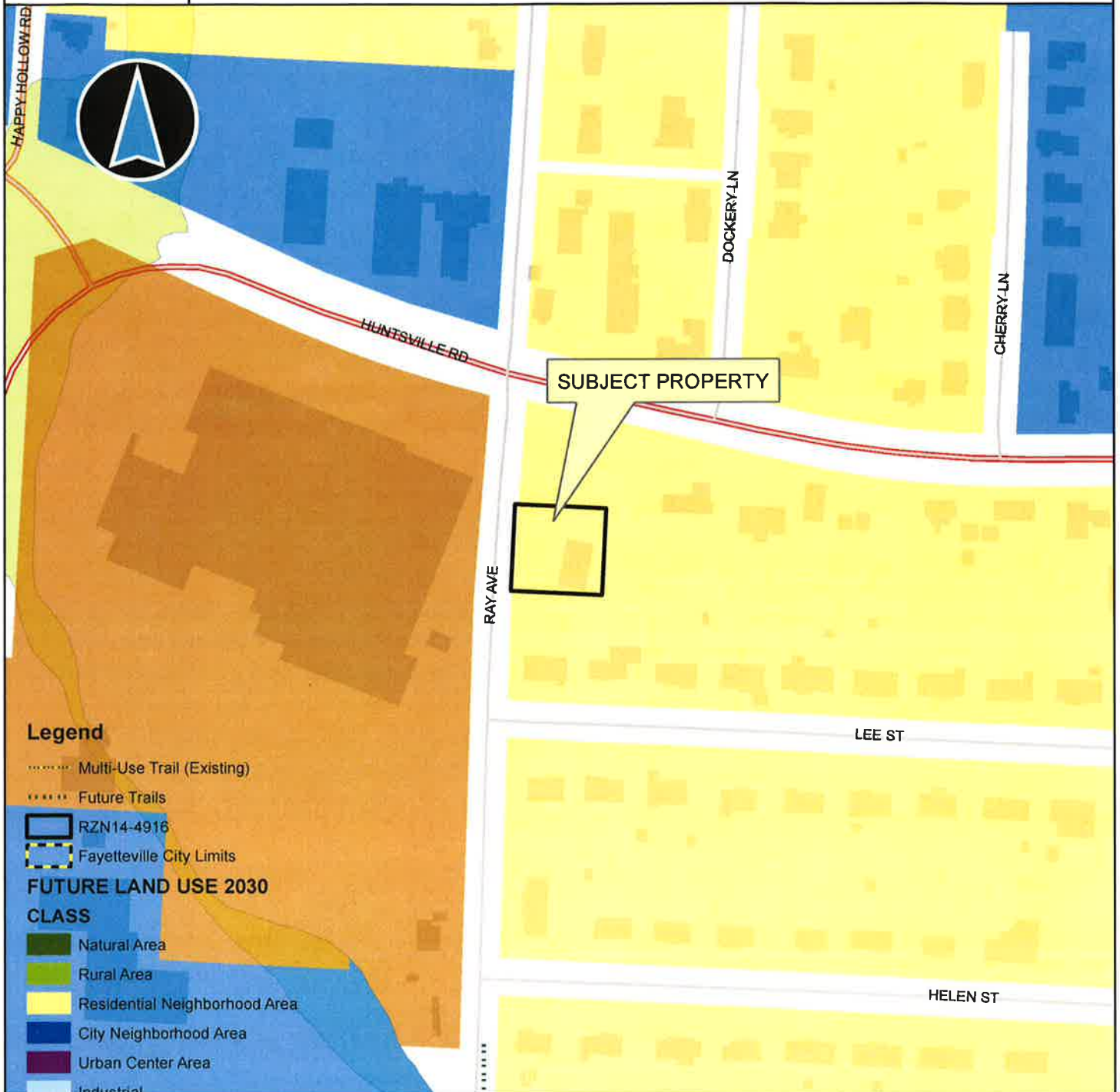
Planning Area

0 75 150 300 450 600 Feet

RZN14-4916

HODOUS

Future Land Use



- Complete Neighborhood Plan
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- Design Overlay District
- Design Overlay District
- Planning Area

0 75 150 300 450 600 Feet

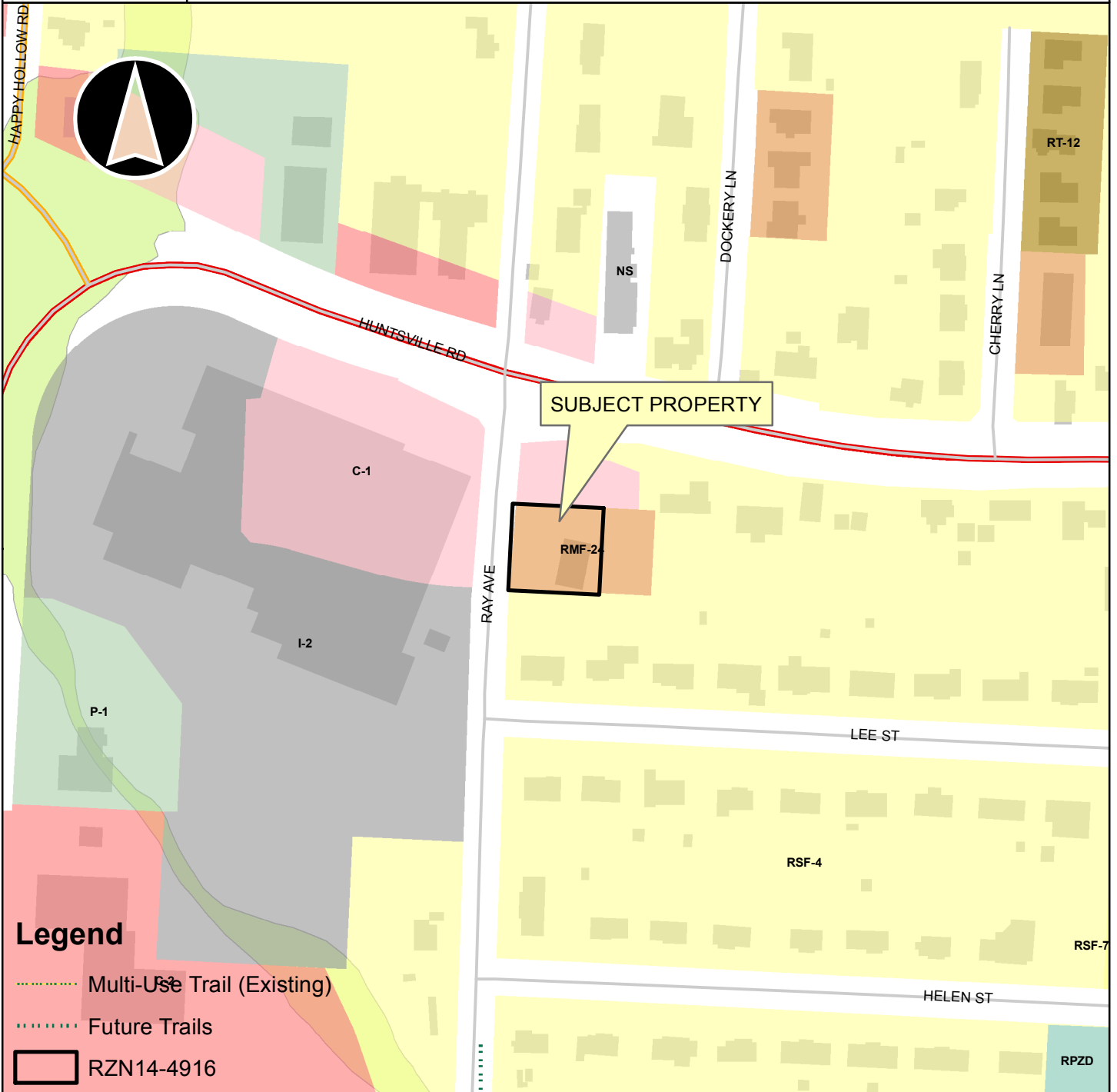
EXHIBIT 'A'

14-4916

RZN14-4916

HODOUS

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- RZN14-4916

Overview

- Fayetteville City Limits
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

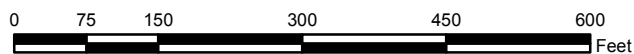


EXHIBIT 'B'

Legal Description of 956 Ray Avenue, Fayetteville, AR 72701.

A part of the Northeast Quarter of the Northwest Quarter of Section Twenty-three (23) in Township sixteen (16) North, Range Thirty (30) West, described as beginning at the Southwest corner of the East Half of the East Half of the Northwest Quarter of said Section twenty-three (23); thence North 0 degrees 48 minutes West nineteen hundred sixty nine and ninety six hundredths (1969.96) feet to a point fifty (50) feet West and One and seven tenths (1.7) feet North of the Northwest corner of Lot Numbered One (1) in Block Numbered One (1) of Watson Addition, a subdivision of part of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and a part of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, Township 16 North, of Range 30 West; thence East fifty (50) feet to the East line of Ray Avenue for the Point of beginning; and running thence East one hundred twenty three and six tenths (123.6) feet; thence South one hundred seventeen and seven tenths (117.7) feet to the south line of Lot Numbered One (1) of Block Numbered One (1) in said addition, thence West one hundred twenty three and six tenths (123.6) feet to the Southwest corner of said Lot 1; thence North along the East line of Ray Avenue to the Point of Beginning, said point being one and seven tenths (1.7) feet North of the Northwest corner of said Lot Numbered one (1) in Block Numbered One (1) of Watson Addition.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-24, Residential Multi Family, 24 Units per Acre, to NS, Neighborhood Services, as shown on Exhibits “A” and “B” attached hereto and made a part hereof.

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

PASSED and APPROVED this day of , 2015.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
479-575-8323

Text File

File Number: 2015-0031

Agenda Date: 2/3/2015

Version: 1

Status: Agenda Ready

In Control: City Council

File Type: Ordinance

Agenda Number: C. 4

R-PZD 14-4924 (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-24, Residential Multi Family, 24 Units per Acre, to R-PZD 14-4924, Residential Planned Zoning District Hawkins House, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the master plan depicted in the PZD booklet and plats as submitted and determined appropriate and approved by the City Council.

Section 3: 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.

City of Fayetteville Staff Review Form

2015-0031

Legistar File ID

2/3/2015

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jeremy Pate

1/16/2015

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

R-PZD 14-4924: Residential Planned Zoning District (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE, 519): Submitted by BATES & ASSOCIATES for property located at SOUTH SHILOH DR. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 10.74 acres. The request is to rezone the property to R-PZD 14-4924, Residential Planned Zoning District Hawkins House.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget

\$ -

Funds Obligated

\$ -

Current Balance

\$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget

\$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF FEBRUARY 3, 2015

TO: Fayetteville City Council

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

DATE: January 16, 2015

SUBJECT: **R-PZD 14-4924: Residential Planned Zoning District (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE, 519):** Submitted by BATES & ASSOCIATES for property located at SOUTH SHILOH DR. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 10.74 acres. The request is to rezone the property to R-PZD, Residential Planned Zoning District.

RECOMMENDATION:

The Planning Commission and City Planning Staff recommend approval of an ordinance to rezone the property to R-PZD, Residential Planned Zoning District.

BACKGROUND:

The subject property is zoned RMF-24 and is located approximately ½ mile north of Martin Luther King Boulevard. The Planning Commission approved a large scale development on the property (Village at Shiloh) in 2007 for the development of 198 multi-family units within 20 separate buildings. All of the interior private streets and utility lines were constructed. However, only 5 of the buildings were completed. The project expired in 2010.

Although the existing building resemble townhomes, they are actually condo units. The property surrounding the buildings is under one common ownership, while each of the 50 existing units are individually owned. These existing buildings are now on a separate lot from the remainder of the development.

In 2014, the Planning Commission approved a large scale development (LSD 14-4783 Hawkins House) for five new apartment buildings containing 46 residential units. Those buildings are currently under construction and are a part of the PZD and preliminary plat, so they can be sold as individual lots.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Map designates a majority of this property as a 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 designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors. The street network should have a high number*

of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

City Neighborhood Areas encourage complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

Compatibility: The project is consistent with the original large scale that was approved and developed in 2007 and with the units that are under construction. The proposed townhouse development is compatible with the surrounding land uses including offices to the south, undeveloped C-2 property to the north, the I-49 corridor to the east, and undeveloped parkland to the west.

DISCUSSION:

On January 12, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 9-0-0. A preliminary plat was approved by the Planning Commission, subject to the City Council approval of the rezoning request.

BUDGET/STAFF IMPACT:

N/A

Attachments:

CC Ordinance

Exhibit A

Exhibit B

Planning Commission Staff Report

PZD Booklet

PZD Plats

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, Planning Director

FROM: Jesse Fulcher, Senior Planner

MEETING DATE: ~~January 12, 2015~~ Updated January 15, 2015

SUBJECT: **R-PZD 14-4924: Residential Planned Zoning District (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE, 519):** Submitted by BATES & ASSOCIATES for property located at SOUTH SHILOH DR. The property is zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and contains approximately 10.74 acres. The request is to rezone the property to R-PZD, Residential Planned Zoning District.

RECOMMENDATION:

Planning staff recommends forwarding **R-PZD 14-4924** to the City Council with a recommendation for approval. Approval of the associated preliminary plat is subject to approval of the Planned Zoning District.

BACKGROUND:

The subject property is zoned RMF-24 and is located approximately ½ mile north of Martin Luther King Boulevard. The Planning Commission approved a large scale development on the property (Village at Shiloh) in 2007 for the development of 198 multi-family units within 20 separate buildings. All of the interior private streets and utility lines were constructed. However, only 5 of the buildings were completed. The project expired in 2010.

Although the existing building resemble townhomes, they are actually condo units. The property surrounding the buildings is under one common ownership, while each of the 50 existing units are individually owned. These existing buildings are now on a separate lot from the remainder of the development.

In 2014, the Planning Commission approved a large scale development (LSD 14-4783 Hawkins House) for five new apartment buildings containing 46 residential units. Those buildings are currently under construction and are a part of the PZD and preliminary plat, so they can be sold as individual lots. Surrounding land uses are listed in *Table 1*.

Table 1
 Surrounding Land Use/Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped	C-2, Thoroughfare Commercial
South	Undeveloped & Office	C-2, Thoroughfare Commercial & RSF-4
East	Shiloh Drive & I-49	N/A
West	Undeveloped & City Park Property	P-1, Institutional

Proposal: The applicant requests a rezone from RMF-24, Residential Multi-Family 24 Units per Acre to a Residential Planned Zoning District, R-PZD. The PZD will still permit multi-family development, but the customized zoning will allow the applicant to create individual lots for townhouse units on a private street, which is not permitted in the existing zoning.

Along with this PZD the applicant has submitted a preliminary plat to create 93 lots. Five of these lots will contain the five buildings that were approved earlier this year, but not individual lots for each lot. The remaining 88 lots will be created to allow each building unit to be located on a separate townhouse lot that can be sold.

INFRASTRUCTURE:

Streets: A recently approved lot split created two large lots from the original project. Tract A contains approximately 2.68 acres and contains the original five buildings and associated private streets. This property has adequate frontage along Shiloh Drive for multi-family development and will remain zoned RMF-24. The remainder of the property will be zoned R-PZD and will have adequate private or public street frontage.

Water: Public water has already been extended through the site.

Sewer: Sanitary sewer has already been extended through the site.

Drainage: Detention facilities have already been constructed.

Fire: This property would be protected by Engine 7 located at 835 N. Ruppel Road. It is 2 miles from the station to this site with an anticipated response time of four minutes to the beginning of the development.

Police: The Police Department has not expressed any concerns with this rezoning request.

Public Comment: Staff has not received any public comment.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Map* designates a majority of this property as a **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 designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

City Neighborhood Areas encourage complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

City Neighborhood Guiding Policies:

- a. *Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values.*
- b. *Provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing desirable development patterns occurs.*
- c. *Reduce the length and number of vehicle trips generated by residential development by enhancing the accessibility to these areas; encourage walkability as part of the street function.*

DISCUSSION:

Findings:

Recommendation: Staff recommends that **R-PZD 14-4924** be forwarded to the City Council with a recommendation for approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>January 12, 2015</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Chesser</u>	Second: <u>Autry</u>	Vote: 9-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>February 3, 2015</u>	☐ Approved		☐ Denied

Required Findings for Rezoning Request

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that the proposal is very consistent with land use objectives and policies and zoning plans. The property is already zoned for multi-family development and a portion of the site is already developed with multi-family development. The applicant is attempting to finish out the project similar to the existing buildings. The primary difference, and reason for the Planned Zoning District application, is to allow each unit to be split onto an individual townhouse lot that can be sold. All of the existing units are within a Horizontal Property Regime (condominium).

City Neighborhood Designation. The development of a variety of townhouse buildings is consistent with the Future Land Use designation and will allow a variety of ownership opportunities.

Compatibility Analysis. The project is consistent with the original large scale that was approved and developed in 2007 and with the units that are under construction. The proposed townhouse development is compatible with the surrounding land uses including offices to the south, undeveloped C-2 property to the north, the I-49 corridor to the east, and undeveloped parkland to the west.

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

Finding: The zoning isn't necessarily needed to build out this project, as the property is already zoned for multi-family development. However, there are benefits for future owners when financing townhouse units versus condominium units. Therefore, the zoning is justified to allow a consistent development plan across the site and favorable financing options for future owners.

3. 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: The proposed zoning is very similar to the existing RMF-24 zoning, but the resulting density will be slightly less than what is currently allowed. The proposed rezoning will not undesirably increase the load on public services.

4. 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;

Finding: N/A

- 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

Sec. 166.06. Planned Zoning Districts (PZD)

(B) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned zoning and developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Zoning District application.

- (1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) *Compatibility.* Providing for compatibility with the surrounding land uses.
- (3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) *No negative impact.* Does not have a negative effect upon the future development of the area;
- (6) *Coordination.* Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) *Open space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) *Natural features.* Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) *Future Land Use Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the Future Land Use Plan.
- (10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.
- (11) *Recognized zoning consideration.* Whether any other recognized zoning consideration would be violated in this PZD.

Findings: The proposal meets many of the criteria above. The rezoning proposal will allow the applicant to create individual lots on private streets, which is not currently permitted in the RMF-24, or any other residential zoning district. This will allow a housing type that has favorable financing options versus condominium units. The development will be very consistent with the current buildings' architecture and with the overall density of the site. Allowing the rezoning will permit an expired and incomplete development to be finished and for better maintenance of the overall property, which will be a great benefit the existing property owners. There is an existing 2.36 acre tree preservation property and 4.67 acres of parkland that are adjacent to the site. Both properties are heavily wooded and provide a natural area for residents and wildlife. The plan will be consistent with the current zoning and with the Future Land Use Map. In staff's opinion, the project meets the purpose and intent of the Planned Zoning District ordinance.

BUDGET/STAFF IMPACT:

None

Attachments:

- Fire Response Letter
- Applicant's Letter
- Building Elevations
- Current Land Use Map
- Close Up Map
- One Mile Map
- Future Land Use Map

Provided separately:

- PZD Booklet
- PZD Plats



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

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

To: Jesse Fulcher
From: Will Beeks Assistant Fire Marshal
Date: January 6, 2015
Re: RZN 14-4924

This development will be protected by Engine 7 located at 835 Ruppel.

It is 2 miles from the station with an anticipated response time of 4 minutes to the beginning of the development.

The Fire Department anticipates 26 calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 - 18 months, after the development is started, before maximum build-out and the service impact to occur.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Captain William Beeks
Fayetteville Fire Department

Honor, Commitment, Courage;
Our people make the difference!



**Bates &
Associates, Inc.**

Civil Engineering - Land Surveying - Landscape Architecture

91 W. Colt Square Dr. Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

December 3, 2014

Planning Staff
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Hawkins House Planned Zoned Development and Preliminary Plat

Dear Mr. Fulcher and the Planning Staff,

Thank you for taking time to consider our application.

This requested Planned Zoned Development and Preliminary Plat will be developed off South Shiloh Drive, adjacent to I-49 in Fayetteville, Arkansas. The scope of the work will include the following townhomes within the remainder of the original Shiloh Apartments property.

The PZD and Preliminary Plat will contain:

- 6 Attached Townhomes (2)
- 8 Attached Townhomes (4)
- 4 Attached Townhomes (11)

The intent of the development is to utilize the existing infrastructure and create individual, for sale townhome lots. Investors of the development will be required to buy a 6-plex or an 8-plex. Each townhome will be built to meet our architectural standards and specification as presented to you within this application. There will be a separate set of covenants for the Townhome PZD and the previously approved Large Scale Development to the north.

Trash service will be provided through carts. Each townhome will have a 4' x 3' level concrete pad to set their trash carts on. They are grouped together for the most part.

The Units will be three-story, clad in high-quality vinyl siding, brick and stone. Energy saving windows will be used. The two-car garages will be on the ground floor, with living on the second, and bedrooms on the third. Units will share two walls with adjacent units and be separated by 2-hour firewalls. Ingress and egress to the development will be through W Redstone Drive and W Blackstone Crossing. Please see the accompanied color elevations and site plan to this application. Hawkins House at Shiloh will look similar to the project built several years ago and just next door to this site.

Please see the development plans for more detail.

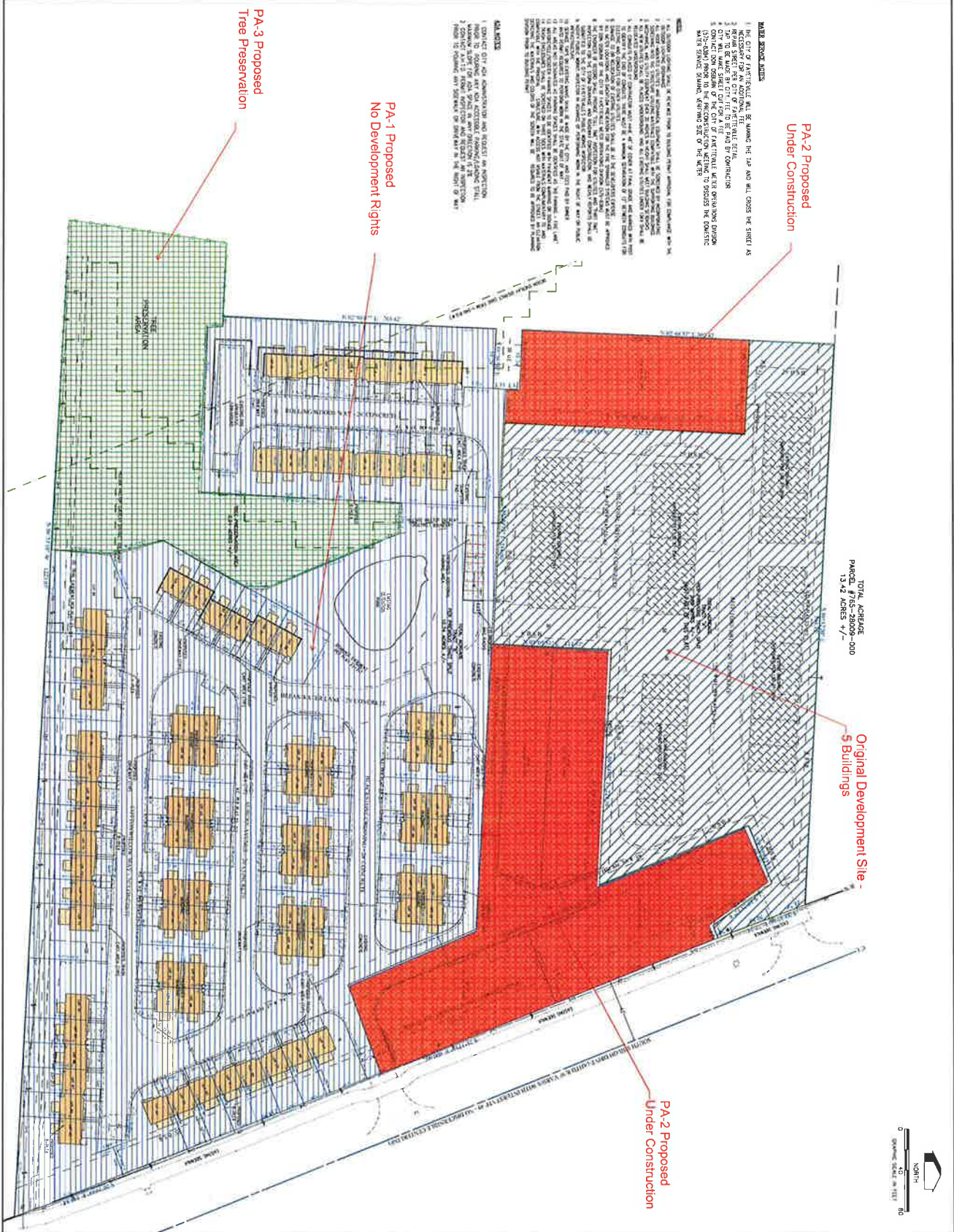
If you have any questions or require additional information, please feel free to contact me at your convenience.

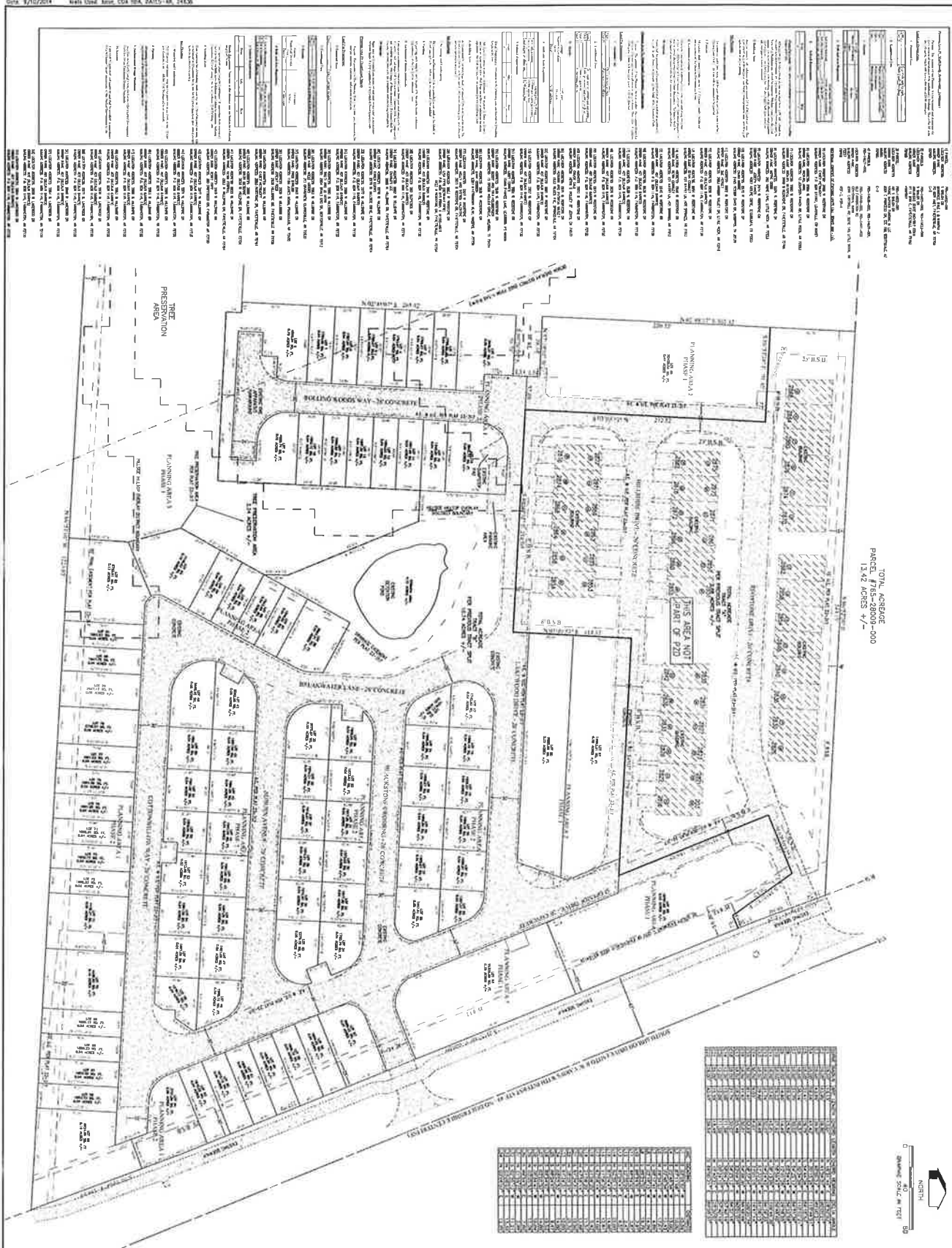
Sincerely

Bates & Associates, Inc.

Evan Niehues, PLA

**HAWKINS HOUSE
PRELIMINARY PLAT &
PZD BOOKLET**



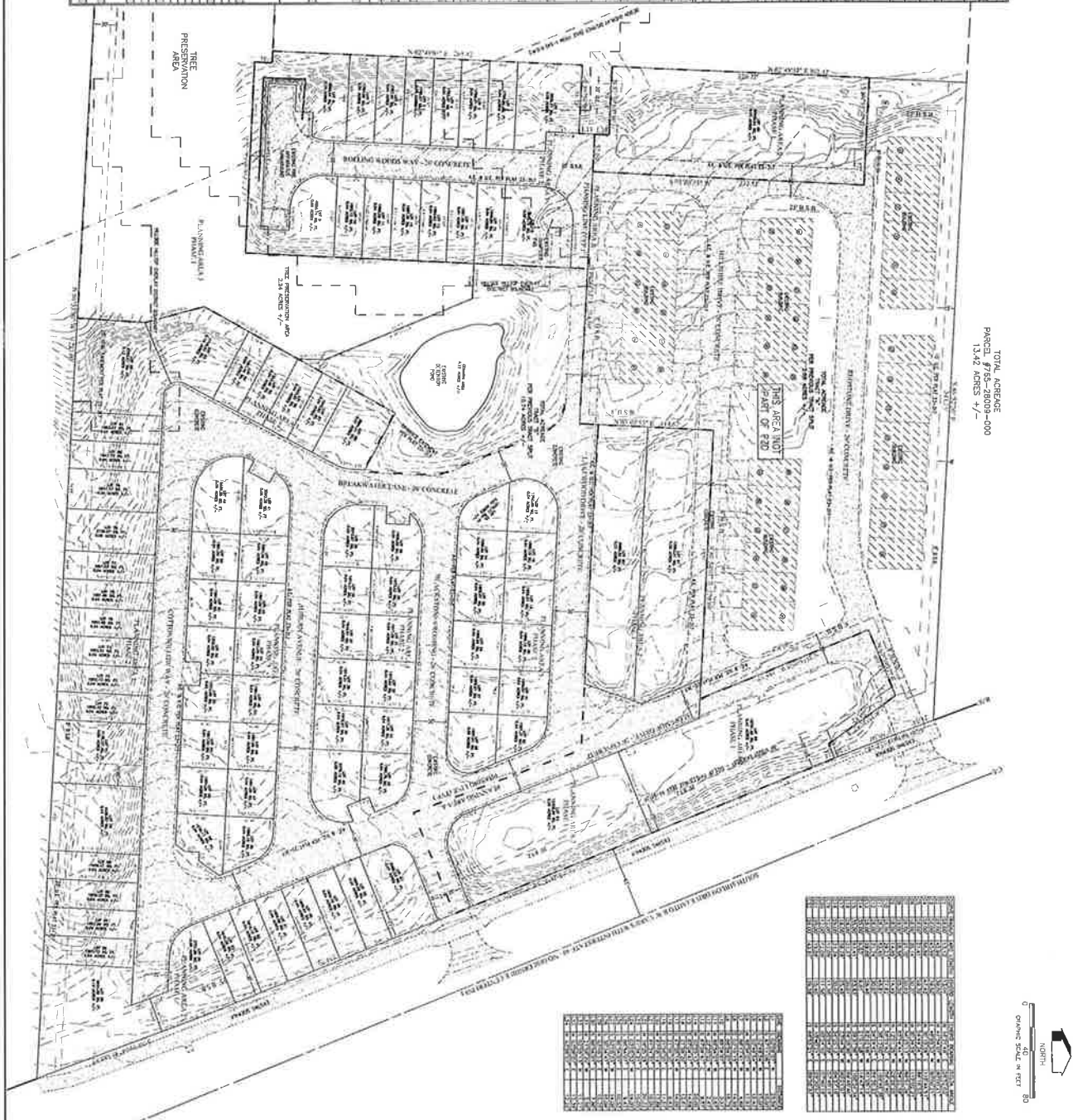


Bates & Associates, Inc.
www.batesassn.com Civil Engineering & Surveying
Southfield, Michigan 734.341.4340 Fax 734.341.4340

SHILOH HOUSE
PLANNED ZONING DISTRICT PLAN
ZONING & DEVELOPMENT STANDARDS
BY PLANNING AREA

PLAT PAGE 519 FAYETTEVILLE, AR

[illegible]

[illegible]



4 PLEX FRONT / REAR - GABLE ROOF

4 PLEX SIDE - GABLE ROOF



4 PLEX FRONT / REAR - HIP ROOF

4 PLEX SIDE - HIP ROOF

John House
OF NORTHWEST ARKANSAS, LLC
TEVILLE, ARKANSAS

4 PLEX SQUARE

HDMS, INC.
 ARCHITECTURE + INTERIOR DESIGN
 1000 S. GUY, MCQUAY & BELL
 P.O. BOX 1000
 NORTH LITTLE ROCK, AR 72114
 501-941-8800 • FAX 501-941-8801



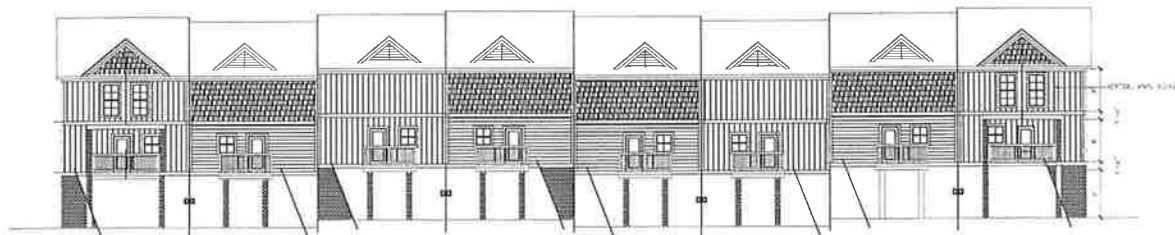
Shiloh House
 FOR D&B OF NORTHWEST ARKANSAS, LLC
 FAYETTEVILLE, ARKANSAS

4 PLEX SQUARE

HDMS, INC.
 ARCHITECTURE
 & INTERIOR DESIGN
 1000 E. 10TH STREET, SUITE 100
 FAYETTEVILLE, AR 72701
 PH: 479-781-1100 FAX: 479-781-1101



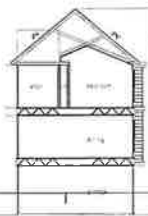
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2 SOUTH ELEVATION (8 PLEX)



3 EAST ELEVATION (8 PLEX)



4 BUILDING SECTION (8 PLEX)



5 WEST ELEVATION (8 PLEX)

8 PLEX - 3BR

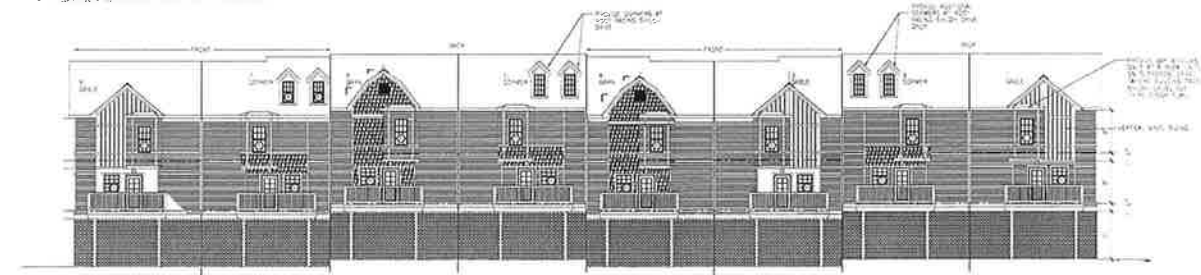
HDS, INC.
ARCHITECTURE
+ INTERIOR DESIGN
1000 JONES ROAD
NEW HAVEN, CT 06511
TEL: 203.333.3333
WWW.HDSINC.COM

SHILOH HOUSE - PZD
FOR D&B OF NORTHWEST ARKANSAS, LLC
FAYETTEVILLE, AR 72704

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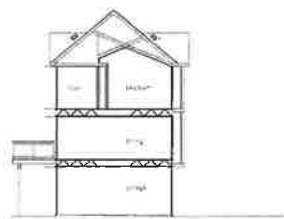
1 WEST ELEVATION (8 PLEX)



2 EAST ELEVATION (8 PLEX)



3 NORTH ELEVATION (8 PLEX)



4 BUILDING SECTION (8 PLEX)



5 SOUTH ELEVATION (8 PLEX)

8 PLEX - 3BR

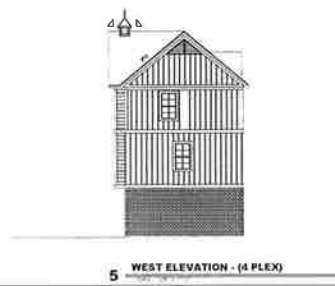
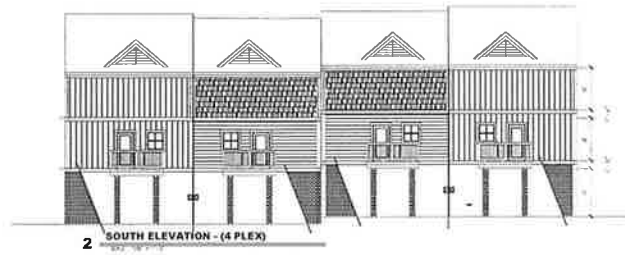
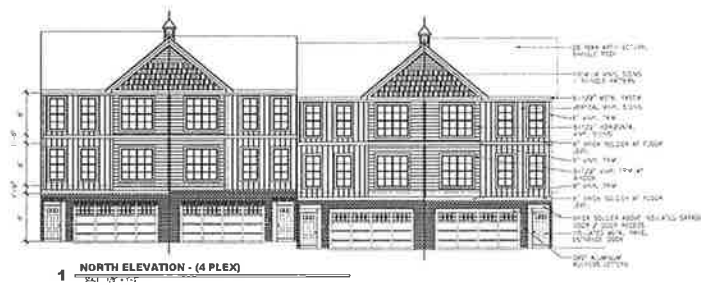
HDMS, INC.
ARCHITECTURE
INTERIOR DESIGN
1000 S. 10TH AVE.
PO BOX 1000
FAYETTEVILLE, AR 72704

SHILOH HOUSE - PZD
FOR D&B OF NORTHWEST ARKANSAS, LLC
FAYETTEVILLE, AR 72704

DATE:
OCTOBER 21, 2014

A-8





4 PLEX

HDS, INC.
ARCHITECTURE
+ INTERIOR DESIGN
JAMES DONOVAN, AIA, LEED AP
1000 N. 10TH ST., SUITE 100
FAYETTEVILLE, AR 72704
PH: 870-784-1300 FAX: 870-784-1301
WWW.HDS-INC.COM

SHILOH HOUSE - PZD
FOR D&B OF NORTHWEST ARKANSAS, LLC
FAYETTEVILLE, AR 72704



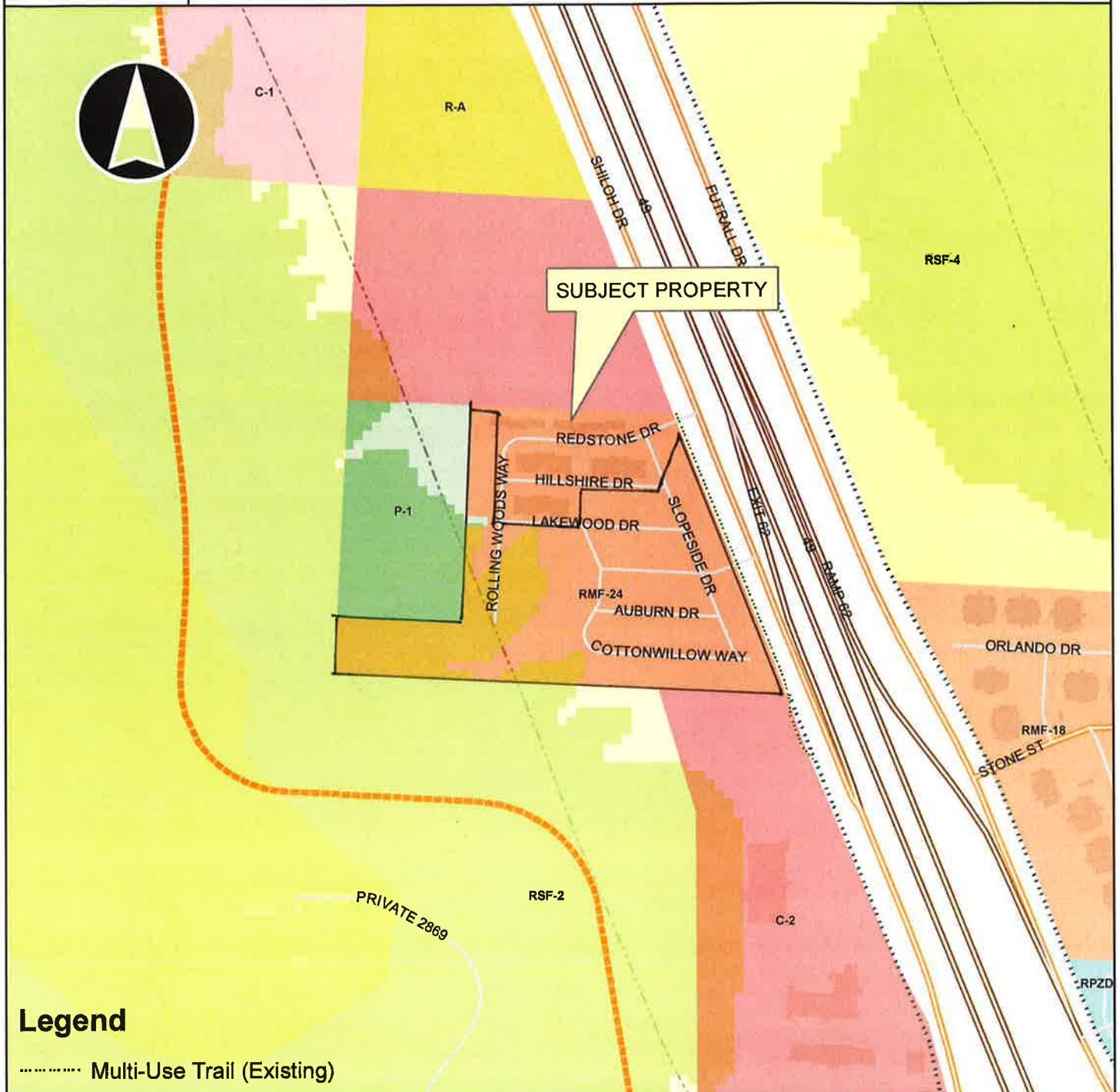
11/03/14
DATE:
DECEMBER 23, 2014

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RPZD14-4924

HAWKINS HOUSE AT SHILOH

Close Up View



Legend

..... Multi-Use Trail (Existing)

..... Future Trails

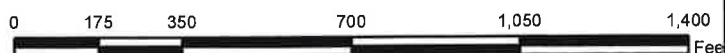
..... Fayetteville City Limits

..... Footprints 2010

..... Hillside-Hilltop Overlay District

..... Design Overlay District

..... Planning Area



RPZD14-4924

HAWKINS HOUSE AT SHILOH

Future Land Use



SUBJECT PROPERTY

Legend

..... Multi-Use Trail (Existing)

..... Future Trails

..... Fayetteville City Limits

FUTURE LAND USE 2030

CLASS

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Urban Center Area

Industrial

Complete Neighborhood Plan

Civic and Private Open Space/Parks

Civic Institutional

Non-Municipal Government

ROW

Design Overlay District

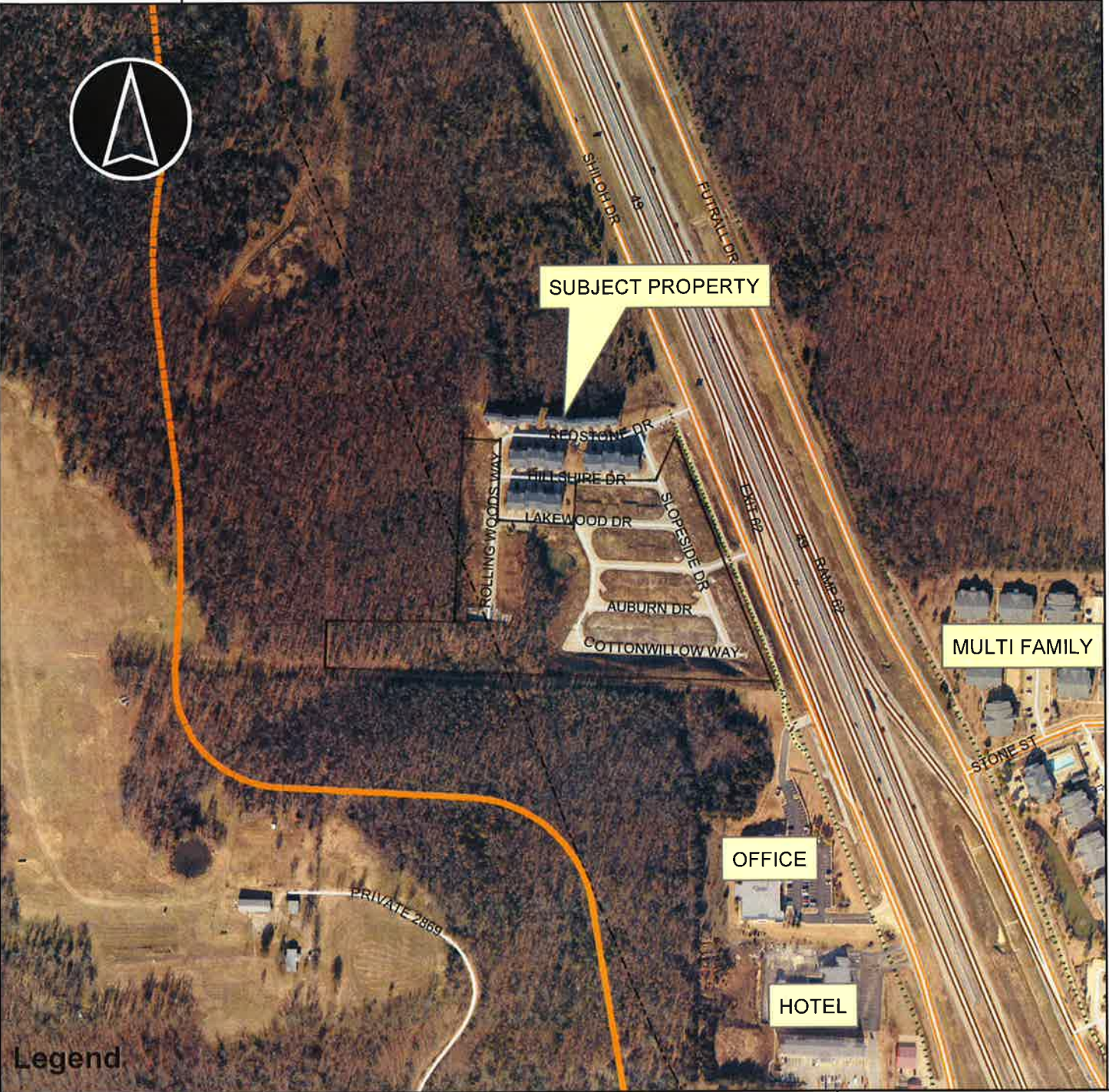
Planning Area



RPZD14-4924

HAWKINS HOUSE AT SHILOH

Current Land Use



Legend

Multi-Use Trail (Existing)

Future Trails

Fayetteville City Limits

Footprints 2010

Design Overlay District

Planning Area

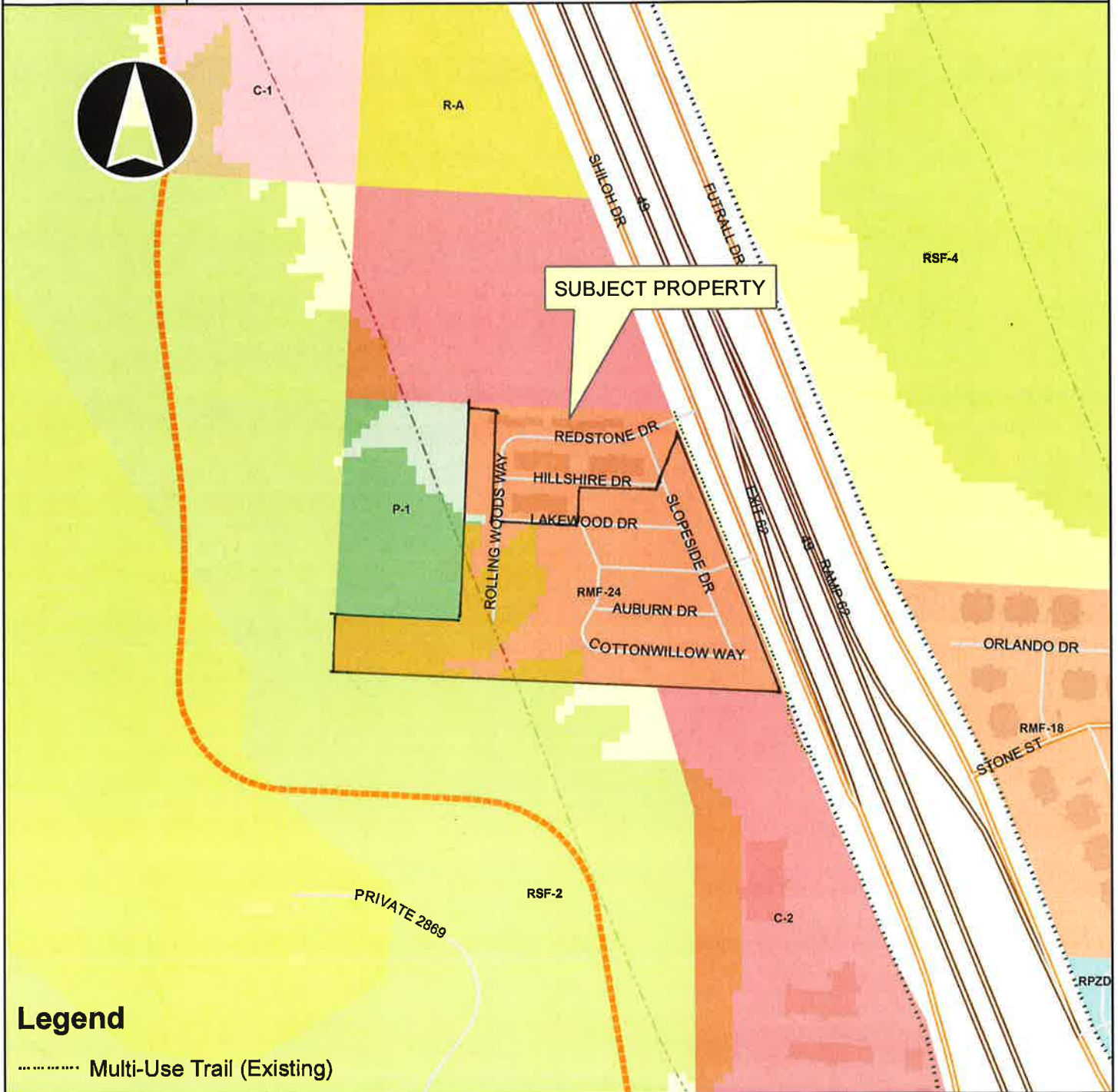
0 175 350 700 1,050 1,400 Feet

EXHIBIT 'A'

RPZD14-4924

HAWKINS HOUSE AT SHILOH

Close Up View



Legend

..... Multi-Use Trail (Existing)

Overview

Future Trails



Fayetteville City Limits



Footprints 2010



Hillside-Hilltop Overlay District



Design Overlay District



Planning Area

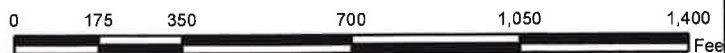


EXHIBIT 'B'

LEGAL DESCRIPTION

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE ALONG THE WEST LINE THEREOF N02°48'54"E 152.46', THENCE LEAVING SAID WEST LINE S87°11'06"E 339.99', THENCE N02°48'07"E 265.42', THENCE S86°56'58"E 58.28', THENCE N03°06'07"E 25.59', THENCE N87°19'10"W 58.34', THENCE N02°48'57"E 220.72', THENCE S86°53'38"E 91.45', THENCE S03°05'53"W 232.52', THENCE S86°49'52"E 214.90', THENCE N03°05'53"E 114.57', THENCE S86°54'07"E 229.10', THENCE N21°56'20"W 155.52', THENCE N67°59'12"E 60.71', THENCE S35°21'12"E 70.12', THENCE N68°02'50"E 13.27' TO THE WEST RIGHT-OF-WAY OF SOUTH SHILOH DRIVE, THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING: S21°57'10"E 582.24', S20°19'04"E 149.84', THENCE LEAVING SAID RIGHT-OF-WAY N86°53'10"W 1223.03' TO THE POINT OF BEGINNING, CONTAINING 10.74 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

HAWKINS HOUSE

LAND USE & ZONING PZD FAYETTEVILLE, ARKANSAS

December 18, 2014

Owner:

D & B of Northwest Arkansas, LLC
133 West Sunbridge Drive
Fayetteville, AR 72703

Developer:

D & B of Northwest Arkansas, LLC
133 West Sunbridge Drive
Fayetteville, AR 72703

PREPARED BY:



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

91 W. Colt Square Dr. Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

A. CURRENT OWNERSHIP OF PROPERTY AND REPRESENTATIVE

The current owner of the property is D & B of Northwest Arkansas.

The representative for this project is Bates & Associates.

B. SUMMARY (SCOPE, NATURE, AND INTENT)

Hawkins House on Shiloh is being presented as a Master Development Plan PZD. The project is located on South Shiloh Drive north of Shiloh's intersection with Martin Luther King Blvd. A portion of the property has recently been put through Fayetteville's Large Scale Development process and is under construction. Another portion has been built and is currently occupied.

The lots will vary greatly in width from 24' to 233'. Blocks of townhomes or individual townhomes may be sold. Internally, the lots will have zero side and rear setbacks and will follow all necessary building codes as such. The style and exterior appearance will be similar to the houses being built on the Shiloh Village Property. Please refer to the architectural elevations in this submittal for details.

The reason for this PZD request is so the lots can be sold separately as townhomes. This will create an additional variety of for-sale housing that has become increasingly popular in recent years. The townhomes lots will range from 1000 sf to 1600 sf.

The property was originally approved by the City of Fayetteville as condominiums, but it has become clear that it's difficult to finance a condominium purchase, whereas Townhomes are somewhat easier to finance. The difference in this request is to create clear lot lines where the properties can more easily be sold. The units and look of the property will be the same as originally approved.

C. GENERAL PROJECT CONCEPT

1) Street and Lot Layout

The overall property will face onto public Shiloh Drive. The lots themselves will face onto existing private drives, which are currently platted within access easements.

2) Site Plan

Please refer to the attached plans.

3) Buffer Areas

The homes facing Shiloh Drive will be set behind an existing 25' easement platted prior to Fayetteville's adoption for build-to-zones. The property did receive a variance from the Board of Adjustments to be outside of the build-to-zone. To the west is a large, previously dedicated parkland and tree preservation easement.

- 4) Tree Preservation
Tree Preservation has already been set aside within an existing tree preservation easement platted with the original approval of the project.
- 5) Storm Water Detention Areas
Storm water has been accounted for in an on-site, built detention pond. Please, see the drainage report for the original Village on Shiloh.
- 6) Undisturbed Natural Areas
There are 4.8 previously dedicated acres of parkland that are undisturbed. Another 2.3 acres has been set aside in a tree preservation easement.
- 7) Existing and Proposed Utility Connections and Extensions
Most of the sewer and water lines have been installed, inspected and accepted by the City of Fayetteville. There will be three or four short sewer extensions to allow service lines to each townhome lot.
- 8) Development and Architectural Design Standards
Architectural design standards will meet those set forth by the City of Fayetteville with regards to architectural detailing. Lot lines will be set up fronting access and utility easements, where drives and garages will also front. The architectural design will meet the original intent of the development.
- 9) Building Elevations
Building elevations are included as part of this submittal and will be similar to the existing buildings.

D. PROPOSED DEVELOPMENT PHASING AND TIMEFRAME

- 1) PZD Zoning & Preliminary Plat Approval..... 2014
Once PZD Zoning and Preliminary Plat are approved the Construction Plans will be submitted for review and construction will commence shortly after approval.

Phase I: This phase of the project has been approved as an LSD and is under construction. It will be completed first and the lots will be split out as shown on the preliminary plat.

Phase II: This phase will include the proposed townhomes not yet under construction. Please, see the Master Development Plan for phasing lines.

E. PROPOSED PLANNING AREAS

This PZD will have three planning areas. Two will be multi-family, and the other will have no proposed buildings or parking. It will be set aside for tree preservation and an existing detention pond.

F. PROPOSED ZONING AND DEVELOPMENT STANDARDS

Planning Area #1: Multi-family Residential - Townhomes

Purpose: The purpose of this Planning Area is to permit and encourage the development of for sale townhome style single family dwellings. This is for lots 1 through 88 (88 units on 5.91 acres), which will have a density of 14.89 units/acre.

Land Use Designation:

1. Permitted Uses

Unit 1	City-wide uses by right
Unit 26	Multi-family Dwellings

2. Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 24	Home occupations
Unit 25	Professional offices

3. Density

Acreage	5.91 acres
Number of Dwelling Units	88 Units
Density	14.89 units/acre

4. Bulk and Area Regulations

	Multi-family Dwellings
Lot width minimum	20 feet (on access easements)
Lot area minimum	1,400 square feet
Land are per dwelling unit	1,400 square feet

5. Setback Requirements

Front	Side	Rear
0'	0'	0'

Height Restrictions: Structures in this planning area are limited to a building height of 60 feet.

*All lots with a 0 ft side setback. Buildings are subject to minimum building separation, fire wall ratings, etc. in accordance with building code. All dwellings shall front onto the adjacent public access easement.

6. Building Area

Area occupied by all buildings shall not exceed 50% of the total lot area. This is enforced on a lot-by-lot basis, not for the entire planning area, and does not include driveways or paving.

Site Planning

7. Screening and Landscaping

The screening and landscaping will be provided as set forth in the Unified Development Code. All lots will be required to be sodded.

8. Parking

All parking shall comply with chapter 172, for multi-family residential requirements of the Unified Development Code.

9. Architectural Design Standards

Conceptual architectural renderings have been provided along with this document. All buildings will have materials consistent with those proposed in this submittal along with a copy of these documents. The homes shall be constructed consistent with the elevations and renderings provided in.

10. Signage

Signs shall be permitted and approved and shall be installed in accordance with the Single-Family regulations of the Unified Development Code.

Planning Area #2: Multi-family Residential – Apartments

Purpose: The purpose of this Planning Area is to allow the creation of lots for the sale of whole apartment buildings on private drives. This is for lots 89 through 93 (36 units on 1.98 acres), which will have a density of 18.18 units/acre.

Land Use Designation:

1. Permitted Uses

Unit 1	City-wide uses by right
Unit 26	Multi-family Dwellings

2. Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 24	Home occupations
Unit 25	Professional offices

3. Density

Acreage	1.98 acres
Number of Dwelling Units	36 Units
Density	18.18 units/acre

4. Bulk and Area Regulations

	Multi-family Dwellings
Lot width minimum	100 feet (on access easements)
Lot area minimum	13,000 square feet
Land area per dwelling unit	1,500 square feet

5. Setback Requirements

Front	Side	Rear
0'	0'	0'

Height Restrictions: Structures in this planning area are limited to a building height of 60 feet.

*All separate structures require a minimum 10' separation from structures (eave-to-eave) on both sides. Buildings are subject to minimum building separation, fire wall ratings, etc. in accordance with building code.

6. Building Area

Area occupied by all buildings shall not exceed 50% of the total lot area. This is enforced on a lot-by-lot basis, not for the entire planning area, and does not include driveways or paving.

Site Planning

7. Screening and Landscaping

The screening and landscaping will be provided as set forth in the Unified Development Code. All lots will be required to be sodded.

8. Parking

All parking shall comply with chapter 172, for multi-family residential requirements of the Unified Development Code.

9. Architectural Design Standards

Conceptual architectural renderings have been provided along with this document. All buildings will have materials consistent with those proposed in this submittal along with a copy of these documents. The homes shall be constructed consistent with the elevations and renderings provided in.

10. Signage

Signs shall be permitted and approved and shall be installed in accordance with the Single-Family regulations of the Unified Development Code.

Planning Area #3: Open/Green Spaces

Purpose: The purpose of this Planning Area is to create land designated for tree preservation, detention, and outdoor recreation.

Land Use Designation:

1. Permitted Uses

Unit 1	City-wide uses by right
--------	-------------------------

2. Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities

3. Density

Acreage	2.84 acres
Number of Dwelling Units	0 Units
Density	0 units/acre

4. Bulk and Area Regulations

	Open/Green Space
5. Lot width minimum	100 feet (on access easements)
6. Lot area minimum	35,000 square feet
7. Land are per dwelling unit	N/A

5. Setback Requirements

Front	Side	Rear
0'	0'	0'

Height Restrictions: Structures in this planning area are limited to a building height of 20 feet.

*All separate structures require a minimum 10' separation from structures (eave-to-eave) on both sides. Buildings are subject to minimum building separation, fire wall ratings, etc. in accordance with building code.

9. Building Area

Area occupied by all buildings shall not exceed 7.5% of the total lot area. This is enforced on a lot-by-lot basis, not for the entire planning area, and does not include driveways or paving.

Site Planning

11. Screening and Landscaping

The screening and landscaping will be provided as set forth in the Unified Development Code. All lots will be required to be sodded.

12. Parking

All parking shall comply with chapter 172, for multi-family residential requirements of the Unified Development Code.

13. Architectural Design Standards

Any architecture will comply with the Fayetteville Unified Development Code for Urban Residential Design Standards.

14. Signage

Signs shall be permitted and approved and shall be installed in accordance with the Single-Family regulations of the Unified Development Code.

G. MASTER DEVELOPMENT PLAN AS COMPARED TO CURRENT ZONING REQUIREMENTS

Existing Zoning		Proposed Zoning	
RMF-24 (Multi-family)		PZD: PA-1 (Townhomes)	
Permitted Uses			
Unit 1	City-wide uses by right	Unit 1	City-wide uses by right
Unit 8	Single family dwellings		
Unit 9	Two-family dwellings	Unit 26	Multi-family dwellings
Unit 10	Three-family dwellings		
Unit 26	Multi-family dwellings		
Conditional Uses			
Unit 2	City-wide uses by conditional use permit	Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities		
Unit 4	Cultural & recreational facilities	Unit 3	Public protection and utility facilities
Unit 5	Government facilities		
Unit 11	Manufactured home park	Unit 24	Home occupations
Unit 12	Limited businesses		
Unit 24	Home occupations	Unit 25	Professional offices
Unit 25	Professional offices		
Unit 36	Wireless communications facilities		
Density			
Units per acre	24 units per	Acreage	5.91 acres
		Dwelling Units	88 Units
		Density	14.89 units/acres
Bulk and Area Regulations			
Lot width Minimum	Three or More = 90 feet	20 feet	
Lot Area Minimum			
Townhouses: Development	4,200 square feet	1,400 square feet	
Individual townhome lot	2,500 square feet	1,400 square feet	
Three or more	9,000 square feet	N/A	
Professional offices	1 acre	1/4 Acre	
Setback Requirements			
Front	0' – 25' build-to zone	0 feet or Same as U.E.	
Side	8 feet	0 feet (See notes on 10' separation)	
Rear	20 feet	0 feet (See notes on 10' separation)	
Height Requirements			
Varies	30/45/60	Maximum building height of 60'. If a building is to be over 45 feet, it must be set back a minimum of 10' from external property lines.	
Building Area			
No building area requirement		On any lot, the area occupied by buildings shall not exceed 50%	
Buildable Street Frontage			
Minimum Buildable Street Frontage	50% of lot width	50% of lot width (access easement)	

Existing Zoning		Proposed Zoning	
RMF-24 (Multi-family)		PZD: PA-2 (Multi-family Apartments)	
Permitted Uses			
Unit 1	City-wide uses by right	Unit 1	City-wide uses by right
Unit 8	Single family dwellings		
Unit 9	Two-family dwellings	Unit 26	Multi-family dwellings
Unit 10	Three-family dwellings		
Unit 26	Multi-family dwellings		
Conditional Uses			
Unit 2	City-wide uses by conditional use permit	Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities		
Unit 4	Cultural & recreational facilities	Unit 3	Public protection and utility facilities
Unit 5	Government facilities		
Unit 11	Manufactured home park	Unit 24	Home occupations
Unit 12	Limited businesses		
Unit 24	Home occupations	Unit 25	Professional offices
Unit 25	Professional offices		
Unit 36	Wireless communications facilities		
Density			
Units per acre	24 units per	Acreage	1.98 acres
		Dwelling Units	36 Units
		Density	18.18 units/acres
Bulk and Area Regulations			
Lot width Minimum	Three or More = 90 feet	100 feet	
Lot Area Minimum			
Townhouses: Development	4,200 square feet	1,500 square feet	
Individual townhome lot	2,500 square feet	1,500 square feet	
Three or more	9,000 square feet	13,000 square feet	
Professional offices	1 acre	1 acre	
Setback Requirements			
Front	0' – 25' build-to zone	0 feet or Same as U.E.	
Side	8 feet	0 feet (See notes on 10' separation)	
Rear	20 feet	0 feet (See notes on 10' separation)	
Height Requirements			
Varies	30/45/60	Maximum building height of 60'. If a building is to be over 45 feet, it must be set back a minimum of 10' from the property line.	
Building Area			
No building area requirement		On any lot, the area occupied by buildings shall not exceed 50%	
Buildable Street Frontage			
Minimum Buildable Street Frontage	50% of lot width	50% of lot width (access easement)	

Existing Zoning		Proposed Zoning	
RMF-24 (Multi-family)		PZD: PA-3 (Open/Green Space)	
Permitted Uses			
Unit 1	City-wide uses by right	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		
Conditional Uses			
Unit 2	City-wide uses by conditional use permit	Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities		
Unit 4	Cultural & recreational facilities		
Unit 5	Government facilities		
Unit 11	Manufactured home park	Unit 4	Cultural and Recreational Facilities
Unit 12	Limited businesses		
Unit 24	Home occupations		
Unit 25	Professional offices		
Unit 36	Wireless communications facilities		
Density			
Units per acre	24 units per	Acreage	2.84 acres
		Dwelling Units	0 Units
		Density	0 units/acres
Bulk and Area Regulations			
Lot width Minimum	Three or More = 90 feet	100 feet	
Lot Area Minimum			
Townhouses: Development	4,200 square feet	N/A	
Individual townhome lot	2,500 square feet	N/A	
Three or more	9,000 square feet	N/A	
Professional offices	1 acre	N/A	
Setback Requirements			
Front	0' – 25' build-to zone	0 feet or Same as U.E.	
Side	8 feet	0 feet (See notes on 10' separation)	
Rear	20 feet	0 feet (See notes on 10' separation)	
Height Requirements			
Varies	30/45/60	Maximum structure height of 20'	
Building Area			
No building area requirement		On any lot, the area occupied by buildings shall not exceed 7.5%	
Buildable Street Frontage			
Minimum Buildable Street Frontage	50% of lot width	20%	

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

H. RECREATION FACILITIES

There is 4.8 acres of previously dedicated parkland to the west. Another 2.3 acres of tree preservation is set aside to the south west.

I. REASON FOR REZONING REQUEST

The reason for this Conceptual PZD request is to provide a project that will fit into the intent of the original development proposal in 2008, while still providing a successful means for selling and subdividing the property.

J. RELATIONSHIP TO THE EXISTING AND ADJACENT LAND USES

The property to the south and north is C-2, so a multi-family zoning like this would mix well and be less intensive. There is some RSF-2 single family zoning to the south and the west. This project, however, has built in buffering through the dedicated parkland and the tree preservation easement.

K. COMPLIANCE WITH CITY OF FAYETTEVILLE PLAN 2030

The future land use map on this property has been designated for residential activities. This PZD proposal will be fulfilling an original intent for this property.

Goal #1 - Appropriate infill and revitalization the highest priority

This project will finish building around already installed infrastructure. Finishing the property's building in this way will be one of the most cost effective and least intensive uses on city infrastructure for this property.

Goal #2 - Discourage suburban sprawl

There will be no additional sprawl associated with this development. Streets, paving and nearly all the utility infrastructure is in place putting no additional stress on the City's systems.

Goal #3 - Traditional town from the standard

This development will provide additional housing adjacent to a major highway where there is little ability to have cross intersections and traditional town form. There project is, however, close to the intersection of MLK Blvd. and Shiloh where there is a good deal of services and amenities within walking distance.

Goal #4 - Grow a livable transportation network

This development has provided a good deal of tree preservation easements and donated parkland as part of a future transportation network that includes the trail along Shiloh Drive.

Goal #5 - Assemble and enduring green network

The parkland and tree preservation dedicated for the City of Fayetteville and its residents here on this hilltop will add to our City's green network.

Goal #6 - Create attainable housing

This development will promote middle income housing for "workforce families", who significantly impact the city's growing economy.

L. TRAFFIC STUDY

We do not have a traffic study, however, this project is located along a large volume collector. An increase in density at this location will not create an appreciable or undesirable increase in traffic congestion.

M. IMPACTS ON CITY SERVICES

There are no significant impacts to city services associated with this project. Water and sewer have been primarily been installed and accepted by the City of Fayetteville. Waste will be managed by both carts and dumpsters. Carts are proposed to be utilized for the townhomes, while dumpsters and used for the apartment units.

N. STATEMENT OF COMMITMENTS

1) Dedication of Public Facilities

Most of the utility infrastructure is installed and dedicated to the City of Fayetteville. The remainder will be dedicated to the City of Fayetteville and utility easements will be dedicated by a Final Plat.

2) On or Off-Site Improvements

The development of on or off-site infrastructure necessary to serve this project shall be completed prior to Final Plat submittal.

3) Natural Resources and Environmentally Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site.

4) Fire Protection

This project will be served by the Fayetteville Fire Department. The nearest fire station is on Hollywood Avenue east on Martin Luther King Blvd.

5) Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

6) Parks, trails, and Open Space Commitments

Parks, trails, open space and tree protection will be committed as previously proposed for this property.

7) Proposed Preliminary Building elevations

Conceptual architectural elevations are provided as part of this submittal.

O. DEVELOPMENT STANDARDS, CONDITIONS, AND REVIEW GUIDELINES

1) Screening and Landscaping

We will retain the existing parkland and tree preservation easements around the property. A privacy fence will be added to the west as well. The development itself shall be subject to the requirements of Chapter 177: Landscape regulations.

2) Traffic and Circulation

All traffic and circulation will comply with the City of Fayetteville standards for curb cuts, traffic and circulation. Primarily, the curb cuts and driveways are installed and the circulation therein will be maintained.

3) Parking Standards

Most parking will be provided in garages underneath the units. There will also be parking provided for guests in their driveways and additional surface parking lots.

4) Perimeter Treatment

To the west and southwest where there is single family zoning, buffers of tree preservation and parkland will keep uses transitioned. There is little perimeter treatment adjacent to C-2 zoning.

5) Sidewalks

Sidewalks will be designed and constructed along all adjacent public streets.

6) Street Lights

No additional street lights will be added

7) Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water & Sewer Specifications.

8) Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water & Sewer Specifications.

9) Streets and Drainage

No new Streets are being proposed and drainage will be handled with the existing plan for the Village on Shiloh.

10) Construction of Non-Residential Facilities

There are no non-residential areas directly serving the proposed residents.

11) Tree Preservation

Tree preservation has been dedicated as part of the original large scale development for this property.

12) Architectural Design Standards

Conceptual architectural pictures are provided as part of this submittal and will be consistent with buildings already built on the property.

13) Signage

Signage will be utilized in accordance with City of Fayetteville standards and be in accordance with RSF-4 zoning.

14) View Protection

We are not anticipating that any improvements to this property will impact views of surrounding properties.

15) Covenants, Trusts and Homeowner Associations

There is an existing property owners association for the purpose of mowing and maintaining the common landscape and paved areas.

16) Intent/Purpose of PZD ordinance:

The PZD Ordinance provides this project with the ability to create a planned development. Utilizing PZD's allows for slight modifications to traditional setbacks, lot widths, and lot area minimums. The R-PZD Ordinance is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential zone. (City of Fayetteville Zoning Regulations CD161.23(C)). This development encourages a variety and flexibility in land development and sales, and land use for predominately residential areas is consistent with the city's General Plan and the orderly development of the city. This R-PZD will provide a framework for an effective relationship between different land uses and activities.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-24, Residential Multi Family, 24 Units per Acre, to R-PZD 14-4924, Residential Planned Zoning District Hawkins House, as shown on Exhibits “A” and “B” attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the master plan depicted in the PZD booklet and plats as submitted and determined appropriate and approved by the City Council.

Section 3: 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 , 2015.

APPROVED:

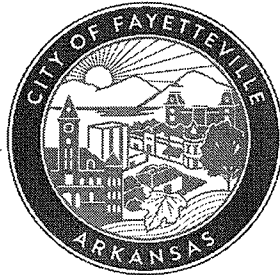
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
479-575-8323*



Meeting Agenda - Tentative Agenda

Tuesday, February 3, 2015

5:30 PM

City Hall Room 219

City Council

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Martin W. Schoppmeyer, Jr. Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

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:**

A. 1 2014-0494 Approval of the January 20, 2015 City Council meeting minutes.

A. 2 2015-0017 CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1)
CHEVROLET EQUINOX FROM CHEVROLET OF FAYETTEVILLE
IN THE AMOUNT OF \$20,247.00 PURSUANT TO A STATE
PROCUREMENT CONTRACT FOR USE BY THE PARKING
MANAGEMENT DIVISION

Attachments: SRP 2-3-15 PRED Equinox 1282

A. 3 2015-0019 TOYOTA OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1)
TOYOTA PRIUS FROM TOYOTA OF FAYETTEVILLE IN THE
AMOUNT OF \$22,627.00 PURSUANT TO A STATE
PROCUREMENT CONTRACT FOR USE BY THE BUILDING
SAFETY DIVISION, AND TO APPROVE A BUDGET
ADJUSTMENT

Attachments: SRP 2-3-15 BLSF Prius 1283
 BA 2-3-15 BLSF Prius 1283

A. 4

2015-0021

LEWIS FORD OF FAYETTEVILLE:

Check
per Kit

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 FORD F250 FROM LEWIS FORD OF FAYETTEVILLE, ARKANSAS IN THE AMOUNT OF \$22,427.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE ANIMAL SERVICES DIVISION

Attachments:SRP 2-3-15 ANSV Pickup 2193

A. 5

2015-0025

CHEVROLET OF FAYETTEVILLE:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 CHEVROLET EQUINOX AWD FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$21,699.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE UTILITIES DIRECTOR, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:SRP 2-3-15 UDIR EQUINOX 1285BA 2-3-15 UDIR Equinox 1285

A. 6

2015-0032

LANDERS DODGE OF BENTON:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 4X4 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,193.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE WATER AND SEWER DIVISION

Attachments:SRP 2-3-15 WSMN Pickup 2192

A. 7

2015-0033

LANDERS DODGE OF BENTON:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,367.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:SRP 2-3-15 PDPT pickup 2190BA 2-3-15 PDPT pickup 2190

A. 8 2015-0016 HENARD UTILITY PRODUCTS:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A BANDIT CHIPPER/SHREDDER FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF \$32,522.25 PLUS APPLICABLE TAXES PURSUANT TO THE NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT FOR USE BY THE PARKS AND RECREATION DEPARTMENT AND TRANSPORTATION DIVISION

Attachments: SRP 2-3-15 chipper 9210

A. 9 2015-0028 BALE CHEVROLET:

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 NON-MOTOR POOL REPLACEMENT VEHICLE FROM BALE CHEVROLET IN THE AMOUNT OF \$32,371.00 WITH OPTIONS PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: CC Packet - Non-motor Pool

BA - Non-motor Pool

A. 10 2015-0022 WASHINGTON COUNTY JAIL SERVICES INTERLOCAL AGREEMENT AMENDMENT:

A RESOLUTION APPROVING AN AMENDMENT TO THE JAIL SERVICES INTERLOCAL AGREEMENT WITH WASHINGTON COUNTY, ARKANSAS, CONTINUING FEES AT \$60.00 PER BOOKED PRISONER FOR CALENDAR YEAR 2015

Attachments: CC Packet - 2015 Jail Contract

A. 11 2015-0013 EXPRESS THE WILLINGNESS FOR SAIN STREET CONNECTION:

A RESOLUTION TO EXPRESS THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE CONSTRUCTION OF THE SAIN STREET CONNECTION FROM NORTH FRONT STREET TO VANTAGE BOULEVARD

Attachments: Sain Street Connection.pdf

A. 12 2015-0015 SOUTHWESTERN ELECTRIC POWER COMPANY AGREEMENT:

A RESOLUTION TO APPROVE AN AGREEMENT WITH SOUTHWESTERN ELECTRIC POWER COMPANY TO PARTICIPATE IN AN ENERGY EFFICIENCY REBATE PROGRAM IN THE AMOUNT OF \$4,967.83, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:

Dickson Street Lighting Incentive Packet

BA 2015 Dickson Street Lighting Incentive

A. 13 2015-0034 SWEPKO OF FAYETTEVILLE UTILITY WORK AGREEMENT:

A RESOLUTION TO APPROVE A UTILITY WORK AGREEMENT WITH SWEPKO OF FAYETTEVILLE, ARKANSAS FOR UTILITY RELOCATIONS AS PART OF THE HIGHWAY 112 WIDENING PROJECT BETWEEN RAZORBACK ROAD AND GARLAND AVENUE, WITH THE AMOUNT TO BE PAID BY THE CITY OF FAYETTEVILLE NOT TO EXCEED \$91,878.59

Attachments:

2015-0034 SWEPKO Utility Relocation Agreement

A. 14 2015-0020 GRANT THORNTON LLP CONTRACT:

A RESOLUTION TO APPROVE A CONTRACT WITH GRANT THORNTON LLP IN THE AMOUNT OF \$87,500.00 TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE

Attachments:

2015-0020 Grant Thornton audit

DC TO MAYOR, CITY COUNCIL RE GRANT THORNTON CONTRACT LANGU

A. 15 2014-0268 TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT:

A RESOLUTION TO DESIGNATE APPROXIMATELY 14.2 ACRES OF CITY PROPERTY AS TRAINING GROUNDS FOR THE FAYETTEVILLE FIRE DEPARTMENT

Attachments:

SRF & SRM Fire Training Grounds

B. Unfinished Business:

B. 1 2014-0572 RZN 14-4864 KOUTROUMBIS APPEAL:

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26 ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

Attachments:14-4864 CC Packet14-4864 CC ORD

This ordinance was left on the First Reading at the January 6, 2015 City Council meeting. This ordinance was left on the Second Reading at the January 20, 2015 City Council meeting.

B. 2 2015-0003 REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND CHAPTER 51 AND CHAPTER 10:

AN ORDINANCE TO REPEAL AND REPLACE TITLE V PUBLIC WORKS, ARTICLE III DISCHARGE AND PRETREATMENT REGULATIONS; TO AMEND § 51.137 MONTHLY SEWER RATES; TO AMEND § 51.138 DEFINITIONS PERTAINING TO WATER AND SEWER RATES; TO AMEND § 51.999 PENALTY; AND TO AMEND § 10.99 GENERAL PENALTY OF THE FAYETTEVILLE CODE

Attachments:2015-0003 Discharge and Pretreatment Regulation Changes A-III A-VEXHIBIT A & B

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

B. 3 2015-0008 ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS:

AN ORDINANCE TO ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS INTO THE FAYETTEVILLE CODE TO CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS' RIGHT OF THE INITIATIVE AND REFERENDUM

Attachments:Agenda Packet Ord § 36.20

This ordinance was left on the First Reading at the January 20, 2015 City Council meeting.

C. New Business:

C. 1 2015-0023 RZN 14-4882 (EAST SIDE OF RUPPLE RD./WESTSIDE VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

14-4882 Agenda Item

14-4882 Exhibit A and B

14-4882 CC ORD

C. 2 2015-0029 RZN 14-4883 (HWY. 112 NORTH OF TRUCKERS DRIVE/PARKWEST):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND CS, COMMUNITY SERVICES

Attachments:

SRF and Reports 14-4883

Exhibits A & B 14-4883

ORD 14-4883

C. 3 2015-0030 RZN 14-4916 (956 RAY AVENUE/HODOUS):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

SRF and Reports 14-4916

Exhibits A & B 14-4916

ORD 14-4916

- C. 4 2015-0031 R-PZD 14-4924 (SOUTH SHILOH DR./HAWKINS HOUSE AT SHILOH VILLAGE):

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE

Attachments:

SRF and Reports 14-4924

Exhibits A , B & Booklet 14-4924

ORD 14-4924

D. City Council Agenda Session Presentations:

E. City Council Tour:

F. Announcements:

G. Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

Matt's Walk on
Add: C.5
Amend Master
Plans.

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Pre Agenda Meeting 1/21/15

City of Fayetteville, Arkansas

*113 West Mountain Street
Fayetteville, AR 72701
479-575-8323*



Meeting Agenda - Tentative Agenda

Tuesday, February 3, 2015

5:30 PM

City Hall Room 219

City Council

*Adella Gray Ward 1
Sarah Marsh Ward 1
Mark Kinion Ward 2
Matthew Petty Ward 2
Justin Tennant Ward 3
Martin W. Schoppmeyer, Jr. Ward 3
John S. La Tour Ward 4
Alan Long Ward 4*

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:

2014-0494

Approval of the January 20, 2015 City Council meeting minutes.

2015-0017

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) CHEVROLET EQUINOX FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$20,247.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE PARKING MANAGEMENT DIVISION

Attachments:

SRP 2-3-15 PRED Equinox 1282

2015-0019

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) TOYOTA PRIUS FROM TOYOTA OF FAYETTEVILLE IN THE AMOUNT OF \$22,627.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE BUILDING SAFETY DIVISION, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:

SRP 2-3-15 BLSF Prius 1283

BA 2-3-15 BLSF Prius 1283

2015-0021

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 FORD F250 FROM LEWIS FORD OF FAYETTEVILLE, ARKANSAS IN THE AMOUNT OF \$22,427.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE ANIMAL SERVICES DIVISION

Attachments:

SRP 2-3-15 ANSV Pickup 2193

~~2015-0025~~

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 CHEVROLET EQUINOX AWD FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$21,699.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE UTILITIES DIRECTOR, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:SRP 2-3-15 UDIR EQUINOX 1285BA 2-3-15 UDIR Equinox 1285~~2015-0028~~

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 NON-MOTOR POOL REPLACEMENT VEHICLE FROM BALE CHEVROLET IN THE AMOUNT OF \$32,371.00 WITH OPTIONS PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:CC Packet - Non-motor PoolBA - Non-motor Pool~~2015-0032~~

A RESOLUTION TO AUTHORIZE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 4X4 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,193.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE WATER AND SEWER DIVISION

Attachments:SRP 2-3-15 WSMN Pickup 2192~~2015-0033~~

A RESOLUTION TO APPROVE THE PURCHASE OF ONE (1) 2015 DODGE RAM 1500 PICKUP TRUCK FROM LANDERS DODGE OF BENTON, ARKANSAS IN THE AMOUNT OF \$20,367.00 PURSUANT TO A STATE PROCUREMENT CONTRACT FOR USE BY THE POLICE DEPARTMENT, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:SRP 2-3-15 PDPT pickup 2190BA 2-3-15 PDPT pickup 2190~~2014-0578~~

A RESOLUTION TO APPROVE TASK ORDER NO. 2 WITH THE WATERSHED CONSERVATION RESOURCE CENTER FOR CONTINUED MAINTENANCE OF PREVIOUSLY COMPLETED STREAM RESTORATION PROJECTS AT NIOKASKA CREEK AND THE WHITE RIVER THROUGH 2015 IN THE AMOUNT OF \$62,500.00, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:

2014-0578 Vegetation Restoration and Stability

BA-Vegetation Restoration and Stability 12172014

2015-0013

A RESOLUTION TO EXPRESS THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE CONSTRUCTION OF THE SAIN STREET CONNECTION FROM NORTH FRONT STREET TO VANTAGE BOULEVARD

Attachments:Sain Street Connection.pdf

2015-0015

A RESOLUTION TO APPROVE AN AGREEMENT WITH SOUTHWESTERN ELECTRIC POWER COMPANY TO PARTICIPATE IN AN ENERGY EFFICIENCY REBATE PROGRAM IN THE AMOUNT OF \$4,967.83, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:Dickson Street Lighting Incentive PacketBA 2015 Dickson Street Lighting Incentive

move with
Hans

2015-0016

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A BANDIT CHIPPER/SHREDDER FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF \$32,522.25 PLUS APPLICABLE TAXES PURSUANT TO THE NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT FOR USE BY THE PARKS AND RECREATION DEPARTMENT AND TRANSPORTATION DIVISION

Attachments:SRP 2-3-15 chipper 9210

2015-0022

A RESOLUTION APPROVING AN AMENDMENT TO THE JAIL SERVICES INTERLOCAL AGREEMENT WITH WASHINGTON COUNTY, ARKANSAS, CONTINUING FEES AT \$60.00 PER BOOKED PRISONER FOR CALENDAR YEAR 2015

Attachments:CC Packet - 2015 Jail Contract

2015-0034

A RESOLUTION TO APPROVE A UTILITY WORK AGREEMENT WITH SWEPCO OF FAYETTEVILLE, ARKANSAS FOR UTILITY RELOCATIONS AS PART OF THE HIGHWAY 112 WIDENING PROJECT BETWEEN RAZORBACK ROAD AND GARLAND AVENUE, WITH THE AMOUNT TO BE PAID BY THE CITY OF FAYETTEVILLE NOT TO EXCEED \$91,878.59

Attachments:2015-0034 SWEPCO Utility Relocation Agreement

2015-0020

A RESOLUTION TO APPROVE A CONTRACT WITH GRANT THORNTON LLP IN THE AMOUNT OF \$87,500.00 TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE

Attachments:2015-0020 Grant Thornton auditDC TO MAYOR, CITY COUNCIL RE GRANT THORNTON CONTRACT LANGI

~~2014-0268~~

A RESOLUTION TO DESIGNATE APPROXIMATELY 14.2 ACRES
OF CITY PROPERTY AS TRAINING GROUNDS FOR THE
FAYETTEVILLE FIRE DEPARTMENT

Attachments:SRF & SRM Fire Training Grounds**B. Unfinished Business:**

B. 1

~~2014-0572~~

RZN 14-4864 KOUTROUMBIS APPEAL:

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN
REZONING PETITION RZN 14-4864, FOR APPROXIMATELY 0.26
ACRES, LOCATED AT 232 WEST ASH STREET FROM RSF-4,
RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RMF-24,
RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE

Attachments:14-4864 CC Packet14-4864 CC ORD

*This Ordinance was left on the First Reading at the January 6, 2015 City
Council meeting. This ordinance was left on the Second Reading at the January
20, 2015 City Council meeting.*

B. 2

~~2015-0003~~

REPEAL AND REPLACE TITLE V PUBLIC WORKS AND AMEND
CHAPTER 51 AND CHAPTER 10:

AN ORDINANCE TO REPEAL AND REPLACE TITLE V PUBLIC
WORKS, ARTICLE III DISCHARGE AND PRETREATMENT
REGULATIONS; TO AMEND § 51.137 MONTHLY SEWER RATES;
TO AMEND § 51.138 DEFINITIONS PERTAINING TO WATER
AND SEWER RATES; TO AMEND § 51.999 PENALTY; AND TO
AMEND § 10.99 GENERAL PENALTY OF THE FAYETTEVILLE
CODE

Attachments:2015-0003 Discharge and Pretreatment Regulation Changes A-III A-VEXHIBIT A & B

*This ordinance was left on the First Reading at the January 20, 2015 City
Council meeting.*

B. 3

~~2015-0008~~

ENACT ARTICLE III PROCEDURE TO EXERCISE INITIATIVE
AND REFERENDUM RIGHTS OF CHAPTER 36: ELECTIONS:

AN ORDINANCE TO ENACT ARTICLE III PROCEDURE TO
EXERCISE INITIATIVE AND REFERENDUM RIGHTS OF
CHAPTER 36: ELECTIONS INTO THE FAYETTEVILLE CODE TO
CLARIFY THE PROPER PROCEDURE FOR THE CITIZENS'
RIGHT OF THE INITIATIVE AND REFERENDUM

Attachments:Agenda Packet Ord § 36.20

*This ordinance was left on the First Reading at the January 20, 2015 City
Council meeting.*

who publishes

C. New Business:

- C. 1 2015-0023 AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4882, FOR APPROXIMATELY 21.63 ACRES, LOCATED ON THE EAST SIDE OF RUPPLE ROAD NORTH OF THE BOYS AND GIRLS CLUB, FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT R-PZD 06-1884 WESTSIDE VILLAGE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

14-4882 Agenda Item
14-4882 Exhibit A and B
14-4882 CC ORD

- C. 2 2015-0029 AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4883, FOR APPROXIMATELY 93.04 ACRES, LOCATED AT HWY 112 NORTH OF TRUCKERS DRIVE FROM R-PZD 05-1796, RESIDENTIAL PLANNED ZONING DISTRICT PARK WEST, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE, AND CS, COMMUNITY SERVICES

Attachments:

SRF and Reports 14-4883
Exhibits A & B 14-4883
ORD 14-4883

- C. 3 2015-0030 AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4916, FOR APPROXIMATELY 0.32 ACRES, LOCATED AT 956 RAY AVENUE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO NS, NEIGHBORHOOD SERVICES

Attachments:

SRF and Reports 14-4916
Exhibits A & B 14-4916
ORD 14-4916

- C. 4 2015-0031 AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 14-4924, FOR APPROXIMATELY 10.74 ACRES, LOCATED AT SOUTH SHILOH DRIVE FROM RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE, TO R-PZD 14-4924, RESIDENTIAL PLANNED ZONING DISTRICT HAWKINS HOUSE

Attachments:

SRF and Reports 14-4924
Exhibits A & B 14-4924
ORD 14-4924

D. City Council Agenda Session Presentations:

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