

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
September 20, 2016**

A meeting of the Fayetteville City Council was held on September 20, 2016 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.

1. Nominating Committee Report.

Agenda Additions

A. Consent:

1. Approval of the September 6, 2016 City Council Meeting Minutes.

Approved

2. **BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:** A resolution to award bid No. 16-51 and authorize a contract with Multi-Craft Contractors, Inc. for plumbing

services on an on-call basis for a period of one year with an automatic option to renew for four additional years.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 163-16

3. **BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:** A resolution to award bid no. 16-52 and authorize a contract with Aracrebs II, LLC d/b/a Elite Building Solutions for HVAC services on an on-call basis for a period of one year with an automatic option to renew for four additional years.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 164-16

4. **WEX BANK:** A resolution to approve a contract with Wex Bank, pursuant to a national joint powers alliance cooperative purchasing agreement, to enable the city to participate in a Fuel Card Program.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 165-16

5. **2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:** A resolution to authorize acceptance of a 2016-2017 selective traffic enforcement program grant in the amount of \$116,000.00, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 166-16

6. **FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:** A resolution to approve a joint lease agreement with the Fayetteville School District for portions of Jefferson Elementary School, Holcomb Elementary School and Lake Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 167-16

7. **GAMETIME C/O CUNNINGHAM RECREATION:** A resolution to approve the purchase of playground equipment from Gametime c/o Cunningham Recreation for the Ellen Smith Head Start Center located at 2052 South Garland Avenue in the amount of \$32,061.63, including the cost of installation, pursuant to a U.S. Communities National Cooperative Purchasing Program Contract.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 168-16

8. **TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION:** A resolution to authorize the purchase of kitchen equipment for the Fayetteville Senior Center from Trimark Strategic Equipment and Supply Corporation in an amount not to exceed \$95,000.00, pursuant to a national joint powers alliance cooperative purchasing agreement, contingent upon approval by the U.S. Department of Housing and Urban Development.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 169-16

9. **BID NO. 16-49 GOODWIN & GOODWIN, INC:** A resolution to award bid no. 16-49 and authorize a contract with Goodwin & Goodwin, Inc. in the amount of \$3,286,735.00

for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Porter Road-Highway 112/71B widening and interchange improvements, to approve a project contingency in the amount of \$328,673.50, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 170-16

- 10. GARVER, LLC AMENDMENT NO. 2:** A resolution to approve Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,800.00 to add construction phase services for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Porter Road-Highway 112/71B widening and interchange improvements, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 171-16

B. Unfinished Business:

- 1. RZN 16-5442 (2514 W. LORI RD. /RAZORBACK GOLF COURSE):** An ordinance to rezone that property described in rezoning petition RZN 16-5442 for approximately 99.10 acres located at 2514 West Lori Road from r-a, residential agricultural; rsf-1, residential single family, one unit per acre and rsf-4, residential single family, 4 units per acre to nc, neighborhood conservation; r-a, residential agricultural and ns, neighborhood services.

THIS ORDINANCE WAS LEFT ON THE SECOND READING AT THE SEPTEMBER 20, 2016 CITY COUNCIL MEETING.

- 2. RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:** An ordinance to rezone that property described in rezoning petition RZN 16-5500 for approximately 0.23 acres located at 335 east 7th street from nc, neighborhood conservation to dg, downtown general.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5902

C. Public Hearing:

- 1. CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS:** A resolution to authorize the city attorney to seek condemnation and possession of certain lands owned by Drake St Property, LLC, 1155 Properties, RPM1 Properties - Fayetteville, LLC a/k/a RPM1 Properties, LLC, and Nelms, LLLP for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange, and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 172-16

D. New Business:

1. **LIBRARY IMPROVEMENT BONDS:** An ordinance to authorizing the issuance and sale of the city's public library improvement bonds for the purpose of financing a portion of the costs of capital improvements to the Fayetteville Public Library; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5903

2. **2016 MILLAGE LEVY:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2016 fixing the rate thereof at 2.3 mills for general fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund, 2.5 mills for Fayetteville Public Library operations, and 1.2 mills for the Fayetteville Public Library expansion; and certifying the same to the county clerk of Washington County, Arkansas.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5904

3. **RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):** An ordinance to rezone that property described in rezoning petition RZN 16-5521 for approximately 0.67 acres located Southeast of South Street and South College Avenue from nc, neighborhood conservation to rsf-18, residential single family, 18 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5905

4. **RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):** An ordinance to rezone that property described in rezoning petition RZN 16-5535 for approximately 14.20 acres located at the east end of Borick Drive from i-2, general industrial and r-a, residential agricultural to p-1, institutional.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5906

5. **VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):** An ordinance to approve VAC 16-5536 submitted by Mike Baumann for property located at the south end of Marks Mill Lane to vacate portions of a utility, drainage and access easement.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5907

6. **ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):** An ordinance to amend the Springwoods Commercial Planned Zoning District to allow single family dwellings as a use by right on tracts 2, 3, and 4 of lot 2.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5908

- 7. ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-SHARE AGREEMENT:** A resolution to approve a cost-share agreement with the Arkansas State Highway and Transportation Commission to add a pedestrian and bicycle shared use path to the Wedington Drive Bridge over Interstate 49 with the city's portion of the cost not to exceed \$415,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 173-16

E. City Council Agenda Session Presentations:

1. Agenda Session Presentation - 2017 General Fund Budget Discussion.

City Council Tour

Announcements

Adjournment: 7:05 p.m.

Subject:	Roll				
Alderman Gray absent	La Tour	✓			
	Long	✓			
	Gray	Absent			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Mayor Jordan	✓			

8-0

Subject:	Nominating Committee				
Motion To:		Approve			
Motion By:		Kinion			
Seconded:		Marsh			
Approved	La Tour	NO			
	Long	✓			
	Gray	Absent			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Mayor Jordan				

6-1

City Council Meeting:

Subject:	Consent				
Motion To:		Approve			
Motion By:		Marsh			
Seconded:		Long			
Consent A.2 - A. 10 Approved Minutes Approved 168-16 thru 171-16	La Tour	abstain			
	Long	✓			
	Gray	absent			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Mayor Jordan				

6-0

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

City Council Meeting:

Subject: RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE)					
Motion To:		City Atty read the entire amended	Amend		
Motion By:		Ord. therefore no	Marsh		
Seconded:		motion was made	La Tour		
B. 1 Unfinished Business <i>Left on the 2nd Reading</i>	La Tour	to suspend the rules	✓		
	Long	and go to the Second	✓		
	Gray	Reading	Absent		
	Marsh		✓		
	Kinion		✓		
	Petty		✓		
	Tennant		✓		
	Schoppmeyer		✓		
	Mayor Jordan				

7-0

Subject: RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL					
Motion To:		Amend	2nd Read	3rd Read	Approve
Motion By:		Long	Marsh	Marsh	
Seconded:		Marsh	La Tour	Kinion	
B. 2 Unfinished Business <i>Approved</i> 5902	La Tour	✓	✓	✓	✓
	Long	✓	✓	✓	✓
	Gray	Absent	absent	absent	absent
	Marsh	✓	✓	✓	✓
	Kinion	✓	✓	✓	✓
	Petty	Recuse	Recuse	Recuse	Recuse
	Tennant	✓	✓	✓	✓
	Schoppmeyer	✓	✓	✓	✓
	Mayor Jordan				

6-0

6-0

6-0

6-0

City Council Meeting:

Subject:		CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS			
Motion To:		Amend	Approve		
Motion By:		Marsh	Marsh		
Seconded:		Long	Petty		
C. 1 Public Hearing Approved 172-14	La Tour	✓	✓		
	Long	✓	✓		
	Gray	absent	absent		
	Marsh	✓	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
	Tennant	✓	✓		
	Schoppmeyer	✓	✓		
	Mayor Jordan				

7-0

7-0

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

City Council Meeting:

Subject:		LIBRARY IMPROVEMENT BONDS			
Motion To:		2nd Read	3rd Read	Approve	
Motion By:		Marsh	Marsh		
Seconded:		Petty	Petty		
D. 1 New Business <u>Approved</u> 5903	La Tour	No	No	No	
	Long	✓	✓	✓	
	Gray	absent	absent	absent	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Schoppmeyer	✓	✓	✓	
	Mayor Jordan				

6-1

6-1

6-1

Subject:		2016 MILLAGE LEVY			
Motion To:		2nd Read	3rd Read	Approve	
Motion By:		Marsh	Marsh		
Seconded:		Petty	Petty		
D. 2 New Business <u>Approved</u> 5904	La Tour	No	No	No	
	Long	✓	✓	✓	
	Gray	absent	absent	absent	
	Marsh	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Schoppmeyer	✓	✓	✓	
	Mayor Jordan				

6-1

6-1

6-1

City Council Meeting:

Subject:					
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Approve</i>	
Motion By:	RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS)				
Seconded:		<i>Marsh Long</i>	<i>Tennant Marsh</i>		
D. 3 New Business <i>Approved</i> <i>5905</i>	La Tour	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Long	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Marsh	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>Recuse</i>	<i>Recuse</i>	<i>Recuse</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Schoppmeyer	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				
		<i>6-0</i>	<i>6-0</i>	<i>6-0</i>	

Subject:		RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER)			
Motion To:		<i>and Read</i>	<i>3rd Read</i>	<i>Approve</i>	
Motion By:		<i>Long</i>	<i>Marsh</i>		
Seconded:		<i>Marsh</i>	<i>Long</i>		
D. 4 New Business <i>Approved</i> <i>5906</i>	La Tour	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Long	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Marsh	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Schoppmeyer	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				
		<i>7-0</i>	<i>7-0</i>	<i>7-0</i>	

City Council Meeting:

Subject:		VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D)			
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Approve</i>	
Motion By:		<i>Long</i>	<i>Long</i>		
Seconded:		<i>Marsh</i>	<i>Marsh</i>		
D. 5 New Business <i>Approved</i> <i>5907</i>	La Tour	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Long	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Marsh	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Schoppmeyer	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		<i>2nd Read 3rd Read Approve</i>			
Motion To:		ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION)			
Motion By:		<i>Long</i>	<i>Long</i>	<i>—</i>	
Seconded:		<i>La Tour</i>	<i>Marsh</i>	<i>—</i>	
D. 6 New Business <i>Approved</i> <i>5908</i>	La Tour	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Long	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Gray	<i>Absent</i>	<i>Absent</i>	<i>Absent</i>	
	Marsh	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Kinion	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Petty	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Tennant	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Schoppmeyer	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Jordan				

7-0

7-0

7-0

City Council Meeting:

Subject:		ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-SHARE AGREEMENT			
Motion To:					
Motion By:					
Seconded:					
D. 7 New Business	La Tour	✓			
	Long	✓			
	Gray	absent			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Schoppmeyer	✓			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	La Tour				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Schoppmeyer				
	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: September 21, 2016

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of September 20, 2016

1. A resolution to award Bid No. 16-51 and authorize a contract with Multi-Craft Contractors, Inc. for plumbing services on an on-call basis for a period of one year with an automatic option to renew for four additional years.
2. A resolution to award Bid No. 16-52 and authorize a contract with Aracrebs II, LLC d/b/a Elite Building Solutions for HVAC services on an on-call basis for a period of one year with an automatic option to renew for four additional years.
3. A resolution to approve a contract with Wex Bank, pursuant to a National Joint Powers Alliance Cooperative Purchasing Agreement, to enable the City to participate in a fuel card program.
4. A resolution to authorize acceptance of a 2016-2017 Selective Traffic Enforcement Program Grant in the amount of \$116,000.00, and to approve a budget adjustment.
5. A resolution to approve a Joint Lease Agreement with the Fayetteville School District for portions of Jefferson Elementary School, Holcomb Elementary School and Lake Fayetteville.
6. A resolution to approve the purchase of playground equipment from Gametime c/o Cunningham Recreation for the Ellen Smith Head Start Center located at 2052 South Garland Avenue in the amount of \$32,061.63, including the cost of installation, pursuant to a U.S. Communities National Cooperative Purchasing Program Contract.
7. A resolution to authorize the purchase of kitchen equipment for the Fayetteville Senior Center from Trimark Strategic Equipment and Supply Corporation in an amount not to exceed \$95,000.00, pursuant to a National Joint Powers Alliance Cooperative Purchasing Agreement, contingent upon approval by the U.S. Department of Housing and Urban Development.

8. A resolution to award Bid No. 16-49 and authorize a contract with Goodwin & Goodwin, Inc. in the amount of \$3,286,735.00 for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Porter Road-Highway 112/71B widening and interchange improvements, to approve a project contingency in the amount of \$328,673.50, and to approve a budget adjustment.
9. A resolution to approve Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,800.00 to add construction phase services for the water and sewer relocations associated with Arkansas Highway and Transportation Department project BB0414 - Porter Road-Highway 112/71B widening and interchange improvements, and to approve a budget adjustment.
10. An ordinance to rezone that property described in rezoning petition RZN 16-5500 for approximately 0.23 acres located at 335 East 7th Street from NC, Neighborhood Conservation to Dg, Downtown General subject to the attached Bill of Assurance.
11. A resolution to authorize the City Attorney to seek condemnation and possession of certain lands owned by Drake St Property, LLC, 1155 properties and RPM1 Properties - Fayetteville, LLC a/k/a RPM1 Properties, LLC for the water and sewer relocations associated with Arkansas Highway and Transportation Department project BB0414 - Interstate 49 and Highway 112 interchange, and to approve a budget adjustment.
12. An ordinance authorizing the issuance and sale of the City's Public Library improvement bonds for the purpose of financing a portion of the costs of capital improvements to the Fayetteville Public Library; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.
13. An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2016 fixing the rate thereof at 2.3 mills for General Fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund, 2.5 mills for Fayetteville Public Library Operations, and 1.2 mills for the Fayetteville Public Library expansion; and certifying the same to the County Clerk of Washington County, Arkansas.
14. An ordinance to rezone that property described in rezoning petition RZN 16-5521 for approximately 0.67 acres located southeast of South Street and South College Avenue from NC, Neighborhood Conservation to RSF-18, Residential Single Family, 18 Units Per Acre.
15. An ordinance to rezone that property described in rezoning petition RZN 16-5535 for approximately 14.20 Acres located at the east end of Borick Drive from I-2, General Industrial and R-A, Residential Agricultural to P-1, Institutional.
16. An ordinance to approve VAC 16-5536 submitted by Mike Baumann for property located at the south end of Marks Mill Lane to vacate portions of a utility, drainage and access easement.

17. An ordinance to amend the Springwoods Commercial Planned Zoning District to allow Single Family Dwellings as a use by right on Tracts 2, 3, and 4 of Lot 2.

18. A resolution to approve a cost-share agreement with the Arkansas State Highway and Transportation Commission to add a pedestrian and bicycle shared use path to the Wedington Drive bridge over Interstate 49 with the City's portion of the cost not to exceed \$415,000.00.

City of Fayetteville, Arkansas

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



Meeting Agenda - Final Agenda

Tuesday, September 20, 2016

5:30 PM

City Hall Room 219

City Council Meeting

*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*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order**Roll Call****Pledge of Allegiance****Mayor's Announcements, Proclamations and Recognitions****City Council Meeting Presentations, Reports and Discussion Items:****1. [2016-0119](#)****NOMINATING COMMITTEE REPORT****Agenda Additions:****A. Consent:****A. 1 [2015-0655](#)**

APPROVAL OF THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING MINUTES.

A. 2 [2016-0417](#)**BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:**

A RESOLUTION TO AWARD BID NO. 16-51 AND AUTHORIZE A CONTRACT WITH MULTI-CRAFT CONTRACTORS, INC. FOR PLUMBING SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: [BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.](#)

A. 3 [2016-0418](#)**BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:**

A RESOLUTION TO AWARD BID NO. 16-52 AND AUTHORIZE A CONTRACT WITH ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS FOR HVAC SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: [BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS](#)

A. 4 [2016-0416](#)**WEX BANK:**

A RESOLUTION TO APPROVE A CONTRACT WITH WEX BANK, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, TO ENABLE THE CITY TO PARTICIPATE IN A FUEL CARD PROGRAM

Attachments: [WEX BANK](#)

A. 5 [2016-0399](#)**2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:**

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF \$116,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT](#)
 [BA_2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT](#)

A. 6 [2016-0414](#)**FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:**

A RESOLUTION TO APPROVE A JOINT LEASE AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT FOR PORTIONS OF JEFFERSON ELEMENTARY SCHOOL, HOLCOMB ELEMENTARY SCHOOL AND LAKE FAYETTEVILLE

Attachments: [FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT](#)

A. 7 [2016-0410](#)**GAMETIME C/O CUNNINGHAM RECREATION:**

A RESOLUTION TO APPROVE THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME C/O CUNNINGHAM RECREATION FOR THE ELLEN SMITH HEAD START CENTER LOCATED AT 2052 SOUTH GARLAND AVENUE IN THE AMOUNT OF \$32,061.63, INCLUDING THE COST OF INSTALLATION, PURSUANT TO A U.S. COMMUNITIES NATIONAL COOPERATIVE PURCHASING PROGRAM CONTRACT

Attachments: [GAMETIME C/O CUNNINGHAM RECREATION](#)

A. 8 [2016-0422](#)**TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION:**

A RESOLUTION TO AUTHORIZE THE PURCHASE OF KITCHEN EQUIPMENT FOR THE FAYETTEVILLE SENIOR CENTER FROM TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION IN AN AMOUNT NOT TO EXCEED \$95,000.00, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, CONTINGENT UPON APPROVAL BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Attachments: [TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION](#)

A. 9 [2016-0420](#)**BID NO. 16-49 GOODWIN & GOODWIN, INC.:**

A RESOLUTION TO AWARD BID NO. 16-49 AND AUTHORIZE A CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$3,286,735.00 FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$328,673.50, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [BID NO. 16-49 GOODWIN & GOODWIN, INC.](#)
 [BA BID NO. 16-49 GOODWIN & GOODWIN, INC.](#)

A. 10 [2016-0421](#)**GARVER, LLC AMENDMENT NO. 2:**

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$196,800.00 TO ADD CONSTRUCTION PHASE SERVICES FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [GARVER, LLC AMENDMENT NO. 2](#)
 [BA GARVER, LLC AMENDMENT NO. 2](#)

B. Unfinished Business:

B. 1 [2016-0328](#)**RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES

(LEFT ON FIRST READING)

Attachments: [RZN 16-5442 \(2514 W. LORI RD./RAZORBACK GOLF COURSE\)](#)
[BILL OF ASSURANCE](#)

At the July 19, 2016 City Council meeting this ordinance was left on the first reading. At the August 2, 2016 City Council Meeting this ordinance was left on the first reading and tabled indefinitely. At the September 6, 2016 City Council meeting this ordinance was left on the first reading and tabled to the September 20, 2016 City Council meeting.

B. 2 [2016-0382](#)**RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5500 FOR APPROXIMATELY 0.23 ACRES LOCATED AT 335 EAST 7TH STREET FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

(LEFT ON FIRST READING)

Attachments: [RZN 16-5500 \(335 E. 7TH ST./NIEDERMAN\) APPEAL](#)
[ADDITIONAL RZN 16-5500 335 E. 7TH ST.NIEDERMAN APPEAL](#)

At the September 6, 2016 City Council meeting this ordinance was left on the first reading.

C. Public Hearing:

C.1 [2016-0419](#)**CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS:**

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY DRAKE ST PROPERTY, LLC, 1155 PROPERTIES, RPM1 PROPERTIES - FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC, AND NELMS, LLLP FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:[CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATION](#)[BA CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCA](#)[ADDITIONAL: CONDEMNATION AND POSSESSION FOR WATER AND SEWE](#)**D. New Business:****D.1** [2016-0413](#)**LIBRARY IMPROVEMENT BONDS:**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

Attachments:[LIBRARY IMPROVEMENT BONDS](#)

D. 2 [2016-0398](#)**2016 MILLAGE LEVY:**

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2016 FIXING THE RATE THEREOF AT 2.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 2.5 MILLS FOR FAYETTEVILLE PUBLIC LIBRARY OPERATIONS, AND 1.2 MILLS FOR THE FAYETTEVILLE PUBLIC LIBRARY EXPANSION; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

Attachments: [2016 MILLAGE LEVY](#)

D. 3 [2016-0406](#)**RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5521 FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTHEAST OF SOUTH STREET AND SOUTH COLLEGE AVENUE FROM NC, NEIGHBORHOOD CONSERVATION TO RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE

Attachments: [RZN 16-5521 \(SE OF SOUTH ST. & COLLEGE AVE./FAYETTEVILLE RENTALS\)](#)

D. 4 [2016-0397](#)**RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5535 FOR APPROXIMATELY 14.20 ACRES LOCATED AT THE EAST END OF BORICK DRIVE FROM I-2, GENERAL INDUSTRIAL AND R-A, RESIDENTIAL AGRICULTURAL TO P-1, INSTITUTIONAL

Attachments: [RZN 16-5535 \(EAST END OF BORICK DR./CITY FIRE TRAINING CENTER\)](#)

D. 5 [2016-0392](#)**VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):**

AN ORDINANCE TO APPROVE VAC 16-5536 SUBMITTED BY MIKE BAUMANN FOR PROPERTY LOCATED AT THE SOUTH END OF MARKS MILL LANE TO VACATE PORTIONS OF A UTILITY, DRAINAGE AND ACCESS EASEMENT

Attachments: [VAC 16-5536: \(S. END OF MARKS MILL LN./SUMMIT PLACE S/D\)](#)

D. 6 [2016-0401](#)**ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):**

AN ORDINANCE TO AMEND THE SPRINGWOODS COMMERCIAL PLANNED ZONING DISTRICT TO ALLOW SINGLE FAMILY DWELLINGS AS A USE BY RIGHT ON TRACTS 2, 3, AND 4 OF LOT 2

Attachments: [ADM 16-5538 \(2180 W/ MOORE LN./SPRINGWOODS C-PZD MODIFICATION\)](#)

D. 7 [2016-0415](#)**ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION
COST-SHARE AGREEMENT:**

A RESOLUTION TO APPROVE A COST-SHARE AGREEMENT WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION TO ADD A PEDESTRIAN AND BICYCLE SHARED USE PATH TO THE WEDINGTON DRIVE BRIDGE OVER INTERSTATE 49 WITH THE CITY'S PORTION OF THE COST NOT TO EXCEED \$415,000.00

Attachments: [ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-](#)

E. City Council Agenda Session Presentations:**E. 1** [2016-0338](#)

AGENDA SESSION PRESENTATION - 2017 GENERAL FUND BUDGET DISCUSSION

F. City Council Tour:**G. Announcements:****H. 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 479-575-8330.

A copy of the complete City Council agenda is available at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.



Nominating Committee Report

**Members Present – Chair Mark Kinion, Sarah Marsh,
and Martin W. Schoppmeyer Jr.**

Absent – Alan Long

The Nominating Committee recommends the following candidates for appointment:

ACTIVE TRANSPORTATION ADVISORY COMMITTEE

Jerry Bailey – One Community/Citizen at Large term ending 12/31/18

James McHendry – One Community/Citizen at Large unexpired term ending 12/31/17

AIRPORT BOARD

Rick Bailey – One unexpired Pilot term ending 12/31/19

ANIMAL SERVICES ADVISORY BOARD

Did not receive application for Licensed Veterinarian – One unexpired Licensed Veterinarian term ending 06/30/19

Clint Cunningham – One unexpired Citizen-at-Large term ending 6/30/18

BOARD OF ADJUSTMENTS

William A. Finer – One unexpired term ending 03/31/18

TOWN AND GOWN ADVISORY BOARD

Matthew Ramsey – One Ward 2 Resident term ending 09/30/18

Keith Tencleve – One Ward 4 Resident term ending 09/30/18

Leslie Belden – One Business Owner/City Development term ending 09/30/18

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Zara Niederman, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to _____
Permitted: Unit 1, 8, 9, 10, 24
CUP: 25, 26, 44, 45

2. Other restrictions including number and type of structures upon the property are limited to Height limit restricted to 45'

3. Specific activities will not be allowed upon petitioner's property include
Units: 4, 5, 13, 15, 3, 14, 16, 17, 19, 28, 36, 40

4. (Any other terms or conditions) _____

5. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Zara Niederman, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

9/14/16
Date

Zara Niederman
Printed Name

1530 Hotz Dr
Address
Fayetteville AR
72704

[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS }
 }
COUNTY OF WASHINGTON }
 }.ss

And now on this the 14 day of September, 2016, appeared before me, David Rowden, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

[Signature]
NOTARY PUBLIC

My Commission Expires:

3-3-25

DAVID BRIAN ROWDEN
Notary Public-Arkansas
Washington County
My Commission Expires 03-03-2025
Commission # 12403425



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Paul Becker, Finance Director

FROM: Kit Williams, City Attorney

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

DATE: September 14, 2016

RE: Removal of Nelm's Easement from Condemnation Authorization Resolution

The City has now received the signed General Utility Easement from Nelms, LPP so we will prepare an amended Resolution which removes the authority to seek condemnation from Nelms, LLP. At the beginning of this item, please move to amend the Resolution in your packet to the one we will supply you with at the meeting.

We appreciated Nelms being willing to settle with the City.

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT Nelms, LLLP, an Arkansas limited liability limited partnership, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 99060271

Tract 1

A tract of land within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33 and the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows: Beginning at a 3/8" rebar found at the common corner of Sections 27, 28, 33, 34; thence along the common line of Sections 27 and 34 S87°00'52"E 336.13 feet to a found 1/2" rebar with plastic cap (LS1263) on the westerly right of way line of US Highway 71; thence along said westerly right of way line of US Highway 71 the following courses and distances: S13°26'17"W 145.14 feet to a found rebar with cap; thence S02°52'20"E 194.00 feet to a found rebar with cap; thence S14°30'03"E 150.77 feet to a found rebar with cap; thence S20°32'54"E 189.87 feet to a found rebar with cap; thence S54°17'37"W 155.31 feet to a found rebar with cap; thence S68°58'46"W 103.92 feet to a concrete post; thence S69°17'31"W 247.55 feet to the line common to Sections 33 and 34; thence S69°17'31"W 303.05 feet to a concrete post; thence S66°10'50"W 358.57 feet to a concrete post; thence S71°03'37"W 213.47 feet to a concrete post; thence N70°55'36"W 97.20 feet to a found rebar with cap on the easterly right of way line of Arkansas Highway 112; thence along said easterly right of way line the following courses and distances: N15°46'57"W 204.33 feet to a found rebar with cap; thence N15°48'44"W 204.20 feet to a found rebar with cap; thence N06°16'15"W 200.00 feet to a found highway right of way marker; thence N06°21'33"W 249.22 feet to a found 1/2" rebar with cap; thence N09°24'28"W 159.05 feet; thence N16°50'10"W 104.37 feet to a found 1/2" rebar with cap; thence N23°08'21"W 163.39 feet to a found 1/2" rebar on the common line of Sections 28 and 33; thence leaving the said easterly right of way line of Arkansas Highway 112 S86°56'18"E 1226.73 feet to the Point of Beginning and containing 1,462,089 square feet or 33.5649 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 33; thence S87°15'19"E a distance of 250.28 feet along the North line of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33; thence S02°44'41"W a distance of 348.63 feet to a point on the East line of an existing 25 foot utility easement shown on survey Plat 023A-00000093 Said point also being the POINT OF BEGINNING; thence S87°26'45"E a distance of 26.53 feet; thence S42°26'45"E a distance of 20.06 feet; thence S17°57'54"E a distance of 31.08 feet; thence S06°42'54"E a distance of 9.91 feet to the North line of an existing utility easement shown on survey Plat 023A-00000093; thence S85°08'06"W a distance of 42.18 feet to a point on said East line of an existing 25 foot utility easement shown on survey Plat 023A-00000093; thence along said East line N06°21'19"W a distance of 18.69 feet; thence N09°23'47"W a distance of 40.95 feet to the POINT OF BEGINNING, containing 2,156 square feet or 0.05 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 14th day of September, 2016.

Nelms, LLLP, an Arkansas limited liability limited partnership

BY:

Robert D. Nelms
Robert D. Nelms
[Please print or type Name and Title]

ATTEST:

Scott Price
Scott Price, Operations Mgr.
[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON BENTON

ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Robert D. Nelms and _____, to be known as the persons who executed the foregoing document, and who stated and acknowledged that they are the President and _____, respectively, of Nelms, LLLP, an Arkansas limited liability limited partnership, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

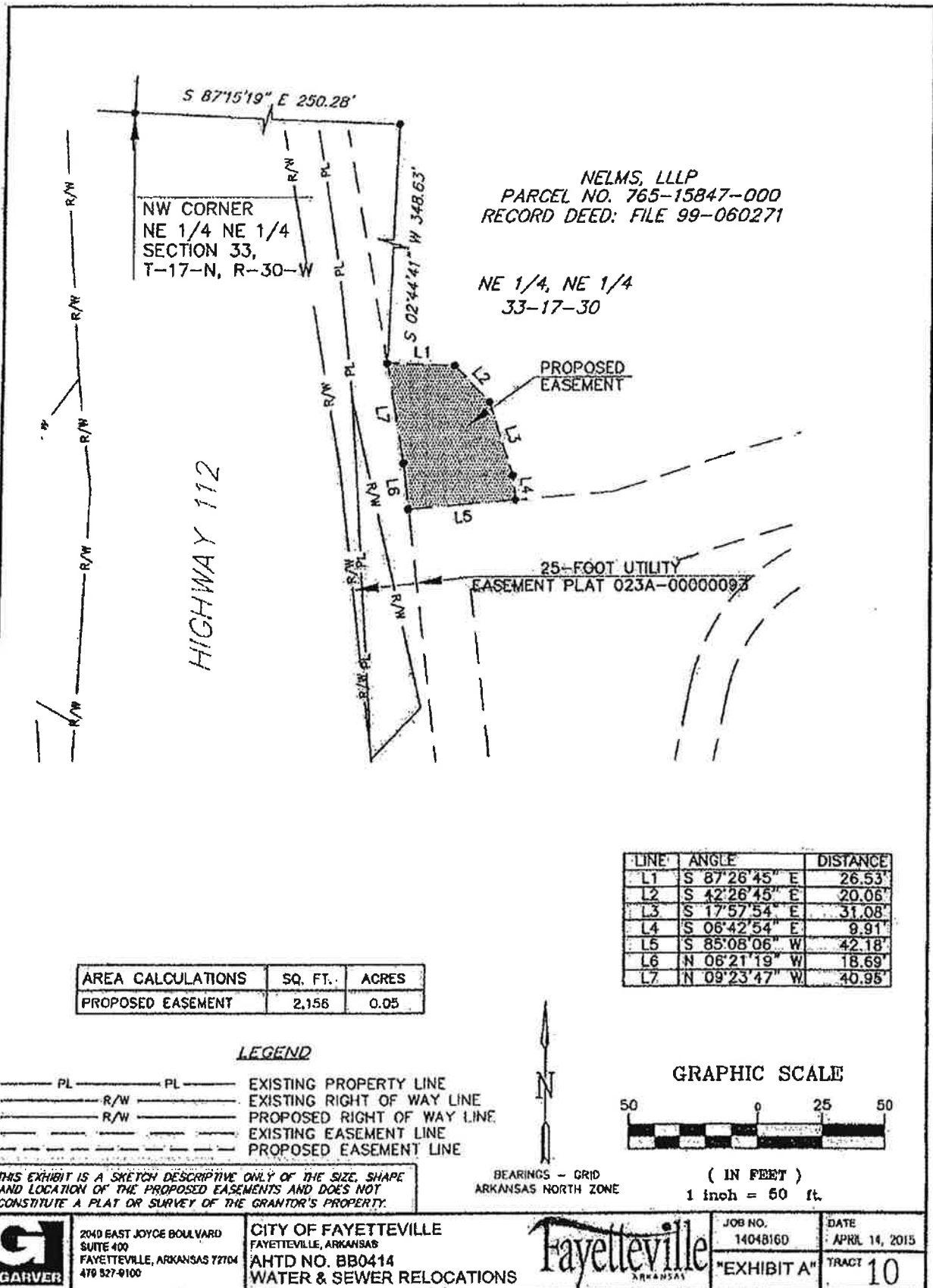
WITNESS my hand and seal on this 14 day of September, 2016.

MY COMMISSION EXPIRES:

4-21-2025

Jessica D. Robertson
Notary Public

Jessica D. Robertson
Notary Public - Arkansas
Benton County
My Commission Expires: 04/21/2025
Commission # 12689955



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
September 6, 2016**

A meeting of the Fayetteville City Council was held on September 6, 2016 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, 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 was absent.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

2016 2nd Quarter Financial Report - Paul Becker

Paul Becker, Chief Financial Officer gave a brief summary of the 2nd Quarter Financial Report for 2016.

Consent:

Approval of the August 16, 2016 City Council Meeting Minutes.

Approved

Fischer Snacks, LLC: A resolution to approve an amendment to the contract with Fischer Snacks, LLC to provide for operation of the soccer concession stand at Kessler Mountain Regional Park.

Resolution 154-16 as recorded in the office of the City Clerk

Grubbs, Hoskyn, Barton & Wyatt, Inc. Amendment No. 1: A resolution to approve Amendment No. 1 to the contract with Grubbs, Hoskyn, Barton & Wyatt, Inc. for additional construction materials testing related to the addition of a parking lot at Kessler Mountain Regional Park in an amount not to exceed \$2,000.00.

Resolution 155-16 as recorded in the office of the City Clerk

RFP 16-02 Johanson Consulting, Inc. d/b/a Johanson Group: A resolution to award RFP 16-02 and approve a one (1) year contract with automatic renewals for four (4) additional one (1) year terms with Johanson Consulting, Inc. d/b/a Johanson Group for a classification, compensation and benefits study in the amount of \$45,725.00 for the first year, to approve an annual project contingency of \$4,500.00 for ongoing market reviews and consulting services each year the contract is in effect, and to approve a one (1) year software license and support agreement with automatic renewals for four (4) additional one (1) year terms with DB Squared, LLC for DBCompensation software in the amount of \$1,200.00 per month for the first three years and \$250.00 per month for the last two years.

Resolution 156-16 as recorded in the office of the City Clerk

RFQ No. 16-08 - First Security Bank Professional Services Contract: A resolution to award RFQ No. 16-08 and approve a five (5) year professional services contract with First Security Bank for the provision of investment management services.

Resolution 157-16 as recorded in the office of the City Clerk

Bid No. 16-36 Donelson Construction Co., LLC: A resolution to award Bid No. 16-36 and approve a contract with Donelson Construction Co., LLC in the amount of \$217,855.00 for asphalt micro-surfacing of city streets at a cost of \$2.33 per square yard, and to approve a project contingency in the amount of \$21,786.00.

Resolution 158-16 as recorded in the office of the City Clerk

Bid No. 16-47 Countryside Farm and Lawn Equipment Company, Inc.: A resolution to award Bid No. 16-47 and approve the purchase of a Meyer V Force Spreader from Countryside Farm and Lawn Equipment Company, Inc. in the amount of \$29,395.00 for use at the Biosolids Management Site.

Resolution 159-16 as recorded in the office of the City Clerk

2016 Justice Assistance Grant Local Solicitation Award: A resolution authorize acceptance of a 2016 Justice Assistance Grant Local Solicitation Award in the amount of \$81,531.00, of which

\$34,748.00 will be used by the Fayetteville Police Department, with \$31,014.00 to be disbursed to the City of Springdale and \$15,769.00 to Washington County, and to approve a budget adjustment.

Resolution 160-16 as recorded in the office of the City Clerk

Flintlock Development, LLC Cost Share Agreement: A resolution to approve a 50/50 cost share agreement with Flintlock Development, LLC for construction of a sewer main along a portion of South Street between South College Avenue and East Huntsville Road at a total cost of \$28,238.48.

Resolution 161-16 as recorded in the office of the City Clerk

Alderman Petty moved to accept the Consent Agenda as read. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Public Hearing:

Raze and Removal - Holdings, LLC, 1503 North Garland Avenue: A resolution to order the razing and removal of a dilapidated and unsafe structure on property owned by C Holdings, LLC located at 1503 North Garland Avenue in the City of Fayetteville, Arkansas, and to approve a budget adjustment.

Mayor Jordan opened the Public Hearing.

David Carver, Code Compliance Administrator gave a brief description of the resolution.

Mayor Jordan requested to know if the owner of the property was in attendance. No one came forward.

Matthew Cabe, Building Official: David and I went to this property last summer when we did the initial raze and removal. We went out last week and there was substantial deterioration from our visit earlier this summer. The ceiling is falling in, which means the roof is compromised. Water infiltration and vandalism are present. The structure is beyond reasonable renovation rehabilitation.

City Attorney Kit Williams: In your opinion this is an unsafe structure?

Matthew Cabe: Absolutely. It is not a place for people to inhabit.

There was no public comment.

Mayor Jordan closed the Public Hearing.

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

Resolution 162-16 as recorded in the office of the City Clerk**Unfinished Business:**

RZN 16-5442 (2514 W. Lori Rd./Razorback Golf Course): An ordinance to rezone that property described in rezoning petition RZN 16-5442 for approximately 99.10 acres located at 2514 West Lori road from R-A, Residential Agricultural; RSF-1, Residential Single Family, one unit per acre and RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation; R-A, Residential Agricultural and NS, Neighborhood Services. *At the August 2, 2016 City Council meeting this ordinance was tabled indefinitely. At the July 19, 2016 City Council meeting this ordinance was left on the first reading.*

Alderman La Tour: A few weeks ago we tabled indefinitely a rezoning for the Razorback Golf Course by Mr. Ron Caviness. He has come forward now with a Bill of Assurance. I would like for us to consider it again.

Alderman La Tour moved to remove RZN 16-5442 (2514 W. Lori Rd./Razorback Golf Course) from the table. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Alderman Long: I've had the opportunity to talk with some neighbors regarding this. I request we leave it on this reading so we can have public notification go out to the neighborhoods for them to be more informed.

Alderman Long moved to table the ordinance to the September 20, 2016 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-1 to table. Alderman La Tour voting no. Alderman Kinion was absent.

This ordinance was left on the First Reading and tabled to the September 20, 2016 City Council meeting.

New Business:

VAC 16-5519 (Intersection of McMillan Dr. & Wedington Dr./Fitness One Gym): An ordinance to approve VAC 16-5519 submitted by Milholland and Associates, Inc. for property located at the intersection of McMillan Drive and Wedington Drive to vacate a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted in favor 9-0. Staff recommends approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5899 as Recorded in the office of the City Clerk

RZN 16-5508 (North of Colfax Loop/The Coves SD, Ph. III): An ordinance to rezone that property described in rezoning petition RZN 16-5508 for approximately 35.98 acres located north of Colfax Loop from an expired R-PZD, Residential Planned Zoning District to NC, Neighborhood Conservation and R-A, Residential Agricultural.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission and staff recommend approval.

Jesse Fulcher, Rausch Coleman stated he is completely fine with Neighborhood Conservation and happy with either residential district that the Council would prefer.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5900 as Recorded in the office of the City Clerk

RZN 16-5500 (335 E. 7th St./Niederman) Appeal: An ordinance to rezone that property described in rezoning petition RZN 16-5500 for approximately 0.23 acres located at 335 East 7th Street from NC, Neighborhood Conservation to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted 4-4 with one member abstaining. Staff believes the requested rezoning is incompatible with the area and does not support the rezoning request.

Alderman Petty: I don't have any interest in this property, but I am partnered with the applicant on other projects. To avoid any appearance of impropriety I am going to recuse myself from this discussion.

Alderman La Tour: Why did the staff recommend not going forward? This is a very small piece of property.

Jeremy Pate: On the map you will see Neighborhood Conservation and RSF-18. These are primarily single family. There's not a lot of larger multi-family. You might be surprised what you could fit on a quarter acre lot, particularly with the lack of zero setbacks in Downtown General. If developed commercially there are no parking regulations. Parking wouldn't have to be provided. It is something we have to evaluate as we look at a rezoning request, particularly on the impact of surrounding neighbors and the neighborhood itself.

Alderman La Tour: I'm concerned you would say we don't have any parking regulations. We as a Council decide that we didn't want to regulate. It shows a lack of confidence in a business person's ability to choose the right number of parking places for their chosen business. Most entrepreneurs will select what is in their best interest, which means they will select what is best in the public's interest.

Zara Niederman, Applicant: In this neighborhood it is primarily multi-family. You will see duplexes, triplexes, and fourplexes all surrounded by this property. Neighborhood Conservation does not seem to be the most appropriate. We are trying to increase density close to Downtown. I understand that Planning may have issues with Downtown General. There are some things they could be worried about in regards to building height and some businesses that could go in there. I'm thinking of putting four units on there.

City Attorney Kit Williams: Since this is a rezoning, you aren't supposed to be discussing what your development plans are.

Zara Niederman: I brought that up because as you go through what all the options are, I think this is going to come up continuously. How do you build neighborhood scale housing that's not apartment complexes, increasingly densifying the core of Fayetteville or anywhere it's appropriate

for that matter? How do we build flexible housing that's just not large student apartments? How do we build things that have multiple sizes and spaces? I didn't see anything that worked particularly well except for Downtown General. I am appreciative of Planning Commission, Planning staff, and Council for pushing the envelope and moving forward to be progressive on adding things to the zoning.

Alderman Long: This is an investment property for you. It could be you or someone else that develops it. When we are looking at zoning that is one of the things we have to consider. It could be built to that specification such as height. There are ways to get that zoning, but make assurances that it won't reach those height levels. We can't ask you for a Bill of Assurance legally in the request process. Staff has worked with many people in the past to work through those things if the applicant wants too. As it stands for Downtown General, I wouldn't be able to vote for it as it is. If there were restrictions on it, then it would look a lot different.

Zara Niederman: With regard to height restriction, I would certainly be okay with that. I could probably do less than 45, but that's what Neighborhood Conservation is. With regard to the uses I would be okay with that. I might want to look a little more closely at what would be appropriate and talk with the Planning staff to see what they think.

City Attorney Kit Williams: I think that is probably good. We can't consider a Bill of Assurance unless it has been offered in writing and signed. You might want to get with Planning if you are considering that and look carefully at your options. A Bill of Assurance is like part of the rezoning itself and runs with the land. You need to be careful with that.

Alderman Marsh: We are in a situation again where we have a developer trying to do the right thing. They are trying to build the appropriate infill housing that we are supposed to be prioritizing and yet we do not have an appropriate zoning tool to enable that to happen. We have this issue where our development codes are not in alignment with our master plan goals. We need to have more development tools. Based on the discussion here tonight, I want to table this for two weeks and give the applicant an opportunity to consider other options.

A discussion followed about leaving the item on the First Reading.

This ordinance was left on the First Reading

Amend §151.01 Definitions, §174.03 Exemptions; §174.04, §174.10 On-Site Freestanding Signs and §174.12 Wall Signs: An ordinance to amend §151.01 **Definitions**, §174.03 **Exemptions**; §174.04, §174.10 **On-Site Freestanding Signs** and §174.12 **Wall Signs** to more closely conform to the latest United States Supreme Court decisions on sign ordinances and to declare an emergency.

City Attorney Kit Williams: I ask that you amend what was originally proposed to the one I sent you last week. It now includes a specific provisional to ensure A-frame signs would still be allowed on the right-of-way when someone's property abuts up to the sidewalk and they have no other place to put the sign.

Alderman Petty: It is a good solution. I appreciate the City Attorney drafting it up.

Peter Tonnessen, Ward 3 stated he did not understand why the sign issue was being treated as an emergency.

City Attorney Kit Williams: Right now we are just talking about whether we are going to amend what was originally submitted to the City Council to ensure that A-frame signs would be allowed. I haven't read the rest of it yet.

Alderman Petty moved to amend the ordinance to include a provisional to ensure A-frame signs would still be allowed on the right-of-way when someone's property abuts up to the sidewalk and they have no other place to put the sign. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I have been looking at this ever since the constitutional decision was made. The initial analysis of the constitutional decision seemed to make it almost impossible to have any kind of effective sign ordinance. Upon further consideration the common belief is we can make a sign ordinance that would accomplish what our current sign ordinance does, but be in better conformance with the language of the Supreme Court. This is one of many times the sign ordinance has had to be amended as the Supreme Court has announced different rules and constitutional analysis. The emergency clause is needed because the 60 days before the election is going to occur later on this week. I believe it is vital that this be in effect at this General Election. I did not want to have confusion and wanted to make sure people understood this would be the ordinance that would control. Thank you to Jeremy Pate and Planning Department for their help.

Alderman Gray: Thank you Kit for all the work on this. I know it is a subject that gets mentioned a lot in the community. This is an excellent ordinance.

City Attorney Kit Williams: If this is passed tonight, my plan is to immediately send out a memo before the election to make it even clearer what the sign regulations are for non-commercial signs.

Alderman La Tour: If I put up two signs in my yard and they are exactly the same size, except the words are different. One is a "For Sale" sign and the other is a "Vote" sign. Do I have to take down the voting sign three days after the election?

City Attorney Kit Williams: Yes. During the period 60 days before the election, up to three days after it, you can have an unlimited number of small signs the same size as a real estate sign. You may have a non-commercial sign 365 days a year if you don't have a real estate sign up. However, if you have a real estate sign up, you have used up your sign allotment except during the election period. The reason we had to allow real estate signs is from the Supreme Court decision. There is a rule that says you can't favor commercial signs over non-commercial signs.

Peter Tonnessen, Ward 3: I don't understand why this is an emergency. The Supreme Court issued its ruling in January, 2015. Why didn't we have this in time for the election on the library?

This shouldn't be pushed through in a rush unless we know there have been problems with the ordinance in its current form in the past or there are real threats of litigation for the city.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-1. Alderman La Tour voting no. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long: They can have a real estate sign year round, but can't express their political opinions at the same time. Is there not a way for us to make an allowance for that in the City of Fayetteville? If your house is for sale, should you not still be able to express a political opinion with a political sign at the same time?

City Attorney Kit Williams: One of the purposes of the sign ordinance is to advance the aesthetics of Fayetteville. It would be allowable for the City Council to say someone can have a non-commercial sign anytime they want, even two or three or four, whether or not they have a real estate sign. You could say you can have unlimited number of non-commercial signs year round everywhere. That is somewhat dangerous because one of the supports for the sign ordinance, which is aesthetics, will be whittled away. It will to some extent make it weaker because you will basically be saying that an unlimited number or large number of signs even in residential areas is not a danger to aesthetics. When I wrote this I tried to keep it as similar to the ordinance we have had for many years and has been approved by our appellate courts. It is much better the way the Supreme Court differentiated between commercial and non-commercial. That is what we need to use too. This ordinance is stronger and has more armor on it to defend it from any attack and that is why I have proposed it. We have an election coming up. We need to get it passed and in effect so that people will know the rules.

Alderman Long: I'm looking at the idea of one political sign per household. I don't know what the harm would be just because there is a real estate sign there. It would be wise for us to have an exemption for that. There are all kinds of political views in this community and I like to know what they are. I want to amend the ordinance to allow for a non-commercial sign 365 days a year even with a real estate sign.

Alderman La Tour: It concerns me when we are talking about how we can protect ourselves from attacks. I like pretty towns and streets. I don't think a town is truly beautiful if our First Amendment freedoms are being suppressed. I like to know what our citizens are thinking and give them the opportunity to express themselves without fear of some code violation.

Alderman Petty: I'm not against the amendment in principle, but I'm not going to support it tonight. I don't think this is the right time to have an extended discussion about the entire ordinance. I would like to change a few things about it too. The approach to changing parts of the ordinance should be more ordered, especially due to the timeliness of the election. If we are going to discuss an amendment tonight, I want to know what the precise language is going to be before we vote on it.

Alderman Long: Just because someone is selling their home and has a real estate sign, we shouldn't prevent them from expressing their political opinions with one small sign. We should add a general exception for an allowance for that small political sign 365 days a year.

City Attorney Kit Williams: Such a change can be enacted by the City Council, but I am very concerned we don't have the precise language to do it tonight. This is an ordinance that does need to go in effect and is an emergency. In the near future you can have an unlimited number of signs up for the next 60 days. During that period of time, I will be happy to speak with you and draft a language that would change the ordinance to allow having both the real estate sign and a non-commercial sign up 365 days a year. I would rather have you all pass this tonight with the emergency clause so it can go in effect and control this election.

Alderman Marsh: I agree with Alderman Petty's concerns and I would like for us to pass this tonight. I see other opportunities for improvement in the sign ordinance. I want us to do a comprehensive review at a later date. Alderman Long has some valid points.

Alderman La Tour: I am supporting the peoples' right to free speech. We shouldn't require a real estate sign to be there in order for me to express my ideas. Our citizens should be free to have a sign in their yard of reasonable size expressing their political views, whether or not they have a real estate sign.

City Attorney Kit Williams: They do not have to have a real estate sign in their yard in order to have a non-commercial sign. The thing Alderman Long wants to change is that you can have your non-commercial sign regardless and if you want to put a real estate sign up, you can do that also. I can work with him to try to get a reasonable amendment. I don't want to try and do this tonight because there is no emergency for that.

Alderman Long: Kit, if it doesn't pass after we vote, I would appreciate it if we could have it ready for the next Council meeting.

Mayor Jordan asked for clarification on the proposed amendment.

City Attorney Kit Williams: We don't have an amendment on the floor. We have a suggestion that the ordinance be changed. We need precise wording when we do the ordinance. The sign ordinance is very complicated and intertwined. It is dangerous to try and change it on the fly. There is no reason to do it, since by Thursday or Friday there will be an unlimited number of non-commercial signs somebody can put in their yard.

Peter Tonnessen, Ward 3 stated he is not in favor of a lot of signs.

Alderman Tennant: I support what Alderman Long is saying, but I couldn't vote for the amendment tonight without seeing it.

Alderman Long moved to allow for a non-commercial sign 365 days a year even with a real estate sign. Alderman La Tour seconded the motion. Upon roll call the ordinance failed 2-

5. Alderman La Tour and Long voting yes. Alderman Schoppmeyer, Gray, Marsh, Petty, and Tennant voting no. Alderman Kinion was absent.

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 6-1. Alderman La Tour voting no. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman La Tour voting no. Alderman Kinion was absent.

Alderman Petty moved to approve an Emergency Clause. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-1. Alderman La Tour voting no. Alderman Kinion was absent.

Emergency Clause Approved

Ordinance 5901 as Recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: The city has begun our business license renewal process for this year. It runs through October 31, 2016. Businesses can do it online, in person, or by mail.

Our first Fall Bulky Waste cleanup is on Saturday, September 10, 2016. The locations are at Owl Creek Elementary School and the Recycling & Trash Collection Facility.

In an effort to support our Spring Street Entertainment District parking deck, there will be a promotion for free parking on Friday, September 9, 2016.

For football games, the City of Fayetteville is partnering with the University of Arkansas for the Walton Arts Center lot to be a park and ride to the games. We had 247 of our 292 spaces utilized this past Saturday. We will continue that for home football games. It was done as an effort for Dickson Street merchants to encourage people to come back to Downtown and spend money in the city rather than getting on the road and exiting our community.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 6:59 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk Treasurer

UNOFFICIAL



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: **September 19, 2016**

RE: **Amend condemnation Resolution to remove Nelms, LLLP**

On Wednesday of last week, Kit sent a memo advising that Nelms, LLLP had signed a general utility easement and that condemnation of a portion of its property was no longer necessary. Attached please find a revised Resolution for item C.1 of your agenda packet. Please move to amend the Resolution in your packet to the attached Resolution.

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY DRAKE ST PROPERTY, LLC, 1155 PROPERTIES, AND RPM1 PROPERTIES-FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 – INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville and certain property owners have been unable to agree on a fair price for the portions of property owned by each of them which is needed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 – Interstate 49 and Highway 112 Interchange; and

WHEREAS, the City of Fayetteville needs to gain possession of these needed properties promptly to begin work on these public improvements.

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

Section 1: That the City Council for the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 – Interstate 49 and Highway 112 Interchange, and owned by Drake St Property, LLC that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 – Interstate 49 and Highway 112 Interchange, and owned by 1155 Properties that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 – Interstate 49 and Highway 112 Interchange, and owned by RPM1 Properties - Fayetteville, LLC a/k/a RMP1 Properties, LLC that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

PASSED and **APPROVED** this 20th day of September, 2016.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

BOND PURCHASE AGREEMENT

_____, 2017

City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, Arkansas 72701

\$ _____
City of Fayetteville, Arkansas
Library Improvement Bonds,
Series 2017

Ladies and Gentlemen:

On the basis of the representations, warranties and agreements and upon the terms and conditions contained herein, the undersigned, Stephens Inc. (the “Underwriter”), hereby offers to enter into this Bond Purchase Agreement (this “Bond Purchase Agreement”) with the City of Fayetteville, Arkansas (the “City”) which, upon your acceptance of this offer, will be binding upon you and upon the Underwriter. Terms not otherwise defined herein shall have the same meanings as set forth in the Indenture defined and described below.

This offer is made subject to your acceptance of this Bond Purchase Agreement on or before midnight on _____, 2017.

1. **General.** Upon the terms and conditions and in reliance upon the respective representations, warranties and covenants herein, the Underwriter hereby agrees to purchase from the City, and the City hereby agrees to sell to the Underwriter, all (but not less than all) of \$_____ City of Fayetteville, Arkansas Library Improvement Bonds, Series 2017 (the “Bonds”), at the purchase price (the “Purchase Price”) of \$_____ (equal to the par amount of the Bonds [plus][less] a net reoffering [premium][discount] of \$_____ and less underwriter’s discount of \$_____).

The Bonds shall be issued by the City pursuant to the provisions of the Constitution and laws of the State of Arkansas, including, particularly, Amendment 30 to the Arkansas Constitution and Arkansas Code Annotated (1998 Repl. & Supp. 2015) §§14-142-201 *et seq.* (the “Act”).

The Bonds will constitute special and limited obligations of the City, secured solely by and payable solely from (1) a pledge of and lien on the receipts from (A) a one and two-tenths (1.2) mill City tax on real and personal property within the City authorized under the Act and levied within the City pursuant to Ordinance No. 5876 of the City Council of the City which was adopted on May 17, 2016 (the “Election Ordinance”), which levy was approved by the voters of the City at a special election held August 9, 2016, together with all penalties and interest payable

with respect thereto (the “Library Tax), and (B) the City’s allocable portion of the one-half of one percent (0.5%) statewide sales and use tax implemented pursuant to Amendment 79 to the Arkansas Constitution intended to offset homestead exemption decreases to the Library Tax (the “Special Tax Collections”), and (2) moneys or investments on deposit in the Revenue Fund, Bond Fund, Redemption Fund and Debt Service Reserve Fund established by a Trust Indenture dated as of _____ 1, 2017 (the “Indenture”), by and between the City and Simmons Bank, Pine Bluff, Arkansas, as trustee (the “Trustee”), all as more particularly described in the Indenture.

The Bonds shall be issued and secured pursuant to Ordinance No. _____ of the City Council of the City which was adopted on _____, 2016 (the “Authorizing Ordinance”), and pursuant to the Indenture. The Bonds shall have the maturities and interest rates as set forth in Exhibit A hereto. The Bonds shall be subject to redemption as set forth in the Indenture and in the Official Statement (hereinafter defined).

[The proceeds of the Bonds will be utilized (i) to finance a portion of the costs of the Project (as defined in the Indenture), (ii) to make a deposit in the Debt Service Reserve Fund, and (iii) to pay the costs of issuance of the Bonds.]

The City will undertake, pursuant to a Continuing Disclosure Agreement to be dated as of the date of delivery of the Bonds (the “Continuing Disclosure Agreement”), to provide certain annual financial and operating information and notices of the occurrence of certain events, if material, as required by Section (b)(5)(i) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”). A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement (each hereinafter defined). Although certain of its past filings of annual financial and operating information were not been made on or before the dates required by the City’s continuing disclosure undertakings, as described in the Official Statement (hereinafter defined), the City represents that all such filings have now been made through the EMMA system of the Municipal Securities Rulemaking Board and that it has undertaken steps to ensure future compliance with its continuing disclosure undertakings.

In order to ensure compliance with the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), the City will enter into a Tax Regulatory Agreement dated as of the date of delivery of the Bonds (the “Tax Regulatory Agreement”).

2. **Bona Fide Public Offering.** The Underwriter agrees to make a bona fide public offering of all of the Bonds at the offering prices set forth on the [inside] cover of the final Official Statement described below.

3. **Delivery of Official Statement.** (a) The City has previously provided the Underwriter with copies of its Preliminary Official Statement, including the cover page and the appendices thereto, dated _____, 2017, relating to the Bonds (the “Preliminary Official Statement”). As of its date, the Preliminary Official Statement is “deemed final” by the City for purposes of SEC Rule 15c2-12(b)(1). The Preliminary Official Statement, as amended to conform to the terms of this Bond Purchase Agreement, including Exhibit A hereto, and with such other changes and amendments as

are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement."

(b) The City agrees to deliver to the Underwriter, at such address as the Underwriter shall specify, as many copies of the final Official Statement dated _____, 2017, relating to the Bonds as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule (as defined above) and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board. The City agrees to deliver such final Official Statement within seven (7) business days after the execution hereof.

(c) The City hereby authorizes and approves the Preliminary Official Statement and the final Official Statement, consents to their distribution and use by the Underwriter and authorizes the execution of the final Official Statement by a duly authorized officer of the City. The City ratifies and confirms the use of the Preliminary Official Statement by the Underwriter prior to the date hereof in connection with the public offering of the Bonds.

(d) The Underwriter shall give notice to the City on the date after which no participating underwriter, as such term is defined in the Rule, remains obligated to deliver final Official Statements pursuant to paragraph (b)(4) of the Rule.

4. **City's Representations and Warranties.** The City represents and warrants to the Underwriter that:

(a) The City is a duly organized and existing political subdivision under the Constitution and laws of the State of Arkansas (the "State"). The City is authorized by the provisions of the Act to issue the Bonds for the purpose of financing a portion of the costs of acquiring, constructing and equipping the Project.

(b) The City has the full legal right, power and authority (i) to adopt the Election Ordinance levying the Library Tax, (ii) to adopt the Authorizing Ordinance authorizing the issuance of and sale of the Bonds, (iii) to enter into this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, (iv) to levy the Library Tax, (v) to issue, sell and deliver the Bonds to the Underwriter as provided herein, (vi) to pledge irrevocably the receipts of the Library Tax and the Special Tax Collections (collectively, the "Tax Receipts") to the payment of the principal of, premium, if any, and interest on the Bonds, and (vii) to carry out and consummate all other transactions contemplated by each of the aforesaid documents, and the City has complied with all provisions of applicable law, including the Act, in all matters relating to such transactions.

(c) The City has duly authorized (i) the execution and delivery of the Bonds and the execution, delivery and due performance of this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, (ii) the distribution and use of the Preliminary Official Statement and the execution, delivery and distribution of the final Official Statement, and (iii) the taking of any and all

such actions as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated by such instruments. All consents or approvals necessary to be obtained by the City in connection with the foregoing have been received, and the consents or approvals so received remain still in full force and effect.

(d) The Election Ordinance and the Authorizing Ordinance have been duly adopted by City Council of the City, are each in full force and effect and each constitutes the legal, valid and binding act of the City; and this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, when executed and delivered, will constitute legal, valid and binding obligations of the City, and this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement are enforceable against the City in accordance with their respective terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally.

(e) When delivered to or at the direction of the Underwriter, the Bonds will have been duly authorized, executed, authenticated, issued and delivered and will constitute legal, valid and binding obligations of the City in conformity with the laws of the State of Arkansas, including the Act, and will be entitled to the benefit and security of the Authorizing Ordinance and the Indenture.

(f) The City has duly approved and authorized the distribution and use of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement.

(g) The information contained in the Preliminary Official Statement is, and as of the Closing Date such information in the final Official Statement will be, true and correct in all material respects, and the Preliminary Official Statement does not and the final Official Statement will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) If, at any time prior to the earlier of (i) receipt of notice from the Underwriter pursuant to Section 3(d) hereof that Official Statements are no longer required to be delivered under the Rule or (ii) 25 days after the Closing Date, any event occurs as a result of which the Official Statement, as then amended or supplemented, might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the City shall promptly notify the Underwriter in writing of such event. Any information supplied by the City for inclusion in any amendments or supplements to the Official Statement will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Upon the request of the Underwriter therefor, the City shall prepare and deliver to the Underwriter, at the City's expense, as many copies of an amendment or supplement to the

(i) Neither the adoption of the Authorizing Ordinance or the Election Ordinance, the execution and delivery of this Bond Purchase Agreement, the Bonds, the Indenture, the Continuing Disclosure Agreement or the Tax Regulatory Agreement, nor the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof will conflict with, or constitute on the part of the City a violation of, or a breach of or default under, (i) any statute, indenture, mortgage, commitment, note or other agreement or instrument to which the City is a party or by which it is bound, (ii) any provision of the Constitution of the State of Arkansas, or (iii) any existing law, rule, regulation, ordinance, judgment, order or decree to which the City (or the members of its City Council or any of its officers in their respective capacities as such) is subject. All consents, approvals, authorizations and orders of governmental or regulatory authorities, if any, which are required for the City's execution and delivery of, consummation of the transactions contemplated by, and compliance with the provisions of this Bond Purchase Agreement, the Authorizing Ordinance, the Election Ordinance, the Bonds, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement have been obtained.

(k) Any certificate signed by any official of the City and delivered to the Underwriter shall be deemed a representation and warranty by the City to the Underwriter as to the truth of the statements therein contained.

(m) The collection history with respect to the City’s previously levied property taxes set forth in the Preliminary Official Statement under the caption entitled “_____” is fair, accurate and complete.

(n) The City will not knowingly take or omit to take any action, which action or omission will in any way cause the proceeds from the sale of the Bonds to be applied in a manner other than as provided in the Indenture, or which would cause the interest on the Bonds to be includable in gross income for federal income tax purposes.

5. **City's Covenants.** The City covenants with the Underwriter as follows:

(a) The City will cooperate with the Underwriter in qualifying the Bonds for offer and sale under the securities or Blue Sky laws of such jurisdictions of the United States as the Underwriter may request; provided, however, that the City shall not be required to consent to suit or to service of process in any jurisdiction. The City consents to the use by the Underwriter in the course of its compliance with the securities or Blue Sky laws of the various jurisdictions of the documents relating to the Bonds, subject to the right of the City to withdraw such consent for cause by written notice to the Underwriter.

(b) Prior to the earlier of (i) receipt of notice from the Underwriter pursuant to Section 3(d) hereof that final Official Statements are no longer required under the Rule or (ii) 25 days after the Closing Date, the City shall provide the Underwriter with such information regarding the City, the Tax Receipts, and the current financial condition and ongoing operations of the City, all as the Underwriter may reasonably request.

6. **Closing.** At 10:00 a.m. Fayetteville time on _____, 2017, or at such other time and/or date as shall have been mutually agreed upon by the City and the Underwriter (the "Closing Date"), the City will deliver the Bonds, or cause the Bonds to be delivered, to or at the direction of the Underwriter, said Bonds to be in definitive form duly executed by the City and authenticated by Simmons Bank, Pine Bluff, Arkansas, as trustee (the "Trustee"), together with the other documents hereinafter mentioned; and the Underwriter will accept such delivery and pay the Purchase Price of the Bonds by making a wire transfer of federal funds payable to the order of the Trustee for the account of the City.

The Bonds shall be delivered to The Depository Trust Company in New York, New York, and the activities relating to the final execution and delivery of the Authorizing Ordinance, the Election Ordinance, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement and the other documents related to the Bonds and the payment for the Bonds and the delivery of the certificates, opinions and other instruments as described in Section 8 of this Bond Purchase Agreement shall occur in the offices of Kutak Rock LLP, 234 East Millsap Road, Suite 400, Fayetteville, Arkansas ("Bond Counsel") or at such other place as shall have been mutually agreed upon between the City and the Underwriter. The payment for the Bonds and simultaneous delivery of the Bonds to or at the direction of the Underwriter is herein referred to as the "Closing."

7. **Underwriter's Right to Cancel.** The Underwriter shall have the right to cancel its obligation to purchase the Bonds hereunder by notifying the City in writing or by telegram of its election to do so between the date hereof and the Closing, if at any time hereafter and prior to the Closing:

(i) the House of Representatives or the Senate of the Congress of the United States, or a committee of either, shall have pending before it, or shall have passed or recommended favorably, legislation introduced previous to the date hereof, which legislation, if enacted in its form as introduced or as amended, would have the purpose or effect of imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body under the Authorizing Ordinance or the Indenture or similar documents or upon interest received on obligations of the general character of the Bonds or the Bonds, or of causing interest on obligations of the general character of the Bonds, or the Bonds, to be includable in gross income for purposes of federal income taxation, and such legislation, in the Underwriter's opinion, materially adversely affects the market price of the Bonds; or

(ii) a tentative decision with respect to legislation shall be reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or legislation shall be favorably reported or rereported by such a committee or be introduced, by amendment or otherwise, in or be passed by the House of Representatives or the Senate, or recommended to the Congress of the United States for passage by the President of the United States, or be enacted or a decision by a federal court of the United States or the United States Tax Court shall have been rendered, or a ruling, release, order, regulation or official statement by or on behalf of the United States Treasury Department, the Internal Revenue Service or other governmental agency shall have been made or proposed to be made having the purpose or effect, or any other action or event shall have occurred which has the purpose or effect, directly or indirectly, of adversely affecting the federal income tax consequences of owning the Bonds or of any of the transactions contemplated in connection herewith, including causing interest on the Bonds to be included in gross income for purposes of federal income taxation, or imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body under the Authorizing Ordinance or the Indenture or similar documents or upon interest received on obligations of the general character of the Bonds, or the Bonds which, in the opinion of the Underwriter, materially adversely affects the market price of or market for the Bonds; or

(iii) legislation shall have been enacted, or actively considered for enactment with an effective date prior to the Closing, or a decision by a court of the United States shall have been rendered, the effect of which is that the Bonds, including any underlying obligations, or the Indenture, as the case may be, is not exempt from the registration, qualification or other requirements of the Securities Exchange Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(iv) a stop order, ruling, regulation or official statement by the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall have been issued or made or any other event occurs, the effect of which is that the issuance, offering or sale of the Bonds, including any underlying obligations, or the execution and delivery of the Indenture as contemplated hereby or by the Official Statement, is or would be in violation of any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of

1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(v) any event shall have occurred or any information shall have become known to the Underwriter which causes the Underwriter to reasonably believe that the Official Statement as then amended or supplemented includes an untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; or

(vi) there shall have occurred any outbreak of hostilities or any national or international calamity or crisis, including a financial crisis, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Underwriter, would materially adversely affect the market for or market price of the Bonds; or

(vii) there shall be in force a general suspension of trading on the New York Stock Exchange, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Underwriter, would materially adversely affect the market for or market price of the Bonds; or

(viii) a general banking moratorium shall have been declared by federal, New York or State authorities; or

(ix) any proceeding shall be pending or threatened by the Securities and Exchange Commission against the City; or

(x) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; or

(xi) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of the Underwriter.

8. **Conditions to Underwriter's Obligations.** The obligation of the Underwriter to purchase the Bonds shall be subject (a) to the performance by the City of its obligations to be performed hereunder at and prior to the Closing, (b) to the accuracy of the representations and warranties of the City herein as of the date hereof and as of the time of the Closing, and (c) to the following conditions, including the delivery by the City of such documents as are enumerated herein in form and substance satisfactory to the Underwriter:

(a) The Bonds shall have been duly authorized, executed and delivered in the form approved by the City in the Indenture with only such changes therein as the Underwriter and the City shall mutually agree upon, which shall in all instances be as described in the final Official Statement;

(b) At the time of Closing, (i) the Official Statement, this Bond Purchase Agreement, the Indenture, the Authorizing Ordinance, the Election Ordinance, the Continuing Disclosure Agreement and the Tax Regulatory Agreement shall be in full force and effect and shall not have been amended, modified or supplemented from the date hereof, except as may have been agreed to in writing by the Underwriter, (ii) the proceeds of the sale of the Bonds and other funds shall be deposited and applied as described in the Indenture, (iii) no default or event of default under the Indenture shall have occurred and be continuing, and (iv) no material adverse change affecting the City, the Library Tax or the Special Tax Collections shall have occurred, nor shall any development involving a prospective and material adverse change in, or affecting the business, financial condition, results of operations, prospects or properties of the City have occurred;

(c) Receipt of fully executed originals of the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement at or prior to the Closing;

(d) At or prior to the Closing, the Underwriter shall receive the following documents in such number of counterparts as shall be mutually agreeable to the Underwriter and Bond Counsel:

(1) A final approving opinion of Bond Counsel, dated the Closing Date, in substantially the form set forth in Exhibit B hereto;

(2) A supplemental opinion of Bond Counsel, addressed to the City, the Trustee and the Underwriter and dated the Closing Date, in substantially the form set forth in Exhibit C hereto;

(3) The Official Statement executed by a duly authorized officer of the City;

(4) Certified copies of the Authorizing Ordinance and the Election Ordinance and all other ordinances and resolutions of the City relating to the Bonds and the Library Tax;

(5) Certified copies of the Notice of Election and Mayor's Proclamation of Election Results, together with proofs of publication thereof;

(6) Photocopies of the Bonds as executed and delivered;

[(7) A letter from Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., to the effect that the Bonds have been assigned a rating of no less than "____" (____ outlook), which rating shall be in effect as of the Closing Date;]

[(8) A municipal bond debt service reserve insurance policy (the "DSR Policy") issued by _____ ("____") for deposit in the Debt Service Reserve Fund, together with such supporting certificates of ____ and an opinion of counsel to ____ as shall be satisfactory to Bond Counsel;]

(9) A certificate, in form and substance satisfactory to the Underwriter, of any duly authorized officer or official of the City satisfactory to the Underwriter, dated as of the Closing Date, to the effect that: (i) each of the City's representations, warranties and covenants contained herein are true and correct as of the Closing Date; (ii) the City has duly adopted the Authorizing Ordinance and the Election Ordinance by all action necessary under the Act and the laws and Constitution of the State of Arkansas, and has duly authorized the execution, delivery and due performance of the Bonds, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement, the Official Statement and this Bond Purchase Agreement; (iii) no litigation is pending, or to the knowledge of the officer or official of the City signing the certificate after due investigation and inquiry, threatened, to restrain or enjoin the issuance or sale of the Bonds or in any way affecting any authority for or the validity of the Bonds, the Library Tax, the Special Tax Collections, the Official Statement, the Authorizing Ordinance, the Election Ordinance, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement, or this Bond Purchase Agreement; (iv) the Bonds, the Indenture, this Bond Purchase Agreement, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, as executed and delivered by the City, are in the form or in substantially the form approved for such execution by appropriate proceedings of the City; (v) since December 31, 2015, there has not been any material adverse change in the financial condition or results of operations of the City whether or not arising in the ordinary course of business, other than as set forth in the Official Statement; (vi) neither the Authorizing Ordinance nor the Election Ordinance have been amended, modified or repealed as of the Closing Date, and the Authorizing Ordinance and the Election Ordinance remain in full force and effect; (vii) none of the proceedings of the City taken preliminary to the issuance of the Bonds, as certified in such certificate, including the levy of the Library Tax, have been in any manner repealed, amended or changed; (viii) the City has complied in all respects with the provisions of the Act and has full legal right, power and authority to levy the Library Tax and to issue the Bonds for the purposes stated in the Act and to enter into this Bond Purchase Agreement, to adopt the Authorizing Ordinance and the Election Ordinance, to issue, sell and deliver the Bonds as provided in this Bond Purchase Agreement, and to carry out and consummate all other transactions contemplated by this Bond Purchase Agreement, the Authorizing Ordinance, the Election Ordinance, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement; (ix) neither the Official Statement nor any amendment or supplement thereto contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; and (x) to the best knowledge of the officer or official of the City signing the certificate, no event affecting the City, the Library Tax or the Special Tax Collections has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is used that is necessary to disclose therein in order to make the statements and information therein not misleading in any respect;

(10) An opinion of Kit Williams, Esq., City Attorney, dated the Closing Date and addressed to the Underwriter, Bond Counsel and the Trustee, to the effect that (i) the City is a duly organized and validly existing political subdivision and city of the first class, organized under the laws of the State of Arkansas, with full power and authority to adopt the Authorizing Ordinance and Election Ordinance, to levy the Library Tax, and to execute and deliver the Bonds, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement; (ii) the City has duly approved the Preliminary Official Statement and the Official Statement; (iii) the Authorizing Ordinance and the Election Ordinance have been duly adopted by the City by all action necessary under the Act and the laws and Constitution of the State of Arkansas, and each remains in full force and effect; (iv) the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement have been duly authorized, approved, executed and delivered by the City and, subject to the extent that the enforceability of the rights and remedies set forth therein may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally, constitute valid and binding agreements of the City enforceable in accordance with their terms; (v) the information in the Official Statement under the captions "THE PROJECT," "THE CITY" and "LEGAL MATTERS" (apart from financial or statistical data contained or incorporated therein, as to which no view need be expressed) is fair, accurate and complete and does not omit any matter which, in such counsel's opinion, for the purposes for which the Official Statement is to be used, should be included or referred to therein; (vi) excepting those matters discussed in the Official Statement, there is no action, suit or proceeding at law or in equity before or by any court, public board or body, pending or threatened, against or affecting the City, challenging the validity of the transactions contemplated by the Official Statement or the validity of the Bonds, the Library Tax, the Authorizing Ordinance, the Election Ordinance, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement or this Bond Purchase Agreement and, to the best of such counsel's knowledge, there is no investigation, pending or threatened, and no threatened action, suit or proceeding involving any of the matters hereinabove mentioned in this clause (vi); (vii) the execution and delivery of the Authorizing Ordinance, the Election Ordinance, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement, and compliance with the provisions hereof and thereof, under the circumstances contemplated hereby and thereby, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject; and (viii) based upon the examinations which such counsel has made as counsel to the City, which shall be specified, nothing has come to such counsel's attention which would lead such counsel to believe that the Official Statement (except for the financial statements and other financial data included in the Official Statement, as to which no view need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated

therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(11) Evidence that Federal Form 8038-G has been executed by the City and is ready for filing with the Internal Revenue Service.

(12) Evidence that, except as disclosed in the Official Statement, all necessary approvals, whether legal or administrative, have been obtained from applicable federal, state and local entities and agencies; and

(13) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter and Bond Counsel may reasonably request to evidence compliance by the City with legal requirements, the truth and accuracy, as of the time of Closing, of the representations of the City herein contained and the due performance or satisfaction by the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement, or if the obligation of the Underwriter to purchase and accept delivery of the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the City shall be under further obligation hereunder; except that the respective obligations to pay expenses, as provided in Section 12 hereof, shall continue in full force and effect.

9. **Conditions to Obligations of the City.** The obligations of the City hereunder are subject to the performance by the Underwriter of its obligations hereunder.

10. **Survival.** All representations, warranties and agreements of the City shall remain operative and in full force and effect, regardless of any investigations made by or on behalf of the Underwriter, and shall survive the Closing. The obligations of the City under Sections 11 or 12 hereof shall survive any termination of this Bond Purchase Agreement by the Underwriter pursuant to the terms hereof.

11. **Indemnification.** The City, to the extent permitted by law, agrees to indemnify and hold harmless the Underwriter, each member, officer, director, partner or employee of the Underwriter and each person who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (collectively called the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses (including any legal or other expenses incurred by an Indemnified Party in connection with investigating any claims against an Indemnified Party and defending any actions) whatsoever caused by any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in the Official Statement or caused by any omission or alleged omission from the Official Statement of any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading insofar as such losses, claims, damages, liabilities or expenses are caused by any such untrue or misleading

statement or omission or alleged untrue or misleading statement or omission in the information contained in the Official Statement; provided, however, that the City shall not be liable to an Indemnified Party in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, any untrue statement or alleged untrue statement or omission or alleged omission made in any of such documents in reliance upon and in conformity with written information furnished to the City by the Underwriter specifically for use therein. No Indemnified Parties shall be indemnified hereunder for any losses, claims, damages or liabilities resulting from the negligence of such Indemnified Parties.

In case any action shall be brought against one or more of the Indemnified Parties based upon the Official Statement and in respect of which indemnity may be sought against the City, the Indemnified Parties shall promptly notify the City in writing, and, to the extent permitted by law, the City shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless employment of such counsel has been specifically authorized by the City. The City shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the City, the City agrees to indemnify and hold harmless the Indemnified Parties to the extent provided in this Bond Purchase Agreement and to the extent permitted by law.

12. Payment of Expenses. The City will pay or cause to be paid all reasonable expenses incident to the performance of its obligations under this Bond Purchase Agreement, including, but not limited to, expenses of mailing or delivery of the Bonds, legal publication costs, costs for obtaining CUSIP numbers on the Bonds, fees payable to The Depository Trust Company relating to the Bonds, Federal Funds charges, costs of printing the Bonds, the Preliminary and final Official Statements, any amendment or supplement to the Preliminary or final Official Statement and this Bond Purchase Agreement, fees and disbursements of Bond Counsel, accountants' fees and expenses, any fees charged by investment rating agencies for the rating of the Bonds, bond insurance premiums, if any, fees of the Trustee and any paying agent fees, and any fees and disbursements in connection with the qualification of the Bonds for sale under the securities or "Blue Sky" laws of the various jurisdictions and the preparation of "Blue Sky" memoranda. In the event this Bond Purchase Agreement shall terminate because of the default of the Underwriter, the City will, nevertheless, pay, or cause to be paid, all of the expenses specified above. The Underwriter shall pay all advertising expenses in connection with the public offering of the Bonds, and all other expenses incurred by it in connection with the public offering and distribution of the Bonds, including the fees and expenses of any counsel retained by the Underwriter. If the City defaults under this Bond Purchase Agreement, the Underwriter may bring whatever legal action it may have against the City to recover damages, if any, incurred by the Underwriter.

13. Notices. Any notice or other communication to be given to the City under this Bond Purchase Agreement may be given by delivering the same in writing to the Mayor at the address set forth above, and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to Stephens Inc., 3425 North Futrall, Suite 201, Fayetteville, AR 72703, Attention: Mr. Bo Bittle.

14. **Nonassignability.** This Bond Purchase Agreement is made solely for the benefit of the City and the Underwriter (including any successor or assign of the Underwriter), and no other person, including any purchaser of the Bonds, shall acquire or have any right hereunder or by virtue hereof.

15. **Applicable Law.** This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas.

16. **Counterparts.** This Bond Purchase Agreement shall become effective upon your acceptance hereof and may be executed in counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

Very truly yours,

STEPHENS INC.

By: _____
Authorized Representative

Accepted and agreed to as of
the date first above written:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Title: Mayor

EXHIBIT A
MATURITY SCHEDULE

(_____ 1) Maturity	Principal Amount \$	Interest Rate %	Yield %	Price %
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EXHIBIT B

PROPOSED FORM OF BOND COUNSEL APPROVING OPINION

Upon delivery of the Bonds in definitive form, Kutak Rock LLP, Little Rock, Arkansas, proposes to deliver its approving opinion in substantially the following form:

_____, 2017

City of Fayetteville, Arkansas
Fayetteville, Arkansas

Simmons Bank, as Trustee
Pine Bluff, Arkansas

Stephens Inc.
Fayetteville, Arkansas

[BOND INSURER]

_____, _____

\$ _____
City of Fayetteville, Arkansas
Library Tax Improvement Bonds
Series 2017

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance and sale by the City of Fayetteville, Arkansas (the “City”), a political subdivision of the State of Arkansas, of its \$_____ Library Tax Improvement Bonds, Series 2017 (the “Bonds”).

The Bonds are being issued pursuant to the provisions of the Constitution and laws of the State of Arkansas, including, particularly, Amendment 30 and Arkansas Code Annotated (1998 Repl. & Supp. 2015) §§14-142-201 *et seq.* (as from time to time amended, the “Act”), pursuant to Ordinance No. _____ of the City, duly adopted and approved on _____, 2016 (the “Authorizing Ordinance”), and pursuant to a Trust Indenture dated as of _____ 1, 2017 (the “Indenture”), by and between the City and Simmons Bank, as trustee (the “Trustee”). Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the conditions for the issuance of parity indebtedness by the City, the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the holders of the Bonds, and the terms upon which the Bonds are issued and secured.

Reference is made to an opinion of even date herewith of Kit Williams, Esq., City Attorney, a copy of which is on file with the Trustee, with respect, among other matters, to the status and valid existence of the City, the power of the City to adopt the Authorizing Ordinance

and Ordinance No. 5876 of the City, duly adopted and approved on May 17, 2016 (the “Election Ordinance”), and to enter into and perform its obligations under the Indenture, the valid adoption of the Election Ordinance and the Authorizing Ordinance, and the due authorization, execution and delivery of the Indenture by the City, and with respect to the Indenture being enforceable upon the City.

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Election Ordinance, the Authorizing Ordinance and the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The City is duly created and validly existing as a municipal corporation of the State of Arkansas. Pursuant to the Constitution and laws of the State of Arkansas, including, particularly, Amendment 30 and the Act, the City is empowered to adopt the Election Ordinance and the Authorizing Ordinance, to execute and deliver the Indenture, to perform the agreements on its part contained therein, and to issue the Bonds.

2. The Authorizing Ordinance has been duly adopted by the City and constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms.

3. The Indenture has been duly authorized, executed and delivered by the City and constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms.

4. The Bonds have been duly authorized, executed and delivered by the City and are valid and binding limited obligations of the City payable from and secured by a valid lien on and pledge of the Trust Estate (as defined in the Indenture), including receipts of the Library Tax and the Special Tax Collections (each as defined in the Indenture), in the manner and to the extent provided in the Indenture. The City is duly authorized to pledge such Trust Estate, and no further action on the part of the City or any other party is required to perfect the same or the interest of the owners of the Bonds therein.

5. The Library Tax has been validly levied in accordance with the Constitution and laws of the State of Arkansas, including Amendment 30 and the Act, and may be validly pledged to secure the Bonds.

6. Interest on the Bonds is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals and corporations; it should be noted, however, that for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for purposes of such alternative minimum tax. The opinions set forth in the preceding sentence assume the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended, that

must be met subsequent to the issuance of the Bonds in order that the interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

7. The interest on the Bonds is exempt from all state, county and municipal taxes in the State of Arkansas.

8. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended, in connection with the offer and sale of the Bonds.

It is to be understood that the rights of the registered owners of the Bonds and the enforceability of the Bonds, the Authorizing Ordinance and the Indenture may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

EXHIBIT C

PROPOSED FORM OF BOND COUNSEL SUPPLEMENTAL OPINION

_____, 2017

City of Fayetteville, Arkansas
Fayetteville, Arkansas

Simmons Bank, as Trustee
Pine Bluff, Arkansas

Stephens Inc.
Fayetteville, Arkansas

[BOND INSURER]

_____, _____

\$ _____
City of Fayetteville, Arkansas
Library Tax Improvement Bonds
Series 2017

Ladies and Gentlemen:

This opinion supplements our bond approving opinion, dated the date hereof, relating to the above-captioned bonds (the “Bonds”). Except as otherwise defined herein, the terms used herein shall have the meanings prescribed for them in said opinion.

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

In addition to the documents specifically mentioned in the approving opinion, in connection with this opinion we have also examined:

- (a) An executed counterpart of the Bond Purchase Agreement dated _____, 2017 (the “Bond Purchase Agreement”), by and between the City and Stephens Inc., as underwriter (the “Underwriter”);
- (b) An executed counterpart of the Continuing Disclosure Agreement dated _____, 2017 (the “Disclosure Agreement”), by and between the City and Simmons Bank, as dissemination agent (the “Dissemination Agent”);

(c) An executed counterpart of the Tax Regulatory Agreement dated _____, 2017 (the “Tax Regulatory Agreement”), by and between the City and the Simmons Bank, as trustee (the “Trustee”);

[(d) An executed counterpart of the Insurance Agreement dated _____, 2017 (the “Insurance Agreement”), by and between the City and [BOND INSURER]. (“_____”);]

[(e)] The Official Statement dated _____, 2017, with respect to the Bonds (the “Official Statement”); and

[(f) The Municipal Bond Debt Service Reserve Insurance Policy (the “DSR Policy”) issued and delivered by ____ concurrently with the issuance of the Bonds for deposit in the Debt Service Reserve Fund (as defined in the Indenture).]

Based on our examination, we are of the opinion, as of the date hereof and under existing law, as follows:

1. The Bond Purchase Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Underwriter, the Bond Purchase Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

2. The Disclosure Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Dissemination Agent, the Disclosure Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

3. The Tax Regulatory Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Trustee, the Tax Regulatory Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

[4. The Insurance Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by ____, the Insurance Agreement constitutes the valid and binding agreement of the City, enforceable in accordance with its terms.]

[5]. To the best of our knowledge, there is no litigation or other proceeding pending or threatened in any court, agency or other administrative body (either State or Federal) which could have a material adverse effect on (a) the financial condition of the City, (b) the ability of the City to perform its obligations under the Authorizing Ordinance, the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Tax Regulatory Agreement [or the Insurance Agreement] (collectively, the “Related Documents”), (c) the security for the Bonds, or (d) the transactions contemplated by the Related Documents.

6. Nothing has come to our attention which would cause us to believe that, as of the date hereof, the Official Statement (excluding financial and statistical data and information which is contained or incorporated in the Official Statement, as to which no view is expressed) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

[7. The DSR Policy constitutes an Investment Security (as defined in the Indenture) eligible for deposit in the Debt Service Reserve Fund under the provisions of the Indenture.]

The enforceability of the respective obligations of the parties to the documents and other items described above, and the availability of certain rights and remedies provided for therein, may be limited by bankruptcy, receivership, insolvency, reorganization, moratorium, marshalling or other similar statutes or rules of law affecting creditors' rights and remedies, to general principles of equity and to the discretion of any court in granting any relief or issuing any order, whether the proceeding is considered a proceeding at law or equity. In particular, the right to indemnification under any of the documents or other items described above may be limited by federal or state securities laws or by the public policy underlying such laws.

This opinion is being rendered to you solely for your use and benefit and may not be relied upon in any manner, nor used, by any other person.

Very truly yours,

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this “Disclosure Agreement”) is executed and delivered by the City of Fayetteville, Arkansas (the “City”) and Simmons Bank, an Arkansas banking corporation, as dissemination agent (the “Dissemination Agent”), in connection with the issuance of \$_____ City of Fayetteville, Arkansas Library Improvement Bonds, Series 2017 (the “Bonds”). The Bonds are being issued pursuant to the terms and provisions of Ordinance No. _____ duly approved by the City Council of the City on _____, 2016, and pursuant to the terms and provisions of a Trust Indenture dated as of _____ 1, 2017 (the “Indenture”), by and between the City and Simmons Bank, an Arkansas banking corporation, as trustee (the “Trustee”). In connection with the issuance and delivery of the Bonds, the City and the Dissemination Agent covenant and agree as follows:

Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the City for the benefit of the Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with SEC Rule 15c2-12(b)(5) (the “Rule”). The City is an “obligated person” within the meaning of the Rule. The Dissemination Agent shall have no liability with respect to the content of any disclosure provided hereunder, and shall be liable only to the City for sending notices hereunder. As required by the Rule, this Disclosure Agreement is enforceable by Beneficial Owners of the Bonds pursuant to Section 7 hereof.

Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement, the following capitalized terms shall have the following meanings:

“*Annual Financial Information*” means the financial information and operating data described in Exhibit I.

“*Annual Financial Information Disclosure*” means the dissemination of disclosure concerning Annual Financial Information and the dissemination of the Audited Financial Statements as set forth in Section 4.

“*Audited Financial Statements*” means the audited comprehensive annual financial report of the City, prepared pursuant to the standards and as described in Exhibit I.

“*Beneficial Owner*” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Commission*” means the U.S. Securities and Exchange Commission.

“*Dissemination Agent*” shall mean Simmons Bank, acting in its capacity as dissemination agent hereunder, or any successor dissemination agent designated in writing by the City and which has filed with the Trustee a written acceptance of such designation.

“EMMA” means the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Fiscal Year” shall mean the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year.

“Library Tax” shall mean the one and two-tenths (1.2) mill per dollar City tax levied on the assessed value of all taxable property within the City approved by the voters at the August 9, 2016 special election.

“Listed Event” means the occurrence of any of the events with respect to the Bonds set forth in Exhibit II.

“Listed Events Disclosure” means dissemination of a notice of a Listed Event as set forth in Section 5.

“MSRB” shall mean the Municipal Securities Rulemaking Board established in accordance with the provisions of Section 15B(b)(1) of the 1934 Act.

“Participating Underwriter” means each broker, dealer or municipal securities dealer acting as an underwriter in any primary offering of the Bonds.

“Prescribed Form” means, with regard to the filing of Annual Financial Information, Audited Financial Statements and notices of Listed Events with the MSRB at www.emma.msrb.org (or such other address or addresses as the MSRB may from time to time specify), such electronic format, accompanied by such identifying information, as shall have been prescribed by the MSRB and which shall be in effect on the date of filing of such information.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission (“SEC”) under the Exchange Act, as the same may be amended from time to time.

“Special Tax Collections” shall mean the pro rata portion of the one-half of one percent (0.5%) statewide sales and use tax levied pursuant to Amendment 79 to the Constitution of the State which is allocable to the Library Tax.

“State” means the State of Arkansas.

“Tax Receipts” shall mean, collectively, all receipts derived by the City from the levy of the Library Tax or the Special Tax Collections.

“Undertaking” means the obligations of the City pursuant to Sections 4 and 5.

Section 3. CUSIP Number/Final Official Statement. The CUSIP Number of the final maturity of the Bonds is _____. The final Official Statement relating to the Bonds is dated _____, 2017 (the “Final Official Statement”).

Section 4. Annual Financial Information Disclosure. Subject to Section 9 of this Disclosure Agreement, the City hereby covenants that it will disseminate, or will cause the Dissemination Agent to disseminate, the Annual Financial Information and the Audited Financial Statements (in the form and by the dates set forth below and in Exhibit I) by delivering such Annual Financial Information and the Audited Financial Statements to the MSRB within 180 days of the completion of the City's fiscal year.

The City is required to deliver or cause delivery of such information in Prescribed Form and by such time so that such entities receive the information by the dates specified.

If any part of the Annual Financial Information can no longer be generated because the operations to which it is related have been materially changed or discontinued, the City will disseminate or cause dissemination of a statement to such effect as part of its Annual Financial Information for the year in which such event first occurs.

If any amendment is made to this Disclosure Agreement, the Annual Financial Information for the year in which such amendment is made (or in any notice or supplement provided to the MSRB) shall contain a narrative description of the reasons for such amendment and its impact on the type of information being provided.

Section 5. Listed Events Disclosure. Subject to Section 9 of this Disclosure Agreement, the City hereby covenants that it will disseminate or cause dissemination in a timely manner, not in excess of ten (10) business days after the occurrence of the event, Listed Events Disclosure to the MSRB in Prescribed Form. Notwithstanding the foregoing, notice of optional or unscheduled redemption of any Bonds or defeasance of any Bonds need not be given under this Disclosure Agreement any earlier than the notice (if any) of such redemption or defeasance is given to the owners of the Bonds pursuant to the Indenture. The City is required to deliver or cause delivery of such Listed Events Disclosure in the same manner as provided by Section 4 of this Disclosure Agreement.

Section 6. Duty to Update EMMA/MSRB. The Dissemination Agent shall determine, in the manner it deems appropriate, whether there has occurred a change in the MSRB's e-mail address or filing procedures and requirements under EMMA each time it is required to file information with the MSRB.

Section 7. Consequences of Failure of the City to Provide Information. The City shall give notice in a timely manner or shall cause such notice to be given by the Dissemination Agent, not in excess of ten (10) business days after the occurrence of the event, to the MSRB in substantially the form set forth in Exhibit III hereto or in the form prescribed by the MSRB of any failure to provide Annual Financial Information Disclosure when the same is due hereunder.

In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Beneficial Owner of any Bond may seek specific performance by court order to cause the City to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture or any other agreement, and the sole remedy under this Disclosure Agreement in the event of any failure

of the City or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

Section 8. Amendments; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement, and any provision of this Disclosure Agreement may be waived, if:

(i) The amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the City or type of business conducted;

(ii) This Disclosure Agreement, as amended, or the provision, as waived, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances;

(iii) The amendment or waiver does not materially impair the interests of the Beneficial Owners of the Bonds, as determined either by parties unaffiliated with the City (such as the Trustee) or by an approving vote of the Beneficial Owners of the Bonds holding a majority of the aggregate principal amount of the Bonds (excluding Bonds held by or on behalf of the City or its affiliates) pursuant to the terms of the Indenture at the time of the amendment; or

(iv) The amendment or waiver is otherwise permitted by the Rule.

Section 9. Termination of Undertaking. The Undertaking of the City shall be terminated hereunder when the City shall no longer have any legal liability for any obligation on or relating to the repayment of the Bonds. The City shall give notice to the MSRB, or shall cause the Dissemination Agent to give notice, in a timely manner and in Prescribed Form if this Section is applicable.

Section 10. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. A Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent for the City.

Section 11. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Financial Information Disclosure or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information from any document or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall not have any obligation under this Disclosure Agreement to update such information or include it in any future disclosure or notice of the occurrence of a Listed Event.

Section 12. Beneficiaries. This Disclosure Agreement has been executed in order to assist the Participating Underwriter in complying with the Rule; however, this Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, if any, the Trustee and the Beneficial Owners of the Bonds, and shall create no rights in any other person or entity.

Section 13. Recordkeeping. The City and the Dissemination Agent shall maintain records of all Annual Financial Information Disclosure and Listed Events Disclosure, including the content of such disclosure, the names of the entities with whom such disclosure was filed and the date of filing such disclosure.

Section 14. Past Compliance. The City is a party to prior undertakings pursuant to the Rule. Except as set forth in the Official Statement for the Bonds under the caption [“SUMMARY OF PORTIONS OF THE CONTINUING DISCLOSURE AGREEMENT – Compliance With Prior Undertakings],” the City has, to the best of its knowledge, for the past five years, been in compliance in all material respects with the provisions in such undertakings requiring the filing of certain financial information and financial statements and certain listed events with the MSRB. The City has implemented procedures to assure verifiable future compliance with its continuing disclosure obligations.

Section 15. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise of performance of its powers and duties under this Disclosure Agreement, including the costs and expenses (including attorneys’ fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent’s gross negligence or willful misconduct. Such indemnification obligation of the City shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 16. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 17. Governing Law. This Disclosure Agreement shall be governed by and construed in accordance with the laws of the State, provided that to the extent this Disclosure Agreement addresses matters of federal securities laws, including the Rule, this Disclosure Agreement shall be construed in accordance with such federal securities laws and official interpretations thereof.

Dated: _____, 2017

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

SIMMONS BANK, as Dissemination Agent

By: _____
Title: Vice President and Corporate Trust Officer

EXHIBIT I

ANNUAL FINANCIAL INFORMATION AND TIMING AND AUDITED FINANCIAL STATEMENTS

“*Annual Financial Information*” means Tax Receipts and [_____] for the latest Fiscal Year and for the four previous Fiscal Years, if available.

All or a portion of the Annual Financial Information and the Audited Financial Statements as set forth below may be included by reference to other documents which have been submitted to the MSRB or filed with the Commission. The City shall clearly identify each such item of information included by reference.

Annual Financial Information will be provided to the MSRB within 180 days after the last day of the City’s fiscal year. Audited Financial Statements as described below should be filed at the same time as the Annual Financial Information. If Audited Financial Statements are not available when the Annual Financial Information is filed, unaudited financial statements shall be included, and Audited Financial Statements will be provided to the MSRB within 10 business days after availability to the City.

Audited Financial Statements will be prepared in accordance with generally accepted accounting principles in the United States as in effect from time to time.

If any change is made to the Annual Financial Information as permitted by Section 4 of the Disclosure Agreement, including for this purpose a change made to the fiscal year-end of the City, the City will disseminate a notice to the MSRB of such change in Prescribed Form as required by such Section 4.

EXHIBIT II

EVENTS WITH RESPECT TO THE BONDS FOR WHICH LISTED EVENTS DISCLOSURE IS REQUIRED

1. Principal and interest payment delinquencies
2. Nonpayment-related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
7. Modifications to rights of security holders, if material
8. Bond calls, if material, and tender offers
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities, if material
11. Rating changes
12. Bankruptcy, insolvency, receivership or similar event of the City*
13. The consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material

* This event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

EXHIBIT III
NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Fayetteville, Arkansas

Name of Bond Issue: City of Fayetteville, Library Improvement Bonds, Series 2017

Date of Issuance: _____, 2017

NOTICE IS HEREBY GIVEN that an Annual Report with respect to the above-named Bonds has not been provided as required by the Continuing Disclosure Agreement between the Issuer and the undersigned dated _____, 2017.

Dated: _____, ____

SIMMONS BANK, as Dissemination Agent

By: _____
Authorized Officer

CITY OF FAYETTEVILLE, ARKANSAS,
Issuer

to

SIMMONS BANK,
Trustee

TRUST INDENTURE

Dated as of _____ 1, 2017

Providing for:

\$ _____
City of Fayetteville, Arkansas
Library Improvement Bonds
Series 2017

Prepared by:

Kutak Rock LLP
124 West Capitol Avenue, Suite 2000
Little Rock, Arkansas 72201

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TRUST INDENTURE

THIS TRUST INDENTURE, made and entered into as of _____ 1, 2017, by and between the CITY OF FAYETTEVILLE, ARKANSAS, a city of the first class organized under and existing by virtue of the laws of the State of Arkansas (the "City"), as party of the first part, and SIMMONS BANK, a state banking corporation organized under and existing by virtue of the laws of the State of Arkansas, and having its principal corporate trust office in Pine Bluff, Arkansas (the "Trustee"), as party of the second part;

WITNESSETH:

WHEREAS, the City is authorized and empowered under the provisions of Amendment 30 to the Constitution of the State of Arkansas, as amended by Amendment 72 to the Constitution of the State of Arkansas (as amended, "Amendment 30"), the Local Government Library Bond Act of 1993, codified as Arkansas Code Annotated (1998 Repl. & 2015 Supp.) §§14-142-201 *et seq.* (as from time to time amended, the "Act"), and Ordinance No. _____ duly adopted by the City Council of the City on _____, 2016 (the "Authorizing Ordinance"), to issue its bonds for the purpose of financing capital improvements to the Fayetteville Public Library; and

WHEREAS, in compliance with the provisions of Amendment 30 and the Act, and pursuant to the provisions of Ordinance No. 5876, duly adopted by the City Council of the City on May 17, 2016, there was submitted to the qualified electors of the City a question regarding the levy of a one and two-tenths (1.2) mill city tax on each dollar of assessed valuation of the real and personal property within the City (the "Library Tax"), to be pledged to an issue or issues of capital improvement bonds not to exceed \$26,500,000 in aggregate principal amount for the purpose of financing a portion of the cost of certain capital improvements to the Fayetteville Public Library (the "Project," as more particularly defined herein); and

WHEREAS, at a special election held August 9, 2016, a majority of the qualified electors of the City voting on the aforementioned question approved the levy of the Library Tax and the issuance of capital improvement bonds to be secured thereby; and

WHEREAS, pursuant to Amendment 30, the Act and the Authorizing Ordinance, the City has now determined to issue its Library Improvement Bonds, Series 2017 (the "Series 2017 Bonds"), in the aggregate principal amount of \$_____ for the purpose of (i) financing the costs of acquiring, constructing and equipping the Project, (ii) making a deposit to the Debt Service Reserve Fund, and (iii) paying the costs of issuance of the Series 2017 Bonds; and

WHEREAS, the Series 2017 Bonds and the Trustee's Certificate of Authentication to be endorsed thereon are to be in substantially the forms set forth in Exhibit A hereto, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Series 2017 Bonds have been in all respects duly and validly authorized by the Authorizing Ordinance; and

WHEREAS, all things necessary to make the Series 2017 Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the City according to the import thereof, and to constitute this Indenture a valid obligation of the City and a valid pledge of the receipts of the Library Tax, together with all penalties and interest payable with respect thereto, and the pro rata portion of the receipts of a one-half of one percent (0.5%) statewide sales and use tax levied pursuant to Amendment 79 to the Constitution of the State of Arkansas (the "Special Tax Collections") to the payment of the principal of and premium, if any, and interest on the Series 2017 Bonds, as specified in and in accordance with the provisions of the Act and the provisions hereof, have been done and performed, and the creation, execution and delivery of this Indenture and the creation, execution, issuance and delivery of the Series 2017 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS INDENTURE WITNESSETH:

That the City, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Series 2017 Bonds by the holders and owners thereof, and the sum of Ten Dollars (\$10.00), lawful money of the United States of America, to it duly paid by the Trustee, at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and premium, if any, and interest on the Series 2017 Bonds and all Additional Bonds (hereinafter defined), if any, according to their tenor and effect and to secure the performance and observance by the City of all the covenants expressed or implied herein and in the Series 2017 Bonds and Additional Bonds (collectively, the "Bonds"), subject to all of the provisions hereof, does hereby grant, bargain, sell, convey, mortgage, assign, transfer and pledge unto the Trustee, and unto its successor or successors in trust, and to them and their assigns forever, for the security of the performance of the obligations of the City hereinafter set forth, the following:

1.

The proceeds of the Library Tax and the Special Tax Collections (collectively, the "Tax Receipts"), but subject to the provisions of this Indenture pertaining thereto, including the depositing of such Tax Receipts into the Revenue Fund, Bond Fund, Debt Service Reserve Fund and Redemption Fund, and the application of the moneys in the Revenue Fund, Bond Fund, Debt Service Reserve Fund and Redemption Fund as provided for hereinafter.

2.

The Bond Fund, Debt Service Reserve Fund, Redemption Fund, Project Fund and all other funds held by the Trustee pursuant to the Indenture except the Rebate Fund, and all moneys and investments in the pledged funds but subject to the provisions of this Indenture pertaining thereto, including the making of disbursements therefrom.

3.

Any and all other moneys, rights and interests of every kind and nature which are from time to time hereafter conveyed, pledged, assigned or transferred by delivery or by writing or transfer of any kind, as and for additional security hereunder, by the City or by any other person, firm or corporation, to the Trustee, which is hereby authorized to receive any and all such property at any time and at all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD all the same (the “Trust Estate”) with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trusts and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all owners of the said Bonds issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of said Bonds over any of the other Bonds; provided, however, that if the City, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest due on the Bonds, at the times and in the manner provided in the Bonds according to the true intent and meaning thereof, and shall make the payments as required under this Indenture or shall provide, as permitted hereby, for the payment thereof by depositing with or causing to be deposited with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all of the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments or deposits this Indenture and the lien and rights hereby granted shall cease, determine and be void; otherwise, this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH that, and it is expressly declared that, all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said revenues and income hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the holders from time to time of the Bonds or any part thereof, as follows, that is to say:

ARTICLE I DEFINITIONS

Section 101. Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings:

“Account” means an Account established by Article V of this Indenture.

“Act” means the Local Government Library Bond Act of 1993, codified as Arkansas Code Annotated (1998 Repl. & 2015 Supp.) §§14-142-201 *et seq.*, as from time to time amended.

“Additional Bonds” means Bonds in addition to the Series 2017 Bonds which are issued under the provisions of Section 212 of this Indenture.

“Additional Facilities” means land, buildings, structures, machinery, furniture, fixtures, equipment and all related or necessary tangible property constituting improvements which are permitted to be financed under the provisions of Amendment 30 and the Act.

“Amendment 30” means Amendment 30 to the Constitution of the State of Arkansas, as amended by Amendment 72 to the Constitution of the State of Arkansas.

“Amendment 79” means Amendment 79 to the Constitution of the State of Arkansas.

“Annual Debt Service” means, with respect to all or any particular amount of Bonds, the Debt Service for any particular Fiscal Year required to be paid or set aside during such Fiscal Year, less the amount of such payment which is provided from the proceeds of the sale of Bonds or from sources other than Tax Receipts.

“Authorized Representative” means either the Mayor or the Finance Director of the City and such additional persons as from time to time may be designated to act on behalf of the City by a Certificate furnished to the Trustee containing the specimen signature thereof and executed on behalf of the City by its Mayor.

“Authorizing Ordinance” means Ordinance No. _____, adopted by the City on _____, 2016, which authorized the issuance of the Series 2017 Bonds pursuant to this Indenture.

“Beneficial Owner” means any Person who acquires beneficial ownership interest in a Bond held by the Securities Depository. In determining the Beneficial Owner of any Bond, the Trustee may rely exclusively upon written representations made and information given to the Trustee by the Securities Depository or its Participants with respect to any Bond held by the Securities Depository in which a beneficial ownership interest is claimed.

“Bond Counsel” means any firm of nationally recognized municipal bond counsel designated by the City and acceptable to the Trustee.

“Bond Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Bonds” means the Series 2017 Bonds and all Additional Bonds, if any, authenticated and delivered under this Indenture.

“Book-Entry System” means the book-entry system maintained by the Securities Depository and described in Section 215 of this Indenture.

“Certificate” means a document signed by an Authorized Representative of the City attesting to or acknowledging the circumstances or other matters therein stated.

“City” means the City of Fayetteville, Arkansas, a municipality and political subdivision under the laws of the State of Arkansas.

“City Clerk” means the person holding the office and performing the duties of the City Clerk of the City.

“Closing Date” means, with respect to any series of Bonds, the date upon which there is an exchange of such series of Bonds for the proceeds representing the purchase price for such series of Bonds by the Original Purchaser or Purchasers thereof.

“Code” means the Internal Revenue Code of 1986, as from time to time amended, and applicable regulations issued or proposed thereunder.

“Completion Date” means the date upon which a Project is first ready for normal continuous operation (or the date upon which all expenditures have been made with respect to the portion of a Project being financed with proceeds of Bonds) or the date upon which damaged Project facilities are replaced in normal and continuous operation.

“Continuing Disclosure Agreement” means, collectively, each Continuing Disclosure Agreement between the City and the Trustee, dated the date of issuance and delivery of a series of Bonds, as originally executed and as amended from time to time in accordance with the terms thereof.

“Cost of Issuance Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Costs of Issuance” means all items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale and issuance of the Bonds, including, but not limited to, underwriting discounts, fees and expenses, election expenses, publication expenses, expenses of printing, reproducing, filing and recording documents, initial fees and charges of the Trustee and Paying Agent, fees and expenses for legal, accounting and other professional services, rating fees, costs of securing any credit enhancement for the Bonds, costs of execution, transportation and safekeeping of the Bonds, and other costs, charges and fees incurred in connection with the foregoing.

“Debt Service” means, with respect to all or any particular amount of Bonds for any Payment Period, the amount required to pay the sum of the interest on such Bonds payable during the Payment Period and the principal of, and any other amount required to effect any mandatory redemption of, such Bonds, if any, during the Payment Period.

“Debt Service Reserve Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Event of Default” means any event of default specified in Section 801 hereof.

“Finance Director” means the City’s Chief Financial Officer.

“Fiscal Year” means the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year.

“Fund” means a fund confirmed or established by Article V of this Indenture.

“Government Securities” means (i) direct obligations of the United States of America, (ii) obligations on which the full and timely payment of principal and interest is fully and unconditionally guaranteed by the United States of America (including any such securities issued or held in book-entry form on the books of the Department of Treasury of the United States of America), and (iii) evidences of direct ownership or proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations on which the full and timely payment of principal and interest is fully and unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Trustee.

“Holder” or “Bondholder” or “Owner of the Bonds” means the registered owner of any Bond.

“Indenture” means this Trust Indenture dated as of _____ 1, 2017, between the City and the Trustee, together with all indentures supplemental hereto.

“Interest Payment Date” means any date on which interest is payable on the Bonds.

“Investment Obligations” means, if and to the extent the same are at the time legal for investment of funds held under this Indenture:

(a) Cash deposits, certificates of deposits or money market deposits (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with Government Obligations);

(b) Government Securities;

(c) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America: U.S. Export-Import Bank (Eximbank); Rural Economic Community Development Administration; Federal Financing Bank; General Services Administration; U.S. Maritime Administration; U.S. Department of Housing and Urban Development (PHAs); Small Business Administration; Government National Mortgage Association (GNMA); Federal Housing Administration; and Farm Credit System Financial Assistance Corporation.

(d) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

(i) Senior debt obligations rated in the highest long-term rating category by at least two nationally recognized rating agencies issued by the

Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC); and

(ii) Senior debt obligations of the Federal Home Loan Bank System;

(e) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks which either (i) have a rating on their short-term certificates of deposit on the date of purchase in the highest short-term rating category of at least two nationally recognized rating agencies, (ii) are insured at all times by the Federal Deposit Insurance Corporation, or (iii) are collateralized with direct obligations of the United States of America at 102% valued daily. All such certificates must mature no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(f) Commercial paper which is rated at the time of purchase in the highest short-term rating category of at least two nationally recognized rating agencies and which matures no more than 270 days after the date of purchase;

(g) Investments in (i) money market funds subject to SEC Rule 2a-7 and rated in the highest short-term rating category of at least one of S&P and Moody's and (ii) public sector investment pools operated pursuant to SEC Rule 2a-7 in which the City's deposit shall not exceed 5% of the aggregate pool balance at any time and such pool is rated in one of the two highest short-term rating categories of at least one of S&P and Moody's;

(h) Pre-refunded municipal obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(i) Which are rated, based on an irrevocable escrow account or fund (the "Escrow"), in the highest long-term rating category of at least two nationally recognized rating agencies; or

(ii) (I) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or direct obligations of the United States of America, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and

(II) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this

paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(i) General obligations of states with a short-term rating in one of the two highest rating categories and a long-term rating in one of the two highest rating categories of at least two nationally recognized rating agencies. In the event such obligations are variable rate obligations, the interest rate on such obligations must be reset not less frequently than annually; and

(j) Any cash sweep account maintained by the Trustee and consisting of investments described in clauses (a) through (i).

“Library Tax” means the one and two-tenths (1.2) mill per dollar City tax levied on the assessed value of all taxable property within the City approved by the voters at the August 9, 2016 special election, together with all penalties and interest payable with respect thereto.

“Mayor” means the person holding the office and performing the duties of the Mayor of the City.

“Moody’s” means Moody’s Investors Service, Inc.

“Original Purchaser” means the first purchaser(s) of a series of Bonds from the City.

“Outstanding” means, as of any date of computation, Bonds theretofore or thereupon being delivered under this Indenture, except:

(a) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation;

(b) Bonds deemed to be paid in accordance with Article VII of this Indenture; and

(c) Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Indenture.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository in the Book-Entry System, as such listing of Participants exists at the time of such reference.

“Payment Period” means a period from, but not including, a Principal Payment Date up to, and including, the next succeeding Principal Payment Date.

“Person” means any natural person, firm, association, corporation, limited liability company, partnership, joint stock company, joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

“Principal Payment Date” means any date on which principal is payable on the Bonds, whether at maturity, by operation of the mandatory sinking fund, or otherwise.

“Project” means the costs of acquiring, constructing and equipping capital improvements to the Fayetteville Public Library, including, but not limited to, _____, and any Additional Facilities that may be acquired, constructed or equipped in the future with the proceeds of Bonds issued hereunder.

“Project Costs” means, to the extent permitted by Amendment 30 and the Act or other applicable laws, with respect to a Project, all costs of planning, designing, purchasing, acquiring, constructing, improving, enlarging, extending, repairing, financing and placing in operation, including obtaining governmental approvals, certificates, permits and licenses with respect thereto, heretofore or hereafter paid or incurred by or on behalf of the City and which shall include, but shall not be limited to:

(a) interest accruing in whole or in part on the Bonds prior to and during construction of a Project, including all amounts required by this Indenture to be paid from the proceeds of the Bonds into the Bond Fund;

(b) preliminary investigation and development costs, engineering fees, contractors’ fees, labor costs, the cost of materials, equipment, utility services and supplies, costs of obtaining permits, licenses and approvals, costs of real property, insurance premiums, legal and financing fees and costs, administrative and general costs, and all other costs properly allocable to the acquisition, construction and equipping of a Project and placing the same in operation;

(c) all costs relating to injury and damage claims arising out of the acquisition, construction or equipping of a Project;

(d) all other costs incurred in connection with, and properly allocable to, the acquisition, construction and equipping of a Project; and

(e) amounts to pay or reimburse the City or any City fund for expenses incident and properly allocable to such planning, designing, purchasing, acquiring, constructing, improving, enlarging, extending, repairing, financing and placing in operation of a Project.

“Project Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Qualified Engineer” means a consulting engineer or firm of consulting engineers, whether or not in the regular employ of the City.

“Rebate Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Record Date” means the close of business on the 15th day of the calendar month next preceding each Interest Payment Date on the Bonds or, if such day shall not be a business day, the immediately preceding business day.

“Redemption Fund” means the fund by that name created and established in Section 501 of this Indenture.

“Requisition” means a written requisition of the City, consecutively numbered, signed by an Authorized Representative and including, without limitation, the specific information required in Section 502 hereof.

“Reserve Requirement” means, at any particular time, an amount equal to the least of [(a) 10% of the face amount of each series of Outstanding Bonds, (b) the maximum Annual Debt Service on each series of Outstanding Bonds, or (c) 1.25 times the average Annual Debt Service on each series of Outstanding Bonds.]

“Revenue Fund” means the fund by that name established in Section 501 of this Indenture.

“S&P” means Standard & Poor’s Financial Services, LLC.

“Securities Depository” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, or its nominee, and its successors and assigns, or any other depository institution appointed by the City to act as depository for the Bonds in connection with the Book-Entry-Only System.

“Series 2017 Bonds” means the \$_____ City of Fayetteville, Arkansas Library Improvement Bonds, Series 2017, dated _____ 1, 2017, issued under and secured by this Indenture.

“Special Tax Collections” means the pro rata portion of the one-half of one percent (0.5%) statewide sales and use tax levied pursuant to Amendment 79 which is allocable to the Library Tax.

“State” means the State of Arkansas.

“Supplemental Indenture” means any indenture supplemental to or amendatory of this Indenture, adopted by the City in accordance with Article X hereof.

“Tax Receipts” means, collectively, all receipts derived by the City from the levy of the Library Tax or the Special Tax Collections.

“Tax Regulatory Agreement” means with respect to any series of Bonds issued under this Indenture, that Tax Regulatory Agreement of the City relating to maintenance of the excludability of interest on such Bonds from gross income for federal income tax purposes, delivered in connection with the issuance of such series of Bonds.

“Trustee” and Paying Agent” means the trustee and paying agent for the time being, whether original or successor, with the same institution to always occupy both positions, and with the original Trustee and Paying Agent being Simmons Bank, Pine Bluff, Arkansas.

“Trust Estate” means the property described in the granting clauses of this Indenture.

Section 102. Use of Words. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Bond,” “owner,” “holder,” and “person” shall include the plural, as well as the singular number.

ARTICLE II THE BONDS

Section 201. Security for Bonds. (a) The Bonds are special and limited obligations of the City payable as to principal, premium, if any, and interest solely out of the Trust Estate. The Trust Estate is hereby pledged, appropriated and assigned to the payment of the principal of, premium, if any, and interest on the Bonds, all in accordance with their terms and the provisions of this Indenture. The Bonds do not constitute an indebtedness for which the faith and credit of the State of Arkansas or the City is pledged within the meaning of any Constitutional or statutory limitation. The Bonds shall never constitute an obligation of or a charge against the general credit or general taxing powers of the City.

(b) The pledge, charge, lien, trusts and assignments made herein with respect to the Trust Estate shall be valid and binding, and shall be deemed continuously perfected from the time of issuance of the Series 2017 Bonds, and the Trust Estate shall thereupon be immediately subject to the pledge, charge, lien, trust and assignment created hereby upon receipt thereof by or for the City or by the Trustee and Paying Agent hereunder, without any physical delivery, segregation thereof or further act, and such pledge, charge, lien, trust and assignment shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such parties have notice thereof. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate and rights of the Bondholders under this Indenture against all claims and demands of all persons whomsoever.

(c) The Bonds shall be equally and ratably payable and secured hereunder without priority by reason of date of adoption of this Indenture or any Supplemental Indenture authorizing their issuance or by reason of their series, number, date, date of issue, execution, authentication or sale, or otherwise.

(d) So long as any Bonds are Outstanding under the provisions of this Indenture, all Tax Receipts shall be deemed to be necessary to accomplish the purposes of the City and shall be subject to the covenants and agreements set forth in this Indenture, and no such Tax Receipts shall ever be used or deposited otherwise except as herein expressly permitted.

(e) The City covenants, as permitted by the Act, that while any of the Bonds are Outstanding, the levy and collection of the Library Tax shall not be reduced or discontinued, and the City will use due diligence in causing the annual levy and collection of the Library Tax. The City further covenants to promptly enforce its rights against any person who does not pay such taxes when due or who challenges the authority of the City to levy the Library Tax.

Section 202. Authorized Amount. There is hereby authorized the issuance of bonds of the City to be designated “Library Improvement Bonds, Series 2017” in the principal amount of

_____ Dollars (\$_____) (the “Series 2017 Bonds”). No Bonds may be issued under the provisions of this Indenture except in accordance with this Article II. The total principal amount of Bonds that may be issued hereunder is limited to the extent described in Section 212 hereof, except as provided in Section 209 and except for refunding bonds issued under the provisions of Section 212.

Section 203. Details of Bonds. (a) The Series 2017 Bonds (i) shall be designated “City of Fayetteville, Arkansas Library Improvement Bonds, Series 2017,” (ii) shall be in the aggregate principal amount of \$_____, (iii) shall be dated as of _____ 1, 2017, (iv) shall bear interest from such date at the rates hereinafter provided until paid, payable semiannually on _____ 1 and _____ 1 of each year, commencing _____ 1, 2017, (v) shall be issued in denominations of \$5,000 each, or any integral multiple thereof, (vi) shall be numbered from R17-1 upwards in order of issuance according to the records of the Trustee, and (vii) shall mature, unless sooner redeemed in the manner in this Indenture set forth, on _____ 1 in each of the years and in the amounts set forth in the following table, which table also sets forth the interest rates for the Series 2017 Bonds:

Year (_____ 1)	<u>Principal Amount</u>	<u>Interest Rate</u>
	\$	%

Section 204. Form of Bonds. (a) The Series 2017 Bonds shall be initially issued as fully registered Bonds, without coupons, in the form of _____ typewritten bond certificates (one for each maturity) to be delivered to the Securities Depository. Each such certificate shall be initially registered in the name of the nominee of the Securities Depository, and no Beneficial Owner will receive a certificate representing his interest in the Series 2017 Bonds, except upon the occurrence of the events described in Section 215 hereof. Beneficial Owners shall be deemed to have waived any right to receive a bond certificate except under the circumstances described in Section 215. The Series 2017 Bonds and the Trustee’s certificate of authentication to be endorsed thereon shall be in substantially the form set forth in Exhibit A hereto, with appropriate variations, insertions and omissions as permitted or required by this Indenture.

Section 205. Payment. The Bonds shall be payable, with respect to principal, premium, if any, and interest in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. The principal of and premium, if any, on the Bonds shall be payable upon surrender thereof at the principal corporate trust office of the Trustee. Payment of interest on each Bond shall be made by check or draft mailed to the registered owner of such Bond as of the applicable Record Date at his address as it appears on the registration books maintained by the Trustee. For purposes of this Indenture, interest on the Bonds shall be deemed to accrue on the basis of a 360-day year of twelve 30-day months. So long as the Securities Depository or its nominee is the sole registered owner of the Bonds, payment of interest thereon shall be made by wire transfer of immediately available funds by the Paying Agent to the Securities Depository or its nominee.

Section 206. Execution. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City. A facsimile signature shall have the same force and effect as if manually signed. In case any officer whose manual signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such official had remained in office until delivery.

Section 207. Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A attached hereto duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid and obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 208. Delivery of Bonds. The City shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds of any series and deliver said Bonds to the Securities Depository as may be directed in this Section 208, in Section 212 hereof or in any Supplemental Indenture.

(a) Prior to the delivery or original issuance by the Trustee of any authenticated Bonds of any series, there shall be delivered to the Trustee:

(1) An original executed counterpart of this Indenture or, in the case of Additional Bonds, a Supplemental Indenture by and between the City and the Trustee setting forth the details concerning such Additional Bonds;

(2) Original executed counterparts of the Continuing Disclosure Agreement and the Tax Regulatory Agreement applicable to such series of Bonds;

(3) A Certificate directing the Trustee to authenticate the Bonds and containing instructions as to the delivery of the Bonds upon payment to the Trustee, for the account of the City, of a sum specified in such Certificate;

(4) A copy, duly certified by the City Clerk, of the proceedings of the City authorizing the issuance of the Bonds;

(5) A written opinion of Bond Counsel approving the legality of the Bonds;

(6) In the case of any series of Additional Bonds, a Certificate signed by the Mayor certifying that (i) the City is not then in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Indenture, and (ii) the City is current as to all required deposits at that time in all the Funds described in Article V of this Indenture or hereafter created by Supplemental Indentures, or if the City is in default or is not so current, certifying in the case of (i) or (ii) as to that fact and that, upon the application of the proceeds of the sale of such Additional Bonds as provided in the Supplemental Indenture authorizing the issuance thereof, the City will not be in default or will be current thereafter;

(7) In the case of any series of Additional Bonds, the Certificate of the Finance Director referenced in Section 212 hereof;

(8) In the case of any series of Additional Bonds, a written opinion of Bond Counsel to the effect that the exemption from federal income tax of the interest on the Series 2017 Bonds and any Additional Bonds theretofore issued will not be adversely affected by the issuance of the Additional Bonds then being issued; and

(9) Such further documents and certificates as may be required by the Original Purchaser of such series of Bonds.

(b) Simultaneously with the delivery of the Series 2017 Bonds, the Trustee shall apply the proceeds thereof as follows:

(1) The amount, if any, received as accrued interest on the Series 2017 Bonds shall be deposited in the Bond Fund;

(2) \$_____, an amount equal to the Reserve Requirement with respect to the Series 2017 Bonds, shall be deposited in the Debt Service Reserve Fund;

(3) An amount equal to \$_____ shall be deposited in the Cost of Issuance Fund for payment of Costs of Issuance as directed by a Certificate of the City; and

(4) The balance of said proceeds (\$_____) shall be deposited in the Project Fund for payment of Project Costs pursuant to the written direction of the City as provided in Section 502.

Section 209. Mutilated, Destroyed or Lost Bonds. In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new Bond of like series, date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon the Bondholder's paying the reasonable expenses and charges of the City and the Trustee in connection therewith, and, in the case of a Bond destroyed or lost, filing by the Bondholder with

the Trustee evidence satisfactory to the Trustee that such Bonds were destroyed or lost, and of the Bondholder's ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. In the event any such Bonds shall have matured, instead of issuing a new Bond, the City may pay the same without the surrender thereof. Upon the issuance of a new Bond under this Section 209, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Section 210. Registration and Transfer of Bonds. The City hereby constitutes and appoints the Trustee as Bond Registrar of the City, and as Bond Registrar the Trustee shall keep books for the registration and for the transfer of the Bonds as provided in this Indenture at the principal corporate trust office of the Trustee. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the registered owner thereof, or the owner's legal representative, and neither the City, the Trustee nor the Bond Registrar shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Bonds may be transferred on the books of registration kept by the Trustee by the registered owner in person or by the owner's duly authorized attorney, upon surrender thereof, together with a written instrument of transfer duly executed by the registered owner or the owner's duly authorized attorney. Upon surrender for transfer of any Bond at the principal corporate office of the Trustee, the City shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same series and in the same aggregate principal amount and of any authorized denomination or denominations.

Bonds may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of Bonds of any other authorized denomination or denominations of the same series with corresponding maturities. The City shall execute and the Trustee shall authenticate and deliver Bonds which the Bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously then Outstanding. The execution by the City of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

Such transfers of registration or exchanges of Bonds shall be without charge to the Owners of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Owner of the Bond requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

The Trustee shall not be required to transfer or exchange any Bond during the period from and including a Record Date to the next succeeding Interest Payment Date of such Bond nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made, and prior to such redemption.

If the Securities Depository or its nominee is the sole registered owner of the Bonds, transfers of ownership and exchanges shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. In such case, the Trustee shall deal with the Securities Depository as representative of the Beneficial Owners of the Bonds for purposes of exercising the rights of Bondholders hereunder, and the rights of the Beneficial Owners of such Bonds held by the Securities Depository or its nominee shall be limited to those established by law and agreements between such Beneficial Owners and the Securities Depository and its Participants. Requests, consents and directions from, and votes of, the Securities Depository or its nominee as representative shall not be deemed inconsistent if they are made with respect to different Participants or Beneficial Owners.

Section 211. Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Trustee, shall be promptly cancelled by it, and, if surrendered to any person other than the Trustee, shall be delivered to the Trustee and, if not already cancelled, shall be promptly cancelled by it. The City may at any time deliver to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder, which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Trustee. All cancelled Bonds held by the Trustee shall be disposed of as directed by the City. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the City of any Bonds, the Trustee may, upon the written request of the City, in lieu of such cancellation and delivery, destroy such Bonds in the presence of any officer of the City (but only if the City shall so require), and deliver a certificate of such destruction to the City.

Section 212. Additional Bonds. The City may issue from time to time one or more series of Additional Bonds for the purpose of (i) financing Project Costs in connection with the acquisition, construction and/or equipping of a Project, (ii) refunding the Series 2017 Bonds or any series of Additional Bonds, in whole or in part, or (iii) any combination thereof. Additional Bonds shall be secured equally and ratably with the Series 2017 Bonds and any other series of Additional Bonds theretofore issued and then Outstanding, except insofar as any terms or conditions of redemption or purchase established under this Indenture may afford additional benefit or security for the Bonds of any particular series and except for the security afforded by any municipal bond insurance obtained with respect to a particular series of Bonds. Before any Additional Bonds are authenticated, there shall be delivered to the Trustee the items required for the issuance of Bonds by Section 208 hereof, plus a Certificate of the Finance Director of the City (in the form attached as Exhibit B hereto) certifying that, based upon necessary investigation, the Tax Receipts deposited into the Revenue Fund during the most recent twelve (12) months were not less than (i) ____% of the maximum Annual Debt Service requirement on all then Outstanding Bonds, plus the Additional Bonds then proposed to be issued, and (ii) the amount, if any, needed to make required deposits to the Debt Service Reserve Fund. Notwithstanding anything herein to the contrary, no Additional Bonds shall be issued unless there is no default at the time of issuance under this Indenture.

Section 213. Superior Obligations Prohibited. Except to the extent permitted in Section 212 hereof for the issuance of Additional Bonds, from and after the issuance of any of the Bonds and for so long as any of the Bonds are Outstanding, the City shall not create or

permit the creation of any indebtedness, or issue any bonds, notes, warrants, certificates or other obligations or evidences of indebtedness payable in any manner from the Tax Receipts or otherwise from the Trust Estate which (i) will in any way be superior to or rank on a parity with the Bonds, or (ii) will in any way be secured by a lien and charge on the Tax Receipts or on the moneys deposited in or to be deposited in the Revenue Fund, prior to or equal with the lien, pledge and charge created herein for the security of the Bonds, or (iii) will be payable prior to or equal with the payments to be made from the Tax Receipts or the Revenue Fund into the Bond Fund or Debt Service Reserve Fund, or from said Bond Fund or Debt Service Reserve Fund for the payment of the Bonds. Nothing in Section 213 shall be construed as prohibiting or restricting the issuance of bonds payable from Tax Receipts so long as use of the Tax Receipts in favor of bonds issued pursuant to this Section 213 shall be made expressly subject and subordinate to the pledge and use of Tax Receipts to pay principal of and premium, if any, and interest on the Bonds and to make all required deposits into all funds held by the Trustee pursuant to the Indenture.

Section 214. Temporary Bonds. Until Bonds in definitive form are ready for delivery, the City may execute, and upon the request of the City, the Trustee shall authenticate and deliver, subject to the provisions, limitations and conditions set forth herein, one or more Bonds in temporary form, whether printed, typewritten, lithographed or otherwise produced, substantially in the form of the definitive Bonds, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bond in temporary form shall be entitled to the lien and benefit of this Indenture. Upon the presentation and surrender of any Bond or Bonds in temporary form, the City shall, without unreasonable delay, prepare, execute and deliver to the Trustee and the Trustee shall authenticate and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Trustee without making any charge therefor to the Owner of such Bond in temporary form.

Section 215. Book-Entry Bonds; Securities Depository. The Bonds shall initially be registered to Cede & Co., the nominee for The Depository Trust Company, New York, New York (the "Securities Depository"), and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Trustee issues replacement bonds as provided in this Section 215. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Trustee authenticates and delivers replacement bonds to the Beneficial Owners as described in the following paragraph.

If the City or the Trustee determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a Book-Entry System to the exclusion of any Bonds being issued to any Bondholder other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, or (2) if the Trustee receives written notice from Participants representing interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities

Depository), that the continuation of a Book-Entry System to the exclusion of any Bonds being issued to any Bondholder other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Trustee shall notify the Bondholders of such determination or such notice and of the availability of certificates to Bondholders requesting the same, and the Trustee shall register in the name of and authenticate and deliver replacement bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each; provided, that in the case of a determination under (A) or (B) of this paragraph, the City or the Trustee may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of replacement bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Trustee, to the extent applicable with respect to such replacement bonds. If the Securities Depository resigns and the City, the Trustee or Bondholders are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Trustee shall authenticate and cause delivery of replacement bonds to Bondholders, as provided herein. The Trustee may rely conclusively on information from the Securities Depository and its Participants as to the names and addresses of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of replacement bonds shall be paid for by the City.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Trustee upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

ARTICLE III REDEMPTION OF BONDS BEFORE MATURITY

Section 301. Redemption of Bonds. The Bonds shall be subject to redemption prior to maturity as follows:

(a) The Series 2017 Bonds are subject to redemption at the election of the City, on and after _____ 1, 20__, in whole or in part (in any order of maturities directed by the City, and by lot within a maturity) at any time, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption.

(b) The applicable series of Bonds shall be redeemed prior to maturity, in whole or in part (in inverse order of maturities and by lot within a maturity), on any Interest Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued

interest to the date of redemption, from Project Fund moneys in excess of the amount needed to complete the applicable Project or portion thereof being financed with the proceeds of such series of Bonds, which moneys shall be transferred to the Redemption Fund pursuant to Section 502 hereof.

(c) The Bonds shall be redeemed prior to maturity, in whole or in part (in inverse order of maturities and by lot within a maturity), on any Interest Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from surplus Tax Receipts (being amounts over and above the amount necessary to pay (i) current requirements of principal of and interest on the Bonds and Trustee and Paying Agent fees and expenses and (ii) amounts due on the next succeeding Interest Payment Date or Principal Payment Date), which moneys shall be transferred to the Redemption Fund pursuant to Section 503 hereof.

(d) The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
20__	\$
20__	
20__	
20__ (maturity)	

(e) The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
20__	\$
20__	
20__	
20__ (maturity)	

(f) The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
20__	\$
20__	
20__	
20__ (maturity)	

(g) Additional Bonds may also be made subject to optional, extraordinary and mandatory sinking fund redemption, in whole or in part, in such manner, at such times and at such prices as may be provided in the Supplemental Indenture providing for their issuance.

At its option, to be exercised on or before the 45th day next preceding any mandatory sinking fund redemption date for any Series 2017 Bonds, the City may deliver to the Trustee for cancellation Series 2017 Bonds of the appropriate maturity, or portions thereof (\$5,000 or any integral multiple thereof), in any aggregate principal amount desired. Each such Series 2017 Bond, or portion thereof, so delivered or previously redeemed (otherwise than through mandatory sinking fund redemption) and canceled by the Trustee shall be credited by the Trustee at 100% of the principal amount thereof on the obligation of the City on such mandatory sinking fund redemption date, and any excess over such amount shall be credited on future mandatory sinking fund redemption obligations of that maturity in chronological order, and the principal amount of such Series 2017 Bonds so to be redeemed shall be accordingly reduced.

Section 302. Notice. Notice of the call for any redemption (other than mandatory sinking fund redemption), identifying the Bonds or portions thereof being called and the date on which they shall be presented for payment, shall be mailed by the Trustee by first class mail (or, so long as the Securities Depository or its nominee is the sole registered owner of the Bonds, by any other means acceptable to the Securities Depository, including facsimile) to the registered owner of each such Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure or defect has occurred. Any notice mailed as provided in this Section 302 shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice.

Section 303. Selection of Bonds to be Redeemed. If less than all of the Bonds of like series, maturity, interest rate and otherwise identical payment terms shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by lot by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of larger than the minimum denomination may be redeemed in the principal amount of such minimum denomination or a multiple thereof, and that for purposes of selection and redemption, any such Bond of a denomination larger than the minimum denomination shall be considered to be that number of separate Bonds of such minimum denomination which is obtained by dividing the principal amount of such Bond by such minimum denomination. So long as the Securities Depository or its nominee is the sole registered owner of a series of Bonds, the procedures established by the Securities Depository shall control with respect to the selection of the particular Bonds of such series to be redeemed.

Section 304. Surrender of Bonds Upon Redemption. Notice having been given in the manner and under the conditions hereinabove provided, and moneys for payment of the redemption price being held by the Trustee as provided in this Indenture (i) the Bonds or portions of Bonds so called for redemption shall, on the date fixed for redemption designated in

such notice, become due and payable at the redemption price provided for redemption of such Bonds, and interest on such Bonds or portions of Bonds so called for redemption shall cease to accrue, (ii) upon surrender of the Bonds or portions of Bonds so called for redemption in accordance with such notice, such Bonds or portions of Bonds shall be paid at the applicable redemption price, (iii) such Bonds or portions of Bonds shall cease to be entitled to any lien, benefit or security under this Indenture, and (iv) the owners of said Bonds or portions of Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

Section 305. Redemption in Part. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (with, if the City or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the City and the Trustee duly executed by, the owner thereof or his attorney duly authorized in writing), and the appropriate officials of the City shall execute and the Trustee shall authenticate and deliver to the owner of such Bond, without service charge, a new Bond or Bonds of the same series, of any authorized denomination or denominations, having the same maturity and interest rate as requested by such owner, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

ARTICLE IV GENERAL COVENANTS AND REPRESENTATIONS

Section 401. Payment of Principal, Premium and Interest. The City covenants that it will promptly pay or cause to be paid the principal of and premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. The principal, premium, if any, and interest (except interest paid from the proceeds from the sale of the Bonds and accrued interest) are payable solely from the Trust Estate which is hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or this Indenture should be considered as assigning or pledging any funds or assets of the City other than the Trust Estate. Anything in this Indenture to the contrary notwithstanding, it is understood that whenever the City makes any covenants involving financial commitments it pledges no funds or assets other than the Trust Estate in the manner and to the extent herein specified, but nothing herein shall be construed as prohibiting the City from using any other funds or assets. The City covenants that the Library Tax will not be repealed, and the rate of the Library Tax will not be reduced, for so long as there are any Outstanding Bonds. It is further covenanted that all necessary action will be taken, from time to time, to collect the Library Tax in the full amount due and to apply Tax Receipts in the manner provided in this Indenture.

Section 402. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder, and in all ordinances pertaining hereto. The City covenants that it is duly authorized under the Constitution and laws of the State of Arkansas, including particularly and without limitation, Amendment 30 and the Act, to issue the Bonds authorized hereby and to execute this Indenture and to make the pledge of the Tax Receipts and to make the covenants in the manner and to the extent herein set forth, that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the

hands of the Holders and owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 403. Instruments of Further Assurance. At the request of the Trustee, the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, ordinances, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming of all and singular the Tax Receipts and all other moneys hereby pledged or assigned, or intended so to be, or which the City may become bound to pledge or assign.

Section 404. Recordation and Filing. To the extent necessary, the City covenants that it will cause this Indenture, such security agreements, financing statements, and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the owners of the Bonds and the rights of Trustee hereunder, and to perfect the security interest created by this Indenture.

Section 405. Inspection of Books. The City shall keep proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Project and the Funds and Accounts established by this Indenture.

Section 406. Tax Covenants. The City covenants that it will not use or permit the use of any Bond proceeds or any other funds of the City, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions which would adversely effect the exclusion of interest on any Bond from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City further covenants that no part of the proceeds of the Bonds shall at any time be used, directly or indirectly, to acquire securities or obligations the acquisition of which would cause any of the Bonds to be an “arbitrage bond” as defined in Sections 148(a) and (b) of the Code. The City agrees that so long as any of the Bonds remain Outstanding, it will comply with the provisions of each applicable Tax Regulatory Agreement.

Section 407. Trustee’s and Paying Agent’s Fees and Expenses. Subject to the provisions of Section 902 hereof, the City hereby agrees and covenants to make payments for the fees, expenses and charges of the Trustee and Paying Agent, if any, as authorized and provided by this Indenture. The City is to make payments on statements rendered by the Trustee and Paying Agent either (i) directly to the Trustee and Paying Agent or (ii) pursuant to Section 503(b) hereof.

Section 408. Construction of Project; Certification of Completion Date. The City hereby covenants to use its best efforts to acquire, construct and equip each Project (or portion thereof) being financed with proceeds of the Bonds with all reasonable dispatch and to use its best efforts to cause the acquisition, construction and equipping of such Project (or portion thereof) to be completed as soon as may be practicable, but in any case within a period not to exceed three years after the issuance of the applicable series of Bonds, delays caused by *force majeure* only excepted, but if for any reason such acquisition, construction and equipping is not

completed within said period, there shall be no diminution or postponement of payments required hereunder to be made by the City. Promptly after each such Completion Date, the City shall submit to the Trustee the certificate of a Qualified Engineer which shall specify the Completion Date and shall state that acquisition, construction and equipping of such Project (or portion thereof) being financed with a particular series of Bond proceeds has been completed and the Project Costs have been paid, except for any Project Costs which have been incurred but are not then due and payable, or the liability for the payment of which is being contested or disputed by the City, and for the payment of which the Trustee is directed to retain specified amounts of moneys in the Project Fund. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date thereof or which may subsequently come into being.

Section 409. Encumbrances. The City covenants that it will not create or suffer to be created any lien or charge upon the Trust Estate, except in accordance with the provisions of this Indenture.

Section 410. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of each Continuing Disclosure Agreement. Notwithstanding any other provision of this Indenture to the contrary, failure of the City or the Trustee to comply with the provisions of a Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Trustee may (and at the request of the Original Purchaser of a series of Bonds or the owners of at least 25% in aggregate Outstanding principal amount of such series of Bonds, shall) or any Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City or the Trustee, as the case may be, to comply with its obligations under this Section 410.

Section 411. [Reserved].

Section 412. Pledge of Tax Receipts. (a) This Indenture creates a valid and binding pledge and assignment of and security interest in the Tax Receipts in favor of the Trustee as security for payment of the Bonds, enforceable by the Trustee in accordance with the terms hereof.

(b) Under the laws of the State of Arkansas, such pledge, assignment and security interest is and shall be prior to any judicial lien hereafter imposed on the Tax Receipts to enforce a judgment against the City on a simple contract. Under the laws of the State of Arkansas, including, particularly, Arkansas Code Annotated (2001 Repl.) Section 4-9-109(d)(14), it is not necessary to file a Uniform Commercial Code financing statement in order to perfect a security interest in the Tax Receipts.

(c) The City has not heretofore made a pledge of, granted a lien on or security interest in, or made an assignment or sale of the Tax Receipts that ranks on a parity with or prior to the pledge, assignment and security interest granted hereby. The City shall not hereafter make or suffer to exist any pledge or assignment of, lien on, or security interest in the Tax Receipts that ranks prior to or on a parity with the pledge, assignment and security interest granted

hereby, or file any financing statement describing any such pledge, assignment, lien or security interest, except as expressly permitted hereby.

ARTICLE V REVENUES AND FUNDS

Section 501. Creation of Funds. (a) There are hereby created and established with the Trustee the following Funds:

- (i) Revenue Fund;
- (ii) Project Fund;
- (iii) Bond Fund;
- (iv) Debt Service Reserve Fund;
- (v) Cost of Issuance Fund;
- (vi) Redemption Fund; and
- (vii) Rebate Fund.

(b) All such Funds shall be held by the Trustee, which shall hold and maintain said Funds in trust, for the use and benefit of the Bondholders and the City, but subject to the permitted applications expressed herein.

Section 502. Project Fund. (a) The Trustee shall maintain the Project Fund to the credit of which there shall be deposited a portion of the proceeds of the Series 2017 Bonds as provided in Section 208(b) hereof and the proceeds of Additional Bonds as directed in a Supplemental Indenture.

(b) Moneys credited to the Project Fund shall be expended only as set forth in this Section 502.

(c) Amounts in the Project Fund shall be expended and applied for the payment of Project Costs attributable to the related Project. Disbursements shall be made from the Project Fund on the basis of consecutively numbered Requisitions in the form attached hereto as Exhibit C signed by an Authorized Representative. Requisitions may be submitted to the Trustee by certified mail, first class mail or facsimile transmission. If the Trustee deems that a Requisition submitted by the City is sufficient pursuant to this Section 502, the amount requested thereunder shall be disbursed in payment of the Project Costs set forth therein, or in reimbursement of such Project Costs, within two (2) business days of the date of receipt of such Requisition by the Trustee. Each Requisition shall specify:

- (i) the name of the person or party to whom payment is to be made and the purpose of the payment;

(ii) the amount to be paid thereunder;

(iii) that such amount has not been previously paid by the City and is justly due and owing to the person(s) named therein as a proper payment or reimbursement of a Project Cost; and

(iv) that no Event of Default exists under the Indenture and that, to the knowledge of the Authorized Representative, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

(d) The Trustee shall keep full and complete records concerning and reflecting all disbursements from the Project Fund and shall file an accounting of said disbursements if and when requested by the City. The Trustee shall only make payments from the Project Fund pursuant to and in accordance with Requisitions. In making payments from the Project Fund, the Trustee may rely on any Requisitions delivered to it pursuant to this Section 502, and the Trustee shall be relieved of all liability relating to payments made in accordance with such Requisitions and any supporting certificate or certificates requested by the Trustee without physical inspection of the Project. Within ninety (90) days following completion of any Project or portion thereof being financed with a particular series of Bonds, the City shall deliver to the Trustee its Certificate stating that such Project or applicable portion thereof is complete and the Trustee shall transfer the remaining moneys in the Project Fund relating to such series of Bonds (save and except moneys needed to satisfy unpaid Project Costs) to the Redemption Fund for application to the retirement of Bonds by redemption or purchase, as provided by Section 301(b) and Section 506 hereof.

(e) Upon the occurrence and continuance of an Event of Default or the occurrence and continuance of an event which with notice or lapse of time or both would constitute an Event of Default, amounts on deposit in the Project Fund shall not be disbursed but shall instead be applied to the payment of Debt Service or the redemption price of the Bonds.

Section 503. Revenue Fund. (a) There shall be deposited with the Trustee to the credit of the Revenue Fund, as and when received, all Tax Receipts. [For the purposes of financial reporting by the City with respect to the Library Tax and Special Tax Collections, “receipts” and “revenues” shall have the same meaning.]

(b) On or before the fifteenth day of each month, commencing _____ 15, 2017, there shall be transferred from the Revenue Fund, in the following order, the amounts set forth below:

FIRST: For deposit to the Bond Fund, an amount equal to one-sixth (1/6) of the interest on the Outstanding Bonds due on the next Interest Payment Date (except that with respect to deposits required with respect to a series of Bonds prior to the first Interest Payment Date for such series of Bonds, the required monthly transfers shall be equal to a fraction, the numerator of which shall be 1 and the denominator of which shall be the number of transfers to be made prior to such Interest Payment Date);

SECOND: For deposit to the Bond Fund, an amount equal to one-twelfth (1/12) of the next scheduled principal maturity of Outstanding Bonds (including mandatory sinking fund redemptions) (except that with respect to deposits required with respect to a series of Bonds prior to the first Principal Payment Date for such series of Bonds, the required monthly transfers shall be equal to a fraction, the numerator of which shall be 1 and the denominator of which shall be the number of transfers to be made prior to such Principal Payment Date);

THIRD: For deposit to the Debt Service Reserve Fund, an amount sufficient to cure any deficiency in the Debt Service Reserve Fund;

FOURTH: For deposit to the Rebate Fund, an amount sufficient to satisfy the City's obligations under Section 507 hereof; and

FIFTH: For payment to the Trustee and Paying Agent, the amount, if any, necessary to pay or reimburse the Trustee and Paying Agent for fees and expenses related to the Bonds.

(c) Required deposits into the Bond Fund and the Debt Service Reserve Fund shall be reduced by investment earnings, if any, in said Funds and, with respect to required deposits to the Bond Fund only, by any accrued interest deposited to the Bond Fund upon the initial sale of a series of Bonds. In the event there shall be insufficient moneys in the Revenue Fund in a particular month to make the required transfers described above, then any deficiencies shall be added to the required deposits during the next month.

(d) On each _____ 15 and _____ 15, moneys remaining in the Revenue Fund following the required transfers set forth above in excess of Debt Service due on the Bonds on the next succeeding _____ 1 or _____ 1, respectively, plus current amounts due for the payment of Trustee and Paying Agent fees and expenses and the payment of any Rebate Amount, shall be transferred to the Redemption Fund and utilized to redeem Bonds as provided in Section 302(c) hereof.

(e) Amounts remaining in the Revenue Fund following payment of all Outstanding Bonds in full shall be transferred to the General Fund of the City and shall be utilized for the maintenance and operation of the Fayetteville Public Library.

Section 504. Bond Fund. (a) There shall be deposited to the credit of the Bond Fund all moneys required to be transferred thereto pursuant to Sections 208, 503, 505, 506 and 508 of this Indenture and all other moneys received for said Fund.

(b) Moneys credited to the Bond Fund shall be expended only as set forth in this Section 504.

(c) (i) On each Interest Payment Date for any of the Bonds Outstanding, the Trustee shall pay out of moneys credited to the Bond Fund the amounts required for the payment of interest on the Bonds due on such date, and on each redemption date, the amounts required for the payment of accrued interest on Bonds then to be redeemed or

purchased unless the payment of such accrued interest shall be otherwise provided for, and such amounts shall be applied to such payments.

(ii) On each principal payment or redemption date for any of the Bonds Outstanding, the Trustee shall pay out of moneys credited to the Bond Fund the amounts required for the payment of principal and premium, if any, due on the Bonds on such date and such amounts shall be applied to such payments.

(iii) If there shall be insufficient moneys in the Bond Fund to pay in full interest, principal or premium, if any, due on the Bonds on any Interest Payment Date or Principal Payment Date or redemption date, the Trustee shall, three days prior to such date, notify the City of such deficiency, and if by one day prior to such date such deficiency has not been cured, transfer an amount equal to the deficiency into the Bond Fund from the Funds indicated in the following order:

FIRST: the Redemption Fund; and

SECOND: the Debt Service Reserve Fund (for payment of principal and interest on any Interest Payment Date or Principal Payment Date only).

(d) All payments made pursuant to this Section 504 shall be made in immediately available funds.

Section 505. Cost of Issuance Fund. There shall be deposited to the credit of the Cost of Issuance Fund all moneys received for said Fund pursuant to Section 208 hereof. The Trustee shall pay those Costs of Issuance as directed by the City pursuant to a Certificate delivered on a Closing Date. After all Costs of Issuance have been paid (and in any event not later than _____ 1, 2017 with respect to the Series 2017 Bonds), any remaining moneys in the Cost of Issuance Fund shall be transferred to the Bond Fund. The Cost of Issuance Fund is not pledged to the payment of the Bonds.

Section 506. Redemption Fund. (a) There shall be deposited to the credit of the Redemption Fund all moneys required to be transferred thereto to effect an optional redemption of the Bonds pursuant to Section 301(a) hereof and all moneys transferred thereto pursuant to Section 502 and Section 503 of this Indenture.

(b) Moneys credited to the Redemption Fund shall be expended only as set forth in this Section 506.

(c) Moneys in the Redemption Fund shall be transferred to the Bond Fund at such times as may be necessary to effectuate, on the first available date, redemptions of Bonds required by Section 301(a), (b) and (c) of this Indenture.

(d) The amounts accumulated in the Redemption Fund, if so directed by the City by means of a Certificate delivered to the Trustee, shall be applied by the Trustee to the purchase of Bonds of the maturities which would otherwise be redeemed pursuant to Section 301(a), (b) and (c) and this Section 506 but for the provisions of this subsection (d), at prices directed by the

City not exceeding the applicable redemption prices of the Bonds which would be redeemed but for the operation of this sentence. Interest accrued on the Bonds so purchased shall be paid from moneys credited to the Bond Fund.

Section 507. Rebate Fund. (a) The Trustee shall establish and maintain, separate and apart from any other Funds established and maintained hereunder, a Fund to be designated as the Rebate Fund, which Fund is not pledged to the payment of any Bonds. Subject to the transfer provisions provided in subsection (c) below, all moneys at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Amount (as defined in each Tax Regulatory Agreement), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 507, by Section 406, and by each Tax Regulatory Agreement (which are incorporated herein by reference).

(b) As provided in Section 503(b) hereof, there shall be deposited in the Rebate Fund the amount of all income or gain on moneys deposited in any of the Funds established by this Indenture which is required to be rebated to the United States and is designated for deposit therein, as calculated by the City to be owing to the United States pursuant to the Tax Regulatory Agreement, which shall be delivered by the City concurrently with the issuance of a series of Bonds.

(c) The Trustee, upon receipt of written instructions from the Mayor or Finance Director of the City, shall pay to the United States out of amounts in the Rebate Fund such amounts as are required pursuant to each Tax Regulatory Agreement.

(d) Any moneys remaining in the Rebate Fund after payment to the United States, within sixty (60) days after the date on which the last Bond is redeemed, of one hundred percent (100%) of the rebate amount as described in Section 148(f)(2) of the Code, shall be transferred to the Revenue Fund.

(e) The Trustee, as instructed by Certificate of the City, shall invest all amounts held in the Rebate Fund in Investment Obligations, subject to the restrictions set forth in the applicable Tax Regulatory Agreement. Money shall not be transferred from the Rebate Fund except as provided in subsection (c).

(f) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Amount to the United States and to comply with all other requirements of this Section 507, Section 406 and each Tax Regulatory Agreement shall survive the defeasance or payment in full of the Bonds.

Section 508. Debt Service Reserve Fund. As provided in Section 208(b)(2) hereof, upon the issuance of each series of Bonds, there shall be deposited into the Debt Service Reserve Fund, from proceeds of the Bonds, an amount sufficient to cause the amounts on deposit therein to be equal to the Reserve Requirement. The Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement. The Debt Service Reserve Fund shall be used solely to pay the principal of and interest on Outstanding Bonds for which there are insufficient

funds available in the Bond Fund to make such payments, as the same become due at maturity (including mandatory sinking fund redemption). If the Debt Service Reserve Fund, by virtue of any such payment, is reduced below the Reserve Requirement, it shall be reimbursed in the amount of any such deficiency as provided in Section 503. Notwithstanding the above provisions of this Section 508, the amount on deposit in the Debt Service Reserve Fund may be used, together with other available funds, to provide for the payment at maturity or to redeem prior to maturity all, but not less than all, of the Outstanding Bonds. If an excess shall exist in the Debt Service Reserve Fund over and above the Reserve Requirement, such excess shall be transferred to the Bond Fund.

Section 509. Cessation of Fund Deposits. When the moneys in the Bond Fund, the Debt Service Reserve Fund and the Redemption Fund shall be and remain sufficient to pay in full the principal and interest on all Bonds then Outstanding in accordance with Article VII of this Indenture, together with the required fees and expenses to be paid or reimbursed to the Trustee and Paying Agent, the City shall have no further obligation to make payments into said Funds.

Section 510. Separate Accounts Authorized. A Supplemental Indenture authorizing the issuance of Additional Bonds may provide for the creation of separate Accounts within the Bond Fund, Debt Service Reserve Fund, Redemption Fund, Project Fund, Cost of Issuance Fund and Rebate Fund for such series of Bonds and such other Accounts as the City may direct; provided, that the creation of such separate Accounts shall be solely for the ease of administration and shall in no event affect the equal and ratable security of the Bonds of each series.

If any Supplemental Indenture authorizing the issuance of Additional Bonds provides for the establishment of separate Accounts for a series of Bonds, then such Supplemental Indenture shall require that the Tax Receipts received by the City shall be deposited pursuant to written direction of the City into each of the Accounts within the Bond Fund and Debt Service Reserve Fund for each series of Bonds on the basis of the installments of principal, premium, if any, and interest due on each series of Bonds and the amounts required to be deposited in the Accounts within the Bond Fund and the Debt Service Reserve Fund during the applicable period, to the end that the Bonds of each series shall be equally and ratably secured by the Tax Receipts.

Any Supplemental Indenture authorizing the issuance of Additional Bonds shall provide that any proceeds of such series of Bonds and investment earnings thereon remaining after some specified date, or after the construction of all facilities to be financed with the proceeds of such series of Bonds, shall be applied to the redemption of such series of Bonds.

ARTICLE VI INVESTMENTS

Section 601. Investment of Moneys. At the direction of the City or absent such direction, the Trustee shall invest moneys in Funds or Accounts held by the Trustee in Investment Obligations with maturity or redemption dates consistent with the times at which said moneys will be required for the purposes provided in this Indenture; provided, however, the stated maturity dates of Investment Obligations of Debt Service Reserve Fund moneys shall not

exceed five years from the date of investment therein. Moneys in separate Funds or Accounts may be commingled for the purpose of investment.

Section 602. Investment Earnings. Subject to the provisions of the Tax Regulatory Agreement and Article V hereof, Investment Obligations purchased with moneys held in or attributable to any Fund or Account held by the Trustee under the provisions of this Indenture shall be deemed at all times to be a part of such Fund or Account and the income or interest earned, profits realized or losses suffered by a Fund or Account due to the investment thereof shall be retained in, credited or charged, as the case may be, to such Fund or Account unless otherwise provided pursuant to this Indenture.

Section 603. Valuation of Funds. Investments in any Fund or Account shall be evaluated monthly by the Trustee. The Trustee shall report the determined value of each Fund and Account to the City. For the purpose of determining the amount in any Fund or Account, the Trustee shall value all Investment Obligations credited to such Fund or Account at the fair market value thereof. The Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. As to certificates of deposit and bankers' acceptances, fair market value shall mean the face amount thereof, plus accrued interest thereon, and as to any other investment not specified above, fair market value is the value thereof as established by prior agreement between the City and the Trustee.

The Trustee shall sell or present for redemption any Investment Obligations as necessary in order to provide money for the purpose of making any payment required hereunder, and the Trustee shall not be liable for any loss resulting from any such sale.

Section 604. Responsibility of Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it at the direction of the City.

ARTICLE VII DISCHARGE OF LIEN

Section 701. Discharge of Lien. If the City shall pay or cause to be paid to the owners of the Bonds the principal, premium, if any, and interest to become due thereon at the times and in the manner stipulated therein, and if the City shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it on its part, then these presents and the estate and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the City such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the City the estate hereby conveyed, and assign and deliver to the City any property at the time subject to the lien of this Indenture which may then be in its possession, except moneys or Government Securities held by it for the payment of the principal of and premium, if any, and interest on the Bonds.

Section 702. Bonds Deemed Paid. Any Bond shall be deemed to be paid within the meaning of this Article VII when payment of the principal of and premium, if any, and interest on such Bond (whether at maturity or upon redemption as provided in this Indenture, or

otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment or (2) Government Securities (provided that such deposit will not affect the tax-exempt status of the interest on any of the Bonds or cause any of the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148(a) of the Code, as reflected in an opinion of Bond Counsel delivered to the Trustee), maturing as to principal and interest in such amount and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee and any Paying Agent pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee and any said Paying Agent.

Section 703. Non-Presentment of Bonds. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if there shall have been deposited with the Trustee for that purpose, or left in trust if previously so deposited, funds sufficient to pay the principal thereof, and premium, if any, together with all interest unpaid and due thereon, to the due date thereof, for the benefit of the Holder thereof, all liability of the City to the Holder thereof for the payment of the principal thereof, premium if any, and interest thereon, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Holder of such Bonds, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, the Bonds.

ARTICLE VIII

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 801. Events of Default. Each of the following events shall constitute and is referred to in this Indenture as an “Event of Default”:

- (a) Default in the due and punctual payment of any interest on any Bond;
- (b) Default in the due and punctual payment of the principal of or premium, if any, on any Bond, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;
- (c) Default in the payment of any other amount required to be paid under this Indenture or the performance or observance of any other of the covenants, agreements or conditions contained in this Indenture, or in the Bonds issued hereunder, and continuance thereof for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied shall have been given to the City by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Bondholders of not less than 51% in aggregate principal amount of the Bonds then Outstanding, unless the Trustee, or the Trustee and Holders of an aggregate principal amount of Bonds not less than the aggregate principal amount of Bonds the Holders of which requested such notice, as the case may be, shall agree in writing to an extension of

such period prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such period and is being diligently pursued;

(d) The filing of a petition in bankruptcy by or against the City under the United States Bankruptcy Code or the commencement of a proceeding by or against the City under any other law concerning insolvency, reorganization or bankruptcy; and

(e) If the State has limited or altered the rights of the City pursuant to the Act, as in force on the date of this Indenture, to fulfill the terms of any agreements made with the Trustee or the Bondholders or in any way impaired the rights and remedies of the Trustee or the Bondholders while any Bonds are Outstanding.

The term “default” as used in clauses (a), (b) and (c) above shall mean default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Indenture or in the Bonds Outstanding hereunder, exclusive of any period of grace required to constitute a default an “Event of Default” as hereinabove provided.

Section 802. Acceleration. Upon the occurrence of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall, by notice in writing delivered to the City, declare the principal of all Bonds then Outstanding, together with the interest accrued thereon, immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

Section 803. Other Remedies; Rights of Bondholders. Upon the occurrence of an Event of Default, the Trustee may, as an alternative, pursue any available remedy by suit at law or in equity, including, without limitation, mandamus to enforce the payment of the principal of and premium, if any, and interest on the Bonds then Outstanding hereunder.

If an Event of Default shall have occurred, and if it shall have been requested so to do by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder and if it shall have been indemnified as provided in Section 901(l) hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred upon it by this Section 803 as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 804. Right of Bondholders to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceeding hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 805. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled to the appointment of a receiver or receivers of the Trust Estate and of the tolls, rents, revenues, issues, earnings, income, products and profits thereof, including, without limitation, the Tax Receipts, pending such proceedings with such powers as the court making such appointment shall confer.

Section 806. Waiver. In case of an Event of Default on its part, as aforesaid, to the extent that such rights may then lawfully be waived, neither the City nor anyone claiming through the City or under the City shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or thereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the City, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisalment and redemption to which it may be entitled under the laws of the State.

Section 807. Application of Moneys. Available moneys remaining after discharge of costs, charges and liens prior to this Indenture shall be applied by the Trustee as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First: To the payment to the Persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

Second: To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and, if the amount

available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege of any Bond over any other Bond and without preference or priority of principal over interest or of interest over principal; and

Third: To the payment of the interest on and the principal of the Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article V of this Indenture.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied first to the payment of the interest then due and unpaid upon the Bonds, and then to the payment of the principal then due and unpaid upon the Bonds, in each case without preference or priority of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article VIII then, subject to the provisions of paragraph (b) of this Section 807, in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section 807.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section 807, such moneys shall be applied by it at such times, and from time to time, as it shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 808. Remedies Vested in Trustee. All rights of action (including the right to file proof of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Bondholders hereby secured, and any recovery of judgment shall be for the equal benefit of the Holders of all Outstanding Bonds.

Section 809. Rights and Remedies of Bondholders. No Bondholder shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any

other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 901, or of which by said subsection it is deemed to have notice, nor unless such default shall have become an Event of Default and the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in subsection (l) of Section 901, nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by action of the Holder or Holders or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, held and maintained in the manner herein provided for the equal benefit of the Holders of all Bonds Outstanding hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholders to enforce the payment of the principal of and premium, if any, and interest on any Bonds at and after the maturity thereof, or the obligation of the City to pay the principal of and premium, if any, and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time and place in said Bonds expressed.

Section 810. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the City and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken, except to the extent the Trustee is legally bound by such adverse determination.

Section 811. Waivers of Events of Default. The Trustee may, and upon the written request of the Holders of not less than 51% in principal amount of all Bonds Outstanding hereunder shall, waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal; provided, however, there shall not be waived any Event of Default described in clause (a) or (b) of the first paragraph of Section 801 hereof, unless prior to such waiver or rescission all arrears of principal (due otherwise than by declaration) and interest, and all expenses of the Trustee and Paying Agent, shall have been paid or provided for. In case of any such waiver or rescission the City, Trustee and the Bondholders shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right subsequent thereon.

ARTICLE IX TRUSTEE AND PAYING AGENT

Section 901. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following expressed terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any duties required of it by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and its duties hereunder, and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. Reimbursement of such compensation paid by the Trustee is subject to the provisions of Section 902 hereof. The Trustee may act upon the opinion or advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care, or, if selected or retained by the City prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section 901, or of which by said subsection the Trustee is deemed to have notice, approved by the Trustee in the exercise of such care. The Trustee shall not be responsible for any loss or damage resulting from an action or nonaction in accordance with any such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of authentication of the Trustee endorsed on such Bonds), or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of the title of the property herein conveyed or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property herein conveyed pursuant to any provision of this Indenture, it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed.

(c) The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it, in the exercise of reasonable care, to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of the owner of any Bond secured hereby, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Certificate of the City signed by its Authorized Representative and attested by the City

Clerk as sufficient evidence of the facts therein contained and, prior to the occurrence of a default of which it has been notified as provided in subsection (g) of this Section 901, or of which by that subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may at its discretion, at the reasonable expense of the City, in every case secure such further evidence as it may think necessary or advisable but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Clerk of the City under its seal to the effect that a resolution or ordinance in the form therein set forth has been adopted by the City as conclusive evidence that such resolution or ordinance has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee, and the Trustee shall be answerable only for its own gross negligence or willful misconduct.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder (except for defaults under clause (a) or (b) of the first paragraph of Section 801 hereof as to which the Trustee shall be deemed to have notice) unless the Trustee shall be specifically notified in writing of such default by the City or by the Holders of at least 10% in aggregate principal amount of Bonds Outstanding hereunder, and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered to the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no such default except as aforesaid.

(h) [Reserved].

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers and records of the City pertaining to the Tax Receipts and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(l) Before taking such action hereunder, the Trustee may require that it be furnished an indemnity bond satisfactory to it for the reimbursement to it of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee, by reason of any action so taken by the Trustee.

Section 902. Fees, Charges and Expenses of Trustee and Paying Agent. (a) Subject to subsection (b) of this Section 902, the City shall, from moneys lawfully available therefor, pay to the Trustee and Paying Agent reasonable compensation for all services performed hereunder and also all reasonable expenses, charges and other disbursements and those of their attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of the powers and duties hereunder and, to the extent permitted by law and from moneys lawfully available therefor, shall indemnify and save the Trustee harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder. With respect to the Series 2017 Bonds, the Trustee's initial authentication fee shall be \$_____ and the annual administration fee of the Trustee shall be \$_____; provided, however, that during any period in which amounts are on deposit in the Project Fund, the annual administration fee of the Trustee shall be \$_____. If the City shall fail to make any payment required by this subsection (a), the Trustee may make such payment from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any of the Bonds Outstanding hereunder. The City shall not be required to indemnify the Trustee against any liabilities which the Trustee may incur as a result of negligent or wrongful acts or omissions of the Trustee.

(b) The City shall pay to the Trustee compensation for its services as described in Section 902(a), provided that such compensation, together with all expenses, charges and other disbursements of the Trustee and its attorneys, agents and employees and all reimbursements to the Trustee for all costs and other disbursements as described in Section 901(a) hereof shall not exceed [\$9,500] annually (not including the initial authentication fee) without the prior written approval of the City, which approval shall not be unreasonably withheld. If the Trustee wishes to consult with or retain counsel for any purpose hereunder whose anticipated fees, together with all other compensation, disbursements and reimbursements of the Trustee and its attorneys, agents and employees to be paid by the City hereunder, shall exceed [\$10,000] annually, then such counsel shall have to be acceptable to the City and such fees shall have to be approved by the City as described above.

Section 903. Additional Duties of Trustee. (a) In addition to the other duties of the Trustee described in this Indenture, it shall be the duty of the Trustee, on or before the tenth day of each month after the month in which the Series 2017 Bonds are delivered, to file with the City a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it and the amount deposited with it on account of each Fund and Account held by it under the provisions of this Indenture;
- (ii) the amount on deposit with it at the end of such month to the credit of each such Fund and Account;

(iii) a brief description of all obligations held by it as an investment of moneys in each such Fund and Account;

(iv) the amount applied to the purchase or redemption of Bonds under the provisions of this Indenture and a description of the Bonds or portions of Bonds so purchased or redeemed; and

(v) any other information that the City may reasonably request, including, but not limited to, submittal of monthly statements of activity relating to the Bonds. Such information shall also be provided at the direction of the City to one additional designated entity.

All records and files pertaining to each such Fund and Account in the custody of the Trustee hereunder shall be open at all reasonable times to the inspection of the City and its agents and representatives, and the City may make copies thereof.

(b) The Trustee additionally shall be responsible for the preparation and timely distribution of any and all forms and reports required by law to all Bondholders, the State and the Internal Revenue Service in connection with the payment to the Bondholders of interest on the Bonds.

Section 904. Notice to Bondholders of Default. If a default occurs of which the Trustee is pursuant to the provisions of Section 901(g) deemed to have or is given notice, the Trustee shall promptly make demand upon the City and give notice to each owner of Bonds then Outstanding.

Section 905. Intervention by Trustee. In any judicial proceeding to which the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of Bonds issued hereunder, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the Holders of at least 51% of the aggregate principal amount of Bonds Outstanding hereunder. The rights and obligations of the Trustee under this Section 905 are subject to the approval of the court having jurisdiction in the premises.

Section 906. Merger or Consolidation of Trustee. Any bank or trust company to which the Trustee may be merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any bank or trust company resulting from any such sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor trustee shall have capital and surplus of at least \$40 million.

Section 907. Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving written notice to the City and the Bondholders, and such resignation shall take effect upon the appointment of a successor trustee

by the Bondholders or by the City. Such notice may be served personally or sent by registered mail (to the City) or first class mail (to the Bondholders).

Section 908. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the City, and signed by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder.

Section 909. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by the court, a successor may be appointed by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder, by an instrument or concurrent instruments in writing signed by such Holders, or by their attorneys in fact, duly authorized; provided, nevertheless, that in case of such vacancy the City by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, shall appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed by the Bondholders in the manner above provided. Any such temporary trustee appointed by the City shall immediately and without further act be superseded by the trustee appointed by such Bondholders. Every such temporary trustee and every such successor trustee shall be a trust company or bank in good standing, having capital and surplus of not less than \$40 million.

Section 910. Concerning Any Successor Trustee. Every successor or temporary trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing accepting such appointment hereunder, and thereupon such successor or temporary trustee, without any further act or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the City or of its successor trustee, execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor trustee shall deliver all securities, moneys and any other property held by it as trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged, and delivered by the City.

Section 911. Reliance Upon Instruments. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted and relied upon by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

Section 912. Appointment of Co-Trustee. The City and the Trustee shall have power to appoint, and upon the request of the Trustee the City shall for such purpose join with the Trustee in the execution of all instruments necessary or proper to appoint, another corporation or one or more Persons approved by the Trustee, either to act as co-trustee or co-trustees jointly

with the Trustee of all or any of the property subject to the lien hereof, with such powers as may be provided in the instrument of appointment and to vest in such corporation or Person or Persons as such co-trustee any property, title, right or power deemed necessary or desirable. In the event that the City shall not have joined in such appointment within fifteen (15) days after the receipt by it of a request so to do, the Trustee alone shall have the power to make such appointment. Should any deed, conveyance or instrument in writing from the City be required by the co-trustee so appointed for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City. Every such co-trustee shall, to the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

(a) The Bonds shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody of all money and securities pledged or deposited hereunder, shall be exercised solely by the Trustee; and

(b) The Trustee, at any time by an instrument in writing, may remove any such separate Trustee or co-trustee.

Every instrument, other than this Indenture, appointing any such co-trustee shall refer to this Indenture and the conditions of this Article IX expressed, and upon the acceptance in writing by such co-trustee, the co-trustee shall be vested with the estate or property specified in such instrument, jointly with the Trustee (except insofar as local law makes it necessary for any separate trustee to act alone), subject to all the trusts, conditions and provisions of this Indenture. Any such co-trustee may at any time, by an instrument in writing, constitute the Trustee as the co-trustee's agent or attorney-in-fact with full power and authority, to the extent authorized by law, to do all acts and things and exercise all discretion authorized or permitted by the co-trustee, for and on behalf of the co-trustee and in the co-trustee's name. In case any co-trustee shall die, become incapable of acting, resign or be removed, all the estate, properties, rights, powers, trusts, duties and obligations of said co-trustee shall vest in and be exercised by the Trustee until the appointment of a new trustee or a successor to such co-trustee.

Section 913. Designation and Succession of Paying Agent. The Trustee and any successor Trustee shall also be the Paying Agent for the Bonds. The Paying Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in Section 901 hereof with respect to the Trustee insofar as such provisions may be applicable.

ARTICLE X SUPPLEMENTAL INDENTURES

Section 1001. Supplemental Indentures Not Requiring Consent of Bondholders. The City and the Trustee may, from time to time and at any time, without the consent of or notice to the Bondholders, enter into Supplemental Indentures as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture;

(b) to grant to or confer or impose upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with this Indenture as theretofore in effect, provided that no such additional liabilities or duties shall be imposed upon the Trustee without its consent;

(c) to add to the covenants and agreements of, and limitations and restrictions upon, the City in this Indenture other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Indenture as theretofore in effect;

(d) to confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Indenture, of the Trust Estate or of any other moneys, securities or funds;

(e) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(f) to authorize the issuance and sale of one or more series of Additional Bonds;

(g) to make such additions, deletions or modifications as may be necessary to assure compliance with Section 148(f) of the Code relating to required rebate to the United States or otherwise as may be necessary to assure exemption from federal income taxation of interest on the Bonds; or

(h) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the Bondholders and which does not involve a change described in clause (a), (b), (c), (d), (e) or (f) of Section 1002 hereof and which, in the judgment of the Trustee, is not to the prejudice of the Trustee.

Section 1002. Supplemental Indentures Requiring Consent of Bondholders. Subject to the terms and provisions contained in this Section 1002, and not otherwise, the Holders of not less than 2/3 in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing herein contained shall permit or be construed as permitting (a) an extension of the maturity (or mandatory redemption date) of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of or redemption premium or rate of interest on any Bond issued hereunder, or (c) the creation of any lien on the Trust Estate or any part thereof, except as hereinbefore expressly permitted, or (d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, or (f) the deprivation of the Holder of any Bond then Outstanding of the lien hereby created on the Trust Estate. Nothing herein

contained, however, shall be construed as making necessary the approval of Bondholders of the execution of any Supplemental Indenture as provided in Section 1001.

If, at any time the City shall request the Trustee to enter into any Supplemental Indenture for any of the purposes of this Section, the Trustee shall, at the expense of the City, cause notice of the proposed execution of such Supplemental Indenture to be mailed by first class mail to each registered owner of the Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail such notice, and any such failure shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section 1002. If the Holders of not less than 2/3 in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1003. Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture entered into pursuant to Section 1001 or 1002 hereof, this Indenture shall be deemed to be modified and amended in accordance therewith.

ARTICLE XI [RESERVED]

ARTICLE XII MISCELLANEOUS

Section 1201. Consents, etc. of Bondholders. Any request, direction, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before such officer the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers, and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee, as Bond registrar.

Section 1202. Notices. Except as otherwise provided in this Indenture, all notices, certificates or other communications shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, to the City or the Trustee. Notices, certificates or other communications shall be sent to the following addresses:

City:	City of Fayetteville City Administration Building 113 West Mountain Fayetteville, Arkansas 72701 Attention: Mayor
Trustee:	Simmons Bank 501 Main Street Pine Bluff, Arkansas 71601 Attention: Glenda L. Dean, Corporate Trust

Any of the foregoing may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 1203. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds issued hereunder, is intended or shall be construed to give to any person or company other than the parties hereto, and the Holders of the Bonds secured by this Indenture any legal or equitable rights, remedy, or claim under or in respect to this Indenture or any covenants, conditions, and provisions hereof being intended to be and being for the sole exclusive benefit of the parties hereto and the Holders of the Bonds hereby secured as herein provided.

Section 1204. Severability. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof.

Section 1205. Applicable Provisions of Law. This Indenture shall be considered to have been executed in the State of Arkansas and it is the intention of the parties that the substantive law of the State of Arkansas govern as to all questions of interpretation, validity and effect.

Section 1206. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1207. Successors and Assigns. All the covenants, stipulations, provisions, agreements, rights, remedies and claims of the parties hereto in this Indenture contained shall bind and inure to the benefit of their successors and assigns.

Section 1208. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

Section 1209. Photocopies and Reproductions. A photocopy or other reproduction of this Indenture may be filed as a financing statement pursuant to the Uniform Commercial Code, although the signatures of the City and the Trustee in such reproduction are not original manual signatures.

Section 1210. Bonds Owned by City. In determining whether Bondholders of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the City shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

IN WITNESS WHEREOF, the City has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and, to evidence its acceptance of the trust hereby created, the Trustee has caused these presents to be signed in its behalf by its duly authorized officers and its corporate seal to be hereto affixed.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

City Clerk

(S E A L)

SIMMONS BANK,
as Trustee

By: _____
Title:

ATTEST:

By: _____
Title:

(S E A L)

[SIGNATURE PAGE TO TRUST INDENTURE]

EXHIBIT A TO TRUST INDENTURE

Form of Series 2017 Bond

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by the authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED

No. R17-_____

REGISTERED

\$_____

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
CITY OF FAYETTEVILLE, ARKANSAS
LIBRARY IMPROVEMENT BOND
SERIES 2017**

Interest Rate: _____%

Maturity Date: _____ 1, 20__

Date of Bond: _____ 1, 2017

CUSIP: _____

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS

KNOW ALL MEN BY THESE PRESENTS:

That the City of Fayetteville, Arkansas, a municipality and political subdivision organized and existing by virtue of the laws of the State of Arkansas (the "City"), for value received, promises to pay to the Registered Owner shown above, or registered assigns, on the Maturity Date shown above, but solely from the source and in the manner hereinafter set forth, the Principal Amount shown above, and in like manner to pay interest on said amount from the date hereof until payment of such Principal Amount has been made or duly provided for, at the Interest Rate per annum shown above, such interest to be payable semiannually on _____ 1 and _____ 1 of each year, commencing on the _____ 1 or _____ 1 next succeeding the date of this bond shown above, except as the provisions hereinafter set forth with respect to redemption of this bond prior to maturity may become applicable hereto. The principal of and premium, if any, on this bond are payable in lawful money of the United States of America upon the presentation and surrender hereof at the principal corporate trust office of Simmons Bank, Pine Bluff, Arkansas, or its successor or successors, as trustee (the "Trustee"). So long as Cede & Co. or another nominee of DTC is the registered owner of this bond, payment of interest hereon shall be made by wire transfer of immediately available funds by the Trustee to the Registered Owner as of the fifteenth day of the calendar month preceding the calendar month in which such interest payment date shall fall (the

“Record Date”). At any time thereafter, payment of interest hereon shall be made by check or draft of the Trustee to the Registered Owner as of the applicable Record Date, at the owner’s address as it appears on the bond registration books of the City kept by the Trustee.

This bond, designated “Library Improvement Bond, Series 2017”, is one of a series of bonds aggregating _____ Dollars (\$_____) in principal amount (the “Series 2017 Bonds”). The Series 2017 Bonds are being issued for the purpose of (i) financing a portion of the costs of acquisition, construction and equipping of capital improvements to the Fayetteville Public Library (the “Project”), (ii) funding a debt service reserve, and (iii) paying the costs of issuance of the Series 2017 Bonds.

The Series 2017 Bonds are issued under and are secured by and entitled to the protection of a Trust Indenture dated as of _____ 1, 2017 (the “Indenture”), by and between the City and the Trustee, which Indenture is available for inspection at the principal corporate trust office of the Trustee. Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the City, the Trustee and the owners of the Series 2017 Bonds, and the terms upon which the Series 2017 Bonds are issued and secured.

The Series 2017 Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly, the Local Government Library Bond Act, codified as Arkansas Code Annotated (1998 Repl. & 2015 Supp.) §§14-142-201 *et seq.* (as from time to time amended, the “Act”), and Ordinance No. _____ of the City adopted _____, 2016, which ordinance authorized the execution and delivery of the Indenture.

In order to secure the repayment of the Series 2017 Bonds, the City has, in accordance with the Act, pledged all receipts from (i) a one and two-tenths (1.20) mill city tax on real and personal property within the City, together with all penalties and interest with respect thereto (the “Library Tax”), approved by the electors of the City and (ii) the City’s allocable portion of the one-half of one percent (0.5%) statewide sales and use tax levied pursuant to Amendment 79 to the Constitution of the State of Arkansas (“Amendment 79”) which is intended to offset any decreases in the Library Tax resulting from the homestead exemption implemented pursuant to Amendment 79 (the “Special Tax Collections”).

The Indenture provides that the City may hereafter issue Additional Bonds under certain terms and conditions contained in the Indenture and, if issued or incurred, such Additional Bonds will rank on a parity of security with the Series 2017 Bonds and be equally and ratably secured by and entitled to the protection of the Indenture.

The Series 2017 Bonds are not general obligations of the City, but are special obligations secured by an irrevocable pledge of and lien on the receipts from the Library Tax and the Special Tax Collections (collectively, the “Tax Receipts”), as more particularly described in the Indenture. In no event shall the Series 2017 Bonds constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

The holder of this Series 2017 Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Series 2017 Bonds and Additional Bonds, if any, issued under the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon. Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Series 2017 Bonds are subject to redemption at the election of the City, on and after _____ 1, 20__, in whole or in part (in any order of maturities directed by the City, and by lot within a maturity) at any time, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption.

The Series 2017 Bonds shall be redeemed prior to maturity, in whole or in part (in inverse order of maturities and by lot within a maturity), on any Interest Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from Project Fund moneys in excess of the amount needed to complete the Project or portion thereof being financed with the proceeds of the Series 2017 Bonds.

The Series 2017 Bonds shall be redeemed prior to maturity, in whole or in part (in inverse order of maturities and by lot within a maturity), on any Interest Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from surplus Tax Receipts (being amounts over and above the amount necessary to pay (i) current requirements of principal of and interest on the Bonds and Trustee and Paying Agent fees and expenses and (ii) amounts due on the next succeeding Interest Payment Date or Principal Payment Date).

The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
20__	\$
20__	\$
20__	\$
20__ (maturity)	\$

The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
-------------	-------------------------

20__	\$
20__	\$
20__	\$
20__ (maturity)	\$

The Series 2017 Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity in part, on _____ 1 in the years and amounts set forth below at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption, without premium:

Year	Principal Amount
20__	\$
20__	\$
20__	\$
20__ (maturity)	\$

At its option, to be exercised on or before the 45th day next preceding any mandatory sinking fund redemption date for any Series 2017 Bonds, the City may deliver to the Trustee for cancellation Series 2017 Bonds of the appropriate maturity, or portions thereof (\$5,000 or any integral multiple thereof), in any aggregate principal amount desired. Each such Series 2017 Bond, or portion thereof, so delivered or previously redeemed (otherwise than through mandatory sinking fund redemption) and canceled by the Trustee shall be credited by the Trustee at 100% of the principal amount thereof on the obligation of the City on such mandatory sinking fund redemption date, and any excess over such amount shall be credited on future mandatory sinking fund redemption obligations of that maturity in chronological order, and the principal amount of such Series 2017 Bonds so to be redeemed shall be accordingly reduced.

Notwithstanding the foregoing, so long as DTC or its nominee is the sole registered owner of the Series 2017 Bonds, the particular Series 2017 Bonds or portions thereof to be redeemed in part within a maturity shall be selected by lot by DTC in such manner as DTC shall determine. In selecting Series 2017 Bonds for redemption prior to maturity, in the case any outstanding Series 2017 Bond is in a denomination greater than \$5,000, each \$5,000 of face value of such Series 2017 Bond shall be treated as a separate Series 2017 Bond of the denomination of \$5,000.

In the event any of the Series 2017 Bonds or portions thereof (which shall be \$5,000 or any integral multiple thereof) are called for redemption, notice thereof shall be given by the Trustee by first class mail to the registered owner of each such Series 2017 Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Series 2017 Bond with respect to which no such failure or defect has occurred. Each notice shall identify the Series 2017 Bonds or portions thereof being called, and the date on which they shall be presented for payment. After the date specified in such call notice, the Series 2017 Bond or Bonds so called for redemption will cease to bear interest provided funds sufficient for their redemption have been deposited with the Trustee, and,

except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

This Series 2017 Bond may be transferred on the books of registration kept by the Trustee by the registered owner or by his duly authorized attorney upon surrender hereof, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney.

The Series 2017 Bonds are issuable as registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Indenture, Series 2017 Bonds may be exchanged for a like aggregate principal amount of Series 2017 Bonds of other authorized denominations.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Series 2017 Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Series 2017 Bonds or the Indenture against any past, present or future alderman, officer or employee of the City, or any successor, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, officer or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of any of the Series 2017 Bonds.

This Series 2017 Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Series 2017 Bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the Series 2017 Bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation; and that the revenues pledged to the payment of the principal of and premium, if any, and interest on the Series 2017 Bonds as the same become due and payable will be sufficient in amount for that purpose.

This Series 2017 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas has caused this Series 2017 Bond to be executed by its Mayor and City Clerk, thereunto duly authorized (by their manual or

facsimile signatures), and its corporate seal to be affixed or imprinted hereon, all as of the date hereof shown above.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

(S E A L)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Series 2017 Bonds of the issue described in and issued under the provisions of the within mentioned Indenture.

Attached hereto is the complete text of the opinion of Kutak Rock LLP, a signed original of which is on file with the undersigned, delivered and dated the date of the original delivery of and payment for the Series 2017 Bonds.

SIMMONS BANK,
as Trustee

By: _____
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, _____, hereby sells, assigns, and transfers unto _____, the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ as attorney to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATE: _____, 20__.

Transferor

GUARANTEED BY:

NOTICE: Signature(s) must be guaranteed by an institution satisfactory to the Trustee or other transfer agent.

EXHIBIT B TO TRUST INDENTURE

COVERAGE CERTIFICATE

City of Fayetteville, Arkansas
Library Tax Improvement Bonds
Series 2017

Date: _____

TO: Simmons Bank, as Trustee

This certificate is provided pursuant to the provisions of Section 212 of the Trust Indenture dated as of _____ 1, 2017 (the "Indenture"), by and between the City of Fayetteville, Arkansas (the "City") and you, as trustee, in connection with the proposed issuance of Additional Bonds. In connection with such issuance, the undersigned certifies as follows:

- (a) Tax Receipts deposited into Revenue Fund for preceding twelve (12) months: \$ _____
- (b) Maximum Annual Debt Service on all Outstanding Bonds, plus the proposed Additional Bonds: \$ _____
- (c) (a) divided by (b) = _____% (which is greater than [_____]%)

The undersigned hereby certifies that he is authorized to deliver this Certificate on behalf of the City.

No Event of Default exists under the Indenture and, to the knowledge of the undersigned, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Finance Director

EXHIBIT C TO TRUST INDENTURE

FORM OF REQUISITION

City of Fayetteville, Arkansas Library Improvement Bonds, Series _____

Date: _____

Requisition No.: _____

Project Name: _____

TO: Simmons Bank, as Trustee

Pursuant to the provisions of Section 502 of the Trust Indenture dated as of _____ 1, 2017 (the "Indenture"), by and between the City of Fayetteville, Arkansas (the "City") and you, as trustee, you are authorized to make the following described payment from the Project Fund [as a reimbursement to the City for payments previously made to the Payee named below][directly to the Payee named below]:

Name and Address of Payee: _____

Amount of Payment: \$ _____

General Classification of
the Expenditures: _____

The undersigned hereby certifies that he is authorized to deliver this Requisition on behalf of the City.

The amount requested hereunder has not been the basis for any previous Requisition by the City and is justly due and owing to the person(s) named herein as a proper payment or reimbursement of a Project Cost.

No Event of Default exists under the Indenture and, to the knowledge of the undersigned, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Authorized Representative

City of Fayetteville, Arkansas

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



Meeting Agenda - Tentative Agenda

Tuesday, September 13, 2016

4:30 PM

City Hall Room 326

City Council Agenda Session

*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*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

1. [2016-0119](#)

NOMINATING COMMITTEE REPORT

Agenda Additions

A. Consent:

A. 1 [2015-0655](#)

APPROVAL OF THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING MINUTES.

A. 2 [2016-0417](#)

BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:

A RESOLUTION TO AWARD BID NO. 16-51 AND AUTHORIZE A CONTRACT WITH MULTI-CRAFT CONTRACTORS, INC. FOR PLUMBING SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: [BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.](#)

A. 3 [2016-0418](#)

BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:

A RESOLUTION TO AWARD BID NO. 16-52 AND AUTHORIZE A CONTRACT WITH ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS FOR HVAC SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: [BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS](#)

A. 4 [2016-0416](#)**WEX BANK:**

A RESOLUTION TO APPROVE A CONTRACT WITH WEX BANK, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, TO ENABLE THE CITY TO PARTICIPATE IN A FUEL CARD PROGRAM

Attachments: [WEX BANK](#)

A. 5 [2016-0399](#)**2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:**

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF \$116,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT](#)
 [BA_2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT](#)

A. 6 [2016-0414](#)**FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:**

A RESOLUTION TO APPROVE A JOINT LEASE AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT FOR PORTIONS OF JEFFERSON ELEMENTARY SCHOOL, HOLCOMB ELEMENTARY SCHOOL AND LAKE FAYETTEVILLE

Attachments: [FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT](#)

A. 7 [2016-0410](#)**GAMETIME C/O CUNNINGHAM RECREATION:**

A RESOLUTION TO APPROVE THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME C/O CUNNINGHAM RECREATION FOR THE ELLEN SMITH HEAD START CENTER LOCATED AT 2052 SOUTH GARLAND AVENUE IN THE AMOUNT OF \$32,061.63, INCLUDING THE COST OF INSTALLATION, PURSUANT TO A U.S. COMMUNITIES NATIONAL COOPERATIVE PURCHASING PROGRAM CONTRACT

Attachments: [GAMETIME C/O CUNNINGHAM RECREATION](#)

A. 8 [2016-0422](#)**TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION:**

A RESOLUTION TO AUTHORIZE THE PURCHASE OF KITCHEN EQUIPMENT FOR THE FAYETTEVILLE SENIOR CENTER FROM TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION IN AN AMOUNT NOT TO EXCEED \$95,000.00, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, CONTINGENT UPON APPROVAL BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Attachments: [TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION](#)

B. Unfinished Business:**B. 1** [2016-0328](#)**RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES

(LEFT ON FIRST READING)

Attachments: [RZN 16-5442 \(2514 W. LORI RD./RAZORBACK GOLF COURSE\)](#)
 [BILL OF ASSURANCE](#)

At the July 19, 2016 City Council meeting this ordinance was left on the first reading. At the August 2, 2016 City Council Meeting this ordinance was left on the first reading and tabled indefinitely. At the September 6, 2016 City Council meeting this ordinance was left on the first reading and tabled to the September 20, 2016 City Council meeting.

B. 2 [2016-0382](#)**RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5500 FOR APPROXIMATELY 0.23 ACRES LOCATED AT 335 EAST 7TH STREET FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

(LEFT ON FIRST READING)

Attachments: [RZN 16-5500 \(335 E. 7TH ST./NIEDERMAN\) APPEAL](#)

At the September 6, 2016 City Council meeting this ordinance was left on the first reading.

C. Public Hearing:**C. 1** [2016-0419](#)**CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS:**

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY DRAKE ST PROPERTY, LLC, 1155 PROPERTIES, RPM1 PROPERTIES - FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC, AND NELMS, LLLP FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATION](#)
[BA CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCA](#)

D. New Business:

D. 1 [2016-0413](#)**LIBRARY IMPROVEMENT BONDS:**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

Attachments: [LIBRARY IMPROVEMENT BONDS](#)

D. 2 [2016-0398](#)**2016 MILLAGE LEVY:**

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2016 FIXING THE RATE THEREOF AT 2.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 2.5 MILLS FOR FAYETTEVILLE PUBLIC LIBRARY OPERATIONS, AND 1.2 MILLS FOR THE FAYETTEVILLE PUBLIC LIBRARY EXPANSION; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

Attachments: [2016 MILLAGE LEVY](#)

D. 3 [2016-0406](#)**RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5521 FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTHEAST OF SOUTH STREET AND SOUTH COLLEGE AVENUE FROM NC, NEIGHBORHOOD CONSERVATION TO RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE

Attachments: [RZN 16-5521 \(SE OF SOUTH ST. & COLLEGE AVE./FAYETTEVILLE RENTALS\)](#)

D. 4 [2016-0397](#)**RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5535 FOR APPROXIMATELY 14.20 ACRES LOCATED AT THE EAST END OF BORICK DRIVE FROM I-2, GENERAL INDUSTRIAL AND R-A, RESIDENTIAL AGRICULTURAL TO P-1, INSTITUTIONAL

Attachments: [RZN 16-5535 \(EAST END OF BORICK DR./CITY FIRE TRAINING CENTER\)](#)

D. 5 [2016-0392](#)**VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):**

AN ORDINANCE TO APPROVE VAC 16-5536 SUBMITTED BY MIKE BAUMANN FOR PROPERTY LOCATED AT THE SOUTH END OF MARKS MILL LANE TO VACATE PORTIONS OF A UTILITY, DRAINAGE AND ACCESS EASEMENT

Attachments: [VAC 16-5536: \(S. END OF MARKS MILL LN./SUMMIT PLACE S/D\)](#)

D. 6 [2016-0401](#)**ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):**

AN ORDINANCE TO AMEND THE SPRINGWOODS COMMERCIAL PLANNED ZONING DISTRICT TO ALLOW SINGLE FAMILY DWELLINGS AS A USE BY RIGHT ON TRACTS 2, 3, AND 4 OF LOT 2

Attachments: [ADM 16-5538 \(2180 W/ MOORE LN./SPRINGWOODS C-PZD MODIFICATION\)](#)

D. 7 [2016-0415](#)**ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-SHARE AGREEMENT:**

A RESOLUTION TO APPROVE A COST-SHARE AGREEMENT WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION TO ADD A PEDESTRIAN AND BICYCLE SHARED USE PATH TO THE WEDINGTON DRIVE BRIDGE OVER INTERSTATE 49 WITH THE CITY'S PORTION OF THE COST NOT TO EXCEED \$415,000.00

Attachments: [ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-](#)

D. 8 [2016-0420](#)**BID NO. 16-49 GOODWIN & GOODWIN, INC.:**

A RESOLUTION TO AWARD BID NO. 16-49 AND AUTHORIZE A CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$3,286,735.00 FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$328,673.50, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [BID NO. 16-49 GOODWIN & GOODWIN, INC.](#)
 [BA BID NO. 16-49 GOODWIN & GOODWIN, INC.](#)

D. 9 [2016-0421](#)**GARVER, LLC AMENDMENT NO. 2:**

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$196,800.00 TO ADD CONSTRUCTION PHASE SERVICES FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: [GARVER, LLC AMENDMENT NO. 2](#)
 [BA_GARVER, LLC AMENDMENT NO. 2](#)

E. City Council Agenda Session Presentations:**E. 1** [2016-0338](#)

AGENDA SESSION PRESENTATION - 2017 GENERAL FUND BUDGET DISCUSSION

F. City Council Tour:**G. Announcements:****H. 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 479-575-8330.

A copy of the complete City Council agenda is available at www.fayetteville-ar.gov 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: 2016-0119

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Report

Agenda Number: 1.

NOMINATING COMMITTEE REPORT



City of Fayetteville, Arkansas

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

Text File

File Number: 2015-0655

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Minutes

Agenda Number: A. 1

APPROVAL OF THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING MINUTES.



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0417

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 2

BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:

A RESOLUTION TO AWARD BID NO. 16-51 AND AUTHORIZE A CONTRACT WITH MULTI-CRAFT CONTRACTORS, INC. FOR PLUMBING SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

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 awards Bid No. 16-51 and authorizes a contract with Multi-Craft Contractors, Inc. for plumbing services on an on-call basis for a period of one year with an automatic option to renew for four additional years.

City of Fayetteville Staff Review Form

2016-0417

Legistar File ID

9/20/2016

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

Andrea Rennie

9/2/2016

Purchasing /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A Resolution to award Bid 16-51 and authorize a contract with Multi-Craft Contractors, Inc. for plumbing services on an on-call basis for a period of one year with an automatic option to renew for four additional one year terms.

Budget Impact:

Various	Various
Account Number	Fund
Various	Various
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 # 136-10

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Paul A. Becker, Chief Financial Officer

FROM: Andrea Rennie, Purchasing Manager

DATE: Friday, September 02, 2016

SUBJECT: Approval of Bid 16-51, Plumbing Contractor

RECOMMENDATION:

Staff recommends award of Bid 16-51 for Plumbing Services and approval of a contract with Multi-Craft Contractors, Inc. for various projects on an on-call basis.

BACKGROUND:

Plumbing services were bid for a contract period of one year with an automatic option to renew, unless cancelled, for four additional one year terms. This contract will be utilized by multiple City departments and divisions on an as needed, on-call basis. Plumbing projects exceeding \$20,000 will require additional pre-approval from City Council.

DISCUSSION:

Bids were advertised twice state wide in July. In addition to newspaper advertising, the Purchasing Department contacted over 25 local plumbing contractors, and provided notice of the bid to over 1,700 subscribers on the Purchasing Bid Mailing List. Bids were received from three vendors. Multi-Craft Contractors, Inc. is the lowest responsible responsive bidder. MCC is familiar with the City's buildings, policies and invoice and payment procedures.

BUDGET/STAFF IMPACT:

Budgeted funds will be utilized by each department depending on their plumbing needs.

Attachments:

Contract with Multi-Craft Contractors, Inc.

Official Bid Tabulation: Bid 16-51, Plumbing Contractor Re-Bid

Bid 16-51 Submittal from Multi-Craft Contractor's Inc.

This contract executed this ____ day of _____, 2016, between the City of Fayetteville, Arkansas, and Multi-Craft Contractors, Inc. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Multi-Craft Contractors, Inc. at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 16-51 as stated in Multi-Craft Contractors, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 16-51, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Multi-Craft Contractors, Inc. for completion of each project based on unit prices indicated in Multi-Craft Contractors, Inc. bid proposal. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice. The City of Fayetteville reserves the right to request receipts for materials purchased for the City of Fayetteville from suppliers, subcontractors, or other sources.
3. The Contract documents which comprise the contract between the City of Fayetteville and Multi-Craft Contractors, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 16-51 with the specifications and conditions typed thereon.
 - B. Multi-Craft Contractors, Inc. bid proposal, which is inclusive of unit pricing which shall reflect on each invoice.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Multi-Craft Contractors, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Multi-Craft Contractors, Inc.
5. Multi-Craft Contractors, Inc. shall not assign its duties under the terms of this agreement.
6. Multi-Craft Contractors, Inc. agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Multi-Craft Contractors, Inc. performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Multi-Craft Contractors, Inc. shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the

Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Multi-Craft Contractors, Inc. shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected. The premiums for all insurance and the bond required herein shall be paid by Multi-Craft Contractors, Inc.

1. Workmen's Compensation

Statutory Amount

2. Comprehensive General & Automobile Insurance

\$500,000 for each person injured.

3. Bodily Injury Liability

\$1,000,000 for each accident.

4. Property Damage Liability

\$1,000,000 aggregate.

8. Multi-Craft Contractors, Inc shall furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Multi-Craft Contractors, Inc with 30 calendar days written notice.

10. This contract shall be effective from one year of the date of signed contract. The City reserves the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either Multi-Craft Contractors, Inc or the City notifies the other of its intent to terminate the contract at the end of the contract period.

a. Projects exceeding \$20,000 will require additional approval in advance from the Fayetteville City Council.

11. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

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

13. Jurisdiction: Legal jurisdiction to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case.

14. Arbitration/Mediation: The City will not agree to be forced to mediate or arbitrate any dispute.
15. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2016.

MULTI-CRAFT CONTRACTORS, INC.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Signature

By: _____

LIONELD JORDAN, Mayor

Dennis Kelly EVP

Printed Contractor Name & Title

Cindy Hatcher

ATTEST (Signature)

ATTEST: (Signature)

Paul W. Barnes

Company Secretary (Printed Name)

Sondra E. Smith, City Clerk, Treasurer

Business Address

PO Box 1760 / 2300 Lowell Road
Springdale, AR 72764

City, State & Zip Code

Date Signed: September 02, 2016

Date Signed: _____

CITY OF

Fayetteville

ARKANSAS

Bid 16-51, Construction - Plumbing Contractor Re-Bid

Official Bid Tabulation

Bid: 16-51

Date: 8/12/2016

TIME: 2:00 PM

CITY OF FAYETTEVILLE

Item	Description	Contractors Material Cost Estimate Per Year	Allied Plumbing and Drain Services LLC		Comfort Systems USA		Multi-Craft Contractors	
			Mark Up %	Estimated Material Cost with Mark Up %	Mark Up %	Estimated Material Cost with Mark Up %	Mark Up %	Estimated Material Cost with Mark Up %
1	Material (Cost plus %)	\$20,000.00	20.00%	\$ 24,000.00	20.00%	\$ 24,000.00	12.00%	\$ 22,400.00
Total Bid, Section A (Items 1)				\$ 24,000.00		\$ 24,000.00		\$ 22,400.00
		Estimated Hours(Year)	Price/Hour	Estimated Cost	Price/Hour	Estimated Cost	Price/Hour	Estimated Cost
2	Journeyman Plumber - Straight/Regular Time	100	\$89.00	\$ 8,900.00	\$80.00	\$ 8,000.00	\$45.50	\$ 4,550.00
3	Journeyman Plumber - Nights and Weekends	25	\$133.50	\$ 3,337.50	\$110.00	\$ 2,750.00	\$61.50	\$ 1,537.50
4	Journeyman Plumber - Holiday	10	\$133.50	\$ 1,335.00	\$110.00	\$ 1,100.00	\$77.50	\$ 775.00
5	Apprentice Plumber - Straight/Regular Time	100	\$44.50	\$ 4,450.00	\$50.00	\$ 5,000.00	\$35.00	\$ 3,500.00
6	Apprentice Plumber - Nights an Weekends	25	\$66.75	\$ 1,668.75	\$60.00	\$ 1,500.00	\$47.00	\$ 1,175.00
7	Apprentice Plumber - Holidays	10	\$66.75	\$ 667.50	\$60.00	\$ 600.00	\$60.00	\$ 600.00
11	Foreman/Supervisor - Straight/Regular Time	100	\$89.00	\$ 8,900.00	\$95.00	\$ 9,500.00	\$48.00	\$ 4,800.00
12	Foreman/Supervisor - Nights and Weekends	25	\$133.50	\$ 3,337.50	\$115.00	\$ 2,875.00	\$65.00	\$ 1,625.00
13	Foreman/Supervisor - Holidays	10	\$133.50	\$ 1,335.00	\$115.00	\$ 1,150.00	\$84.00	\$ 840.00
Total Bid, Section B (Items 2-15)				\$ 33,931.25		\$ 32,475.00		\$ 19,402.50
TOTAL BASE BID, Section A & B (sum of items 1-15)				\$ 57,931.25		\$ 56,475.00		\$ 41,802.50

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

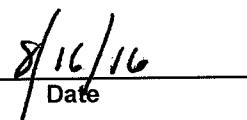
CERTIFIED:



A. Rennie, Purchasing Manager



Witness



Date



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

INVITATION TO BID

INVITATION TO BID: Bid 16-51, Construction - Plumbing Contractor Rebid
DEADLINE: Friday August 12, 2016 before 2:00:00 PM, Local Time
PRE-BID: Thursday July 26, 2016 at 2:00 PM
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Les McGaugh, lmcgaugh@fayetteville-ar.gov
DATE OF ISSUE AND ADVERTISEMENT: Monday, July 18 and 25, 2016

INVITATION TO BID

Bid 16-51, Construction - Plumbing Contractor Rebid

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

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

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

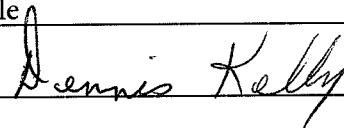
Name of Firm: Multi-Craft Contractors, Inc.

Contact Person: Dennis Kelly Title: Executive Vice President

E-Mail: dlk@multi-craft.net Phone: (479) 751-4330

Business Address: 2300 Lowell Road

City: Springdale State: AR Zip: 72765

Signature:  Date: August 8, 2016

City of Fayetteville
Bid 16-51, Construction - Plumbing Contractor Rebid
Bid Form

City of Fayetteville, AR
Invitation to Bid
Bids 16-51, Construction - Plumbing Contractor Rebid
&
Bid 16-52, Construction - HVAC/R Contractor Rebid

16-51: The City of Fayetteville, AR is accepting sealed bids from properly licensed plumbing contractors for providing plumbing services on an as-needed basis for a one (1) year term with the option to renew for four (4) additional one (1) year terms.

16-52: The City of Fayetteville, AR is accepting sealed bids from properly licensed HVAC/R contractors for providing heating, ventilation, air conditioning, and refrigeration services on an as-needed basis for a one (1) year term with the option to renew for four (4) additional one (1) year terms. The bid is intended to be for on-call services and maintenance. This bid will not be used for new unit replacement except in the event of an emergency.

Sealed bids shall be received by the City of Fayetteville, AR Friday August 12, 2016 prior to 2:00:00 PM, local time. Bids shall be submitted in a sealed envelope or sealed package labeled Bid 16-51, or 16-52. Bids received after this time will not be accepted. Bids will be opened and publicly read aloud immediately after specified closing time. All interested parties are invited to attend. Bids shall be received at 113 West Mountain St. Fayetteville, Arkansas 72701.

A non-mandatory pre-bid meeting will be held on Tuesday July 26, 2016 at 2:00 PM in Room 326 at 113 W. Mountain. All interested parties are strongly urged to attend.

Copies of the Bid Documents may be obtained electronically for bidding purposes from the City of Fayetteville Purchasing Division by e-mailing Les McGaugh, City of Fayetteville Purchasing Agent, lmcgaugh@fayetteville-ar.gov by calling 479-575-8220. Any questions concerning the bidding process should be addressed to Les McGaugh, Purchasing Agent. No partial sets will be issued for bidding. No paper sets will be issued for bidding.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the State of Arkansas and the City of Fayetteville for this Work.

A one hundred percent (100%) performance and payment bond shall be provided for projects exceeding \$20,000. Arkansas Department of Labor Prevailing Wage Rates apply for projects over \$75,000.

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority and women business enterprises.

The City reserves the right to reject any or all Bids and to waive irregularities therein, and all Bidders shall agree that such rejection shall be without liability on the part of the City for any damage or claim brought by any

Bidder because of such rejections, nor shall the Bidders seek any recourse of any kind against the City because of such rejections. The filing of any Bid in response to this invitation shall constitute an agreement of the Bidder to these conditions.

City of Fayetteville, AR

By: Les, McGaugh

City of Fayetteville, Purchasing Agent

Advertisement Dates: 07/18/16 and 07/25/16

City of Fayetteville, Arkansas						
Bid 16-51, Construction - Plumbing Contractor Rebid						
Date Issued:			Deadline:			
7/18/2016			Friday August 12, 2016 before 2:00 PM			
F.O.B			Purchasing Agent Contact Information			
Fayetteville, Arkansas as needed			Les McGaugh, (479) 575-8220, lmcgaugh@fayetteville-ar.gov			
SECTION A: Materials (Estimated Annual)						
ITEM	DESCRIPTION	MARK UP %		CONTRACTORS MATERIAL COST ESTIMATE PER YEAR		ESTIMATED MATERIAL COST WITH MARK UP %
1	Material (Cost plus %)	%	x	\$ 20,000.00	=	\$
Total Bid, Section A (Item 1):						\$
Section B: Hours (Estimated Annual)						
ITEM	DESCRIPTION	ESTIMATED HOURS PER YEAR		PRICE/HOUR		ESTIMATED COST
2	Journeyman Plumber - Straight/Regular Time	100	x	\$	=	\$
3	Journeyman Plumber - Nights and Weekends	25	x	\$	=	\$
4	Journeyman Plumber - Holiday	10	x	\$	=	\$
5	Apprentice Plumber - Straight/Regular Time	100	x	\$	=	\$
6	Apprentice Plumber - Nights and Weekends	25	x	\$	=	\$
7	Apprentice Plumber - Holidays	10	x	\$	=	\$
8	Plumber's Helper - Straight/Regular Time	100	x	\$	=	\$
9	Plumber's Helper - Nights and Weekends	25	x	\$	=	\$
10	Plumber's Helper - Holidays	10	x	\$	=	\$
11	Foreman/Supervisor - Straight/Regular Time	100	x	\$	=	\$
12	Foreman/Supervisor - Nights and Weekends	25	x	\$	=	\$

13	Foreman/Supervisor - Holidays	10	x	\$	=	\$
14	General Laborer - Straight/Regular Time	100	x	\$	=	\$
15	General Laborer - Nights and Weekends	25	x	\$	=	\$
16	General Laborer - Holidays	10	x	\$	=	\$
Total Bid, Section B (Items -16): BIDDERS SHALL COMPLETE AND BID ALL LINE ITEMS						\$
Total Base Bid						\$ _____
Section A + Section B (Sum of Items 1-16):						
NAME OF FIRM						
Multi-Craft Contractors, Inc.						
THIS BID FORM CONTINUES ON THE NEXT PAGE. . .						

***Bidders shall bid and provide pricing on all line items of all sections in the bid form. Failure to bid on all line items shall result in rejection of bid. The City intends to award this bid to the lowest responsive responsible bidder.**

N/A - REPLACED BY ADDENDUM 1

EXECUTION OF BID -

Actual specification of any deficient item shall be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation shall be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.
4. I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true.
5. Bidder shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in addition to all federal, state, and local laws.
6. Bidder shall disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Response shall disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official. If no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

☒ 1.) NO KNOWN RELATIONSHIP EXISTS

☐ 2.) RELATIONSHIP EXISTS (Please explain): _____

7. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.
8. As A bidder on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
 - a. Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
 - b. Your signature below certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.



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

*NAME OF FIRM: Multi-Craft Contractors, Inc.

Purchase Order/Payments shall be issued to this name

*D/B/A or Corporation Name Multi-Craft Contractors, Inc.

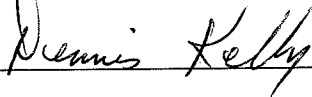
*BUSINESS ADDRESS: 2300 Lowell Road

*CITY: Springdale *STATE: AR *ZIP: 72765

*PHONE: (479) 751-4330 FAX: (479) 751-4399

*E-MAIL: dlk@multi-craft.net

*BY: (PRINTED NAME) Dennis Kelly

*AUTHORIZED SIGNATURE: 

*TITLE: Executive Vice President

DUNS NUMBER: 15-964-1266

CAGE NUMBER: _____

*TAX ID NUMBER: 71-0423846

Acknowledge Addendums:

Addendum No. 1 Dated: 7/29/2016 Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

City of Fayetteville
Bid 16-51, Construction - Plumbing Contractor Rebid
References

The following information is required from all Bidders so all bids may be reviewed and properly evaluated.

COMPANY NAME: Multi-Craft Contractors, Inc.

BUSINESS ADDRESS: 2300 Lowell Road / PO Box 1760, Springdale, AR 72764

NUMBER OF YEARS IN BUSINESS: 44 HOW LONG IN PRESENT LOCATION: 28

TOTAL NUMBER OF CURRENT EMPLOYEES: 610 FULL TIME 0 PART TIME

NUMBER OF EMPLOYEES YOU PLAN TO USE TO SERVICE THIS CONTRACT: 25 FULL TIME 0 PART TIME

PLEASE LIST FOUR (4) LOCAL COMMERCIAL AND/OR GOVERNMENTAL REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED SIMILAR CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed). Contractors shall have valid experience.

1. University of Arkansas

COMPANY NAME

Fayetteville, AR 72701

CITY, STATE, ZIP

Kelley Sharp

CONTACT PERSON

(479) 575-5470

TELEPHONE

Ongoing

DATE COMPLETED

kesharp@uark.edu

E-MAIL ADDRESS

3. Glad Manufacturing

COMPANY NAME

Rogers, AR 72756

CITY, STATE, ZIP

Brian Wilhelm

CONTACT PERSON

(479) 636-2845

TELEPHONE

(brian.wilhelm@clorox.com

DATE COMPLETED

ongoing

E-MAIL ADDRESS

2. CDI

COMPANY NAME

Fayetteville, AR 72703

CITY, STATE, ZIP

Matt Bodishbaugh, VP

CONTACT PERSON

(479) 695-1020

TELEPHONE

Ongoing Contractor Relationship

DATE COMPLETED

mbodishbaugh@cdicon.com

E-MAIL ADDRESS

4. City of Fayetteville

COMPANY NAME

Fayetteville, AR 72701

CITY, STATE, ZIP

Was: Larry Reni

CONTACT PERSON

TELEPHONE

2015

DATE COMPLETED

E-MAIL ADDRESS

City of Fayetteville

Bid 16-51, Construction - Plumbing Contractor Rebid

General Terms and Conditions

1. SUBMISSION OF BID & BID EVALUATION:

- a. Bids shall be reviewed following the stated deadline, as shown on the cover sheet of this document.
- b. Bidders shall submit bids based on documentation published by the Fayetteville Purchasing Division.
- c. **Bids shall be enclosed in sealed envelopes or packages** addressed to the City of Fayetteville, Purchasing Division, Room 306, 113 W. Mountain, Fayetteville, AR 72701. **The name, address of the firm and Bid, RFP, or RFQ number shall be on the outside of the packaging as well as on any packages enclosed in shipping containers or boxes.**
- d. The City shall not be responsible for misdirected bids. Vendor should call the Purchasing Office at 479.575.8220 to ensure correct receipt of bidding documents prior to opening time and date listed on the bid form.
- e. Bidders must have experience in providing products and/or services of the same or similar nature. **Failure to provide materials bid will subject bidder to disqualification for the remainder of the calendar year. Failure to deliver poor or inadequate services, on a consistent basis or more than three (3) times in a calendar year will subject bidder to disqualification for the remainder of the calendar year.**
- f. Bidder is advised that exceptions to any of the terms contained in this bid must be identified in its response to the bid. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- g. Local time is defined as the time in Fayetteville, Arkansas on the due date of the deadline. Bids shall be received **before** the time as shown by the atomic clock located in the Purchasing Division Office.
- h. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City will award bids in their entirety.
- i. This agreement shall be effective from one year of the date of signed contract. The City reserves the right to extend the contract by mutual agreement for a period of four (4) additional, one (1) year periods automatically unless either the Contractor or the City notifies the other of its intent to terminate the contract at the end of the contract period.
- j. **Bid pricing shall remain firm for five years.**

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. DESCRIPTION OF SUPPLIES AND SERVICES:

City of Fayetteville, AR

Bid 16-51, Construction - Plumbing Contractor Rebid

Page 9 of 21

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

4. RIGHTS OF CITY OF FAYETTEVILLE BID PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the following:

- a. The City of Fayetteville reserves the right to select the bid that it believes will serve the best interest of the City.
- b. The City of Fayetteville reserves the right to accept or reject any or all bids.
- c. The City of Fayetteville reserves the right to cancel the entire bid.
- d. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the invitation to bid or in bids submitted.
- e. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or data without changing the terms of the bid.

5. COSTS INCURRED BY BIDDERS:

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

6. CONFLICT OF INTEREST:

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

7. WITHDRAWAL OF PROPOSAL:

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

8. LATE PROPOSAL OR MODIFICATIONS:

Bid modifications received after the time set for the bid submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids.

Bidders should call the Purchasing Division at (479) 575-8220 to insure receipt of their submittal documents prior to opening time and date listed.

9. **LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:**

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

10. **PROVISION FOR OTHER AGENCIES:**

Unless otherwise stipulated by the bidder, the bidder agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible Users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

11. **COLLUSION:**

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

12. **RIGHT TO AUDIT, FOIA, AND JURISDICITON:**

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

13. **CITY INDEMNIFICATION:**

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

goods and payment thereof by the City.

14. **VARIANCE FROM STANDARD TERMS & CONDITIONS:**

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

15. **ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:**

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

16. **PROCUREMENT POLICY FOR RECYCLED MATERIALS:**

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

17. **PAYMENTS:**

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

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

18. **CANCELLATION:**

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

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

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

20. NON-EXCLUSIVE CONTRACT:

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

21. LOBBYING:

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

22. ADDITIONAL REQUIREMENTS:

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

23. ADD OR DELETE LOCATIONS OR SERVICES:

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

24. **INTEGRITY OF BID DOCUMENTS:**

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

25. **CERTIFICATE OF INSURANCE:**

The successful bidder shall provide a Certificate of Insurance in accordance with specifications listed in this request for proposal, prior to commencement of any work. Such certificate shall list the City of Fayetteville as an additional insured. Insurance shall remain valid during each contract term and shall be provided at each renewal period.

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

Workers' Compensation:	Statutory Amount
Comprehensive General & Automotive Liability:	\$1,00,000 for each accident
Bodily Injury Liability:	\$500,000 for each accident
Property Damage Liability:	\$500,000 aggregate.

26. **PRICING:**

- a. Prices shall include all labor, supervision, materials, equipment, transportation, and services necessary to do a superior quality job.
- b. Bidder shall state any discounts to apply. Discounts shall be shown for individual items unless all items have the same percentage of discounts.
- c. Any projects in excess of \$20,000 will require additional approval from the Fayetteville City Council prior to authorization of work. Projects exceeding \$20,000 will require a 100% performance and payment bond after Council approval at no additional cost to the City.
 - i. The City shall reimburse the actual cost of the 100% performance and payment bond for projects over \$20,000 to the awarded contractor. Reimbursement cost shall be equal to actual cost of bonds paid by the contractor

- d. Any projects in excess of \$75,000 shall be subject to prevailing wage rates as determined by the Arkansas Department of Labor. Additional hourly fees shall not be charged to the City for projects requiring prevailing wage rates.

27. OTHER GENERAL CONDITIONS:

- a. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. ***Sales tax shall not to be included in the bid price; however,*** applicable Arkansas sales tax laws will apply when necessary but will not be considered in award of this project.
- b. Each bidder should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- c. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
- d. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
- e. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the bidder's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- f. If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- g. **NOTE: Any uncertainties shall be brought to the attention to Les McGaugh immediately via telephone (479.575.8220) or e-mail (lmcgaugh@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms.**
- h. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Les McGaugh, City of Fayetteville, Purchasing Agent via e-mail (lmcgaugh@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- i. Any information provided herein is intended to assist the bidder in the preparation of proposals necessary to properly respond to this bid. The bid is designed to provide qualified Proposers with

sufficient basic information to submit proposals meeting minimum specifications and/or test requirements, but is not intended to limit a bid's content or to exclude any relevant or essential data.

- j. Bidders irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
 - k. The successful bidder shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful bidder assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful bidder shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
 - l. The successful bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful bidder shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.
28. **INVOICING:** All invoices shall be presented to the City with the minimum information listed below.
- a. City Department that ordered the materials or services
 - b. Delivery date or the date of services
 - c. Name of the City Employee that requested service
 - d. Bid Number that applies to the purchase and invoices. Amounts in the bid shall match invoicing.
29. Invoicing shall be itemized based upon line item pricing provided with bid.
30. **ATTACHMENTS TO BID DOCUMENTS:** See included detailed specifications.
31. This is a rebid from Bid 16-42. Bidding documents for Bid 16-42 are not applicable or eligible for this bid. Bidders shall use bidding documents provided in this document for project submittal.

City of Fayetteville
Bid 16-51, Construction - Plumbing Contractor Rebid
Detailed Specifications

- 1.1 Bidders shall bid and provide pricing on all line items of all sections in the bid form. Failure to bid on all line items shall result in rejection of bid. The City intends to award this bid to the lowest responsive responsible bidder.
- 1.2 The City requires the services of a Plumbing Contractor to provide labor, material, materials, and equipment to perform repairs, installations, and any necessary service to various City buildings and projects.
- 1.3 The City reserves the right to bid or quote any project. This is not an exclusive contract.
- 1.4 The contractor may be required to do emergency repairs at times other than normal working hours. The contractor shall be available on a twenty-four (24) hour basis for such emergency work. Contractor shall include a response time as part of bid pricing.
- 1.5 On site emergency response time shall be no more than one (1) hour after notification. Regular response time shall be no more than 48 hours after contact. Bidder shall include mileage and travel time as part of this agreement. The City shall not be responsible for additional mileage or travel time costs.
- 1.6 The City anticipates \$50,000 of services for various projects during the each contract term. This quantity is approximate and represents the estimated requirement for the contract period.
- 1.7 The City shall not be obligated to purchase more or less than the estimated quantities listed. The City reserves the right to purchase more or less via an on-call basis depending upon actual needs during the contract period.
- 1.8 Bidders shall furnish evidence that they have past experience in the type of work as outlined in the bid specifications and shall include specific experience. A minimum of three (3) references shall be submitted with each bid.
- 1.9 Contractor shall have been a licensed plumbing contractor with the State of Arkansas for a minimum of five (5) years. Current valid contractor's license is required and shall be valid at time of bid.
- 1.10 The Bidder shall possess the correct occupational licenses, all professional licenses, and any other authorizations necessary to carry out and perform the work required by the project **AT THE TIME OF BID SUBMISSION** pursuant to all applicable Federal, State, and Local Laws, Statutes, Ordinances, and rules and regulations of any kind.
- 1.11 The Contractor shall be responsible for obtaining all required permits; however, fees for City issued permits shall be waived and shall not be included in pricing.
- 1.12 All work shall be performed in a high quality, workmanship like manner and shall conform to codes enforced by the City Inspection Division.
- 1.13 In the event a project is deemed to exceed \$20,000, the City department requesting service and the

Purchasing department shall be notified immediately. No project exceeding \$20,000 shall be performed or started without prior approval from the Fayetteville City Council and a 100% performance and payment bond.

- 1.14 **PRICING:** Hourly labor rates and markup percentages bid shall include but is not limited to all labor cost, insurance, mobilization, overhead, profit, travel time, bonding, mileage, etc. Prices quoted shall be firm for the term of the contract. The City shall not be charged any additional fees including but not limited to insurance premiums, mobilization, bonding, etc.
- 1.15 The Contractor shall employ a competent and thoroughly experienced superintendent capable of handling all phases of each project including any necessary assistants to complete each project. When any work under this contract is being performed, the City and necessary employees shall be present at the job site. The Superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor.
- 1.16 Major and important directions shall be confirmed in writing to the Contractor, other directions shall be so confirmed upon written request of the Contractor.
- 1.17 The Superintendent shall be in complete and responsible charge of the project for the Contractor and shall not be superseded by any other personnel of the Contractor. After contract award, awarded Contractor shall submit the name of the proposed Superintendent for the Contractor and shall furnish a telephone number or numbers through which the Superintendent may be reached 24 hours each day of the contract duration.
- 1.18 The Contractor shall provide efficient supervision for the work, using industry standard, best skill and attention. Contractor shall carefully study and compare all Drawings, Specifications, and other instructions and shall report at once to the Project Manager any error, inconsistency, or omission which may be discovered; but, shall not be held responsible for the existence or discovery.
- 1.19 In the event the City becomes dissatisfied with hours billed on projects, quality of work, timeliness of performance or any other manner, the City reserves the right to cancel this contract within thirty (30) days written notice at no penalty to the City.
- 1.20 Any work orders associated with All City Owned and Leased Buildings shall be under the direction and coordination with Facilities Management.
- 1.21 Any other work orders associated will be directed through the respective City department or division.

City of Fayetteville
Bid 16-51, Construction – Plumbing Contractor Rebid
Draft Contract – Between City and Contractor

This contract executed this ____ day of _____, 2016, between the City of Fayetteville, Arkansas, and _____ . In consideration of the mutual covenants contained herein, the parties agree as follows:

1. _____ at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 16-51 as stated in _____ bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 16-51, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay _____ based on their bid proposal in an amount not to exceed \$ _____. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and _____ consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 16-51 with the specifications and conditions typed thereon.
 - B. _____ bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville _____ and may be modified only by a duly executed written instrument signed by the City of Fayetteville and _____.
5. _____ shall not assign its duties under the terms of this agreement.
6. _____ agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from _____ performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. _____ shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, _____ shall provide and shall cause

each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected. The premiums for all insurance and the bond required herein shall be paid by _____.

Workmen's Compensation

Statutory Amount

Comprehensive General &

Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.

\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

8. _____ shall furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or _____ with 30 calendar days written notice.
10. This contract shall be effective from one year of the date of signed contract. The City reserves the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either _____ or the City notifies the other of its intent to terminate the contract at the end of the contract period.
 - a. Projects exceeding \$20,000 will require additional approval from the Fayetteville City Council.
11. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo coping costs pursuant to the FOIA may be assessed for this compliance.
12. Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the Fayetteville City Council **in advance** of the change in scope, cost or fees.
13. Jurisdiction: Legal jurisdiction to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case.
14. Arbitration/Mediation: The City will not agree to be forced to mediate or arbitrate any dispute.
15. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2016.

CONTRACTOR NAME

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Signature

By: _____
LIONELD JORDAN, Mayor

Printed Contractor Name & Title

ATTEST (*Signature*)

ATTEST: (*Signature*)

Company Secretary (*Printed Name*)

Sondra E. Smith, City Clerk, Treasurer

Business Address

City, State & Zip Code

Date Signed: _____

Date Signed: _____

Bid 16-51, Addendum 1



Date: Friday July 29, 2016

To: All Prospective Vendors

From: Les McGaugh – 479.575.8220 – lmcgaugh@fayetteville-ar.gov

RE: Bid 16-51, Construction – Plumbing Contractor Rebid

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Bid Form. **BIDDERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.**

1. This addendum includes a revised bid form which shall be used by all bidders. Failure to submit the correct revised bid form in a printed sealed format shall result in bid rejection.
 - a. The revised bid form is included with this addendum. Bidders shall also include the References section from the original bid packet.
 - b. Bids shall be submitted in a sealed envelope prior to deadline according to submittal procedures outlined in Bid 16-51. NO ELECTRONIC COPIES WILL BE ACCEPTED.
2. A non-mandatory pre-bid meeting was held in Room 326 City Hall, 113 W Mountain on Tuesday July 26th, 2016 at 2:00 PM. The sign in sheet of all attendees is attached. The following items were discussed during the pre-bid meeting:
 - a. General laborer and Helper have been removed from the bid form.
 - b. Billable hours shall include reasonable drive time to and from Point of Dispatch. Hourly rates shall be inclusive of all fees. No fuel, mileage, surcharge, or additional fees shall be added to any invoice.
 - c. Point of Dispatch shall be defined as the closest office to the City of Fayetteville, located at 113 W. Mountain, Fayetteville, AR 72701. Point of Dispatch address shall be on the bid form page of submittal.
 - d. Emergency Response time is hereby increased from one (1) hour to two (2) hours.
3. REMINDER: *Bidders shall bid and provide pricing on all line items of all sections in the bid form. Failure to bid on all line items shall result in rejection of bid. The City intends to award this bid to the lowest responsive responsible bidder.

City of Fayetteville, Arkansas

Bid 16-51, Construction - Plumbing Contractor Rebid

Date Issued:	Deadline:
F.O.B.	Friday August 12, 2016 before 2:00:00 PM (Local Time)
Fayetteville, Arkansas as needed	Purchasing Agent Contact Information Les McGaugh, (479) 575-8220, lmcgaugh@fayetteville-ar.gov

SECTION A: Materials (Estimated Annual)

ITEM	DESCRIPTION	MARK UP %	CONTRACTORS MATERIAL COST ESTIMATE	ESTIMATED MATERIAL COST WITH MARK UP %
1	Material (Cost plus %)	12 %	\$ 20,000.00	\$ 2,400.00
Total Bid, Section A (Item 1):				\$ 22,400.00

Section B: Hours (Estimated Annual)

ITEM	DESCRIPTION	ESTIMATED HOURS PER YEAR	PRICE/HOUR	ESTIMATED COST
2	Journeyman Plumber - Straight/Regular Time	100	\$ 45.50	\$ 4,550.00
3	Journeyman Plumber - Nights and Weekends	25	\$ 61.50	\$ 1,537.00
4	Journeyman Plumber - Holiday	10	\$ 77.50	\$ 775.00
5	Apprentice Plumber - Straight/Regular Time	100	\$ 35.00	\$ 3,500.00
6	Apprentice Plumber - Nights an Weekends	25	\$ 47.00	\$ 1,175.00
7	Apprentice Plumber - Holidays	10	\$ 60.00	\$ 600.00
8	Foreman/Supervisor - Straight/Regular Time	100	\$ 48.00	\$ 4,800.00
9	Foreman/Supervisor - Nights and Weekends	25	\$ 65.00	\$ 1,625.00
10	Foreman/Supervisor - Holidays	10	\$ 84.00	\$ 840.00

Total Bid, Section B (Items 2-10): \$ 19,402.00

Total Base Bid \$ 41,802.00

Section A + Section B (Sum of Items 1-10):

NAME OF FIRM

Multi-Craft Contractors, Inc.

Point of Dispatch address: 530 Madison Street, Suite B
 Springdale, AR 72762

THIS BID FORM CONTINUES ON THE NEXT PAGE. . .

Actual specification of any deficient item shall be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation shall be documented and certified by the manufacturer as a regular production option.

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.
4. I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true.
5. Bidder shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in addition to all federal, state, and local laws.
6. Bidder shall disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Response shall disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official. If no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

2.) RELATIONSHIP EXISTS (Please explain): _____

7. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.
8. As A bidder on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
 - a. Federal Executive Order (E.O.) 12549 “Debarment and Suspension” requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
 - b. Your signature below certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Dennis Kelly

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

*NAME OF FIRM: Multi-Craft Contractors, Inc.

Purchase Order/Payments shall be issued to this name

*D/B/A or Corporation Name Multi-Craft Contractors, Inc.

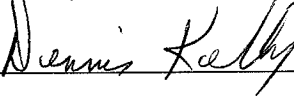
*BUSINESS ADDRESS: 2300 Lowell Road

*CITY: Springdale *STATE: AR *ZIP: 72765

*PHONE: (479) 751-4330 FAX: (479) 751-4399

*E-MAIL: dlk@multi-craft.net

*BY: (PRINTED NAME) Dennis Kelly

*AUTHORIZED SIGNATURE: 

*TITLE: Executive Vice President

DUNS NUMBER: 05-964-1266 CAGE NUMBER: _____

*TAX ID NUMBER: 71-0423846

Acknowledge Addendums:

Addendum No. 1 Dated: 07/29/2016 Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0418

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 3

BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:

A RESOLUTION TO AWARD BID NO. 16-52 AND AUTHORIZE A CONTRACT WITH ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS FOR HVAC SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

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 awards Bid No. 16-52 and authorizes a contract with Aracrebs II, LLC d/b/a Elite Building Solutions for HVAC services on an on-call basis for a period of one year with an automatic option to renew for four additional years.

City of Fayetteville Staff Review Form

2016-0418

Legistar File ID

9/20/2016

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Andrea Rennie

9/2/2016

Purchasing /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A Resolution to award Bid 16-52 and authorize a contract with Aracrebs II, LLC DBA Elite Building Solutions for HVAC services on an on-call basis for a period of one year with an automatic option to renew for four additional one year terms.

Budget Impact:

Various

Various

Account Number

Fund

Various

Various

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:

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Lioneld Jordan and Fayetteville City Council
THRU: Paul A. Becker, Chief Financial Officer
FROM: Andrea Rennie, Purchasing Manager
DATE: Friday, September 02, 2016
SUBJECT: **Approval of Bid 16-52, HVAC Contractor**

RECOMMENDATION:

Staff recommends award of Bid 16-52 for HVAC services and approval of a contract with Aracrebs II, LLC DBA Elite Building Solutions for various projects on an on-call basis.

BACKGROUND:

HVAC services were bid for a contract period of one year with an automatic option to renew, unless cancelled, for four additional one year terms. This contract will be utilized by multiple City departments and divisions on an as needed, on-call basis. HVAC projects exceeding \$20,000 will require additional pre-approval from City Council.

DISCUSSION:

Bids were advertised twice state wide in July. In addition to newspaper advertising, the Purchasing Department contacted over 20 local HVAC contractors, and provided notice of the bid to over 1,700 subscribers on the Purchasing Bid Mailing List. Bids were received from two vendors. Aracrebs II, LLC DBA Elite Building Solutions is the lowest responsible responsive bidder and is recommended for award. These services have not been bid for sole City use in the past; however, the City will be able to capitalize on competitive pricing by the utilization of a single vendor through the bid process.

BUDGET/STAFF IMPACT:

Budgeted funds will be utilized by each department depending on their plumbing needs.

Attachments:

Contract with Aracrebs II, LLC DBA Elite Building Solutions
Official Bid Tabulation: Bid 16-52, HVAC Contractor Re-Bid
Bid 16-52, Submittal from Aracrebs II, LLC DBA Elite Building Solutions



City of Fayetteville, AR
Contract for: Bid 16-52, Construction HVACR Contractor Rebid
Vendor: Elite Building Solutions.
Term: One year with four automatic one year renewals

This contract executed this _____ day of _____, 2016, between the City of Fayetteville, Arkansas (City), 113 W Mountain, Fayetteville, Arkansas, 72701 and Aracrebs II, LLC DBA Elite Building Solutions (Elite Building Solutions).

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Elite Building Solutions at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 16-52 as stated in Elite Building Solutions bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid # 16-52, all included herein as if spelled out word for word. Pricing shall remain firm for the entire contract period.
2. The City of Fayetteville shall pay Elite Building Solutions for completion of each project based on unit prices indicated in Elite Building Solutions' bid proposal. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice. The City of Fayetteville reserves the right to request receipts for materials purchased for the City of Fayetteville from suppliers, subcontractors, or other sources.
3. The Contract documents which comprise the contract between the City of Fayetteville and Elite Building Solutions consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 16-52 with the specifications and conditions typed thereon.
 - B. Elite Building Solutions bid proposal, which is inclusive of unit pricing which shall reflect on each invoice.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Elite Building Solutions and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Elite Building Solutions.
5. Elite Building Solutions shall not assign its duties under the terms of this agreement.
6. Elite Building Solutions agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Elite

Building Solutions performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Elite Building Solutions shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Elite Building Solutions shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected. The premiums for all insurance required herein shall be paid by Elite Building Solutions.
 1. Workmen's Compensation:
Statutory Amount
 2. Comprehensive General & Automobile Insurance
\$500,000 for each accident.
 3. Bodily Injury Liability:
\$500,000 for each accident.
 4. Property Damage Liability:
\$500,000 aggregate.
8. Elite Building Solutions shall furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or Elite Building Solutions with 30 calendar days written notice.
10. This contract shall be effective from one year of the date of signed contract. The City reserves the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either Elite Building Solutions or the City notifies the other of its intent to terminate the contract at the end of the contract period.
 - a. Projects exceeding \$20,000 will require additional approval in advance from the Fayetteville City Council.
11. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

12. Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the Fayetteville City Council **in advance** of the change in scope, cost or fees.
13. Jurisdiction: Legal jurisdiction to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case.
14. Arbitration/Mediation: The City will not agree to be forced to mediate or arbitrate any dispute.
15. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2016.

Aracrebs II, LLC DBA Elite Building Solutions

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Signature

By: _____
LIONELD JORDAN, Mayor

Nathan Wright operating manager
Printed Contractor Name & Title

[Signature]
ATTEST (Signature)

Abby Harris
Company Secretary (Printed Name)

ATTEST: (Signature)

Sondra E. Smith, City Clerk, Treasurer

Business Address

Springdale Ar. 72762
City, State & Zip Code

Date Signed: 09-2-16

Date Signed: _____

CITY OF

Fayetteville

ARKANSAS

Bid: 16-52
Date: 08/12/2016
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 16-52, Construction - HVAC/R Contractor Rebid

ITEM	DESCRIPTION	CONTRACTORS MATERIAL COST ESTIMATE PER YEAR	Comfort Systems USA		Elite Building Solutions	
			MARK UP %	Estimated Material Cost with Mark Up %	MARK UP %	Estimated Material Cost with Mark Up %
1	Material (Cost plus %) Excluding New Units	\$20,000.00	20.00%	\$ 24,000.00	1.40%	\$ 20,280.00
2	Material (Cost plus %) New Units	\$20,000.00	20.00%	\$ 24,000.00	1.25%	\$ 20,250.00
	Total Bid, Section A (Items 1-2)	Estimated Hours Per Year		\$ 48,000.00		\$ 40,530.00
	DESCRIPTION		Price/Hour	Estimated Cost	Price/Hour	Estimated Cost
3	Journeyman HVAC/R Technician - Straight/Regular Time	100	\$80.00	\$8,000.00	\$85.00	\$8,500.00
4	Journeyman HVAC/R Technician - Nights and Weekends	25	\$110.00	\$2,750.00	\$110.00	\$2,750.00
5	Journeyman HVAC/R Technician - Holiday	10	\$110.00	\$1,100.00	\$120.00	\$1,200.00
6	Apprentice HVAC/R Technician - Straight/Regular Time	100	\$50.00	\$5,000.00	\$70.00	\$7,000.00
7	Apprentice HVAC/R Technician - Nights on Weekends	25	\$60.00	\$1,500.00	\$80.00	\$2,000.00
8	Apprentice HVAC/R Technician - Holidays	10	\$60.00	\$600.00	\$90.00	\$900.00
9	HVAC/R Technician's Helper - Straight/Regular Time	100	\$50.00	\$5,000.00	\$60.00	\$6,000.00
10	HVAC/R Technician's Helper - Nights and Weekends	25	\$60.00	\$1,500.00	\$70.00	\$1,750.00
11	HVAC/R Technician's Helper - Holidays	10	\$60.00	\$600.00	\$80.00	\$800.00
12	Foreman/Supervisor - Straight/Regular Time	100	\$95.00	\$9,500.00	\$90.00	\$9,000.00
13	Foreman/Supervisor - Nights and Weekends	25	\$115.00	\$2,875.00	\$115.00	\$2,875.00
14	Foreman/Supervisor - Holidays	10	\$115.00	\$1,150.00	\$125.00	\$1,250.00
15	General Laborer - Straight/Regular Time	100	\$50.00	\$5,000.00	\$50.00	\$5,000.00
16	General Laborer - Nights and Weekends	25	\$60.00	\$1,500.00	\$60.00	\$1,500.00
17	General Laborer - Holidays	10	\$60.00	\$600.00	\$70.00	\$700.00
	Total Bid, Section B (Items 3-17)			\$46,675.00		\$51,225.00
	TOTAL BASE BID, Section A & B (Sum of Item 1-17)			\$94,675.00		\$91,755.00

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

CERTIFIED:

A. Rennie
A. Rennie, Purchasing Manager

Witness

8/16/16
Date

CITY OF



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

INVITATION TO BID

INVITATION TO BID: Bid 16-52, Construction - HVAC/R Contractor Rebid

DEADLINE: Friday August 12, 2016 before 2:00:00 PM, Local Time

PRE-BID: Tuesday July 26, 2016 at 2:00 PM, Room 326

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

PURCHASING AGENT: Les McGaugh, lmcgaugh@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: Monday, July 18 and 25, 2016

INVITATION TO BID

Bid 16-52, Construction - HVAC/R Contractor Rebid

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

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

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

Name of Firm: Elite Building Solutions

Contact Person: Nathan Wright Title: Operating Manager

E-Mail: ebsnathanwright@gmail.com Phone: 479-879-2886

Business Address: 446 N. 40th St. Springdale

City: Springdale State: AR. Zip: 72762

Signature: [Signature] Date: 8-3-16

City of Fayetteville, AR
Invitation to Bid
Bids 16-51, Construction - Plumbing Contractor Rebid
&
Bid 16-52, Construction - HVAC/R Contractor Rebid

16-51: The City of Fayetteville, AR is accepting sealed bids from properly licensed plumbing contractors for providing plumbing services on an as-needed basis for a one (1) year term with the option to renew for four (4) additional one (1) year terms.

16-52: The City of Fayetteville, AR is accepting sealed bids from properly licensed HVAC/R contractors for providing heating, ventilation, air conditioning, and refrigeration services on an as-needed basis for a one (1) year term with the option to renew for four (4) additional one (1) year terms. The bid is intended to be for on-call services and maintenance. This bid will not be used for new unit replacement except in the event of an emergency.

Sealed bids shall be received by the City of Fayetteville, AR by **Friday August 12, 2016 before 2:00:00 PM, local time**. Bids shall be submitted in a sealed envelope or sealed package labeled Bid 16-51, or 16-52. Bids received after this time will not be accepted. Bids will be opened and publicly read aloud immediately after specified closing time. All interested parties are invited to attend. Bids shall be received at 113 West Mountain St. Fayetteville, Arkansas 72701.

A non-mandatory pre-bid meeting will be held on **Tuesday July 26, 2016 at 2:00 PM** in Room 326 at 113 W. Mountain. All interested parties are strongly urged to attend.

Copies of the Bid Documents may be obtained electronically for bidding purposes from the City of Fayetteville Purchasing Division by e-mailing Les McGaugh, City of Fayetteville Purchasing Agent, lmcgaugh@fayetteville-ar.gov by calling 479-575-8220. Any questions concerning the bidding process should be addressed to Les McGaugh, Purchasing Agent. No partial sets will be issued for bidding. No paper sets will be issued for bidding.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the State of Arkansas and the City of Fayetteville for this Work.

A one hundred percent (100%) performance and payment bond shall be provided for projects exceeding \$20,000. Arkansas Department of Labor Prevailing Wage Rates apply for projects over \$75,000.

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority and women business enterprises.

The City reserves the right to reject any or all Bids and to waive irregularities therein, and all Bidders shall agree that such rejection shall be without liability on the part of the City for any damage or claim brought by any

Bidder because of such rejections, nor shall the Bidders seek any recourse of any kind against the City because of such rejections. The filing of any Bid in response to this invitation shall constitute an agreement of the Bidder to these conditions.

City of Fayetteville, AR

By: Les, McGaugh

City of Fayetteville, Purchasing Agent

Advertisement Dates: 07/18/16 and 07/25/16

City of Fayetteville, Arkansas					
Bid 16-52, Construction - HVAC/R Contractor Rebid					
Date Issued: 07/18/2016			Deadline: Friday August 12, 2016 before 2:00 PM		
F.O.B			Purchasing Agent Contact Information		
Fayetteville, Arkansas as needed			Les McGaugh, (479) 575-8220, lmcgaugh@fayetteville-ar.gov		
SECTION A: Materials (Estimated Annual)					
ITEM	DESCRIPTION	MARK UP %		CONTRACTORS MATERIAL COST ESTIMATE PER YEAR	ESTIMATED MATERIAL COST WITH MARK UP %
1	Material (Cost plus %)- Excluding New Units	1.4%	x	\$ 20,000.00	= \$ 28,000.00
2	Material (Cost plus %) - New Units	125%	x	\$ 20,000.00	= \$ 25,000.00
Total Bid, Section A (Items 1-2):					\$ 53,000.00
Section B: Hours (Estimated Annual)					
ITEM	DESCRIPTION	EST. HRS PER YEAR		PRICE/HOUR	ESTIMATED COST
3	Journeyman HVAC/R Technician - Straight/Regular Time	100	x	\$ 85.00	= \$ 8,500.00
4	Journeyman HVAC/R Technician - Nights and Weekends	25	x	\$ 110.00	= \$ 2,750.00
5	Journeyman HVAC/R Technician - Holiday	10	x	\$ 120.00	= \$ 1,200.00
6	Apprentice HVAC/R Technician - Straight/Regular Time	100	x	\$ 70.00	= \$ 7,000.00
7	Apprentice HVAC/R Technician - Nights and Weekends	25	x	\$ 80.00	= \$ 2,000.00
8	Apprentice HVAC/R Technician - Holidays	10	x	\$ 90.00	= \$ 900.00
9	HVAC/R Technician's Helper - Straight/Regular Time	100	x	\$ 60.00	= \$ 6,000.00
10	HVAC/R Technician's Helper - Nights and Weekends	25	x	\$ 70.00	= \$ 1,750.00
11	HVAC/R Technician's Helper - Holidays	10	x	\$ 80.00	= \$ 800.00
12	Foreman/Supervisor - Straight/Regular Time	100	x	\$ 90.00	= \$ 9,000.00

13	Foreman/Supervisor - Nights and Weekends	25	x	\$ 115. ⁴⁴	=	\$ 2,875. ⁴⁴
14	Foreman/Supervisor - Holidays	10	x	\$ 125. ⁴⁴	=	\$ 1,250. ⁴⁴
15	General Laborer - Straight/Regular Time	100	x	\$ 50. ⁴⁴	=	\$ 5,000. ⁴⁴
16	General Laborer - Nights and Weekends	25	x	\$ 60. ⁴⁴	=	\$ 1,500. ⁴⁴
17	General Laborer - Holidays	10	x	\$ 70. ⁴⁴	=	\$ 700. ⁴⁴
Total Bid, Section B (Items 3-17): BIDDERS SHALL COMPLETE AND BID ALL LINE ITEMS						\$ 54,175. ⁴⁴
Total Base Bid						\$ 103,175. ⁴⁴
Section A + Section B (Sum of Items 1-17):						
NAME OF FIRM						
Elite Building Solutions						

*Bidders shall bid and provide pricing on all line items of all sections in the bid form. Failure to bid on all line items shall result in rejection of bid. The City intends to award this bid to the lowest responsive responsible bidder.

Bidder Qualification Questions:

1 – Does your company have a licensed HVAC/R Technician? YES NO (circle one)

2 – Does your company have a Commercial Contractor's License? YES NO (circle one)

3 – Is your company EPA Certified? YES NO (circle one)

4 – (FOR INFORMATION USE ONLY) List all manufacturers you are certified to service:

All Manufactures

3 – (FOR INFORMATION USE ONLY) List all Computer Controls Manufacturers you are certified to service:

We Service Accounts with
Liebert, Crac, Stulz, & Multiple Mini-Split Manufactures

BIDDERS SHALL SUBMIT PROOF OF THE ABOVE CERTIFICATIONS (LISTED IN QUESTIONS 1-3)

WITH BID.

EXECUTION OF BID -

Actual specification of any deficient item shall be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation shall be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.
4. I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true.
5. Bidder shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in addition to all federal, state, and local laws.
6. Bidder shall disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Response shall disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official. If no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

NW. 1.) NO KNOWN RELATIONSHIP EXISTS

_____ 2.) RELATIONSHIP EXISTS (Please explain): _____

7. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.
8. As A bidder on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
 - a. Federal Executive Order (E.O.) 12549 “Debarment and Suspension” requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
 - b. Your signature below certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

*NAME OF FIRM: Aracrebs II, LLC

*D/B/A or Corporation Name Elite Building Solutions Purchase Order/Payments shall be issued to this name

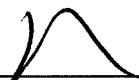
*BUSINESS ADDRESS: 446 N. 40th St.

*CITY: Springdale *STATE: AR *ZIP: 72762

*PHONE: 479-770-5566 FAX: 479-927-1881

*E-MAIL: ebsnathanwright@gmail.com

*BY: (PRINTED NAME) Nathan Wright

*AUTHORIZED SIGNATURE: 

*TITLE: Operating Manager

DUNS NUMBER: _____

CAGE NUMBER: _____

*TAX ID NUMBER: 81-1313848

Acknowledge Addendums:

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

City of Fayetteville

Bid 16-52, Construction - HVAC/R Contractor Rebid

References

The following information is required from all Bidders so all bids may be reviewed and properly evaluated.

COMPANY NAME: Elite Building Solutions

BUSINESS ADDRESS: 446 N. 4th St.

NUMBER OF YEARS IN BUSINESS: 9 years HOW LONG IN PRESENT LOCATION: 4 years

TOTAL NUMBER OF CURRENT EMPLOYEES: 7 FULL TIME 1 PART TIME

NUMBER OF EMPLOYEES YOU PLAN TO USE TO SERVICE THIS CONTRACT: 2 FULL TIME 1 PART TIME

PLEASE LIST FOUR (4) LOCAL COMMERCIAL AND/OR GOVERNMENTAL REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED SIMILAR CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed). Contractors shall have valid experience.

1. First Security Bank
COMPANY NAME

Springdale AR 72762
CITY, STATE, ZIP

Mike P Taylor
CONTACT PERSON

754-5605
TELEPHONE

Contracts still Active
DATE COMPLETED

mike.taylor@fsbank.com
E-MAIL ADDRESS

3. Executive Center
COMPANY NAME

Bentonville AR 72712
CITY, STATE, ZIP

Melanie Billing
CONTACT PERSON

479-271-7172
TELEPHONE

Contract still Active
DATE COMPLETED

melanie@exec-center.com
E-MAIL ADDRESS

2. Rogers Adult Wellness
COMPANY NAME

Rogers, AR 72756
CITY, STATE, ZIP

Lesli Ossenfort
CONTACT PERSON

479-631-3333
TELEPHONE

Contracts still Active
DATE COMPLETED

lossenfort@rogersar.gov
E-MAIL ADDRESS

4. First Baptist Church
COMPANY NAME

Bentonville AR 72712
CITY, STATE, ZIP

Bryan Hickman
CONTACT PERSON

479-273-3379
TELEPHONE

Contract Still Active
DATE COMPLETED

bryanh@fbc Bentonville.org
E-MAIL ADDRESS

City of Fayetteville
Bid 16-52, Construction - HVAC/R Contractor Rebid
General Terms and Conditions

1. SUBMISSION OF BID & BID EVALUATION:

- a. Bids shall be reviewed following the stated deadline, as shown on the cover sheet of this document.
- b. Bidders shall submit bids based on documentation published by the Fayetteville Purchasing Division.
- c. **Bids shall be enclosed in sealed envelopes or packages** addressed to the City of Fayetteville, Purchasing Division, Room 306, 113 W. Mountain, Fayetteville, AR 72701. **The name, address of the firm and Bid, RFP, or RFQ number shall be on the outside of the packaging as well as on any packages enclosed in shipping containers or boxes.**
- d. The City shall not be responsible for misdirected bids. Vendor should call the Purchasing Office at 479.575.8220 to ensure correct receipt of bidding documents prior to opening time and date listed on the bid form.
- e. Bidders must have experience in providing products and/or services of the same or similar nature. **Failure to provide materials bid will subject bidder to disqualification for the remainder of the calendar year. Failure to deliver poor or inadequate services, on a consistent basis or more than three (3) times in a calendar year will subject bidder to disqualification for the remainder of the calendar year.**
- f. Bidder is advised that exceptions to any of the terms contained in this bid must be identified in its response to the bid. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- g. Local time is defined as the time in Fayetteville, Arkansas on the due date of the deadline. Bids shall be received **before** the time as shown by the atomic clock located in the Purchasing Division Office.
- h. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City reserves the right to award bids in their entirety, none, or by line item.
- i. This agreement shall be effective from one year of the date of signed contract. The City reserves the right to extend the contract by mutual agreement for a period of four (4) additional, one (1) year periods automatically unless either the Contractor or the City notifies the other of its intent to terminate the contract at the end of the contract period.
- j. **Bid pricing shall remain firm for five years.**

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. DESCRIPTION OF SUPPLIES AND SERVICES:

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

4. **RIGHTS OF CITY OF FAYETTEVILLE BID PROCESS:**

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the following:

- a. The City of Fayetteville reserves the right to select the bid that it believes will serve the best interest of the City.
- b. The City of Fayetteville reserves the right to accept or reject any or all bids.
- c. The City of Fayetteville reserves the right to cancel the entire bid.
- d. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the invitation to bid or in bids submitted.
- e. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or data without changing the terms of the bid.

5. **COSTS INCURRED BY BIDDERS:**

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

6. **CONFLICT OF INTEREST:**

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

7. **WITHDRAWAL OF PROPOSAL:**

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

8. **LATE PROPOSAL OR MODIFICATIONS:**

Bid modifications received after the time set for the bid submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids.

Bidders should call the Purchasing Division at (479) 575-8220 to insure receipt of their submittal documents prior to opening time and date listed.

9. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

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

10. PROVISION FOR OTHER AGENCIES:

Unless otherwise stipulated by the bidder, the bidder agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible Users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

11. COLLUSION:

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

12. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

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

13. CITY INDEMNIFICATION:

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

goods and payment thereof by the City.

14. **VARIANCE FROM STANDARD TERMS & CONDITIONS:**

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

15. **ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:**

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

16. **PROCUREMENT POLICY FOR RECYCLED MATERIALS:**

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

17. **PAYMENTS:**

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

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

18. **CANCELLATION:**

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

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

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

20. NON-EXCLUSIVE CONTRACT:

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

21. LOBBYING:

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

22. ADDITIONAL REQUIREMENTS:

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

23. ADD OR DELETE LOCATIONS OR SERVICES:

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

24. **INTEGRITY OF BID DOCUMENTS:**

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

25. **CERTIFICATE OF INSURANCE:**

The successful bidder shall provide a Certificate of Insurance in accordance with specifications listed in this request for proposal, prior to commencement of any work. Such certificate shall list the City of Fayetteville as an additional insured. Insurance shall remain valid during each contract term and shall be provided at each renewal period.

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

Workers' Compensation:	Statutory Amount
Comprehensive General & Automotive Liability:	\$1,00,000 for each accident
Bodily Injury Liability:	\$500,000 for each accident
Property Damage Liability:	\$500,000 aggregate.

26. **PRICING:**

- a. Prices shall include all labor, supervision, materials, equipment, transportation, and services necessary to do a superior quality job.
- b. Bidder shall state any discounts to apply. Discounts shall be shown for individual items unless all items have the same percentage of discounts.
- c. Any projects in excess of \$20,000 will require additional approval from the Fayetteville City Council prior to authorization of work. Projects exceeding \$20,000 will require a 100% performance and payment bond after Council approval at no additional cost to the City
 - i. The City shall reimburse the actual cost of the 100% performance and payment bond for projects over \$20,000 to the awarded contractor. Reimbursement cost shall be equal to actual cost of bonds paid by the contractor

- d. Any projects in excess of \$75,000 shall be subject to prevailing wage rates as determined by the Arkansas Department of Labor. Additional hourly fees shall not be charged to the City for projects requiring prevailing wage rates.

27. OTHER GENERAL CONDITIONS:

- a. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. ***Sales tax shall not to be included in the bid price; however,*** applicable Arkansas sales tax laws will apply when necessary but will not be considered in award of this project.
- b. Each bidder should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- c. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
- d. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
- e. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the bidder's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- f. If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- g. **NOTE: Any uncertainties shall be brought to the attention to Les McGaugh immediately via telephone (479.575.8220) or e-mail (lmcgaugh@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms.**
- h. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Les McGaugh, City of Fayetteville, Purchasing Agent via e-mail (lmcgaugh@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- i. Any information provided herein is intended to assist the bidder in the preparation of proposals necessary to properly respond to this bid. The bid is designed to provide qualified Proposers with

sufficient basic information to submit proposals meeting minimum specifications and/or test requirements, but is not intended to limit a bid's content or to exclude any relevant or essential data.

- j. Bidders irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
 - k. The successful bidder shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful bidder assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful bidder shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
 - l. The successful bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful bidder shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.
28. **INVOICING:** All invoices shall be presented to the City with the minimum information listed below.
- a. City Department that ordered the materials or services
 - b. Delivery date or the date of services
 - c. Name of the City Employee that requested service
 - d. Bid Number that applies to the purchase and invoices. Amounts in the bid shall match invoicing.
29. Invoicing shall be itemized based upon line item pricing provided with bid.
30. **ATTACHMENTS TO BID DOCUMENTS:** See included detailed specifications.
31. This is a rebid from Bid 16-43. Bidding documents for Bid 16-43 are not applicable or eligible for this bid. Bidders shall use bidding documents provided in this document for project submittal.

City of Fayetteville
Bid 16-52, Construction - HVAC/R Contractor
Detailed Specifications

- 1.1 Bidders shall bid and provide pricing on all line items of all sections in the bid form. Failure to bid on all line items shall result in rejection of bid. The City intends to award this bid to the lowest responsive responsible bidder.
- 1.2 The City requires the services of an HVAC/R Contractor to provide labor, material, materials, and equipment to perform repairs, and any necessary service to various City buildings and projects.
- 1.3 The City reserves the right to bid or quote any project. This is not an exclusive contract.
- 1.4 This is intended to be for on-call services and maintenance. This bid will only be used for new unit replacement in the event of an emergency.
- 1.5 The contractor may be required to do emergency repairs at times other than normal working hours. The contractor shall be in a position to be available on a twenty-four (24) hour basis for such emergency work. Contractor shall include a response time as part of bid pricing.
- 1.6 On site emergency response time shall be no more than one (1) hour after notification. Regular response time shall be no more than 48 hours after contact. Bidder shall include mileage and travel time as part of this agreement. The City shall not be responsible for additional mileage or travel time costs.
- 1.7 The City anticipates \$50,000 of services for various projects during the each contract term. This quantity is approximate and represents the estimated requirement for the contract period.
- 1.8 The City shall not be obligated to purchase more or less than the estimated quantities listed. The City reserves the right to purchase more or less via an on-call basis depending upon actual needs during the contract period.
- 1.9 Bidders shall furnish evidence that they have past experience in the type of work as outlined in the bid specifications and shall include specific experience. A minimum of three (3) references shall be submitted with each bid.
- 1.10 Bidder shall be currently licensed as a HVAC/R contractor with the State of Arkansas. Bidders shall have had an HVAC/R license for a minimum of five (5) years. Current valid Arkansas contractor's license is required and shall be valid at time of bid.
- 1.11 The Bidder shall possess the correct occupational licenses, all professional licenses, and any other authorizations necessary to carry out and perform the work required by the project **AT THE TIME OF BID SUBMISSION** pursuant to all applicable Federal, State, and Local Laws, Statutes, Ordinances, and rules and regulations of any kind.
- 1.12 The Contractor shall be responsible for obtaining all required permits; however, fees for City issued permits shall be waived and shall not be included in pricing.
- 1.13 All work shall be performed in a high quality, workmanship like manner and shall conform to codes enforced by the City Inspection Division.

- 1.14** In the event a project is deemed to exceed \$20,000, the City department requesting service and the Purchasing department shall be notified immediately. No project exceeding \$20,000 shall be performed or started without prior approval from the Fayetteville City Council and a 100% performance and payment bond.
- 1.15** **PRICING: Hourly labor rates and markup percentages bid shall include but is not limited to all labor cost, insurance, mobilization, overhead, profit, travel time, bonding, mileage, etc. Prices quoted shall be firm for the term of the contract. The City shall not be charged any additional fees including but not limited to insurance premiums, mobilization, bonding, etc.**
- 1.16** The Contractor shall employ a competent and thoroughly experienced superintendent capable of handling all phases of each project including any necessary assistants to complete each project. When any work under this contract is being performed, the City and necessary employees shall be present at the job site. The Superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor.
- 1.17** Major and important directions shall be confirmed in writing to the Contractor, other directions shall be so confirmed upon written request of the Contractor.
- 1.18** The Superintendent shall be in complete and responsible charge of the project for the Contractor and shall not be superseded by any other personnel of the Contractor. After contract award, awarded Contractor shall submit the name of the proposed Superintendent for the Contractor and shall furnish a telephone number or numbers through which the Superintendent may be reached 24 hours each day of the contract duration.
- 1.19** The Contractor shall provide efficient supervision for the work, using industry standard, best skill and attention. Contractor shall carefully study and compare all Drawings, Specifications, and other instructions and shall report at once to the Project Manager any error, inconsistency, or omission which may be discovered; but shall not be held responsible for the existence or discovery.
- 1.20** In the event the City becomes dissatisfied with hours billed on projects, quality of work, timeliness of performance or any other manner, the City reserves the right to cancel this contract within thirty (30) days written notice at no penalty to the City.
- 1.21** Any work orders associated with All City Owned and Leased Buildings shall be performed under the direction and coordination with Facilities Management. Any other work orders associated will be directed through the respective City department or division.
- 1.22** All bidders shall have current certifications for the certifications listed below. Proof of certification shall be submitted with bid. Bidders shall indicate response in the designated location shown on the bid form provided with this bid. Evidence of each requirement listed below shall be included with sealed bid submission.
- a. Bidders shall have a minimum of one (1) currently employed, on staff, licensed HVAC/R Technician at time of bid.
 - b. Bidders shall have a current valid Commercial Contractor's License issued from the State of Arkansas Contractor's Licensing Board at time of bid.

- c. Bidders shall be EPA Certified at time of bid.

This contract executed this 3 day of August, 2016, between the City of Fayetteville, Arkansas, and Elite Building Solutions. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Elite Building Solutions at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 16-52 as stated in HVAC/R bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 16-52, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay \$103,175.⁰⁰ based on their bid proposal in an amount not to exceed \$_____. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Elite Building Solutions consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 16-52 with the specifications and conditions typed thereon.
 - B. HVAC/R bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville Elite Building Solutions and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Elite Building Solutions.
5. Elite Building Solutions shall not assign its duties under the terms of this agreement.
6. Elite Building Solutions agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Elite Building Solutions performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Elite Building Solutions shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Elite Building Solutions shall provide and shall cause

each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected. The premiums for all insurance and the bond required herein shall be paid by Elite Building Solutions

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.

\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

8. Elite Building Solutions shall furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or Elite Building Solutions with 30 calendar days written notice.
10. This contract shall be effective from one year of the date of signed contract. The City reserves the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either Elite Building Solutions or the City notifies the other of its intent to terminate the contract at the end of the contract period.
 - a. Projects exceeding \$20,000 will require additional approval from the Fayetteville City Council.
11. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
12. Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the Fayetteville City Council **in advance** of the change in scope, cost or fees.
13. Jurisdiction: Legal jurisdiction to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case.
14. Arbitration/Mediation: The City will not agree to be forced to mediate or arbitrate any dispute.
15. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.

WITNESS OUR HANDS THIS 3 DAY OF August, 2016.

CONTRACTOR NAME

CITY OF FAYETTEVILLE, ARKANSAS

By: [Signature]
Signature

By: _____
LIONELD JORDAN, Mayor

Nathan Wright Operator Manager
Printed Contractor Name & Title

ATTEST (Signature)

ATTEST: (Signature)

Company Secretary (Printed Name)

Sondra E. Smith, City Clerk, Treasurer

Business Address

Springdale AR 72762
City, State & Zip Code

Date Signed: 8-3-16

Date Signed: _____

State of Arkansas
Commercial Contractors Licensing Board

ARACREBS II, LLC, D/B/A ELITE BUILDING SOLUTIONS
446 N 40TH ST
SPRINGDALE, AR 72762

ARACREBS II, LLC, D/B/A ELITE BUILDING SOLUTIONS

This is to Certify That _____

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended
and is entitled to practice Contracting in the State of Arkansas within the
following classifications/specialties:

SPECIALTY

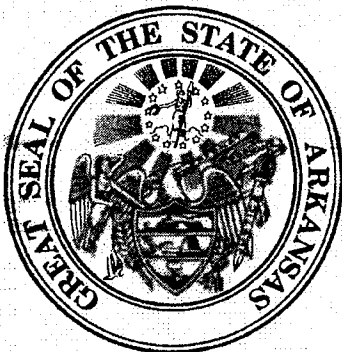
Heating, Ventilation, Air Conditioning, Refrigeration

with the following suggested bid limit Unlimited

from April 22, 2016 **until** May 31, 2017

when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



John L. Bryan

Ray [Signature]

CHAIRMAN

SECRETARY

April 22, 2016 - da

Certificate of Completion

This is to certify that

Jeremy J. Kruse

Certificate Number

2192290

Certified by
VGI Training
EPA Approved
September 30, 1988

TECHNICAL FIELD UNIVERSAL

as required by EPA CAA and Subpart G.

Eric K Stiles

430-55-8997

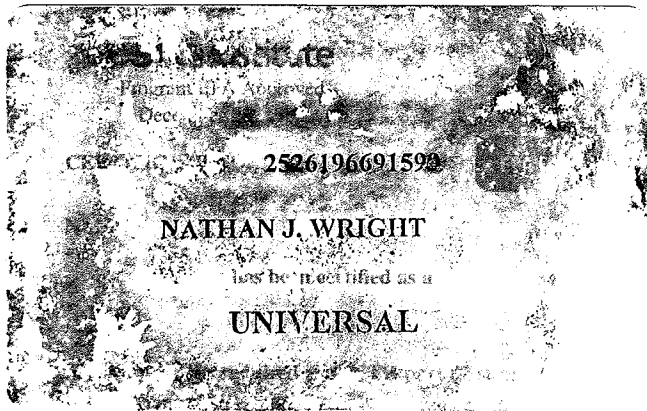
D. Number

21172001

Date

[Signature]

President VGI Training, Inc.



**ARKANSAS DEPT OF LABOR
BOILER INSPECTION DIVISION**

THIS IS TO CERTIFY

NATHAN J WRIGHT
911 KING AUTHER DR
SPRINGDALE, AR 72767



IS LICENSED AS
**HIGH PRESSURE
BOILER OPERATOR**

HP23797

Issued: **5/23/2015**

Expires: **5/23/2018**

Bid 16-52, Addendum 1



Date: Friday July 29, 2016

To: All Prospective Vendors

From: Les McGaugh – 479.575.8220 – lmcgaugh@fayetteville-ar.gov

RE: Bid 16-52, Construction – HVACR Rebid

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Bid Form. **BIDDERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.**

1. A non-mandatory pre-bid meeting was held in Room 326 City Hall, 113 W Mountain on Tuesday July 26th, 2016 at 2:00 PM. The sign in sheet of all attendees is attached. The following items were discussed during the pre-bid meeting:
 - a. Billable hours shall include reasonable drive time to and from Point of Dispatch. Hourly rates shall be inclusive of all fees. No fuel, mileage, surcharge, or additional fees shall be added to any invoice.
 - b. Point of Dispatch shall be defined as the closest office to the City of Fayetteville, located at 113 W. Mountain, Fayetteville, AR 72701. Point of Dispatch address shall be provided below or written on the bid form.
 - a. Point of Dispatch Address: 446 N. 40th St.
Springdale, AR 72762
 - c. Emergency Response time is hereby increased from one (1) hour to two (2) hours.



City of Fayetteville, Arkansas
Attendance Sheet

Description: Construction - Plumbing Contractor; Construction - HVACR Contractor

Function (circle one) : Bid Opening, Selection Committee Meeting, Pre-Bid, Interview
Date: 07 / 26 / 16 Time: 2:00 PM

City staff e-mail includes "@fayetteville-ar.gov"

Name	Company	Title	Phone	Email
1 Les McLaugh	City of Fayetteville	Purchasing Agent	449-575-8220	lmcgaugh@
2 Kevin Johnson	Allied Plumbing	Estimator	479-789-5421	kevin@alliedplumbing.com
3 Steve Wiles	Comfort Systems USA	Project Supt.	501-539-2780	Steve.Wiles@comfortus.com
4 Andrea Rousier	City of Fayetteville	Purch. Mgr.	449-575-8287	arousier@
5 Bethann Wright	Elite Building Solutions	Operating Manager	479-879-2883	ebethannwright@gmail.com
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City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0416

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 4

WEX BANK:

A RESOLUTION TO APPROVE A CONTRACT WITH WEX BANK, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, TO ENABLE THE CITY TO PARTICIPATE IN A FUEL CARD PROGRAM

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 WEX Bank, pursuant to a National Joint Powers Alliance cooperative purchasing agreement, to enable the City to participate in a fuel card program

City of Fayetteville Staff Review Form

2016-0416

Legistar File ID

9/20/2016

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

Andrea Rennie

9/2/2016

Purchasing /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the signing of an addendum to the fuel card services agreement between WEX Bank and National Joint Powers Alliance (NJPA), enabling the City to receive fuel card services off of NJPA Contract# 042016-WEX. Signing this addendum will enable the City to utilize the fuel card contract, as renewed by NJPA through July 20, 2021.

Budget Impact:

Various	Various
Account Number	Fund
Various	Various
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:

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Lioneld Jordan and Fayetteville City Council

THRU: Paul A. Becker, Chief Financial Officer

FROM: Andrea Rennie, Purchasing Manager

DATE: Friday, September 02, 2016

SUBJECT: Approval of contract with WEX Bank for fuel card services

RECOMMENDATION:

Staff recommends the signing of an addendum to the fuel card services agreement between WEX Bank and National Joint Powers Alliance (NJPA), enabling the City to receive fuel card services off of NJPA Contract# 042016-WEX. Signing this addendum will enable the City to utilize the fuel card contract, as renewed by NJPA through July 20, 2021.

BACKGROUND:

The WEX contract is recognized and utilized by the State of Arkansas and was competitively solicited through NJPA. WEX offers no set up fees or card fees and is an Arkansas Office of State Procurement statewide contract. The City will be able to obtain valuable monthly rebates on fuel and maintenance transactions, some of which are being tracked manually.

This contract also features an online tool including a profile manager, expense management tools and fuel price mapping. The profile manager allows the City to set rules for how the card can be used, how often and when, giving the City flexible control limits. The expense management tools enable the City to manage the fuel card spend in a centralized location. Fuel price mapping combines fuel transaction data with Google Maps to help drivers find current best prices by city, state, zip, fuel type, price per gallon, or brand.

WEX fuel cards are accepted by the vast majority of fueling stations and provides access to one of the largest proprietary fleet card networks.

DISCUSSION:

Currently, three City departments and divisions have the opportunity to utilize a consolidated fuel card program. Transitioning the Fleet Division, Police Department, and Fire Department to the new fuel card program will consolidate fuel purchases and save the City resources currently being used to manually receive tax rebates. The cards have the capability to be customized by each department and division to meet varying needs.

BUDGET/STAFF IMPACT:

Budgeted funds will be utilized primarily by Fleet, Fayetteville Police Department and the Fayetteville Fire Department based on their fuel card needs. Fuel is a budgeted expense.

Attachments:

Contract Acceptance and Award from NJPA, Contract#; 042016-WEX
Fuel Card Services Addendum between WEX Bank and NJPA
WEX General Information

FORM E
CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 042016-WEX

Proposer's full legal name: WEX Bank

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be July 20, 2016 and will expire on July 20, 2020 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:


NJPA DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)


NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coquette
(NAME PRINTED OR TYPED)

Awarded on May 26, 2016

NJPA Contract # 042016-WEX

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name WEX Bank

Authorized Signatory's Title President/CEO


VENDOR AUTHORIZED SIGNATURE

Kirk S. Weiler
(NAME PRINTED OR TYPED)

Executed on May 27, 2016

NJPA Contract # 042016-WEX

APPROVED
By AGannon at 11:07 am, May 27, 2016

ADDENDUM TO THE FUEL CARD SERVICES AGREEMENT BETWEEN WEX BANK AND THE NATIONAL JOINT POWERS ALLIANCE (NJPA) FOR THE STATE OF ARKANSAS

CREDIT INFORMATION

Participating Entity has requested a credit account pursuant to the Vendor Agreement #062411-WEF (Agreement), ("Agreement") entered into between the National Joint Powers Alliance ("NJPA") and WEX BANK. By enrolling in this Program, the Participating Entity named below agrees that in the event their account is not paid as agreed, WEX BANK may report the undersigned's liability for and the status of the account to credit bureaus and others who may lawfully receive such information.

Participating Entity City of Fayetteville, Arkansas			Phone # 479-575-8289	Fax# 479-575-8289
Headquarters Name and Physical Address (Do not include PO Box) 113 W. Mountain				
NJPA Member ID Number 34143			Applicant's Taxpayer ID # (TIN, FEIN or SSN) 71-6018462	
In Business Since (yyyy) 11/3/1836	Year of Incorporation (yyyy) 1836	Number of Vehicles 70	Avg Monthly Fuel Expenditures \$ 21,142.45	Avg Monthly Service Expenditures \$ Various

ACCOUNT SETUP INFORMATION

Write Participating Entity name as you wish it to appear on cards. Limit of 20 characters & spaces. Unless specified, no company name will appear on cards.

C I T Y O F F A Y E T T E V I L L E

Billing Contact Andrea Rennie		Billing Address 113 W. Mountain	City Fayetteville	State AR	Zip+4 72701
Designate the Fleet Contact authorized to receive all charge cards, reports, and other such information we provide from time to time and to take actions with respect to your account and account access. This is also the person designated by your company to provide all fleet vehicles, driver and other information we may request.					
Authorized Fleet Contact Name Andrea Rennie		Title Purchasing Agent	Phone # 479-575-8289	Fax # 479-575-8257	
Mailing Address (if different from billing address) 113 W. Mountain			City Fayetteville	State AR	Zip+4 72701
Email address (required to take advantage of product type card controls) aforen@fayetteville-ar.gov					

☒ Check here if business is exempt from motor fuels tax ***Exempt from federal not state of Arkansas**

TERMS

- This Addendum is to allow the State of Arkansas to participate under the Agreement between WEX BANK and NJPA (AR contract # 4600027573). It does not modify, amend or change the Agreement in any way.
- Participating Entity hereby requests the services of WEX BANK described in the Agreement and agrees to perform all duties required under the Agreement, including, without limitation, timely payment of all charges (including any additional fees) on its account(s). Participating Entity agrees to be bound by the terms and conditions of the Agreement, including, without limitation, rules for authorized and unauthorized use of cards, disputes of charges, reporting lost and stolen cards, and all other rules and provisions relating to use of Participating Entity's account.
- Participating Entity acknowledges that its failure to make timely payment in accordance with the terms of the Agreement may result in suspension or cancellation of the account(s).
INFORMATION SHARING DISCLOSURE: Information regarding your transactions may be provided to NJPA accepting merchants or their service providers.
Compliance with Federal Law: Our bank complies with federal law which requires all financial institutions to obtain, verify, and record information that identifies each company or person who opens an account. What this means for you: when you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents for your business.
DISCLAIMER: THIS IS AN APPLICATION FOR SERVICES AND SHALL NOT BE BINDING UPON WEX BANK UNTIL FINAL CREDIT APPROVAL HAS BEEN GRANTED BY WEX BANK.
- Issuer shall pay financial incentives to Company in accordance with the terms and conditions set forth in the Agreement between WEX BANK and NJPA (AR contract # 4600027573).

PARTICIPATING ENTITY AUTHORIZED SIGNATURE REQUIRED

Any person signing on behalf of the Participating Entity has been duly authorized by all necessary action of Applicant's governing body, and that the undersigned is authorized to make this application and accept the terms referenced herein on behalf of the Participating Entity.

Signature: _____	Print Name: _____
Title: _____	Date: _____

Complete and sign addendum. Fax to 1-866-527-8873.

FOR OFFICE USE ONLY	Oppty Number	Sales Code	Plastic Type NJPA	Coupon Code NJA	Account Number 04
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ACCEPTANCE WHERE YOU NEED IT

Access one of the largest proprietary fleet card networks

FUEL



Card acceptance is subject to independent owner/operator participation and subject to change without notice.

SERVICE



AC & T	Global	Petro King
Aviation	Grow Mark	Petro Stop
Bell Gas	Halley's	PRIDE
Bigfoot	Handy Andy's	Pure
Break Time	Huck's	Qik N EZ
Capital City	ICO	Quality Oil
Carousell	Ideal	Quik Mart
Certified	Inter City	Robinson Oil
City Garage	Johnson & Dixon	Rotten Robbie
Cogos	Jr. Food Stores	Royal Farms
Crystal Flash	Kenyon	Rutters
Cumberland Farms	King Soopers	Rymes 24
D & D Oil	Koch	SC Fuels
Dairy Mart	Kramer	Smokers Express
Depot	Krause	Sprint
Drivers Traveler	Kroger	Stewarts Shops
Dynamic Mart	Kum & Go	Taylor Foods
Economy	Kwik Pantry	TCI
Eddins Walcher	Lil Champ	Thornton Oil
Enmark	Lucky Stop	TOTAL
ETNA	M & H	Town&Country
Express Stop	Mac's Stores	Trade Mart
Family Express	McClure Oil	Trade Oil
Farmland	MFA Oil	Tripair Oil
Farstad	Minit Mart	US Oil
Fast Stop	Mr. Cut Rate	USCO
Fauser Oil	Multi Serv	Valley Dairy
FFP	Murphy Express	Weigel Store
Flash Foods	NAPA	Wesco
Food Chief	Novus	Williams Travel
Fuel Mart	NU-Way	Xtra Fuels
Gas America	Oasis	Youngs
Giant	O'Connor	Zip Mart
Git-n-Go	OK Petroleum	
	Pantry	

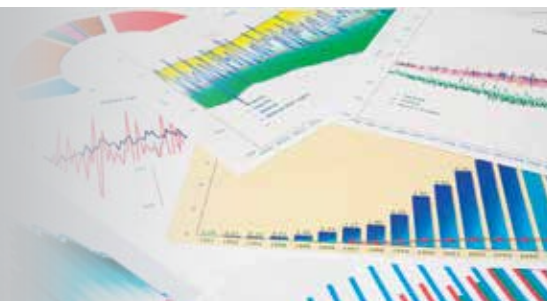
American LubeFast	Netcost Auto Glass
Big O Tires	Tire Centers Inc
Daimler/Chrysler	Wash Depot
Diamond/Triumph	...and many regional
Auto Glass	and independent
Dodge BusinessLink™	locations nationwide.
(limited participation)	
GM Goodwrench	
(limited participation)	
Harmon Glass	



For more information, visit
www.WEXinc.com
 800-395-0812

WEX ONLINE® REPORTING

Specialized reports put facts in your hands



WEX Online® offers a suite of reporting capabilities. Our specialized fleet management reports give you the power to save money, cut administrative time, comply with tax regulations, and more.

STANDARD AND CUSTOM REPORTS

WEX Online® offers both standard and custom reports, so you get the type of information you need.

EXAMPLES:

Purchase Activity Report (PAR) — compile information on all fueling and maintenance purchases made with the WEX Universal Fleet card — for hundreds of vehicles or just a few.

Premium Custom Reports — select your criteria to generate ad hoc, real-time reports: Exception, Transaction Summary, and Transaction Detail reports. Export these reports directly into your own spreadsheet, to easily analyze and share your data.

Summary Reports — use our Financial Summary, Site Summary and Exception Summary reports to manage your vehicle-related expenses and plan your fleet budget.

Tax Exemption Reports — for qualified tax-exempt fleets, monthly report packages provide tax information at both the transaction and summary level, and will include all tax exemptions that can be applied to your account under our program.

Minority and Women-Owned Businesses Report (MWOBE) — a quarterly report, summarizing by fleet account and month, transactions, gallons and dollars spent at MWOBE fuel and service locations.

FAST FACTS



For more information, visit
www.WEXinc.com
 800-395-0812

PURCHASE CONTROLS

TIGHTER CONTROL OVER SPENDING

Enforce purchasing policies for piece of mind

The WEX fleet card offers a suite of control and alert tools that let you know **where, when, what,** and **how much** is being spent. Managed through our industry leading **WEX Online®** account management tool, these powerful tools provide actionable purchase policy enforcement capabilities.

PRODUCT TYPE CONTROLS

When the card is swiped, merchant product codes automatically compare the purchase against pre-set card profile limits. If the product types are allowed and the set limits have not been exceeded, we authorize the transaction, and the merchant completes the sale. If the card is beyond the limits, it will be declined.

You can set overall limits for all purchases for a specific time period — daily, weekly, twice monthly, or monthly; and your fleet's total purchases for that period — transactions per period, dollars per period and gallons/units per period.

PUMP SHUT-OFF FEATURE

WEX now offers a powerful **pump shut-off feature*** to assist you with enforcement of policies. When a driver exceeds your pre-set limits, the pump will shut off. This feature is available at most major retail fuel brands.



REAL TIME ALERTS

This control generates an alert detailing a purchase that is beyond your pre-set alert values. Choose to be notified by email or text, and make quick decisions on how best to deal with the situation at hand.

*Visit www.wexinc.com/pumpshutoff for list of accepting merchants.

WEX CONTROLS



By hours of day



By days of the week



Dollars per day/week



Dollars per transaction



Product category



For more information, visit
www.WEXinc.com
800-395-0812

MANAGE YOUR ENTIRE FLEET ONLINE

WEX Online® is your fleet management portal



WEX Online® is a cutting-edge web-based tool that provides you access to view and manage every detail of your fleet card program. We created the site to put information at your fingertips 24/7 so you can take action as needed.

PROFILE MANAGER

The profile manager allows you to establish purchase control profiles for individuals, groups of drivers, vehicles and more. Set rules for how the card can be used, how often, and when. Add spend limits for fuel, service, parts, and general merchandise. Your rules will be embedded in the respective cards — if a transaction exceeds your limits, the system will decline the purchase. You set the control limits. We enforce them.

EXPENSE MANAGEMENT TOOLS

WEX Online® makes it easy to manage your fleet spend in one central place. Set up profiles, billing, and reporting functions, limits, and restrictions. Add custom fields and assign codes, such as General Ledger (GL). Run queries on purchase transactions, vehicles and drivers.

FUEL PRICE MAPPING

Our **Fuel Site Locator** combines fuel transaction data with Google Maps™ to help drivers find current best prices by city, state, zip, fuel type, PPG, or brand. Find the lowest cost fuel stations with our fuel price mapping technology, which updates prices hourly. Our **Octane mobile version** is free, and gives drivers access on the road.



For more information, visit
www.WEXinc.com
 800-395-0812



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0399

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 5

2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF \$116,000.00, 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 acceptance of a 2016-2017 Selective Traffic Enforcement Program (STEP) grant award in the amount of \$116,000.00.

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

City of Fayetteville Staff Review Form

2016-0399

Legistar File ID

9/20/2016

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

Greg Tabor

9/2/2016

Police /
Police Department
Division / Department

Submitted By

Submitted Date

Action Recommendation:

Acceptance and approval of the FY2017 Selective Traffic Enforcement Project (STEP) grant award and budget adjustment in the amount of \$116,000.

Budget Impact:

1010.200.2920-various

General

Account Number

Fund

38067-1617

Police STEP Grant 2016-2017

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? Yes

Budget Adjustment \$ 116,000.00

Remaining Budget \$ 116,000.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor and City Council

FROM: Greg Tabor, Chief of Police 

DATE: August 30, 2016

SUBJECT: FY2017 Selective Traffic Enforcement Project (STEP) Grant Award

RECOMMENDATION:

Staff recommends acceptance and approval of the FY2017 Selective Traffic Enforcement Project (STEP) Grant Award and budget adjustment in the amount of \$116,000. If you should have any comments or question regarding this grant award, please contact myself or Captain Turberville at extension 500.

BACKGROUND:

The Fayetteville Police Department has participated in STEP every year since its inception in 1998. For nineteen (19) years, we have partnered through grant funding with the Arkansas Highway Safety Office in an effort to reduce the total number of motor vehicle crashes, injuries and fatalities. Our primary strategy for reaching our mutual goals is through dedicated and diligent enforcement of occupant protection and DWI/DUI laws. This is accomplished by dedicating patrol officer(s) to monitor STEP activity for a given period of time in known problem areas. In addition to increased law enforcement, this grant funding allows us to participate in directed DWI patrols, Click It or Ticket protection mobilizations, purchase additional equipment, provide child safety seat checkpoints, and a loaner child safety seat for those in need.

DISCUSSION:

The FY2017 STEP Grant Award is based on local in-kind match of expenses and an award of \$103,000 in federal and \$13,000 in state grant funding. Local matching funds are only required on the federal funding portion and the state funding is considered local match resulting in a total of \$90,000 for Fayetteville's local in-kind match. In-kind expenses are defined as on-duty regular patrol shift hours dedicated to STEP activity; furthermore, this grant will reimburse the City for overtime hours dedicated to STEP activity. The grant period for this award runs from October 1, 2016 to September 30, 2017. STEP is a very important program and funding source for the Fayetteville Police Department. Through dedicated STEP activity during our shift hours, our Department can meet the in-kind matching funds required of this grant award. Furthermore, the loss of this grant funding would have an adverse effect on community safety.

BUDGET/STAFF IMPACT:

In-kind expenses in the amount of \$90,000 are budgeted annually within our operating budget and \$13,000 will be provided by the State for total matching funds of \$103,000. Our salary expense will not increase; patrol officers will perform matching STEP activities while on duty. Furthermore, no additional officers are required within the STEP grant.

Attachments:

Budget Adjustment

FY2017 STEP Grant Award Documents



Asa Hutchinson
Governor

State of Arkansas

ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"



William J. Bryant
Director

August 24, 2016

**ARKANSAS
STATE POLICE
COMMISSION**

Frank Guinn, Jr.
Chairman
Paragould

Dr. Lewis Shepherd
Vice-Chairman
Arkadelphia

John Allison
Secretary
Conway

Bob Burns
Little Rock

Jane Dunlap Christenson
Harrison

Neff Basore
Bella Vista

Bill Benton
Heber Springs

Mr. Willie Newman
Project Coordinator
Fayetteville Police Dept.
100-A W. Rock St.
Fayetteville, AR 72701-6191

RE: OP-2017-03-02-13
SE-2017-13-01-13
M5X-2017-05-06-13
Selective Traffic Enforcement Project (STEP)

Dear Mr. Newman:

The above referenced FY 2017 Subgrant Agreement is enclosed for your review and signature. The Subgrant Agreement/Contract Terms for this program are made a part of this agreement and should be kept in your agency's file with your copy of the signed agreement. The agreement may not include all items presented in your proposal. Only those activities included in the agreement are eligible for reimbursement.

Please return the signed agreement (keep the enclosed Subgrant Agreement/Contract Terms) to our office by September 12, 2016. We will send you a copy of the fully executed agreement.

We look forward to working with your agency this coming year.

Sincerely,

Bridget White
Administrator
Highway Safety Office

Enclosure

C: Agreement/Contract File



Asa Hutchinson
Governor

State of Arkansas

ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"



William J. Bryant
Director

FY 2017 HIGHWAY SAFETY SUBGRANT AGREEMENT OCCUPANT PROTECTION PROGRAM ALCOHOL & OTHER DRUGS COUNTERMEASURES PROGRAM SPEED ENFORCEMENT PROGRAM

RECIPIENT

Fayetteville Police Department
100-A West Rock Street
Fayetteville, Arkansas 72701
Telephone: (479) 587-3500
Fax: (479) 587-3522

GOVERNMENTAL UNIT

City of Fayetteville
100-A West Rock Street
Fayetteville, Arkansas 72701

TAX ID NO:

71-6018462

PROJECT NO:

OP-2017-03-02-13
SE-2017-13-01-13
M5X-2017-05-06-13

TYPE OF APPLICATION

- ☐ Initial
☐ Revision
☒ Continuation

FAIN NO: (See Invoice Form page 11)

DUNS NO: 075657742

PROJECT TITLE:

Selective Traffic Enforcement Project

INITIAL PROJECT STARTING DATE

October 1, 1999

OPERATIONAL AREA OF PROJECT

City of Fayetteville

AMOUNT

<u>COST CATEGORY</u>	<u>FEDERAL</u>	<u>STATE</u>	<u>LOCAL</u>	<u>PROJECT PERIOD</u>	<u>FUNDING PERIOD</u>
Personal Services	\$98,000		\$62,100	From: 10-1-2016	From: 10-1-2016
Equipment	\$5,000			To: 9-30-2017	To: 9-30-2017
Maintenance & Operation			\$27,900		
Other Direct Costs		\$13,000			
Indirect Cost					
Administrative Costs					
Total	<u>\$103,000</u>	<u>\$13,000</u>	<u>\$90,000</u>	Total	<u>\$206,000</u>

FUNDING

SOURCE

AMOUNT

Federal	\$103,000
State	\$13,000
Local	\$90,000

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

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Agreement Prepared By:

Nick Collins
Program Manager
Arkansas State Police
Highway Safety Office
1 State Police Plaza Drive
Little Rock, AR 72209
(501) 618-8137
(501) 618-8124

ARKANSAS STATE POLICE HIGHWAY SAFETY SUBGRANT AGREEMENT

BACKGROUND

The State of Arkansas is taking increased steps to address safety on the State's roadways as part of an effort to implement innovative strategies to reduce traffic fatalities throughout the State. The Arkansas Highway Safety Office (AHSO) considers safety issues by focusing on behavioral aspects at the driver level. The goal is to reduce highway fatalities by better identifying driver behaviors that cause fatal crashes, implementing programs to address those behaviors and targeting locations where fatal crashes occur.

Based on a five-year average (2010 – 2014), 529 people lose their lives each year on Arkansas roadways. In 2014, there were 466 total traffic fatalities compared to 498 the previous year. Over the same five years, alcohol-related fatalities (fatalities involving a driver or motorcycle operator with a BAC of .08 or greater) averaged 146 per year. There were 135 alcohol-related fatalities in 2014.

An additional area of concern is occupant protection where in 2014 there were 166 unrestrained passenger vehicle occupant fatalities. In 2014, Arkansas' safety belt use rate was 74.4%, while the National use rate stood at 86.7%. Arkansas' safety belt use rate increased to 77.7% in 2015.

Also of concern are speed-related fatalities where in 2014, 55 people died as a result of speed-related crashes.

Strict enforcement of the State's traffic laws, through Selective Traffic Enforcement Projects (STEP), has been proven effective in reducing traffic crashes and fatalities. The State will continue to use this strategy to address its traffic safety problems.

PROBLEM STATEMENT

The city of Fayetteville is a community of 80,621 residents having a geographical size of 55.20 square miles. The city posted 26 traffic fatalities from 2010 through 2014 and of those 6 were alcohol-related and 1 was speed-related. A seat belt use rate of 87.7% was recorded in 2015.

In October 1998 the Fayetteville Police Department began a proactive approach to collision reduction which included implementation of the STEP through a grant with the AHSO. The Department wishes to continue to operate aggressive and sustained selective traffic enforcement, as well as, participate in the State's Impaired Driving, Seat Belt and Speed mobilizations/campaigns.

GOALS

The overall goal of this project is to reduce the number of traffic-related crashes and fatalities by conducting a Selective Traffic Enforcement Project in Fayetteville. The goal for each component of this project is as follows:

Alcohol Component (Section 405) - Reduce the annual number of alcohol-related crashes from 157 and maintain alcohol-related fatalities at 0 as recorded in 2014.

Seat Belt Component (Section 402) - Increase seat belt use from 87.7% as recorded in 2015.

Speed Component (Section 402) - Reduce the annual number of speed-related crashes from 104 and maintain speed-related fatalities from 0 as recorded in 2014.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

SCOPE OF WORK

SUMMARY OF PROJECT OBJECTIVES: This project's primary objectives are to achieve an average of three (3) vehicle stops per hour per officer during seat belt enforcement (with an emphasis on enforcement of occupant restraint laws); three (3) vehicle stops per hour per officer during speed enforcement; and one (1) DWI/DUI arrest per eight (8) hours per officer during alcohol enforcement. A public information and education program will support these objectives.

METHOD OF EVALUATION BY ASP/HSO

ADMINISTRATIVE: X
IMPACT EVALUATION: X By achievement of project objectives.

REIMBURSEMENT - ACTUAL COST ONLY

 ASP/AHSO will reimburse the recipient an amount equal to % of all eligible cost.

 X ASP/AHSO will reimburse the recipient an amount equal to all eligible costs as identified in work statement.

REIMBURSEMENT LIMITS

1. Maximum amount eligible for reimbursement:

Federal Funds: \$103,000

State Funds: \$ 13,000

2. Only those orders placed and costs incurred during the following time period shall be eligible for reimbursement:

(Date) 10-1-2016 to (Date) 9-30-2017

3. The recipient must bear all costs not eligible for Federal reimbursement.

Federal and State regulations shall be the basis for determining eligibility of costs, as detailed in the General Provisions and Subgrant Agreement/Contract Terms.

This agreement may be amended only by written notice in advance and in accordance with ASP/AHSO policy. (See Subgrant Agreement/Contract Terms).

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

- A. The recipient, Fayetteville Police Department in exchange for consideration offered by the Arkansas State Police Highway Safety Office, hereafter referred to as the Arkansas Highway Safety Office (AHSO), and in the interest of improving highway safety, hereby agrees to pursue the achievement of the following objectives:
1. Appoint a Project Coordinator to be a liaison between the recipient and the (AHSO) and to be responsible for coordinating selective enforcement activities and financial transactions associated with this subgrant agreement. Herein, give signature authorization for the Project Coordinator to request reimbursement and agreement change orders when applicable. Compensation for the Project Coordinator will be from local funds.
 2. Project Coordinator, or designee, will work with their designated AHSO Program Manager to ensure they understand State, Federal and Highway Safety Office policies and procedures.
 3. Ensure that agency maintains an enforced seat belt policy and provides the AHSO a copy of any revisions to the policy.
 4. Conduct selective enforcement of the State's seat belt, driving while intoxicated (DWI)/driving under the influence (DUI), speed limit, child passenger protection and motorcycle helmet laws. Officers are to ensure compliance with the State's seat belt and child restraint laws during all vehicle stops. Enforcement should target locations where fatal/serious injury crashes are occurring.
 5. **Seat belt enforcement** (from 6:00 a.m. until 9:00 p.m.) will emphasize enforcement of seat belt and child restraint laws. The primary reason for stops shall be for unrestrained vehicle occupants. Therefore, the majority of vehicle stops and citations written shall be for seat belt and/or child restraint violations. **Speed enforcement** (from 6:00 a.m. until 9:00 p.m.) will emphasize speed violations. It may be conducted throughout the year, but is limited to the amount of funds budgeted to speed enforcement. **DWI/DUI enforcement** will start no earlier than 9:00 p.m. and end no later than 6:00 a.m. any day of the week provided the performance objective in Work Statement 6 is met. The AHSO retains the right to limit or modify enforcement hours and days at its discretion and as necessary to meet performance compliance requirements. Officers working on the project are expected to enforce all the laws cited in this agreement during seat belt, speed, and DWI/DUI enforcement. **Participating officers are expected to average two vehicle stops per hour when not actively processing a DWI arrest during DWI enforcement.**

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

6. Performance objectives for the project and individual participating officers are as follows:

Seat Belt/Speed
Average 3 stops per
hour per officer

DWI/DUI
Average 1 arrest per
8 hours per officer

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that an officer issue a specific or predetermined number of citations in pursuance of the organization's obligations hereunder. The organization agrees to complete the above stated objectives in addition to completing the normal routine agency traffic enforcement activities.

7. Participate in two (2) Seat Belt, three (3) DWI/DUI, and one (1) Speed mobilizations during the project period. Must participate in the public information and education (PI&E) activities (press conferences/news releases) in conjunction with the mobilization activities. An informal seat belt survey conducted by the agency will also precede and follow each seat belt mobilization for evaluation purposes.

The mobilizations dates are as follows:

- State Thanksgiving Seat Belt Mobilization - November 21 - 27, 2016
- National Winter DWI Mobilization - December 16, 2016 - January 1, 2017*
- National Memorial Day Seat Belt Mobilization - May 22, – June 4, 2017
- State July 4th Holiday DWI Mobilization - June 30 - July 4, 2017
- National Labor Day DWI Mobilization - August 18 - September 4, 2017*
- Regional Speed Mobilization – To Be Determined

Note: Dates are subject to change.

*Conduct checkpoints and/or saturation patrols on at least four nights during the National DWI mobilizations.

Participation in all State, National and Regional Mobilizations is a required activity of this grant agreement. Project activity should be managed to ensure that sufficient funds are available to participate in these mobilizations. The amount of speed enforcement conducted by the project is limited to the SE funds budgeted. Submit a mobilization report within 15 days after a mobilization period in accordance with the format provided by the AHSO. Agency is urged to participate in sobriety checkpoints and/or saturation patrols during all DWI/DUI mobilizations.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

8. Conduct other PI&E activities to support the objectives of this project. These activities will include, but are not limited to, issuing a news release at the beginning of the project period to notify the community of the project activities, conducting a minimum of two media exposures for each mobilization e.g., news conferences, news releases, interview, reporter ride-along and participating in a minimum of two (2) other community activities e.g., community events, health fairs, booths, civic/school/employer presentations during the year.
9. The only costs eligible for reimbursement are selective enforcement (which includes officer pay and applicable benefits), child safety seats (see Work Statement 10) and pre-approved equipment (see Work Statement 11). The recipient will be reimbursed for officers working selective traffic enforcement at a rate that does not exceed one and one-half times the officer's regular hourly rate. Reimbursement is limited to one officer per patrol vehicle. Officers may also be compensated at the selective enforcement rate for hours spent conducting seat belt surveys associated with mobilizations and time spent working at clinics associated with the proper installation of child safety seats. Hours spent conducting seat belt surveys, participating in sobriety checkpoints, or working at child safety seat clinics will not be used when calculating enforcement performance and should be reported separately on the supplemental monthly report form. Officers compensated through this agreement shall work strictly within the scope of this project while performing duties in connection with and being funded by this agreement. Hours worked on and compensated through this agreement must not supplant (be a substitute for) regular officer hours and pay. Routine patrol functions, including crash investigations, will be assigned to personnel on regular duty. Should a project officer become involved in routine patrol functions while conducting selective enforcement, the officer will be compensated from other funds. ***No part-time personnel can be compensated through this agreement. Note: Consistent with federal guidelines officers working Selective Enforcement should be compensated in accordance with recipient overtime policy and nothing in this agreement should be interpreted as authority to violate agency policy. Submit to the AHSO any revisions to agency overtime policy within 28 days of the effective date of the revision.***
10. If child safety seats are an approved budget line item on the invoice forms, purchase and loan child safety seats in accordance with AHSO policy. Seats must be purchased no later than February 28, 2017. Invoices for the seats must be submitted to the AHSO within 30 days of purchase. All purchases must be in compliance with federal, state and local purchasing laws and regulations.
11. If equipment is an approved budget line item on the invoice forms, purchase the following equipment to assist with the enforcement effort: Two (2) Motorcycle Radar Units at an estimated cost of \$2,500 each to be used during overtime traffic enforcement. Priority use of this equipment shall be given to those officers actively working STEP enforcement. Assurance is provided herein that throughout the life expectancy of this equipment, it will be used for the purposes expressed or implied in this agreement. All purchases must be in compliance with federal, state and local purchasing laws and regulations and if applicable, be listed on the National Highway Traffic Safety Administration's current Conforming Products List of Evidential Breath and Speed Measurement Devices. **ALL equipment purchases must be pre-approved in writing and must comply with the Buy America Act** (See page 15 of the Certifications and Assurances)

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

12. Ensure that all officers working on this project have successfully completed the National Highway Traffic Safety Administration's approved courses on occupant protection usage and enforcement (OPUE) or traffic occupant protection strategies (TOPS) training and standardized field sobriety testing (SFST) during the project period.
13. Ensure that all officers working this project are familiar with Act 308 of 2009 (the amended mandatory seat belt law). Effective June 30, 2009, the Act makes a violation of the mandatory seat belt law a "primary" offense for enforcement purposes.
14. Ensure that all officers working on this project are familiar with Act 470 of 2001 (the amended "Child Passenger Protection Act"). Effective August 13, 2001, children under the age of fifteen (15) years must be restrained and any child under six (6) years of age and under sixty (60) pounds in weight must be restrained in a child safety seat. Violation of this Act is a primary offense, meaning that a vehicle may be stopped if there is probable cause to believe that the law is being violated.
15. Ensure that all officers working on this project are familiar with Act 561 of 2001 (the ".08 BAC law"). Persons arrested for violation of Arkansas Code Annotated 5-65-103 and 5-56-205 shall be determined to be DWI arrests. Youthful offenders arrested for violation of Arkansas Code Annotated 5-65-303 shall be determined to be DUI arrests.
16. Ensure that all officers working on this project are familiar with Acts concerning the use of the cell phone while driving: Act 181 of 2009, "Paul's Law" prohibiting the use of hand held cell phones for typing, texting, e-mail or accessing the internet while driving; Act 197 of 2009, limiting wireless telephone use by young drivers; Act 247 of 2009, prohibiting wireless telephone use by drivers under eighteen years of age and drivers who are at least eighteen but under twenty-one years of age from using handheld wireless telephones (allows drivers who are at least eighteen but under twenty one years of age to use hands-free wireless telephones or devices); and Act 37 of 2011, an act to improve the safety of highways and roads by prohibiting wireless telephone use in school zones and highway work zones.
17. Ensure department implements policies and internal controls to prevent fraud and misuse of grant funds.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

18. Submit monthly reimbursement requests, local match reporting form and activity reports, including PI&E activities, along with a cover letter(s) by the 15th of the subsequent month in accordance with formats provided by the AHSO. Also include with the reimbursement requests as back-up supporting documentation, payroll summary sheets which accurately reflects payroll disbursed by the agency for STEP for the time period requested and invoices for any eligible items purchased i.e. child safety seats) along with proof of payment i.e. copy of the check. The summary sheets must record each officer who worked, dates they worked, number of hours worked for each date, regular and overtime pay rates, applicable fringe rates and be signed by both the project coordinator and an agency payroll or fiscal department representative. An Annual Project Activity Report will be submitted in accordance with the format provided by the AHSO. Include with the annual report a tabulation of local funds contributed (50% required) to this project. This annual report and the final reimbursement request are due within 30 days following the end of the project period. Final reimbursement will not be made until a satisfactory annual report is submitted.
19. Ensure all officers working STEP sign a Acknowledgement Form verifying that they have read and understand the work statement and reporting forms for the project.
20. Create a project file for maintaining the agreement and financial documents. The file will contain a copy of this agreement, agreement terms, and officers signed the Acknowledgement Form. Related AHSO policies and procedures, policies or procedures of the recipient related to this project's activities, copies of monthly activity reports, AHSO STEP daily worksheets, reimbursement requests, payroll summary sheets outlined in Work Statement 18, other supporting financial documentation such as payroll printouts and invoices, a copy correspondence relating to the agreement, and documentation of public information activities should also be included in this file. The file must be maintained in one location and is subject to review by State and Federal authorities responsible for oversight of this agreement. **Copies of time sheets, original AHSO STEP daily worksheets, and citations for all officers paid through this agreement must be kept in this file. Time sheets must have officer's and supervisor's signatures with attached supporting documents. AHSO STEP daily worksheets must be completed properly and have the officer's and a supervisor's signature to be eligible and approved for reimbursement.**

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

WORK STATEMENT

- B. The Arkansas Highway Safety Office (AHSO) hereby agrees to perform the following activities:
1. Reimburse the recipient for all eligible costs incurred in accordance with provisions stated in the Subgrant Agreement/Contract Terms. An analysis of reimbursable costs is provided in the attached Sub-grantee Invoice Form.
 2. Provide reasonable consultative assistance to the recipient to aid in the achievement of project objectives.
 3. Conduct administrative and/or on-site evaluations to assess the effectiveness of the project. Evaluations will include, but are not limited to, a review of activity reports examining progress toward objectives stated in the work statement, reimbursement requests, fiscal management and on-site monitoring visits.



**Arkansas State Police
Highway Safety Office
Subgrantee Invoice Form
FY 2017**



Selective Traffic Enforcement Program

SUBGRANT #:	OP-2017-03-02-13	AWARD PERIOD:	10/1/16 - 9/30/17			
	SE-2017-13-01-13	CFDA TITLE:	State & Community Highway Safety			
	M5X-2017-05-06-13	AWARD AMOUNT:	\$65,000.00	CFDA# 20.600		
		CFDA TITLE:	National Priority Safety Program			
		AWARD AMOUNT:	\$38,000.00	CFDA# 20.616		
EIN (Tax ID #):	71-6018462	TITLE:	Child Passenger Protection Fund (SCP)			
FAIN #	18X9204020AR17	AWARD AMOUNT:	\$13,000.00	CFDA# N/A		
FAIN #	18X920405DAR17					
Request Period:						
Project:	Selective Traffic Enforcement Project (STEP)					
Subgrantee Name:	Fayetteville Police Department		Telephone #:	(479) 587-3500		
Mailing Address:	100-A Rock Street	Fayetteville	Arkansas	72701		
Budget Categories	Approved Budget	Revised Budget	YTD Previous Expenditures	Expenditures This Period	YTD Total Expenditures	Remaining Budget
PERSONAL SERVICES						
Seat Belt - 402 OP	\$54,000.00				-	\$54,000.00
Speed - 402 SE	\$6,000.00				-	\$6,000.00
DWI/DUI - 405 M5X	\$38,000.00				-	\$38,000.00
OTHER DIRECT COSTS						
Child Safety Seats	\$13,000.00				-	\$13,000.00
EQUIPMENT						
(2) Motorcycle Radar Units 402 SE	\$5,000.00				-	\$5,000.00
TOTAL	\$116,000.00		-	-	-	\$116,000.00
Must include all equipment acquisitions of low value (500.00 - 4,999.99) or capital (5,000.00 or greater) and submit subgrantee low value and capital equipment inventory form with invoice form.						Amount of this Request
On behalf of the subgrantee listed above, I certify that the items for which payment is claimed were furnished under the authority of the law and in accordance with the terms of our grant with the Arkansas State Police, Highway Safety Program and that the charges are reasonable, proper, and no part of this claim has been paid.						-
Signature of Subgrantee:					Date:	
Title: Captain, Patrol Division						
Contact Person: Captain Rob Turberville					Contact Phone:	(479) 587-3500
ARKANSAS STATE POLICE USE ONLY					OUTLINE AGREEMENT #:	
VENDOR #: 800000339		AGENCY CODE:	0960	DOC#:		
PO #:		GOODS REC.#:		MATERIAL #:	10119381	
					AMOUNT	
General Ledger #	Fund	Fund Center	Funds Reservation#	Cost Center	IO/WBS	
5100001000	SMP2003	1FJ		456708	F.0960.402-17-OP-001-S	
5100001000	SMP2003	1FJ		456708	F.0960.402-17-SE-001-S	
5100001000	SMP3021	1FJ		456729	F.0960.405-17-MSX-S	
5100001000	SCP0000	1FD		456714	S.0960.HWYSFTYSTATESCP	
					TOTAL	
REVIEWED & APPROVED TO PAY	INITIAL	DATE:				
Program Specialist						
Fiscal Manager						
Highway Safety Manager						
HSO Administrator Signature:					DATE:	
Attach Completed Line Item Detail Sheet and Mail To:						
Voucher #				Arkansas State Police		
2017-				Highway Safety Office		Voucher #
				#1 State Police Plaza Drive		2017-
				Little Rock, Arkansas 72209		



Arkansas State Police
Highway Safety Office
Line Item Details
FY 2017



Selective Traffic Enforcement Program

Project Name: Fayetteville Police Department
Selective Traffic Enforcement Project (STEP)

Report Period: 0

Overtime Selective Enforcement (402)

Seat Belt 402 OP	<u>\$0.00</u>
Speed 402 SE	<u>\$0.00</u>

Subtotal	<u>\$0.00</u>
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Overtime Selective Enforcement (405)

DWI/DUI 405 M5X	<u>\$0.00</u>
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Subtotal	<u>\$0.00</u>
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Child Safety Seats (State)

Item 1	<u>\$0.00</u>
Item 2	<u>\$0.00</u>
Item 3	<u>\$0.00</u>

Subtotal	<u>\$0.00</u>
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Equipment

(2) Motorcycle Radar Units 402 SE	<u>\$0.00</u>
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Subtotal	<u>\$0.00</u>
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TOTAL BILLED	<u>\$0.00</u>
Attach to Page 11	



Arkansas State Police
Highway Safety Office
Subgrantee Local Match Form



FY 2017
Selective Traffic Enforcement Program

SUBGRANT #:	OP-2017-03-02-13	AWARD PERIOD:	10/1/16 - 9/30/17			
	SE-2017-13-01-13					
	M5X-2017-05-06-13					
EIN (Tax ID #):	71-6018462					
Report Period:	0					
Project:	Selective Traffic Enforcement Project (STEP)					
Subgrantee Name:	Fayetteville Police Department			Telephone #:	(479) 587-3500	
Mailing Address:	100-A Rock Street	Fayetteville	Arkansas	72701		
Budget Categories	Approved Budget	Revised Budget	YTD Previous Expenditures	Expenditures This Period	YTD Total Expenditures	Remaining Budget
Personal Services	\$62,100.00				0.00	\$62,100.00
Maintenance and Operations	\$27,900.00				0.00	\$27,900.00
Total	\$90,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$90,000.00
					Amount of this Report	\$0.00
Signature of Subgrantee:				Date:		
Title: Captain, Patrol Division						
Contact Person: Captain Rob Turberville				Contact Phone:	(479) 587-3500	

Arkansas State Police
Highway Safety Office
#1 State Police Plaza Drive
Little Rock, Arkansas 72209

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

(Each fiscal year the Sub-grantee for Highway Safety must sign these Certifications and Assurances affirming that the agency complies with all requirements, including applicable Federal statutes and regulations that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.)

Agency: Fayetteville Police Department

Fiscal Year: 2017

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906 the Subgrantee acknowledges and agrees to the following conditions and requirements. In my capacity as the authorizing official for, Fayetteville Police Department, I hereby provide the following Certifications and Assurances.

GENERAL REQUIREMENTS

Applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended.
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Non-Discrimination

The Sub-grantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) and the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*; PL 101-336), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42U.S.C. §§), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 Pub. L. 100-259), which requires Federal-aid recipients and all sub recipients to prevent discrimination and ensure non-discrimination in all of their programs and activities (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970(Pub. L. 91-616), as amended, relating to

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.) relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

BUY AMERICA ACT

The Sub-grantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)) which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

POLITICAL ACTIVITY (HATCH ACT).

The Sub-grantee will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her 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 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

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-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients 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.

RESTRICTION ON STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Instructions for Primary Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

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

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

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

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

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

Policy on Seat Belt Use

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16 1997, the Grantee is encouraged to adopt and enforce on-the job seat belt use policies and programs for its employees when operating company-owned, rented, or personally owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.Nhtsa.dot.gov. Additional resources are available from the Network of Employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its website at www.trafficsafety.org.

POLICY TO BAN TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to:

- (1) Adopt and enforce workplace safety policies to decrease crashed caused by distracted driving including policies to ban text messaging while driving--
 - a. Company-owned or – rented vehicles, or Government-owned, leased or rented vehicles; or
 - b. Privately-owned when on official Government business or when performing any work on or behalf of the Government.
- (2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as –
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

ENVIRONMENTAL IMPACT

The authorizing official for this project has reviewed this agreement and hereby declares that no significant environmental impact will result from implementing this project. If, under a future revision, this project will be modified in such a manner that it would be instituted and could affect environmental quality to the extent that a review and statement would be necessary, this office is prepared to take the action necessary to comply with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1517)

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

Section 402 Requirements (as amended by Pub. L. 112-141)

The Governor is responsible for the administration of the State highway safety program through a State highway safety agency which has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program (23 USC 402(b) (1) (A));

The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation (23 USC 402(b) (1) (B));

At least 40 percent of all Federal funds apportioned to this State under 23 USC 402 for this fiscal year will be expended by or for the benefit of the political subdivision of the State in carrying out local highway safety programs (23 USC 402(b) (1) (C)), unless this requirement is waived in writing;

This State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks (23 USC 402(b) (1) (D));

The State Highway Safety Program provides for an evidence-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents (23 U.S.C. 402 (b)(1)(E))

The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State as identified by the State highway safety planning process, and the Sub-grantee will support these activities including:

- **Participation in the National high-visibility law enforcement mobilizations,**
 - **Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;**
 - **An annual statewide seat belt use survey in accordance with 23 CFR Part 1340 for the measurement of State safety belt use rates;**
 - **Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;**
 - **Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in section 23 U.S.C. 148 (a). 148(a).**
- (23 U.S.C. 402 (b)(1)(F))**

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

CERTIFICATIONS AND ASSURANCES

Law enforcement agencies only- the Subgrantee is hereby encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j)).

Other Federal Requirements

Cash drawdowns will be initiated only when actually needed for disbursement. 49 CFR 18.20

Cash disbursements and balances will be reported in a timely manner as required by NHTSA. 49 CFR 18.21.

The same standards of timing and amount, including the reporting of cash disbursement and balances, will be imposed upon any secondary recipient organizations. 49 CFR 18.41.

Failure to adhere to these provisions may result in the termination of drawdown privileges.

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs);

Equipment acquired under this agreement for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the State; or the State, by formal agreement with appropriate officials of a political subdivision or State agency, shall cause such equipment to be used and kept in operation for highway safety purposes 23 CFR 1200.21. The Sub-grantee will comply with this provision.

The Subgrantee will comply with all applicable State procurement procedures and will maintain a financial management system that complies with the minimum requirements of 49 CFR 18.20.

AUDIT REQUIREMENTS

The recipient will arrange for an organization-wide financial and compliance audit, if required by 2 CFR Part 200.501 (Formerly OMB Circular A-133), within the prescribed audit reporting cycle. The audit report must separately identify highway safety funds from other Federal funds. One (1) copy of the report will be furnished to the Arkansas State Police Highway Safety Office (ASP-HSO) within three months of the report date. Failure to furnish an acceptable audit as determined by the cognizant Federal audit agency may be a basis for denial and/or refunding of Federal funds. A copy of 2 CFR Part 200.501 is available at www.ecfr.gov. The recipient has been made aware of audit requirements. **The recipient is required to inform the ASP-HSO if subject to these audit requirements.**

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

ACCEPTANCE AND AUTHORIZATION TO PROCEED

It is understood and agreed by the undersigned that a subgrant received for this agreement is subject to the Moving Ahead for Progress in the 21st Century (MAP-21); Fixing America's Surface Transportation (FAST) Act; subsequent U.S. Department of Transportation funding reauthorization; and all administrative regulations governing this grant established by the U.S. Department of Transportation approved in accordance with 2 CFR Part 1201 subject to the availability of Federal funds. It is further understood that any State funds utilized within are subject to all applicable State regulations and are likewise subject to their availability. It is expressly agreed that this agreement including the Appendix (Subgrant Agreement/Contract Terms and Attachment), constitute an official part of the State's Highway Safety Program and that said recipient will meet the requirements as set forth herein.

The recipient has appointed the following official representatives with legal authority to accept this subgrant agreement, acknowledge the certifications and assurances on pages 14 – 22 of this agreement, and provide such additional information as may be required.

A. SUBGRANT DIRECTOR

1. Signature: _____



2. Name: Greg Tabor

3. Title: Chief of Police

4. Date: _____

B. AUTHORIZING OFFICIAL

1. Signature: _____

2. Name: Honorable Lioneld Jordan

3. Title: Mayor

4. Date: _____

Approval to proceed with period of performance effective 10-1-2016 to 9-30-2017 and committed Federal funds of \$ 103,000 and State funds of \$ 13,000, given by the State Official responsible to the Governor for administration of the State Highway Safety Program:

Approved:

Director, Arkansas State Police
and
Governor's Highway Safety Representative

Date

Budget Year	Division	Adjustment Number
2016	POLICE (200)	
	/Org2	
	Requestor: W. Newman	

Establish revenue and expense budgets for the FY2017 Selective Traffic Enforcement Project (STEP) grant.

	COUNCIL DATE:	9/20/2016
	LEGISTAR FILE ID#:	2016-0399
		<i>Barbara Fell</i>
		<i>8/31/2016 3:22 PM</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: 2016-0414

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 6

FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:

A RESOLUTION TO APPROVE A JOINT LEASE AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT FOR PORTIONS OF JEFFERSON ELEMENTARY SCHOOL, HOLCOMB ELEMENTARY SCHOOL AND LAKE FAYETTEVILLE

WHEREAS, the City Council of the City of Fayetteville and the Fayetteville School District have long worked together to provide recreational services to Fayetteville citizens and students; and

WHEREAS, the previous lease agreement has expired and both the City of Fayetteville and Fayetteville School District desire to enter into a new agreement for the benefit of Fayetteville citizens and students.

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 lease agreement with the Fayetteville School District which will allow the City to use portions of Jefferson Elementary School and Holcomb Elementary School for the benefit of the public and will allow the Fayetteville School District to use portions of Lake Fayetteville for the benefit of its students.

City of Fayetteville Staff Review Form

2016-0414

Legistar File ID

9/20/2016

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

Byron Humphry

9/2/2016

Parks & Recreation /
Parks & Recreation Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Parks and Recreation staff recommends approval of a Resolution to renew a joint lease agreement with Fayetteville Public Schools for a portion of Jefferson Elementary, Holcomb Elementary, and Lake Fayetteville.

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 # 228-05

Original Contract Number:

Approval Date:

Comments:

MEETING OF SEPTEMBER 20, 2016

TO: City Council
Mayor

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

FROM: Byron Humphry, Park Maintenance Superintendent

DATE: September 2, 2016

SUBJECT: Resolution to approve a joint lease agreement with Fayetteville Public Schools.

RECOMMENDATION:

Parks and Recreation staff recommends approval of a Resolution to renew a joint lease agreement with Fayetteville Public Schools for a portion of Jefferson Elementary, Holcomb Elementary, and Lake Fayetteville.

BACKGROUND:

On December 9, 2005, Resolution 228-05 was passed to approve a joint lease agreement with the Fayetteville School District. The agreement allowed the City usage of a portion of Asbell Elementary property to conduct soccer and a portion of Holcomb Elementary property to conduct softball and supporting parking lot. In exchange, the agreement gave the Fayetteville School District rights to operate the Environmental Study Center on a portion of Lake Fayetteville. The joint lease agreement was for a 10 year period and expired on Dec 31, 2015.

On June 4, 2010, the Fayetteville School District gave the City a 12-month notice that they were opting out of the Asbell Lease in order to construct a tennis facility, thus eliminating the soccer fields at Asbell.

On June 25, 2009, the City entered into a separate lease agreement with the Fayetteville School District for a portion of the Jefferson Elementary property to operate a community garden.

DISCUSSION:

The renewed joint lease agreement with the Fayetteville School District eliminates Asbell Elementary and adds Jefferson Elementary.

Jefferson Elementary: The City operates a community garden with 9 individual garden plots on a portion of the Jefferson Elementary property. These gardens began in 2009 and have consistently been utilized at the maximum capacity of gardeners since that time. Gardeners pay a minimal annual plot lease to cover water usage and are provided with soil amendments and

mulch and a reserved garden plot. The lease was previously separate but is now proposed to be incorporated into the joint lease agreement with the other school and park properties.

Holcomb Elementary: A portion of the outfields on fields 1 and 4 at Gary Hampton softball complex and the parking lot are on school property. The Parks Department operates adult league softball at this complex as well as providing field space for ultimate frisbee, rugby, flag football, and other events. The Parks Department also hosts several tournaments at this facility for adult and youth softball.

Lake Fayetteville: In 1973, Resolution 34-73 was passed allowing the Fayetteville and Springdale School Districts to reserve and maintain 200 acres on the eastern side of Lake Fayetteville as a nature study area. The school districts constructed a nature study center, as well as trails and fishing piers to enhance the study area. City Council extended the agreement in Ordinance No. 3898 in 1995 to constitute a period of fifty years which would terminate in 2045.

BUDGET/STAFF IMPACT:

There is no budget impact with this joint lease agreement. Operational costs for the Jefferson Community Garden and Gary Hampton Softball complex are already accounted for in the current operational budget. The School District handles operational costs for the Environmental Study Center.

Attachments:

Joint Lease Agreement

JOINT LEASE AGREEMENT

This Agreement, made and entered by and between the City of Fayetteville, Arkansas, a municipal corporation, hereafter called “the City,” and the Fayetteville School District, hereafter called “the District,” **Witnesseth:**

1. For and in consideration of the covenants and agreements herein entered into and agreed upon by the City as obligations to the District, the District lets, leases and demises unto the City, subject to the terms and conditions contained herein, the following described properties situated in Washington, County, Arkansas:

JEFFERSON ELEMENTARY SCHOOL

A portion of the grounds of Jefferson Elementary School identified in the map attached as Exhibit A.

HOLCOMB ELEMENTARY SCHOOL

A part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 32, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Southwest corner of said SE-NW, thence with the South line of said SE-NW South 87° 26' 29" East 992.643 feet, thence with the East line of said SE-NW North 02° 33' 39" East 210.689 feet, to the Point of Beginning; thence continuing with said East line North 02° 33' 38" East 276.225 feet; thence leaving said East line North 87° 26' 19" West 967.758 feet; thence South 02° 33' 41" West 276.225 feet; thence South 87° 26' 19" East 967.763 feet, to the Point of Beginning and containing 267,320 square feet (6.137 acres), more or less.

The Holcomb Elementary School leased premises are further identified in the map attached as Exhibit B.

2. For and in consideration of the covenants and agreements herein entered into and agreed upon by the District as obligations to the City, the City **non-exclusively** lets, leases and demises unto the District, subject to the terms and conditions set forth under a separate Agreement, (provided that nothing contained herein shall in any way affect the rights and obligations established by said separate Agreement), the following described property situated in Washington, County, Arkansas:

LAKE FAYETTEVILLE

A part of the East Half of Section 13 and part of the East Half of Section 24, Township 17 North, Range 30 West, and part of the West Half of Section 18 and part of the West Half of Section 19, Township 17 North, Range 29 West, being more particularly described as follows: Beginning at the Northwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 13; thence with the North line of said SE-NE-13-17-30 South 87° 06' 01" East 1303.739 feet; thence South 02° 29' 13" West 17.192 feet thence South 87° 51' 20" East 818.386 feet; thence with the West right-of-way line of Highway 265 (Crossover Road) the following calls: South 06° 01' 18" West

2.822 feet; thence South 11° 44' 19" West 100.498 feet; thence South 06° 01' 42" West 47.6 feet; thence South 02° 51' 10" West 95.156 feet; thence South 03° 19' 21" East 89.915 feet thence South 08° 19' 18" East 59.959 feet; thence South 11° 49' 21" East 44.973 feet; thence South 14° 19' 18" East 29.984 feet; thence South 17° 19' 22" East 59.959 feet; thence South 19° 19' 20" East 832.701 feet; thence South 16° 46' 49" East 98.118 feet; thence South 09° 44' 20" East 173.596 feet; thence South 01° 14' 19" East 154.34 feet; thence South 02° 45' 41" West 926.592 feet; thence South 02° 44' 44" West 1322.566 feet; thence South 02° 35' 18" West 250.278 feet; thence leaving said West right-of-way line North 87° 36' 40" West 3750.975 feet; thence North 00° 10' 36" West 831.004 feet; thence North 72° 00' 17" East 1351.875 feet to a point on the West line of the SE-13-17-30; thence with said West line North 02° 09' 09" East 2935.509 feet, to the Point of Beginning and containing 266.760 acres, more or less.

LESS AND EXCEPT all that portion of said parcel lying within the waters of Lake Fayetteville, said waters being more particularly described as that portion of said parcel lying below an elevation on 1238 feet above mean sea level, said elevation being the top of the Lake Fayetteville spillway.

The Lake Fayetteville leased premises are further identified in the map attached as Exhibit C.

3. The term of this Joint Lease shall begin on _____, 2016 and end on _____, 2026, unless sooner terminated by twelve (12) months written notice by any of the parties hereto.
4. The City agrees to perform the following:
 - a. Jefferson Elementary School
 - Build and maintain the community gardens; and
 - Administer garden plots by subleasing individual or family plots to Fayetteville residents for a single growing season for non-commercial purposes.
 - b. Holcomb Elementary School
 - Pick up trash and mow leased area; and
 - Schedule softball fields.
5. The District agrees to allow the City to use the Holcomb Elementary School parking lot and portions of the softball fields at Gary Hampton Softball Complex located on District property for softball leagues, tournaments and sport clinics at no charge.
6. The City agrees that the process of subleasing of Community Garden plots will be conducted in a fair and nondiscriminatory manner, and the fee charged will only be sufficient to cover estimated seasonal water use and minor administrative costs.

7. The City agrees that access to the Community Gardens does not include access to any building on the former Jefferson School Grounds. All ingress/egress to the raised bed garden area shown on Exhibit A in the northwest area of the grounds will be provided through the wrought iron gate. The Fayetteville Community Garden Coalition and participating gardeners shall be responsible for maintaining the gardens and garden area upon the leased premises in a satisfactory condition. The premises shall, at all times, be maintained in a neat and orderly condition. All garden operations will be carried on in accordance with high standards, particularly in the areas of cleanliness, service and noise.
8. The District acknowledges that the lease for the Lake Fayetteville property is non-exclusive and agrees that the City may also enter into a separate lease agreement for the property with the Springdale School District. The District agrees to work with the Springdale School District and may enter into a separate agreement with the Springdale School District regarding access to and responsibilities and obligations with respect to the leased premises.
9. The District further acknowledges that the leased premises are part of Lake Fayetteville Park and that the Fayetteville Parks and Recreation Department will continue to manage the park property and conduct City-sponsored programs and special events at Lake Fayetteville, which may include the leased premises. The City and the District agree to communicate and work together to schedule programs and events to avoid conflicts in use of the leased premises.
10. The City and the District shall have the right to inspect the leased premises at all reasonable times.
11. Facility expansions and all site alterations must have prior written approval by the owner and meet all owner standards/procedures as well as all applicable federal, state and local laws for such expansions or alterations. Any permanent structure shall become a permanent fixture to the land, and become the property of the owner at the end of the lease term, unless otherwise agreed to in writing prior to construction of the structure.
12. Each party agrees to indemnify and hold the other and its officers, officials, employees, and agents harmless from any and all liability, including attorney's fees, for claims, expenses, loss or damage to persons or property resulting from their negligent acts, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City or the District under the Constitution and Statutes of the State of Arkansas.
13. The parties hereby agree that upon termination of this lease by expiration or by earlier termination for any reason whatsoever, they will peaceably deliver possession of the leased premises to the other, including all permanent fixtures, without demand.

14. The parties agree not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction over the premises.
15. It is agreed that the failure of either party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by the other under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the party from invoking such remedies in the event of any future breach or default.
16. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
17. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
18. The parties agree and understand that this Joint Lease Agreement is complementary and supplemental to the School Gymnasium Agreement, the fifty (50) year term of the Environmental Study Center Ordinance, and other leases and agreements already in force between the parties, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.
19. This agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2016.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk-Treasurer

FAYETTEVILLE SCHOOL DISTRICT

By: _____
Matthew Wendt, Superintendent

ATTEST:

By: _____
Paula Neal,
Administrative Assistant to the Superintendent

ACKNOWLEDGMENT

State of Arkansas)
) SS.
County of Washington)

On this the ____ day of _____ 2016, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared LIONELD JORDAN and SONDRAS MITH, to me well known, who stated that they were the Mayor and City Clerk-Treasurer, respectively of the City of Fayetteville, Arkansas, and have been authorized by lawful resolution of the Fayetteville City Council to execute contracts on behalf of the City of Fayetteville, Arkansas, and that they acknowledged that they had executed the foregoing instrument for the consideration, uses and purposes therein contained.

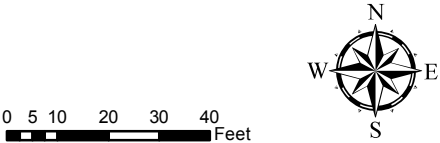
In witness whereof I hereunto set my hand and official seal.

My commission expires:_____

Notary Public

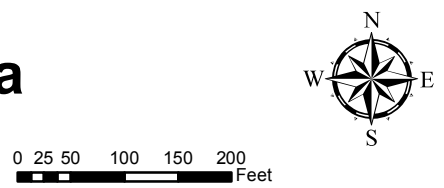


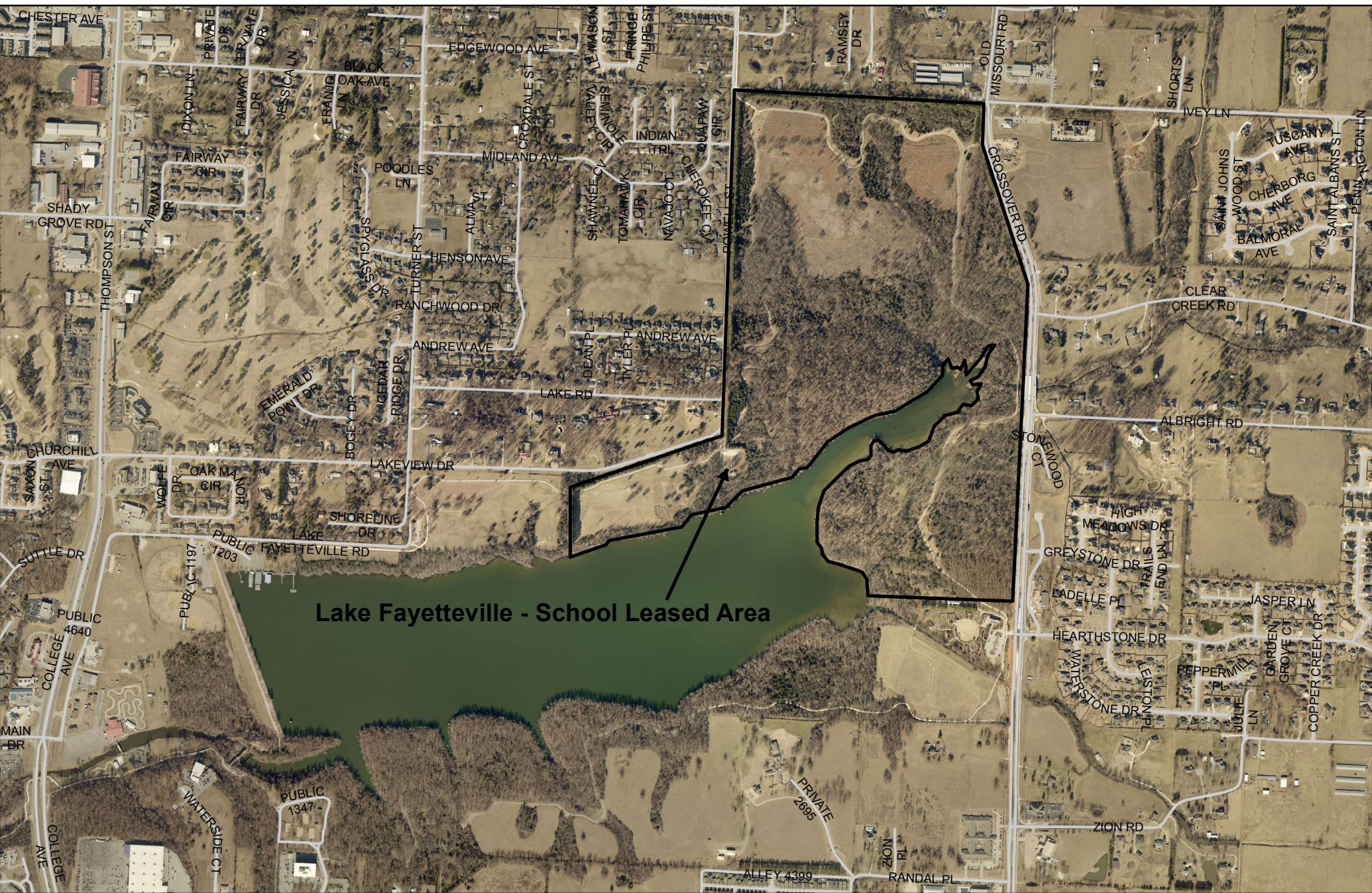
**Community Garden Location
Exhibit A**



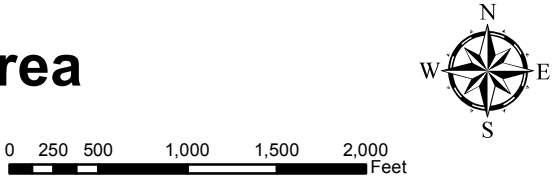


**Holcomb Elementary School Lease Area
Exhibit B**





Lake Fayetteville School Lease Area
Exhibit C





City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0410

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 7

GAMETIME C/O CUNNINGHAM RECREATION:

A RESOLUTION TO APPROVE THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME C/O CUNNINGHAM RECREATION FOR THE ELLEN SMITH HEAD START CENTER LOCATED AT 2052 SOUTH GARLAND AVENUE IN THE AMOUNT OF \$32,061.63, INCLUDING THE COST OF INSTALLATION, PURSUANT TO A U.S. COMMUNITIES NATIONAL COOPERATIVE PURCHASING PROGRAM CONTRACT

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 playground equipment from GameTime c/o Cunningham Recreation for the Ellen Smith Head Start Center located at 2052 South Garland Avenue in the amount of \$32,061.63, including the cost of installation, pursuant to a U.S. Communities National Cooperative Purchasing Program contract.

City of Fayetteville Staff Review Form

2016-0410

Legistar File ID

9/20/2016

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

Yolanda Fields

9/1/2016

Community Resources /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval for purchase and installation of playground equipment at the Ellen Smith Head Start (2052 S. Garland Ave) to be purchased through Arkansas state contract# 110179 with GameTime in the amount of \$32,061.63.

Budget Impact:

2180.642.4940-5315.00

CDBG - Housing

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 491,652.00

Funds Obligated \$ -

Current Balance \$ 491,652.00

Does item have a cost? Yes

Item Cost \$ 40,000.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 451,652.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor and City Council

THRU: Jeremy Pate, Development Services Director

FROM: Yolanda Fields, Community Resources Director

DATE: September 1, 2016

SUBJECT: Approval of Playground at Head Start

RECOMMENDATION:

Staff recommends approval of the purchase and installation of playground equipment at the Ellen Smith Head Start (2052 S. Garland Ave) in the amount of \$32,061.63.

BACKGROUND:

The Ellen Smith Head Start has been a long-time recipient of CDBG funds due to their continued efforts to serve the city's low and moderate income (LMI) residents.

DISCUSSION:

The Ellen Smith Head Start is in need of playground equipment that will be utilized by the majority-LMI student population that they serve. A formal bid process was not necessary because the State of Arkansas has a contract for park and playground equipment with GameTime (contract# 110179). A reallocation requesting \$40,000 from Housing for the playground equipment was sent to and approved by HUD earlier this year, so there is a \$40,000 budget for the playground installation.

BUDGET/STAFF IMPACT:

Budget not impacted (reallocation of project funding)

Attachments:

Proof of AR State Contract with GameTime
Quote for playground equipment

Arkansas.gov

Agencies | Online Services | State Directory

Translate | A+ | A- | Text | Print

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Expiration Date	Contract Tracking #	Outline Agreement #	Vendor
9/16/2016	SP-15-0151	4600024214	Gametime

Buyer	Co-Op	Mandatory	Minority	Green
Julla Shackelford	US Communities/110179	No	No	No

AASIS Information

AASIS Contract # 4600024214

Material Group # 65000

Vendor # 100099197

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Department of Finance and Administration
 1509 West 7th Street
 Little Rock, AR 72201
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GameTime Contract

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Park and Playground

Lead Agency:

City of Charlotte/Mecklenburg County, North Carolina

Contract Number:

110179

5 year initial term, September 17, 2010 to September 16, 2015

Contract has been extended through September 16, 2017

Contract Documents:

[Contract No.110179](#)

[Contract Attachment](#)

[Contract Amendments](#)

RFP Documents:

[Request For Proposal](#)

[RFP269-2010-183 Amendments](#)

[RFP-15-10255020 Posting Documents](#)

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Postings

Nine suppliers responded to the solicitation process; posted on various internet sites

Posting Information:

U.S. Communities: Upcoming Contract

Association of Oregon Counties

State of North Carolina Interactive Purchasing System

Canadian MERX Public Tenders

Onvia Demand Star

State of Hawaii and Oregon

Date Posted:

March 22, 2010 to April 22, 2010

March 22, 2010 to April 22, 2010

March 22, 2010 to April 22, 2010

March 22, 2010 to April 22, 2010

March 22, 2010 to April 22, 2010

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GameTime c/o Cunningham Recreation
 PO Box 240981
 Charlotte, NC 28224
 800.438.2780
 704.525.7356 FAX

QUOTE
 #112148

09/07/2016

EOA Child Services Playground

City of Fayetteville
 Attn: Janet Carrillo
 113 W. Mountain Street
 Fayetteville, AR 72701
 Phone: 479-575-8240
 jcarrillo@fayetteville-ar.gov

Project #: P82821
 Ship To Zip: 72701

Qty	Part #	Description	List \$	% Disc.	Selling \$	Ext. Selling \$
1	5052	GameTime - Discover Cave w/Primary Grips [Roto Plastic: _____] [Uni Plastic: _____]	\$3,378.00	16.00	\$2,837.52	\$2,837.52
1	36074	GameTime - Stratus Lo [Basic: _____] [Roto Plastic: _____]	\$2,262.00	24.00	\$1,719.12	\$1,719.12
1	6223	GameTime - Merry Musical [Accent: _____] [Basic: _____] [Roto Plastic: _____]	\$3,916.00	16.00	\$3,289.44	\$3,289.44
900	TILE	GT-Impax - Standard Rubber Tile Safety Surfacing 2'x2', 2-1/4" thick, per sq ft - *Pricing includes any standard color			\$7.60	\$6,840.00
1	INSTALL	MISC - Site Work and Installation - <u>Includes</u> • Installation of concrete sub-base • Installation of concrete curbing • Installation of tile safety surfacing • Installation of playground equipment			\$12,365.00	\$12,365.00

*Site must be clear, level, free of obstructions and accessible.
 *USC Contract #110179
 Contract: USC

SubTotal: \$27,051.08
 Tax: \$2,848.30
 Freight: \$2,162.25
Total Amount: \$32,061.63



GameTime c/o Cunningham Recreation
PO Box 240981
Charlotte, NC 28224
800.438.2780
704.525.7356 FAX

QUOTE
#112148

09/07/2016

EOA Child Services Playground

Pricing: Prices are firm for 30 days unless otherwise noted. Above costs assume one shipment and one installation unless otherwise noted. Taxes will be shown as a separate line item if included. Any applicable taxes not shown will be applied to the final invoice.

Lead Time/Shipment: Standard orders shipped 4 weeks after receipt of order and acceptance of your purchase order, color selections, approved submittals, (if required) unless otherwise noted. Custom equipment and shades may require a longer lead time. Surfacing lead time is approximately 2 weeks after scheduling request. It is the responsibility of the owner to offload and inventory equipment, unless other arrangements have been made. Missing or damaged equipment must be reported within 60 days of acceptance of delivery. Equipment may be sent in multiple shipments based on point of origin.

Payment Terms: Payment in full, Net 30 days subject to approval by Credit Manager. Pre-payment may be required for orders equaling less than \$5,000. A signed P.O. made out to Gametime C/O Cunningham Associates, Inc. or this signed quotation is required for all orders unless otherwise noted. A 1.5% per month finance charge will be imposed on all past due accounts. Equipment shall be invoiced separately from other services and shall be payable in advance of those services and project completion. Checks should be made payable to Game Time unless otherwise directed.

Returns: Returns are available on shipments delivered within the last 60 days and only if the product is in merchantable condition, has never been installed, and has never been stored in an area of little or no protection. A 25% restocking fee will be applied to all goods. Customer will be charged freight for both the outbound and inbound shipment. Any credit will be based on the condition of the item upon its return. Uprights cannot be returned.

Acceptance of this proposal indicates your agreement to the terms and condition stated herein.

Wish to pay by credit card? Please complete the following information:

_____ Mastercard _____ Visa _____ AMEX

Credit Card Number: _____ Exp Date: _____

CSC, Card Security Code: _____

Name as it appears on card: _____

Amount to be charged to card: _____

Email or Fax credit card receipt to: _____

Site should be clear, level and allow for unrestricted access of trucks and machinery. Customer is responsible for providing a secure location to off-load and store the equipment during the installation process. The customer is responsible for theft or damage of the equipment from the time the equipment is off-loaded until the installation of the equipment is complete, unless other arrangements are made and noted on the quotation. Price includes ONLY what is stated in this quotation. If additional site work or equipment is needed then the price is subject to change. Customer shall be responsible for unknown conditions such as buried utilities (public & private), tree stumps, rock, or any concealed materials or conditions that may result in additional labor or materials cost. Customer will be billed hourly or per job for any additional costs.

Acceptance of quotation:

Accepted By (printed): _____ Date: _____

Title: _____ P.O. No: _____

Telephone: _____ Fax: _____

Purchase Amount: **\$32,061.63**

SALES TAX EXEMPTION CERTIFICATE #: _____

(PLEASE PROVIDE A COPY OF CERTIFICATE)

Salesman Signature

Customer Signature



GameTime c/o Cunningham Recreation
PO Box 240981
Charlotte, NC 28224
800.438.2780
704.525.7356 FAX

QUOTE
#112148

09/07/2016

EOA Child Services Playground

U.S. COMMUNITIES TERMS & CONDITIONS

- LEAD TIME: normal lead time is 30 days from active order date.
- PURCHASE ORDERS: MUST BE MADE OUT TO GAMETIME c/o CUNNINGHAM RECREATION
- PRICING: pricing is net, f.o.b. destination, after freight charges have been calculated using the contact shipping rates provided herein and added to the net product prices shown on the contract price list. Gametime offers most favored pricing and special discounts to those local public agencies participating in the U.S. Communities contract. Product pricing derives from and is indexed by the 2006 GameTime Catalog, less the applicable discounts stated herein. GameTime pricing is adjusted the first of each year with the printing and distribution
- QUANTITY DISCOUNTS: Volume single purchases of composite play systems only shall be eligible for an additional discount.
- ORDERS: All orders shall be in writing on the buying entity's purchase order form or similar documentation, and showing GameTime as the vendor. Open buying on the Internet (OBI) is not currently available.
- SHIPMENT: Shipping shall commence within 4-6 weeks after our receipt and acceptance of the customer purchase order, color selections and approval of submittals, if required.
- TERMS OF SALE: Payment is due within 30 days from date of invoice for governmental agencies. Payment may be made by VISA or MasterCard. Orders for materials paid for at the time of placement are entitled to a 3% cash-with-order discount.
- MINIMUM ORDER: RFP 269-2003-007 purchases, other than replacement parts, require a minimum order of \$500.00.
- PACKAGING: All goods shall be packaged in accordance with acceptable commercial practices and marked to preclude confusion during unloading and handling.
- RECEIPT OF GOODS: Customer shall receive, unload and inspect goods upon arrival, reporting any discrepancies on the delivery receipt prior to written acceptance of the shipment. Concealed damages must be reported within 15 days of delivery & concealed shortages must be reported within 60 days.
- INSTALLATION: If included with purchase, shall be by a Certified GameTime installer. Customer shall be responsible for scheduling coordination and site preparation. Site should be level and permit installation equipment access. Purchaser shall be responsible for unknown conditions such as buried utilities, tree stumps, bedrock or any concealed materials or conditions that may result in additional labor or material costs. Added charges may result for failure to notify the installer of schedule changes or site conditions that prevent installation.
- EXCLUSIONS: Unless otherwise noted, this proposal excludes all site work and landscaping, removal of existing equipment; storage of goods prior to installation; drainage provisions; and safety surfacing and borders unless purchased separately. Customer shall be responsible for providing a clear, level site for installation and for scheduling deliveries and coordinating installation.
- SUBMITTALS: Our design proposal reflects the spirit and intent of the solicitation. While some variations may exist between GameTime designs and specifications are unique and not intended to be identical in all respects to other manufacturers. If required, we shall submit for review and approval by the owner's representative detailed drawings depicting the equipment to be furnished accompanied by specifications describing materials. Once approved, these drawings and specifications shall constitute the final documents for the project and shall take precedence over all other requirements. GameTime shall provide for each playground two sets of installation, assembly and maintenance instructions in accordance with our standard practices. All composite playground designs and equipment shall comply with ASTM F 1487-01, Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use; Handbook for Public Playground Safety Publication 325 by the U.S. Consumer Products Safety Commission; and the Guide to ADA Accessibility Guidelines for Play Areas published by the U.S. Access Board.
- CREDIT APPLICATIONS: If required must be submitted with your order.
- FINANCE CHARGE: A 1.5% monthly finance charge will be added to all invoices over 30 days past due.

ORDER INFORMATION:

Bill to: _____ Ship to: _____

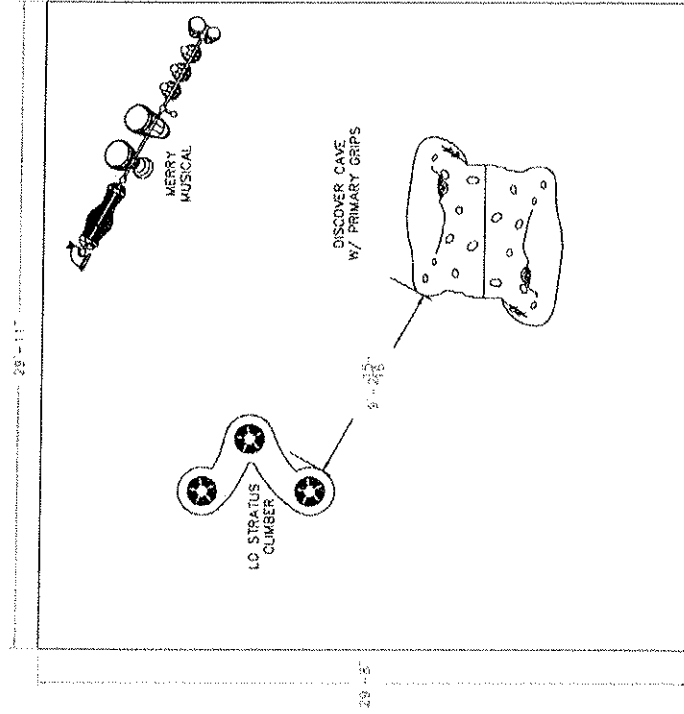
Contact: _____ Contact: _____

Address: _____ Address: _____

Address: _____ Address: _____

City, State, Zip: _____ City, State, Zip: _____

Tel: _____ Fax: _____ Tel: _____ Fax: _____



A PLAYCORE COMPANY
150 PlayCore Drive SE
Fort Payne, AL 35967
www.gametime.com



City of Fayetteville
EOA Child Services Playground
Fayetteville, AR
Representative
Cunningham Recreation

This play equipment is recommended for children ages 2-5

Minimum Area Required:
Scale NTS
This drawing can be scaled only when scaled only when at 1/4" = 1'-0"

IMPORTANT: Soft surfacing required under and around the play zone of all equipment. See manufacturer's instructions for equipment, and all details to meet the critical fall heights as specified by the U.S. Consumer Product Safety Commission ASTM standard F 1487 and Canadian Standard CAN/CSA Z 32.4

Drawn By:
HS
Date:
05/10/2016
Drawing Name:
82821 - 03 EOA Child Services



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0422

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A. 8

TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF KITCHEN EQUIPMENT FOR THE FAYETTEVILLE SENIOR CENTER FROM TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION IN AN AMOUNT NOT TO EXCEED \$95,000.00, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, CONTINGENT UPON APPROVAL BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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 kitchen equipment for the Fayetteville Senior Center from TriMark Strategic Equipment and Supply Corporation in an amount not to exceed \$95,000.00, pursuant to a National Joint Powers Alliance cooperative purchasing agreement, contingent upon approval by the U.S. Department of Housing and Urban Development.

City of Fayetteville Staff Review Form

2016-0422

Legistar File ID

9/20/2016

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Yolanda Fields

9/1/2016

Community Resources /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a kitchen equipment purchase in an amount not to exceed \$95,000 for kitchen upgrades at the Fayetteville Senior Center (945 S. College Ave), to be purchased through a cooperative contract# 103013-SES (NJPA - National Joint Powers Alliance), contingent upon HUD approval of the reallocation of funds.

Budget Impact:

2180.642.4940-5315.00

CDBG - Housing

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 491,652.00

Funds Obligated \$ -

Current Balance \$ 491,652.00

Does item have a cost? Yes

Item Cost \$ 95,000.00

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ 396,652.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor and City Council

THRU: Jeremy Pate, Development Services Director

FROM: Yolanda Fields, Community Resources Director

DATE: September 1, 2016

SUBJECT: Approval of Kitchen Upgrades at Senior Center

RECOMMENDATION:

Staff recommends approval of the purchase of kitchen equipment for upgrades at the Fayetteville Senior Center (945 S. College Ave) in an amount not to exceed \$95,000, contingent upon HUD approval of the reallocation of funds.

BACKGROUND:

The Fayetteville Senior Center has been a long-time recipient of CDBG funds due to their continued efforts to serve the city's low and moderate income (LMI) senior residents.

DISCUSSION:

The Fayetteville Senior Center is in need of a kitchen upgrade to better serve the senior citizen population of Fayetteville. The equipment currently used is out of date and has limited serving capabilities. A reallocation requesting \$95,000 from Housing for the kitchen upgrades is awaiting HUD's approval. Upon approval of the reallocation, a formal bid process will not be necessary because the upgrades will come from Trimark Statagic Equipment, Inc. utilizing cooperative contract# 103013-SES through the National Joint Powers Alliance (NJPA). The equipment purchase will not exceed \$95,000.

BUDGET/STAFF IMPACT:

Budget not impacted (reallocation of project funding)

Attachments:

Proof of NJPA Contract with TriMark

[Home](#) > [Cooperative Purchasing](#) > [Contracts - General](#) > [Food & Food Service Equipment](#) > [Strategic Equipment & Supply Co.](#)



Strategic Equipment & Supply Co.



Contract#: 103013-SES
Category: Food & Food Service Equipment
Description: Kitchen Equipment
Maturity Date: 11/20/2017

[Overview](#)

[Contract Documentation](#)

[Pricing](#)

[Marketing Materials](#)

[NJPA Contact Information](#)

HOW TO PURCHASE

Our step-by-step guide



[New Customer Information Guide](#)

TriMark Strategic specializes in foodservice equipment, supply, and design solutions. TriMark Strategic is a single source for comprehensive, seamless foodservice equipment solutions, from initial concept and design to equipment installation and product replenishment. They serve industries such as food and beverage, hospitality, and healthcare. Clients rely on TriMark Strategic for the full range of services that are critical to a successful operation. With diverse, nationwide capabilities and deep industry expertise, the TriMark Strategic team is a flexible, dependable and committed partner.

Vendor Contact Info

Brian Monnat
Direct Phone: 469-240-7272
bmonnat@isi-texas.com
www.strategicequipment.com

ANNUAL RENEWAL OF AGREEMENT

Made by and Between

Strategic Equipment and Supply Corporation (Vendor)
1461 S. Beltline Rd. Suite 100
Coppell, TX 75019

and

National Joint Powers Alliance® (NJPA)
202 12th Street NE
Staples, MN 56479
Phone: (218) 894-1930

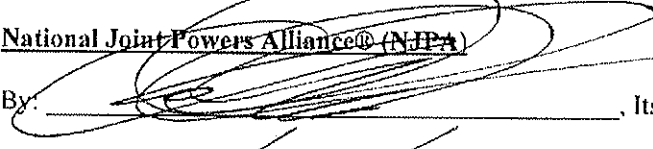
Whereas:

"Vendor" and "NJPA" have entered into an "Acceptance and Award #103013-SES" for the procurement of Commercial Kitchen Equipment and Related Supplies, and having a maturity date of November 19, 2017, and which are subject to annual renewals at the option of both parties.

Now therefore:

"Vendor" and "NJPA" hereby desire and agree to extend and renew the above defined contract for the period of December 19, 2015 to December 19, 2016.

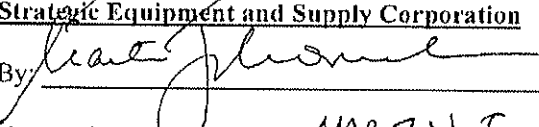
National Joint Powers Alliance® (NJPA)

By:  Its: Executive Director/CEO

Name printed or typed: Chad Coauette

Date 1/18/16

Strategic Equipment and Supply Corporation

By:  Its: PRESIDENT

Name printed or typed: NORMAN J. MANNST

Date 1/18/2015

If you do not desire to extend contract, please sign below and return this agreement.
Discontinue: We desire to discontinue the contract.

Signature: _____ Date: _____



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0328

Agenda Date: 9/20/2016

Version: 1

Status: First Reading

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: B. 1

RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES

(LEFT ON FIRST READING)

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential Agricultural; RSF-1, Residential Single Family, One Unit Per Acre and RSF-4, Residential Single Family, 4 Units Per Acre to NC, Neighborhood Conservation; R-A, Residential Agricultural and NS, Neighborhood Services.

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

2016-0328

Legistar File ID

7/19/2016

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jeremy Pate

7/1/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 16-5442: Rezone (2514 W. LORI RD./RAZORBACK GOLF COURSE, 285): Submitted by BLEW & ASSOCIATES, INC. for properties located at 2514 W. LORI RD. The properties are zoned R-A, RESIDENTIAL-AGRICULTURAL, RSF-1, RESIDENTIAL SINGLE FAMILY ONE UNIT PER ACRE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 99.10 acres. The request is to rezone the properties to NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURE; and 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 JULY 19, 2016

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Harry Davis, Planner

DATE: June 30, 2016

SUBJECT: RZN 16-5442: Rezone (2514 W. LORI RD./RAZORBACK GOLF COURSE, 285):
Submitted by BLEW & ASSOCIATES, INC. for properties located at 2514 W. LORI RD. The properties are zoned R-A, RESIDENTIAL-AGRICULTURAL, RSF-1, RESIDENTIAL SINGLE FAMILY ONE UNIT PER ACRE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 99.10 acres. The request is to rezone the properties to NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURE; and NS, NEIGHBORHOOD SERVICES.

RECOMMENDATION:

The Planning Commission and City Planning staff recommend approval of an ordinance to rezone the properties from R-A, RSF-1, and RSF-4 to R-A, NC, and NS as shown in Exhibits A and B.

BACKGROUND:

Background and Property Description: The assembled tracts contain approximately 99.10 acres located north of Mount Comfort Road and west of Deane Solomon Road. The property has been used for many years for the Razorback Golf Course that has closed for business. The land has been cleared for many decades for golf greens, fairways and paved golf course paths. There are some mature stands of trees in various areas, several ponds and water features, with the protected stream Clabber Creek and its associated floodplain in the northern portion of the site. The property is zoned RSF-4, Residential Single Family Four Units per Acre; R-A, Residential Agricultural; and RSF-1, Residential Single Family One Unit per Acre.

Request: The applicant requests to rezone 72.72 acres to NC, Neighborhood Conservation; 14.79 acres to NS, Neighborhood Services; and 11.59 acres to R-A, Residential Agriculture as depicted in the attached rezoning exhibit. The applicant has indicated the intention to develop a majority of the property with a single-family neighborhood. The portion zoned NS is intended by the applicant to allow greater flexibility of housing density while the portion zoned R-A is for conserving the floodway around Clabber Creek. The proposed NC zoning is a single family zoning district that provides additional variety of lot sizes compared to the predominant RSF-4 pattern in this area and opportunity for increased density up to ten units per acre. NS would allow other housing typologies greater than a single-family home, including two- and three-family dwellings by right.

STAFF FINDINGS:

The City Plan 2030 Future Land Use Plan map (FLUM) identifies this area primarily as a **Civic and Private Open Space/Parks Area** with **Natural Area** in the Clabber Creek floodplain area and **Residential Neighborhood Area** in the south. The site is designated as Civic and Private Open Space/Parks Area because of its historical use as a private golf course. However, this designation does not limit the property from being able to be redeveloped and transition over time into a different land use.

For the areas proposed NC, the proposed zoning is compatible with the surrounding residential properties to the north, east, and west by proposing similar single family detached zoning. In staff's opinion, the proposal is not only compatible, it is complimentary and adds to the variety and mix of residential dwelling types. For the area proposed to be NS, the proposed zoning is compatible with nearby zones. The NS portion would be adjacent to the Coyote Trail subdivision zoned RT-12. Like RT-12, NS would allow single-, two-, and three-family dwellings along with limited business that would serve as a low-intensity, walkable area with an underlying purpose as a transition between low- and medium-density areas.

The rezoning is consistent with goals and policies of City Plan 2030 to discourage suburban sprawl by encouraging development in an area surrounded by developed neighborhoods and roadways. The proposed use of NC and NS zones are consistent with the goal to make traditional town form the standard. The proposal is also consistent with the Future Land Use map designation of Natural Area on the Clabber Creek floodplain portion of the site, as it appears the proposed rezoning would place R-A zoning on the majority of the floodplain and floodway. Such a zone would better protect and manage the riparian corridor along Clabber Creek.

Staff finds that the proposed zoning is justified and needed to accommodate planned development of this area. Paralleling national trends in the golf course industry, Razorback Golf Course endured declining success before going out of business in recent months. Given this site's proximity to existing roads, utility infrastructure, and surrounding development, it is justified to rezone the property for single-family to three-family residential density alongside possible limited business for residents of the area.

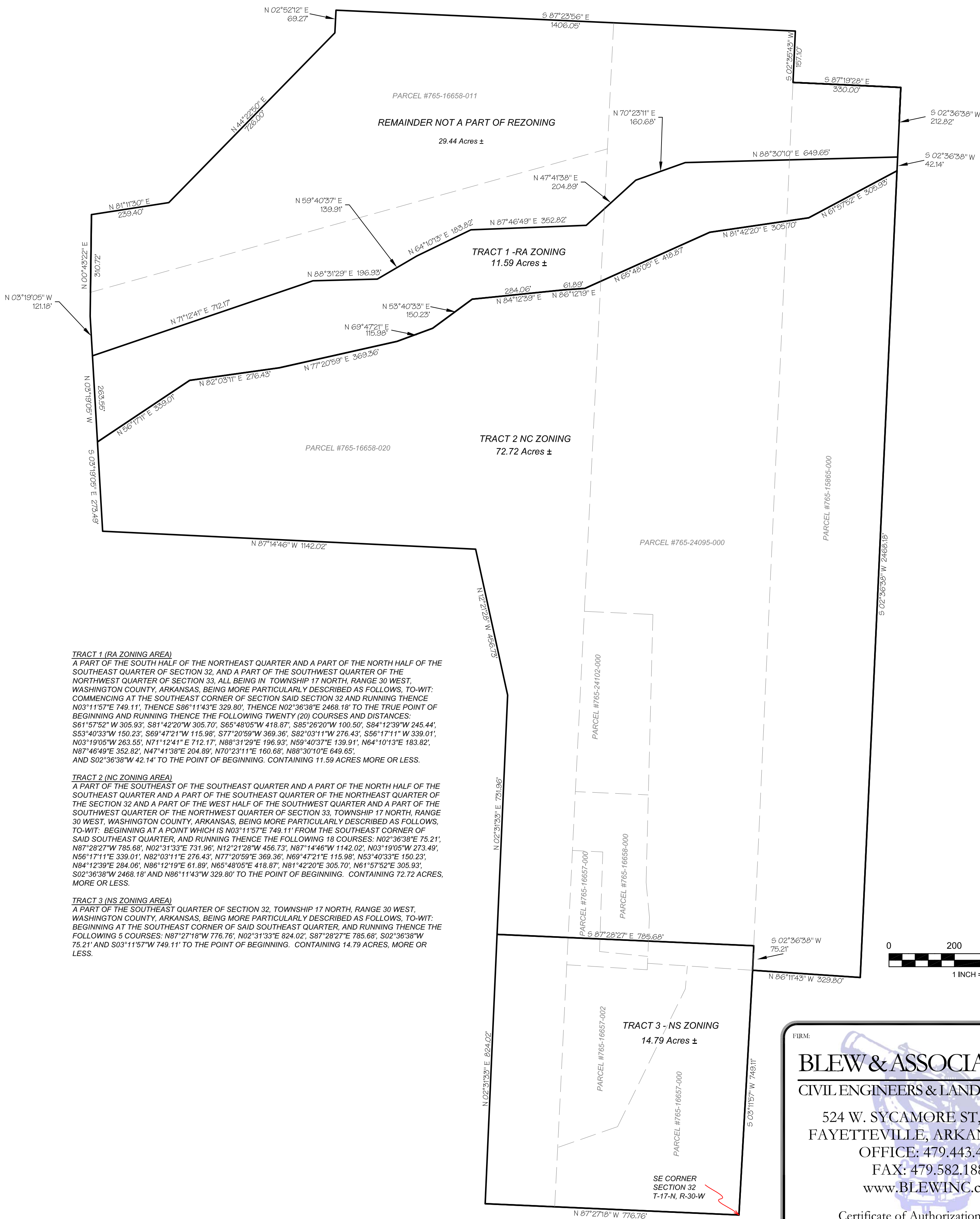
DISCUSSION:

This item was discussed at the June 13, 2016 Planning Commission meeting. At that meeting three members of the public spoke opposed to the rezoning. Primary items of discussion included concerns with increased density, flooding, traffic, and a lack of adequate street infrastructure. The Planning Commission discussed with the applicant a desire for more variety as the entire property was proposed to be rezoned NC, Neighborhood Conservation. The commission also discussed the potential for non-residential services and tabled the item for two weeks. The applicant revised the proposal for the June 27, 2016 meeting in an attempt to address the commission's concerns. On June 27, 2016 the Planning Commission forwarded the applicant's request for rezoning 99.10 acres of R-A, RSF-1, and RSF-4 to R-A, NC, and NS with a recommendation for approval by a vote of 8-1-0, Commissioner Hoskins dissenting. There was no public comment at the June 27th Planning Commission meeting.

Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

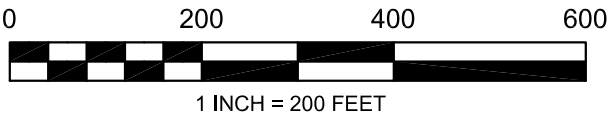
Rezone Exhibit A



TRACT 1 (RA ZONING AREA)
A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND A PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, AND A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, ALL BEING IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SECTION SAID SECTION 32 AND RUNNING THENCE N03°11'57"E 749.11', THENCE S86°11'43"E 329.80', THENCE N02°36'38"E 2468.18' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE THE FOLLOWING TWENTY (20) COURSES AND DISTANCES: S61°57'52" W 305.93', S81°42'20"W 305.70', S65°48'05"W 418.87', S85°26'20"W 100.50', S84°12'39"W 245.44', S53°40'33"W 150.23', S69°47'21"W 115.98', S77°20'59"W 369.36', S82°03'11"W 276.43', S56°17'11"W 339.01', N03°19'05"W 263.55', N71°12'41" E 712.17', N88°31'29"E 196.93', N59°40'37"E 139.91', N64°10'13"E 183.82', N87°46'49"E 352.82', N47°41'38"E 204.89', N70°23'11"E 160.68', N88°30'10"E 649.65', AND S02°36'38"W 42.14' TO THE POINT OF BEGINNING. CONTAINING 11.59 ACRES MORE OR LESS.

TRACT 2 (NC ZONING AREA)
A PART OF THE SOUTHEAST OF THE SOUTHEAST QUARTER AND A PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SECTION 32 AND A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N03°11'57"E 749.11' FROM THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, AND RUNNING THENCE THE FOLLOWING 18 COURSES: N02°36'38"E 75.21', N87°28'27"W 785.68', N02°31'33"E 731.96', N12°21'28"W 456.73', N87°14'46"W 1142.02', N03°19'05"W 273.49', N56°17'11"E 339.01', N82°03'11"E 276.43', N77°20'59"E 369.36', N69°47'21"E 115.98', N53°40'33"E 150.23', N84°12'39"E 284.06', N86°12'19"E 61.89', N65°48'05"E 418.87', N81°42'20"E 305.70', N61°57'52"E 305.93', S02°36'38"W 2468.18' AND N86°11'43"W 329.80' TO THE POINT OF BEGINNING. CONTAINING 72.72 ACRES, MORE OR LESS.

TRACT 3 (NS ZONING AREA)
A PART OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, AND RUNNING THENCE THE FOLLOWING 5 COURSES: N87°27'18"W 776.76', N02°31'33"E 824.02', S87°28'27"E 785.68', S02°36'38"W 75.21' AND S03°11'57"W 749.11' TO THE POINT OF BEGINNING. CONTAINING 14.79 ACRES, MORE OR LESS.



FIRM:
BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS
524 W. SYCAMORE ST, SUITE 4
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

Certificate of Authorization No 1534

DRAWN BY & DATE: Sebo 06/20/2016	REVIEWED BY:	SURVEYED BY:
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COUNTY & STATE: Washington County Arkansas	JOB NUMBER:
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LOCATION:
Razorback Golf Course

FOR THE USE AND BENEFIT OF:
Bart Bauer



Blew & Associates, P.A.

Civil Engineers

Professional Land Surveyors

EXHIBIT B

524 West Sycamore St., Suite #4
Fayetteville, Arkansas 72703
479-443-4506
Fax 582-1883

Description of Area(s) to Be Rezoned:

TRACT 1 (RA ZONING AREA)

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COURSES: N02°36'38"E 75.21', N87°28'27"W 785.68', N02°31'33"E 731.96', N12°21'28"W 456.73', N87°14'46"W 1142.02', N03°19'05"W 273.49', N56°17'11"E 339.01', N82°03'11"E 276.43', N77°20'59"E 369.36', N69°47'21"E 115.98', N53°40'33"E 150.23', N84°12'39"E 284.06', N86°12'19"E 61.89', N65°48'05"E 418.87', N81°42'20"E 305.70', N61°57'52"E 305.93', S02°36'38"W 2468.18' AND N86°11'43"W 329.80' TO THE POINT OF BEGINNING. CONTAINING 72.72 ACRES, MORE OR LESS.

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CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

5442

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

285
246

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant _____ Representative

Applicant (person making request):

Name:

Bart Bauer

Address:

1417 N Addington Ave

Fayetteville, AR 72703

E-mail:

bart.bauer@sbcglobal.net

Phone:

(479) 283-0153

()

Fax:

()

Representative (engineer, surveyor, realtor, etc.):

Name:

Blew and Associates, PA

Address:

524 W Sycamore St Ste 4

Fayetteville, AR 72703

E-mail:

engineers@blewinc.com

Phone:

(479) 443-4506

()

Fax:

()

Site Address / Location: 2575 Deane Solomon Rd

Current Zoning District: R-A/RSF-4

Requested Zoning District: NC

Assessor's Parcel Number(s) for subject property: 765-16658-020, 765-24095-000, 765-15865-000, 765-24102-000, 765-16658-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

Bart Bauer

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): BART BAUER Date: 5/4/16

Signature: _____

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

Property Owners of Record (attach additional info if necessary):

Name (printed): Ren Carness

Signature: *Ren Carness*

Date: 5-4-16

Address: 2724 W. Howard Mickell Rd

Fayetteville, AR

Phone: (479) 304 1082

Name (printed): Lori Taylor

Signature: *Lori Taylor*

Date: 5-4-16

Address: 2595 W Lori Dr

Fayetteville AR

Phone: (479) 236-1808

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Harry Davis, Planner

MEETING DATE: ~~June 27, 2016~~ **UPDATED W/ PC RESULTS**

SUBJECT: **RZN 16-5442: Rezone (2514 W. LORI RD./RAZORBACK GOLF COURSE, 285):** Submitted by BLEW & ASSOCIATES, INC. for properties located at 2514 W. LORI RD. The properties are zoned R-A, RESIDENTIAL-AGRICULTURAL, RSF-1, RESIDENTIAL SINGLE FAMILY ONE UNIT PER ACRE, AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately ~~128.54~~ acres. The request is to rezone the properties to NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURE; and NS, NEIGHBORHOOD SERVICES.

RECOMMENDATION: **ERROR ON PART OF ENGINEER TO INCLUDE NORTHERN SECTION - ACTUAL PROPOSAL IS LOWER 99.10 ACRES**
Staff recommends forwarding **RZN 16-5442** to the City Council with a recommendation for approval of NC, NS, and R-A as proposed.

BACKGROUND:

The previous request by the current applicant was to rezone 99.10 acres south of Clabber Creek to NC, Neighborhood Conservation. The applicant indicated an intention to develop this area into a single-family neighborhood. This item was tabled at the June 13, 2016 Planning Commission to give the applicant time to meet with staff and revise their request according to comments and concerns by the Planning Commission. The applicant has submitted another revised request as described herein and depicted on the attached rezoning exhibit.

As Currently Proposed: The assembled tracts contain approximately ~~128.54~~ acres located north of Mount Comfort Road and west of Deane Solomon Road. The property has been used for many years for the Razorback Golf Course that has closed for business. The land has been cleared for many decades for golf greens, fairways and paved golf course paths. There are some mature stands of trees in various areas, several ponds and water features, with the protected stream Clabber Creek and its associated floodplain in the northern portion of the site. The property is zoned RSF-4, Residential Single Family Four Units per Acre; R-A, Residential Agricultural; and RSF-1, Residential Single Family One Unit per Acre. The surrounding land use and zoning is depicted in *Table 1*.

CLABBER CREEK
FLOODPLAIN

SHOULD INCLUDE
RSF-1 & R-A

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Crystal Springs Subdivision	RSF-4, Residential Single Family Four Units per Acre
South	Mobile home park; Bird Haven Subdivision (single family); Coyote Trail Subdivision (two-family)	R-A, Residential Agricultural; RT-12, Residential Two and Three Family; RSF-4, Residential Single Family Four Units per Acre
East	Pines at Springwoods (two- and four-family); horse farm; Prairie View Acres; conservation area	C-PZD, Springwoods (equivalent to RSF-4 and RMF-18); R-A, Residential Agricultural
West	Undeveloped	RSF-4, Residential Single Family Four Units per Acre

DISCUSSION:

72.72

Request: The applicant requests to rezone ~~96.98~~ acres to NC, Neighborhood Conservation; 14.79 acres to NS, Neighborhood Services; and 16.77 acres to R-A, Residential Agriculture as depicted in the attached rezoning exhibit. The applicant has indicated the intention to develop a majority of the property with a single-family neighborhood. The portion zoned NS is intended by the applicant to allow greater flexibility of housing density while the portion zoned R-A is for conserving the floodway around Clabber Creek. The proposed NC zoning is a single family zoning district that provides additional variety of lot sizes compared to the predominant RSF-4 pattern in this area and opportunity for increased density up to ten units per acre. NS would allow other housing typologies greater than a single-family home.

Public Comment from June 13, 2016 Planning Commission Meeting: Staff received public comment in regards to concerns over zoning incompatibility, traffic issues on Deane Solomon Road, accessing property from W Lori Dr., decreased nearby property values from dense development, and flooding. During the meeting, neighbors voiced concerns over traffic issues on Deane Solomon, a lack of services included in the proposal, and increased density.

Public Comment for Current Submission: Staff has not received public comment for the current submission.

INFRASTRUCTURE:

Streets:

The subject site has access to Deane Solomon Road. Along the subject parcels' frontage, the eastern half of Deane Solomon Road is fully improved with curb, gutter, sidewalk, and storm drainage. The western half is unimproved with an open earth ditch. The subject parcels also have access to Lori Drive and Emil Drive via existing street stub outs to the southeast. Street construction and dedication of right of way would be required if connections were made here. Improvements to Deane Solomon and other streets/intersections would be evaluated at the time of development.

- Water:** Public water is available to the site. A 12" public main is located within the Deane Solomon Road right of way and an 8" public main exists along the southernmost parcel line of the subject parcels.
- Sewer:** Sanitary Sewer is available to the site. An 8" public main is located within the Deane Solomon Road right of way and an 8" public main exists along the southernmost parcel line of the subject parcels.
- Drainage:** Any additional improvements or requirements for drainage will be determined at time of development. Clabber Creek runs east-west through the northern portion of these parcels. Clabber Creek is a protected stream per city ordinances and contains FEMA regulated floodways and Zone AE floodplains. Floodplain development permits would be required in these locations. Portions of the site are shown to contain hydric soils, which are indicators of wetland areas. Further information regarding the existence of wetlands may be required at the time of development. No portions of these parcels are located within the HHOD.
- Fire:** This development will be protected by Engine 7 located at 835 Ruppel Road. It is 3 miles from the station to the study area with an anticipated response time of 7 minutes to the beginning of the study area. The Fire Department does not feel this rezoning will affect calls for service or response times.
- Police:** The Police Department have not expressed concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN:

The City Plan 2030 Future Land Use Plan map (FLUM) identifies this area primarily as a ***Civic and Private Open Space/Parks Area*** with ***Natural Area*** in the Clabber Creek floodplain area.

The site is designated as Civic and Private Open Space/Parks Area because of its historical use as a private golf course. However, this designation does not limit the property from being able to be redeveloped and transition over time into a different land use.

The study area is identified as having a high level of natural resources by the Fayetteville Natural Heritage Association (FNHA), a local non-profit group. Some habitat in the study area is classified by the FNHA as seasonal wetlands¹. As a result of the FNHA work and other City staff research, this study area was included on the Enduring Green Network (EGN) map. The EGN map resulted in designation of portions of this area as Natural Area on the Future Land Use map. However, site specific environmental study of the project area has not been conducted to staff's knowledge. It should be noted that golf courses have had a long reputation of being harmful to the environment because of the use of chemicals (fertilizer, pesticides, herbicides, etc.), water, and other resources to maintain pristine golfing conditions.²

¹ Fayetteville Natural Heritage Association Environmental Working Group Map 2008-2009

² Audobon International. Golf and the Environment Fact Sheet. Accessed December 2015.
www.audoboninternational.org

The applicant's proposal to rezone 128.54 acres includes two (2) major areas indicated in the FLUM:

- **Civic and Private Open Space/Parks Areas** are sites that are permanently dedicated to open space or park land. Guiding Policies for this areas are as follows:
 - a. Encourage parkland dedication and conservation easements for trails that support the Fayetteville Alternative Trails and Transportation Plan, the 10-Year Parks Master Plan and the Enduring Green Network.
 - b. Provide an integrated network of open space areas throughout the City to serve local residents as well as provide a regional asset and visitor attraction.
 - c. Plan for the long-term preservation and enhancement of open space (including undeveloped natural areas, utility corridors, and key scenic corridors) within the Fayetteville green network.
 - d. Conserve open space within the Fayetteville green network through private acquisition and other acceptable conservation methods.
 - e. Encourage the creation of connected trails and walkways between community activity areas and neighborhoods and enhance with kiosks and rest stations.
 - f. Encourage community-based "green" infrastructure such as rain gardens, vegetated drainages and bio-retention facilities.
 - g. Encourage pocket parks, especially in the urban center areas.
- **Natural Areas** consist of lands approximating or reverting to a wilderness condition, including those with limited development potential due to topography, hydrology, vegetation or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, as identified in the FNHA study, many of which make up the backbone of the enduring green network. A **Natural Area** designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development for all construction.

A third type of area on site is indicated in the Future Land Use map, called **Residential Neighborhood Area**, is summarized as such:

- ... These 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.

STAFF FINDINGS

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:** For the areas proposed NC, the proposed zoning is compatible with the surrounding residential properties to the north, east, and west by proposing similar single family detached zoning. Rezoning the site's middle 72.72 and ~~northern 24.26~~ acres for denser single-family residential is compatible with surrounding residential uses and zonings, including multi-family to the east in the Pines at Springwoods development, a neighborhood of duplexes to the south in the Coyote Trail subdivision, and undeveloped land zoned for single family residential zoning to the west. Compatibility does not mean that the zoning has to be identical

in terms of the actual zoning district, building typology allowed, or use. It refers to the ability of various zoning districts and uses being able to exist in harmony with surrounding neighborhoods. In staff's opinion, the proposal is not only compatible, it is complimentary and adds to the variety and mix of residential dwelling types.

For the area proposed to be NS, the proposed zoning is compatible with nearby zones. The NS portion would be adjacent to the Coyote Trail subdivision zoned RT-12 in the east, a mobile home park zoned R-A in the south, and the Bird Haven Terrace subdivision and undeveloped areas zoned RSF-4 to the southwest and west, respectively. Like RT-12, NS would allow single-, two-, and three-family dwellings along with limited business that would serve as a low-intensity, walkable area with an underlying purpose as a transition between low- and medium-density areas.

Compatibility analysis for the proposed R-A is generally simplistic and compatible with every adjacent zone. R-A is not a conservation zoning district, but is used here as such to protect the riparian corridor along Clabber Creek. This part of the proposal is best explained in relation to the Future Land Use map.

Land Use Plan and Policy Analysis: The rezoning is generally consistent with planning objectives, principles, and policies put forward in City Plan 2030 and the Future Land Use map. The Future Land Use map designates a majority of this site as *Civic and Private Open Space/Parks Areas* to recognize the historical use of this site as a private golf course. This designation does not prevent the property from being rezoned and redeveloped for a different land use consistent with overall City policy. The rezoning is consistent with goals and policies of City Plan 2030 to discourage suburban sprawl by encouraging development in an area surrounded by developed neighborhoods and roadways. The proposed use of NC and NS zones are consistent with the goal to make traditional town form the standard. These districts are form-based districts that have a build-to zone for buildings, which help define space along streets. Additionally, denser development with the possibility of mixed-use provides the opportunity for a variety of price points for residents, which in turn creates opportunities for attainable housing and walkable communities. The proposal is consistent with the Future Land Use map designation of *Natural Area* on the Clabber Creek floodplain portion of the site, as it appears the proposed rezoning would place R-A zoning on the majority of the floodplain and floodway. Such a zone would better protect and manage the riparian corridor along Clabber Creek.

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

Finding: Staff finds that the proposed zoning is justified and needed to accommodate development of this area. Paralleling national trends in the golf course industry, Razorback Golf Course endured declining success before going out of business. Given this site's proximity to existing roads, utility infrastructure, and surrounding development, it is justified to rezone the

property for single-family to three-family residential density alongside possible limited business for residents of the area.

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

Finding: This rezoning will create the opportunity for development that could substantially increase traffic on surrounding roads over the existing R-A, RSF-1, and RSF-4 zoning districts. Deane Solomon Road is an unimproved two-lane road and will need to be improved with any development. In addition, a bridge over Clabber Creek to the west of this site is indicated on the Master Street Plan and development of this property may need to contribute an assessment towards that offsite improvement. Mount Comfort Road/Porter Road is a Minor Arterial roadway that was improved by the City and Arkansas State Highway and Transportation Department (AHTD), including signalization and interchange improvements at I-49. Mount Comfort and Deane Solomon Road will serve a large proportion of traffic in and out of this property. With on and off-site improvements required as part of development, an appreciable increase in traffic danger and congestion should not result.

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: The proposed rezoning would increase the potential population density over the existing zoning, but is unlikely to undesirably increase the load on public services. An analysis of impact to city services has been included under infrastructure, and in the overall recommendation, included throughout this staff report. The Police Department expressed no objections to the proposal. The Fire Department does not feel that this zoning will negatively affect service times to area. The Fayetteville School District is notified of all rezonings by the City but does not typically provide comments and have provided no input on this application.

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

RECOMMENDATION: Staff recommends forwarding of RZN 16-5442 to the City Council with a recommendation of approval for NC, NS, and R-A as proposed.

PLANNING COMMISSION ACTION: Required

Date: June 27, 2016

☐ Tabled

☒ Forwarded

☐ Denied

Motion: HOSKINS

MOTION TO FORWARD w/ APPROVAL
SUCCEEDED

Second: AUTRY

Vote: 8-1-0

HOSKINS DISSENTING

CITY COUNCIL ACTION: Required

Date: July 19, 2016

☐ Approved

☐ Denied

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Existing and proposed zoning criteria
- Applicant's request letter
- Rezoning exhibit
- Public comment
- Current land use map
- Close up map
- Future land use map
- One mile map

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5195, 11-6-08; Ord. 5238, 5-5-09; Ord. 5479, 2-7-12)

161.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *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 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(E) *Density.*

Units per acre	1
----------------	---

(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(H) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(I) *Building area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5462, 12-6-11)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

161.26 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business *
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cottage Housing Development

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	80 ft.
Three Family	90 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	5 ft.
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
-------------------------	--------

(Ord. 5128, 4-15-08; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 6-18-13; Ord. 5664, 2-18-14)

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
Unit 45	Small scale production

(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; Ord. 5735, 1-20-15)



Blew & Associates, P.A.

Professional Land Surveyors

524 W. Sycamore Street Suite 4, Fayetteville, AR 72703

PH: 479-443-4506 * FAX: 479-582-1883

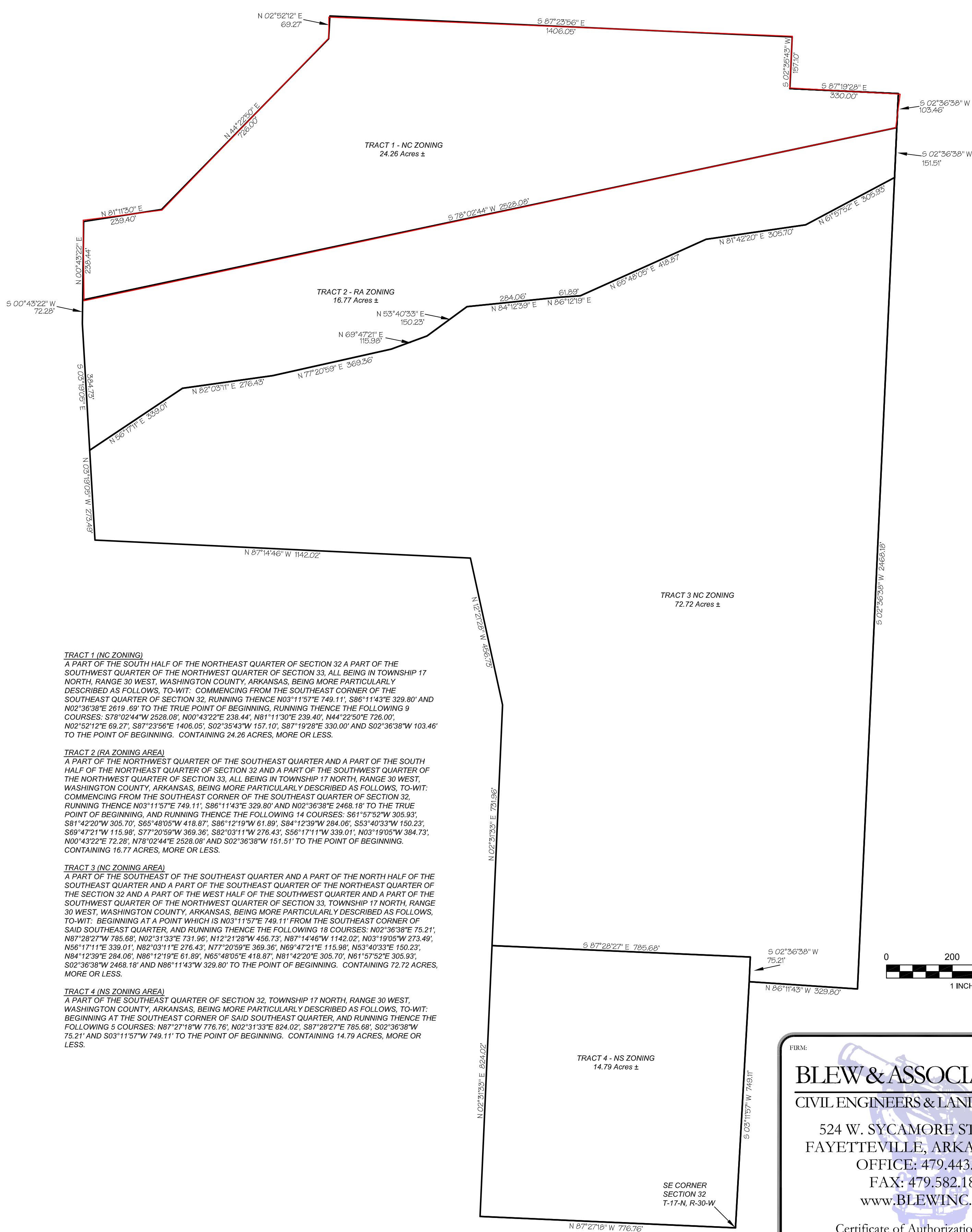
<http://www.blewinc.com>

To Whom It May Concern,

Our client(s), Linron Corp DBA & Bart Bauer, wish to rezone the property at 2514 W. Lori Dr., Fayetteville AR 72703. This consists of parcels 765-16657-000, 765-16658-000, 765-24102-000, and a portion of parcels 765-16658-011, 765-16658-020, 765-24095-000, & 765-15865-000. The request is to rezone the property from its current zonings of R-A, RSF-1, and RSF-4 to a NC zoning. The purpose of this rezone is to be able to develop the property into single family residences. Currently many of the surrounding properties are this type of development which makes it a good fit for the area. Also this should be consistent with the future land use plan for the area as well. The property already has access to water and sewer so availability to utilities should not be an issue. We feel that this type of development is consistent with the city's goals and principals as well it will have a positive effect on the community and surrounding properties. If you have any additional questions feel free to contact our office.

Thanks,
Heath Myers
Project Manager

Rezone Exhibit

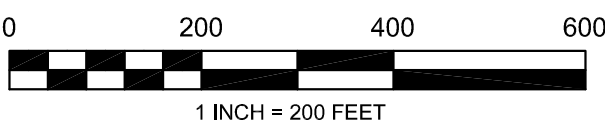


TRACT 1 (NC ZONING)
A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 32 A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, ALL BEING IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING FROM THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 32, RUNNING THENCE N03°11'57"E 749.11', S86°11'43"E 329.80' AND N02°36'38"E 2619.69' TO THE TRUE POINT OF BEGINNING, RUNNING THENCE THE FOLLOWING 9 COURSES: S78°02'44"W 2528.08', N00°43'22"E 238.44', N81°11'30"E 239.40', N44°22'50"E 726.00', N02°52'12"E 69.27', S87°23'56"E 1406.05', S02°35'43"W 157.10', S87°19'28"E 330.00' AND S02°36'38"W 103.46' TO THE POINT OF BEGINNING. CONTAINING 24.26 ACRES, MORE OR LESS.

TRACT 2 (RA ZONING AREA)
A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 32 AND A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, ALL BEING IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING FROM THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 32, RUNNING THENCE N03°11'57"E 749.11', S86°11'43"E 329.80' AND N02°36'38"E 2468.18' TO THE TRUE POINT OF BEGINNING, AND RUNNING THENCE THE FOLLOWING 14 COURSES: S61°57'52"W 305.93', S81°42'20"W 305.70', S65°48'05"W 418.87', S86°12'19"W 61.89', S84°12'39"W 284.06', S53°40'33"W 150.23', S69°47'21"W 115.98', S77°20'59"E 369.36', S82°03'11"W 276.43', S56°17'11"W 339.01', N03°19'05"W 384.73', N00°43'22"E 72.28', N78°02'44"E 2528.08' AND S02°36'38"W 151.51' TO THE POINT OF BEGINNING. CONTAINING 16.77 ACRES, MORE OR LESS.

TRACT 3 (NC ZONING AREA)
A PART OF THE SOUTHEAST OF THE SOUTHEAST QUARTER AND A PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SECTION 32 AND A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N03°11'57"E 749.11' FROM THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, AND RUNNING THENCE THE FOLLOWING 18 COURSES: N02°36'38"E 75.21', N87°28'27"W 785.68', N02°31'33"E 731.96', N12°21'28"W 456.73', N87°14'46"W 1142.02', N03°19'05"W 273.49', N56°17'11"E 339.01', N82°03'11"E 276.43', N77°20'59"E 369.36', N69°47'21"E 115.98', N53°40'33"E 150.23', N84°12'39"E 284.06', N86°12'19"E 61.89', N65°48'05"E 418.87', N81°42'20"E 305.70', N61°57'52"E 305.93', S02°36'38"W 2468.18' AND N86°11'43"W 329.80' TO THE POINT OF BEGINNING. CONTAINING 72.72 ACRES, MORE OR LESS.

TRACT 4 (NS ZONING AREA)
A PART OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, AND RUNNING THENCE THE FOLLOWING 5 COURSES: N87°27'18"W 776.76', N02°31'33"E 824.02', S87°28'27"E 785.68', S02°36'38"W 75.21' AND S03°11'57"W 749.11' TO THE POINT OF BEGINNING. CONTAINING 14.79 ACRES, MORE OR LESS.



FIRM:

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

524 W. SYCAMORE ST, SUITE 4
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

Certificate of Authorization № 1534

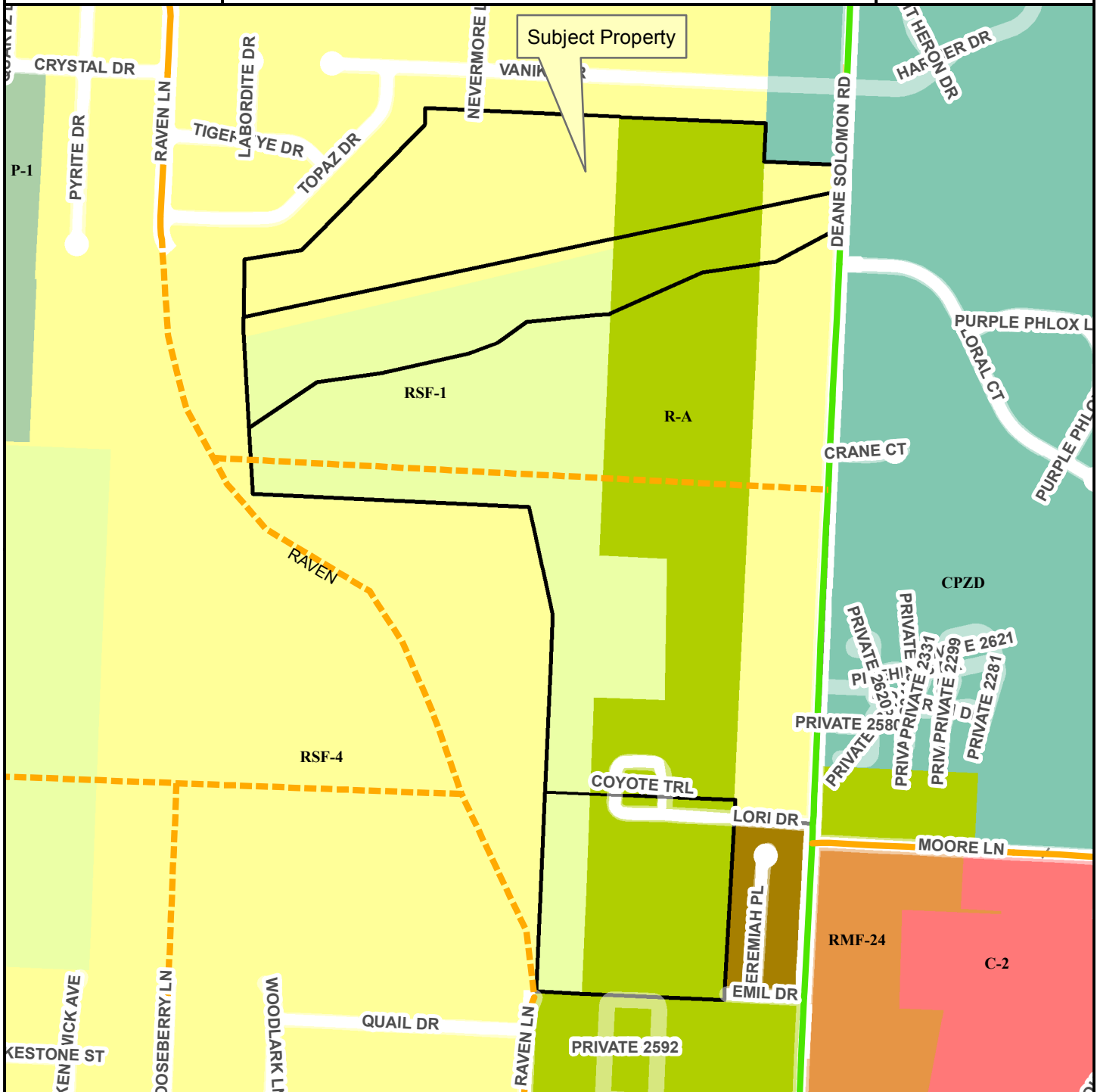
DRAWN BY & DATE:	REVIEWED BY:	SURVEYED BY:
Sebo 06/20/2016		
COUNTY & STATE: Washington County Arkansas	JOB NUMBER:	
LOCATION: Razorback Golf Course		
FOR THE USE AND BENEFIT OF: Bart Bauer		

RZN 16-5442

RAZORBACK GOLF COURSE

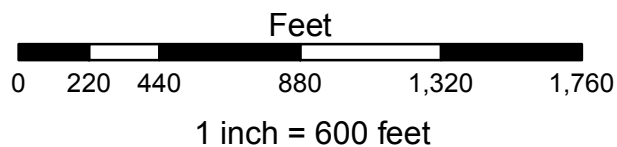


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District
- Building Footprint



- Residential-Agricultural
- RSF-1
- RSF-4
- RT-12 Residential Two and Three-family
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Commercial, Industrial, Residential
- P-1

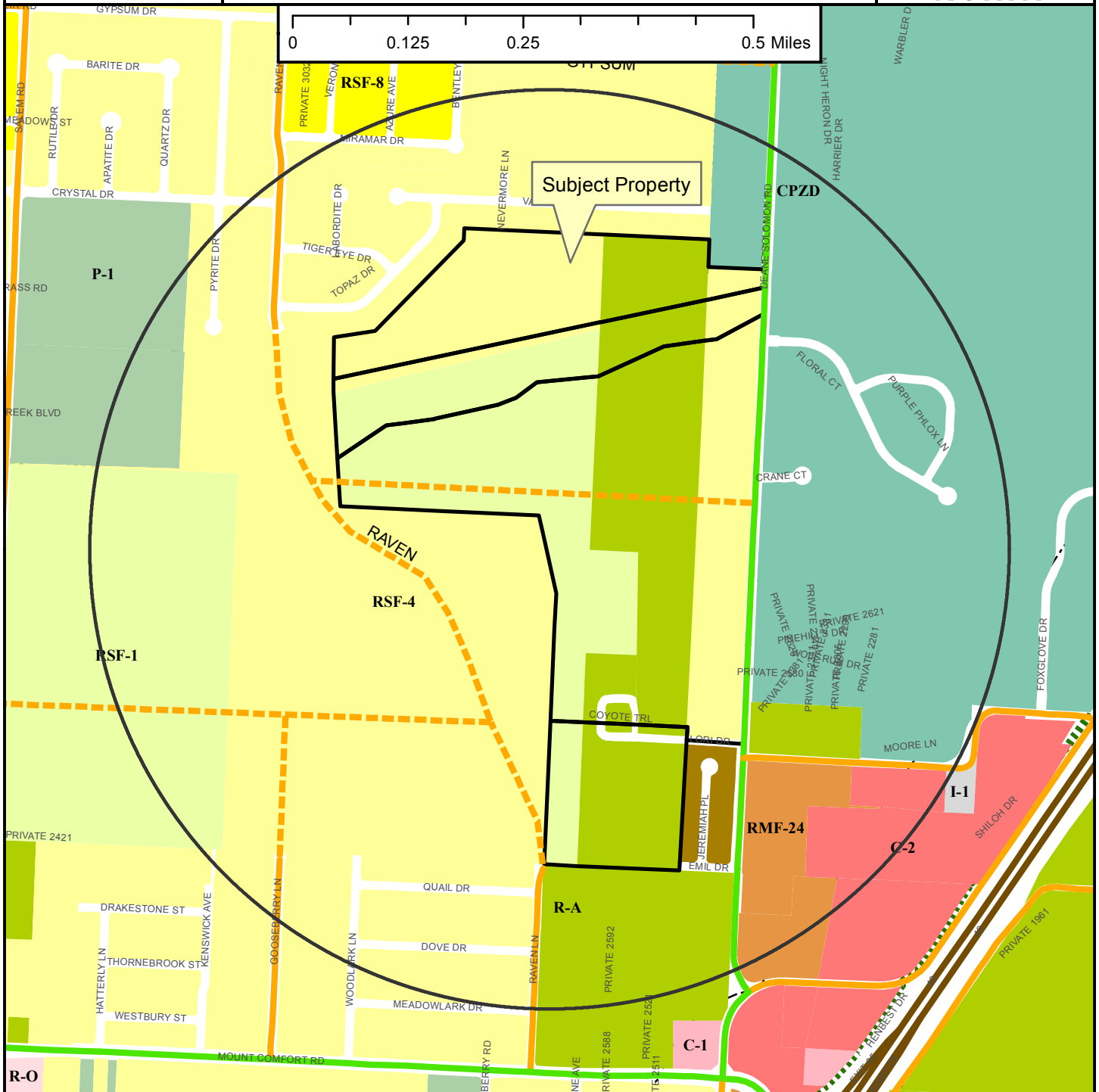
RZN 16-5442

One Mile View

RAZORBACK GOLF COURSE

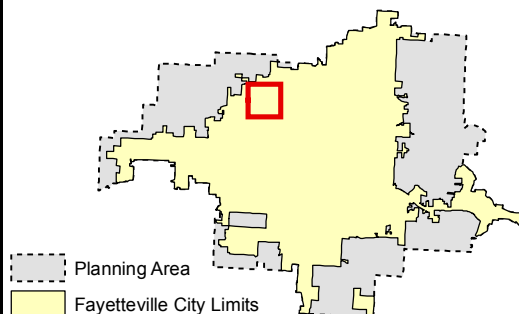


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Building Footprint



Zoning

RESIDENTIAL SINGLE-FAMILY

- Residential-Agricultural
- RSF-5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

- E-1
- COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

INSTITUTIONAL

- P-1

RZN 16-5442

Current Land Use

RAZORBACK GOLF COURSE



2015 Imagery

Legend

Streets Planned

MSP Class

COLLECTOR

Streets Existing

MSP Class

COLLECTOR

FREEWAY/EXPRESSWAY

MINOR ARTERIAL

Shared Use Paved Trail

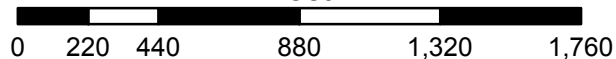
Trail (Proposed)

RZN16-5442

Planning Area

Fayetteville City Limits

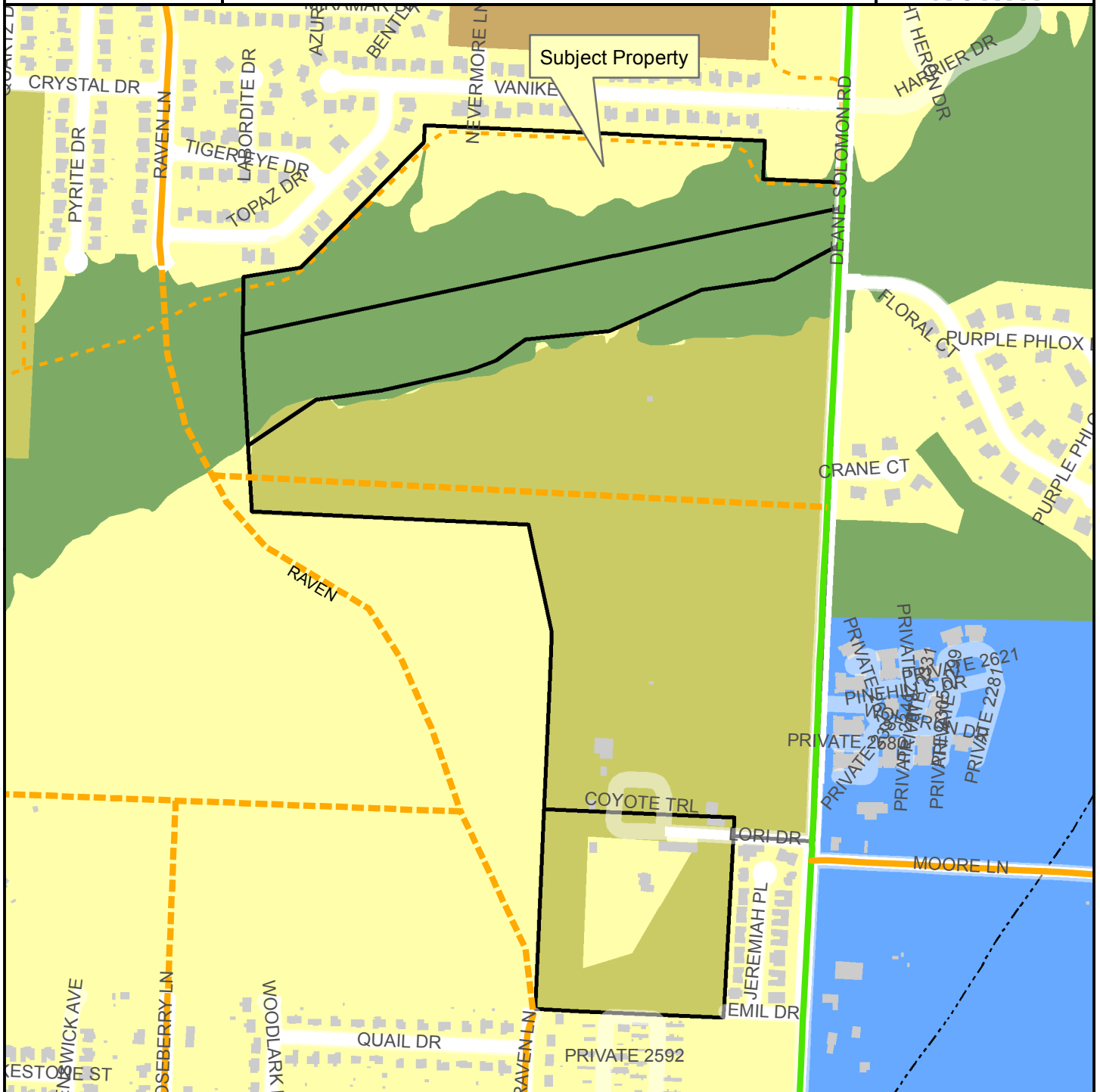
Feet



RZN 16-5442

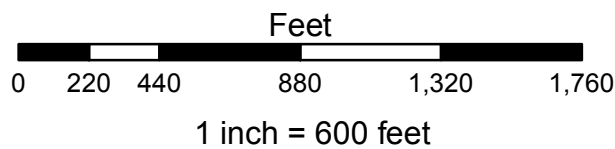
Future Land Use

RAZORBACK GOLF COURSE



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Civic and Private Open Space/Parks
- Civic Institutional



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Andrew Garner**, Planning Director
Harris Davis, Planner-Current Planning

FROM: **Kit Williams**, City Attorney

DATE: **July 8, 2016**

RE: **Razorback Golf Course Proposed Rezoning (Sequel)**

I am relieved to inform the City Council that you have your usual broad discretion to determine whether or not it is in the best interests of Fayetteville to approve the rezoning requested by the owner of the former Razorback Golf Course. I see no constitutional or legal issues that would hamper or limit your discretion in this case. Whatever your decision will be, it will be granted great deference by the Courts and cannot be overturned without proof of arbitrary, capricious or unreasonable action.

As most of you will remember, the owner of the Razorback Golf Course sought to rezone his property a few months ago. Just like in the current, revised rezoning request, the Planning Department had recommended approval and the Planning Commission followed that recommendation (except for the multi-family portion of the request). The City Council, however, listened to the very significant neighborhood opposition based primarily on the requested density and that impact on Deane Solomon Road and unanimously denied the Razorback Golf Course rezoning on March 1, 2016.

The revised rezoning application omitted about 29 acres north of the creek (closest to the neighborhoods adjoining the former golf course along its norther border). That area might not be developed (with a connection to Topaz Drive and/or Nevermore Lane) until the southern 87.5 acres of high density residential is developed.

Because the density that the first proposed rezoning would have allowed was a major concern for the neighbors and City Council, I thought you should understand how much increased density this applicant is requesting. The Planning Department's City Council Agenda Memo does not report how much of the 99 acre parcel is currently zoned RSF-1, Residential Single Family, one unit per acre or R-A, Residential Agricultural, one unit per two acres. However, the map on page 23 of the Planner's Memo (also attached here) shows a single, fairly small strip of Residential Single Family, 4 units per acre zoning running along Deane Solomon Road with the vast majority of the property currently zoned Residential Single Family, 1 unit per acre of Residential Agricultural, 1 unit per two acres. The total allowed residential density for the developable land within the 99 acre parcel would likely be under 150 houses.

The 87.5 acres of requested Neighborhood Conservation and Neighborhood Services would allow a density of 875 houses (with duplexes and triplexes in the bottom 15 acres). This is almost six times the currently allowed density.

The previous rezoning request which was unanimously rejected by the City Council because of density and traffic concerns was limited to 730 residential units by its Bill of Assurance. **This newly proposed rezoning would actually authorize 145 more residential units than the one rejected by the City Council in March of this year.** Despite allowing more housing units, apartment complexes would not be authorized by this newly proposed rezoning.

Even rezoning this 87.5 acres to Residential Single Family, 4 units per acre (which is the predominant zoning west of Deane Solomon Road adjoining this property) would more than double the currently authorized density of this 99 acre parcel to about 350 homes. Such rezoning would appear to make development economically feasible for the property owner. Of course, the property owner could do as before and offer a Bill of Assurance for maximum residential density. But as the proposed rezoning now is presented, the City Council should understand that granting the rezoning is authorizing the construction of 875 housing units (homes, duplexes and triplexes).

For your decision whether or not to rezone, you may not rely upon any statements of intent by the property owner. You may **only** rely upon a signed Bill of Assurance if one is offered.

The last discussion about rezoning the Razorback Golf Course land involved substantial concerns about flooding. Although traffic and limited roads have been acknowledged by the Arkansas Supreme Court as legitimate rezoning concerns, I have found no zoning case in which zoning was denied for possible flooding or drainage issues. The City has extensive regulations concerning flooding and drainage that are implemented during actual development. Flooding and drainage problems, floodplain issues and low impact development are development concerns and should not be a major (if any) factor in a rezoning discussion. (It is possible that a potential increased flooding danger might be recognized by the Supreme Court as a legitimate zoning consideration in the future.)

Please apply any or all of the zoning considerations that have been sanctioned by A.C.A. § 14-56-403 **Purpose of plans** or Arkansas Supreme Court decisions. Another summary of these recognized zoning considerations is below.

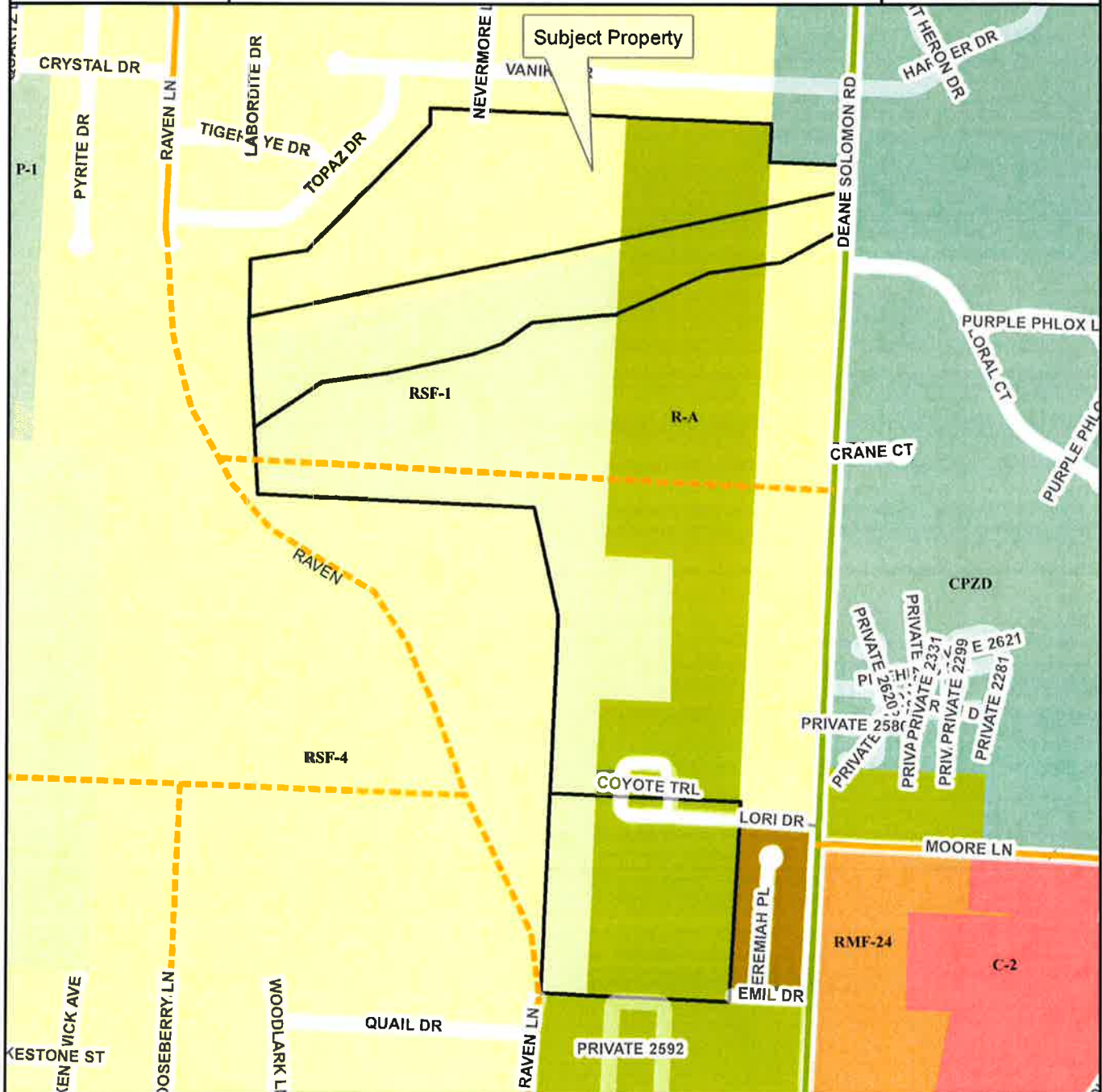
Factors that may be considered in rezoning issues:

1. Compatibility with adjacent zones
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. 2030 Plan objectives

RZN 16-5442

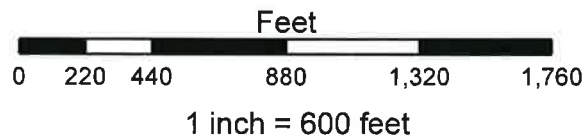
Close Up View

RAZORBACK GOLF COURSE



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District
- Building Footprint



- Residential-Agricultural
- RSF-1
- RSF-4
- RT-12 Residential Two and Three-family
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Commercial, Industrial, Residential
- P-1

Branson, Lisa

From: Branson, Lisa
Sent: Tuesday, July 19, 2016 12:43 PM
To: 'Alan Long (Longward4@gmail.com)'; 'bpennington@fayetteville-ar.gov'; 'citycouncil@matthewpetty.org'; 'dmarr@fayetteville-ar.gov'; 'geads@fayetteville-ar.gov'; 'groberts@fayetteville-ar.gov'; 'kjohnson@fayetteville-ar.gov'; 'kwilliams@fayetteville-ar.gov'; 'lbranson@fayetteville-ar.gov'; 'lbroyles@fayetteville-ar.gov'; 'ljordan@fayetteville-ar.gov'; Mulford, Patti; Norton, Susan; Pate, Jeremy; Smith, Lorinda; 'ssmith@fayetteville-ar.gov'; 'ward1_pos1@fayetteville-ar.gov'; 'ward1_pos2@fayetteville-ar.gov'; 'ward2_pos1@fayetteville-ar.gov'; 'ward3_pos1@fayetteville-ar.gov'; 'ward3_pos2@fayetteville-ar.gov'; 'ward4_pos1@fayetteville-ar.gov'; 'ward4_pos2@fayetteville-ar.gov'
Subject: FW: RZN 16-5442 (Razorback Golf Course Rezoning)

Tracking:

Recipient

Read

'Alan Long (Longward4@gmail.com)'
'bpennington@fayetteville-ar.gov'
'citycouncil@matthewpetty.org'
'dmarr@fayetteville-ar.gov'
'geads@fayetteville-ar.gov'
'groberts@fayetteville-ar.gov'
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'kwilliams@fayetteville-ar.gov'
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'lbroyles@fayetteville-ar.gov'
'ljordan@fayetteville-ar.gov'
Mulford, Patti
Norton, Susan
Pate, Jeremy
Smith, Lorinda
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'ward4_pos1@fayetteville-ar.gov'
'ward4_pos2@fayetteville-ar.gov'

Read: 7/19/2016 12:43 PM

Please see email below regarding Razorback Golf Course.

From: Zack Hulett [<mailto:zhulett@gmail.com>]
Sent: Tuesday, July 19, 2016 9:51 AM

To: Gray, Adella <ward1_pos1@fayetteville-ar.gov>; Marsh, Sarah <ward1_pos2@fayetteville-ar.gov>; Kinion, Mark <ward2_pos1@fayar.onmicrosoft.com>; Matthew Petty <citycouncil@matthewpetty.org>; Tennant, Justin <ward3_pos1@fayar.onmicrosoft.com>; Schoppmeyer, Martin <ward3_pos2@fayar.onmicrosoft.com>; La Tour, John <ward4_pos1@fayetteville-ar.gov>; longward4@gmail.com; Mayor <Mayor@fayetteville-ar.gov>; Marr, Don <dmarr@fayetteville-ar.gov>; City Attorney <city_attorney@fayetteville-ar.gov>; Garner, Andrew <agarner@fayetteville-ar.gov>; Davis, Harry <hdavis@fayetteville-ar.gov>
Subject: RZN 16-5442 (Razorback Golf Course Rezoning)

Dear Mayor Jordan and City Council Members,

My name is Zachary Hulett (address 2570 W. Vanike, Fayetteville, AR 72704) and I'm writing on behalf of myself, my wife Stephanie Hulett, and unborn child (due Dec. 12 of this year!).

My wife and I attended and spoke at a number of City Council meetings regarding the rezoning of the Razorback golf course as proposed by Lindsey Property Management, and we celebrated the unanimous vote against that proposal. We felt that The Council heard our concerns and acted in the best interest of the community in the areas of public safety, environmental impact, and current infrastructure capabilities.

Unfortunately, we will not be able to attend the meeting tonight (7/19), but we wanted to join our voices with that of John Scott Bull as we share similar concerns with the new proposal that will be discussed this evening. As it is written, this rezoning proposal represents a potential situation that could result in developments to the area that would be far worse for the community than what was unanimously voted down before. We will not belabor these points as they were discussed extensively before, but our viewpoint has not changed between before and now.

We would like to make it clear that we are for the development of this golf course, and we see the value in having a wide range of housing options in the name of diversity and community. We LOVE the idea of having some small businesses (neighborhood services like restaurants/cafes, small shops, etc.) in the area to encourage collaboration with our neighbors and give destinations to walk to as this area currently has none.

It is for these reasons that we ask that you vote NO for the rezoning proposal unless presented with some form of letter of assurance that the area will be developed responsibly and in the best interest of our community.

Thank you,
Zack, Stephanie, and baby Hulett

Branson, Lisa

From: Branson, Lisa
Sent: Tuesday, July 19, 2016 12:43 PM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Mulford, Patti; Norton, Susan; Pate, Jeremy; Smith, Lorinda; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Subject: FW: Razorback golf course re-zone

Please see email below regarding Razorback Golf Course.

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

From: Carly Grace [mailto:carly.grace@gmail.com]
Sent: Tuesday, July 19, 2016 9:54 AM
Subject: Razorback golf course re-zone

Hello,

I'm writing to document my opposition to the proposed re-zoning. Mr. Bauer's plan is great, but if it falls through (as plans do), the property would be vulnerable to an even higher density than the Lindsey development that we (and you by vote) already opposed. I know you cannot demand a bill of assurance, but without one I certainly hope that you will vote no for this re-zoning. This is a huge piece of property. Im sure you understand that patience is important when considering changing such a large parcel! Please hold strong for Fayetteville.

Carly Grace

Ward 4 resident
3069 N Night Heron Drive
Fayetteville, AR 72704

Branson, Lisa

From: CityClerk
Sent: Wednesday, July 20, 2016 2:14 PM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Mulford, Patti; Norton, Susan; Pate, Jeremy; Smith, Lorinda; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Subject: FW: Rezoning Razorback Golf Course Opposition

Subject: Rezoning Razorback Golf Course Opposition

Good afternoon,

I cannot attend tonight's meeting so I will be unable to speak regarding the rezoning of the former Razorback Golf Course.

I can support the current applicant's plan as he only wants to put 234 total units on the property. However, it would be irresponsible to support this rezoning. According to the city attorney, the NC/NS zoning on this property would allow for 145 more units than Lindsey's plan did. as you know, that plan was unanimously voted against because of the poor infrastructure, flooding, traffic, safety and wildlife concerns raised by the community members. All of these issues remain the same, except this rezoning allows for even more to be built.

Without major infrastructure commitments by the city for new roads, drainage, wildlife conservation, etc., I see no way in which we, as citizens, or you, as our representative, could be for this proposal to rezone the property. Please vote no on this rezoning measure.

Thank you for your time.

Spencer Smith



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Jeremy Pate, Development Services Director
Andrew Garner, Planning Director

FROM: **Kit Williams**, City Attorney

DATE: **September 7, 2016**

RE: **Ordinance reflecting submitted Bill of Assurance from Ron Caviness**

Assuming that Mr. Caviness is a proper rezoning applicant with authority to submit the Bill of Assurance he apparently signed on August 25, 2016 (that I first received September 6, 2016), I have redrafted the rezoning ordinance (attached) acknowledging this Bill of Assurance.

There may be some question about Mr. Caviness' ownership rights or authority to bind the property owner which need to be answered before I can state that the Bill of Assurance is valid and will bind the property owner. In addition, Mr. Caviness will need to confirm that his Bill of Assurance is **intended** to limit all of his land within both the Neighborhood Conservation and Neighborhood Services districts to a total of 400 single family houses. I believe this is Mr. Caviness' intent, but it is not crystal clear so he needs to clearly state that this 400 house limit will be for **all structures that can be built on all of his land** (except for the Residential Agricultural property and the northern section north of the creek which is not part of this requested rezoning).

Mr. Caviness, of course, needs to provide proof that, if he is not the legal owner of the property, that he has documented proof that he has the legal authority to bind such legal owner by his offer of the Bill of Assurance.

ORDINANCE NO.

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES SUBJECT TO THE BILL OF ASSURANCE

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential Agricultural; RSF-1, Residential Single Family, One Unit Per Acre and RSF-4, Residential Single Family, 4 Units Per Acre to NC, Neighborhood Conservation; R-A, Residential Agricultural and NS, Neighborhood Services; subject to a Bill of Assurance the area sought to be rezoned Neighborhood Conservation and Neighborhood Services shall be restricted to a maximum of 400 single family homes.

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 20th day of September, 2016.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RECEIVED

SEP 08 2016

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner")

Ren Cariness-, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable** rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to _____
A maximum of 400 single-family homes shall be permitted on the areas
zoned Neighborhood Conservation and Neighborhood Services.

2. Other restrictions including number and type of structures upon the property are limited to A maximum of 400 single-family homes shall be
permitted on the areas zoned Neighborhood Conservation and Neighborhood
Services.

3. Specific activities will not be allowed upon petitioner's property include _____

4. (Any other terms or conditions) _____

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Ron Cariness, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

8-25-16
Date

2514 W. Lori Dr.
~~2514 W. Lori Dr.~~
Address

Fayetteville, AR 72709

Ron Cariness
Printed Name

[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the 25 day of August, 2016, appeared before me, Ron Cariness and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Sarah E. Johnson
NOTARY PUBLIC

My Commission Expires:
1-27-21





City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0382

Agenda Date: 9/20/2016

Version: 1

Status: First Reading

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: B. 2

RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5500 FOR APPROXIMATELY 0.23 ACRES LOCATED AT 335 EAST 7TH STREET FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

(LEFT ON FIRST READING)

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from NC, Neighborhood Conservation to DG, Downtown General.

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.

August 10, 2016

Zara Niederman
1530 Hotz Dr
Fayetteville, AR 72701

Dear Ms. Smith

I am writing to let you know of my interest in appealing to the City Council the recent Planning Commission vote on the rezoning of 335 E. 7th St from NC to DG. The Commission did not give me the opportunity to see if I would consider changing my request at all, and if I would like to table the request. One commissioner who was supportive of the proposal made a motion in favor of supporting the request. The vote was tied 4-4 with one commissioner abstaining. I would like the opportunity to discuss this request in front of the City Council, without having to submit another application to rezone it to a different classification.

Kind Regards,

Zara Niederman

Zara Niederman

City of Fayetteville Staff Review Form

2016-0382

Legistar File ID

9/6/2016

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

Jeremy Pate

8/12/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 16-5500: Rezone (335 E. 7TH ST./NIEDERMAN, 563): Submitted by ZARA NIEDERMAN for property at 335 E. 7TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.23 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

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 SEPTEMBER 6, 2016

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Quin Thompson, Planner

DATE: August 12, 2016

SUBJECT: **RZN 16-5500: Rezone (335 E. 7TH ST./NIEDERMAN, 563):** Submitted by ZARA NIEDERMAN for property at 335 E. 7TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.23 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommended denial of **RZN 15-5500**, finding that the requested zone allows land uses that would be inappropriate in this location. The request was denied at Planning Commission with a vote of 4-4-1. The applicant has appealed the decision to the City Council.

BACKGROUND:

The subject property is located at 335 E. 7th Street in the Walker Park Neighborhood and contains approximately 0.23 acres (10,018 Square Feet) within the NC zoning district. The property contains a 1,181 square foot single-family residence dating to 1921.

Request: The applicant's request is to rezone the parcel from NC, Neighborhood Conservation to DG, Downtown General as shown in Exhibit 'A' and Exhibit 'B' to allow for mutli-family residential development.

Public Comment: Staff has received no public comment, and none was presented to the Planning Commission.

Land Use Compatibility: The proposed zoning is incompatible with the surrounding mixture of single and multi-family residential uses. The proposed zoning would allow a wide variety of commercial uses that could have negative impacts on the existing residential neighborhood, when proposed at this mid-block location surrounded entirely by residential use. Additionally the DG zoning would allow a 56-foot tall apartment building that would be incompatible in scale and mass with surrounding established residences.

Land Use Plan Analysis: The City Plan 2030 Future Land Use Map (FLUM) designates this area as Complete Neighborhood Plan: Walker Park Neighborhood. The plan sought to preserve single-family neighborhoods while encouraging additional housing types and a mix of uses. The proposed rezoning is consistent in some respects with the Walker Park Plan and the City's overall goals to promote infill and a variety of housing types and densities in the same neighborhood,

however staff finds that while commercial zoning districts are appropriate within residential areas in certain circumstances, particularly on corners and where commercial activity has been present historically, it is not compatible in this entirely residential mid-block location.

DISCUSSION:

On August 8, 2016, Planning Division staff recommended against a rezone, stating that the rezone would not be in line with the Walker Park Neighborhood Plan and would be incompatible to adjoining properties. The Planning Commission had differing opinions about the appropriateness of the request, with Commissioners arguing that infill development was a top priority, while others felt that the proposed zone was not consistent with the Walker Park Neighborhood Plan, a document that was developed with input from neighborhood residents. Commissioner Hoffman made a motion to recommend approval of the request; the motion was seconded by Commissioner Quinlan. The motion failed with a vote of 4-4-1 (Commissioners Cook, Autry, Hoskins, and Brown voted 'no' and Commissioner Quinlan abstained.)

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Appeal Letter
- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

16-5500 EXHIBIT 'A'

RZN 16-5500

NIEDERMAN

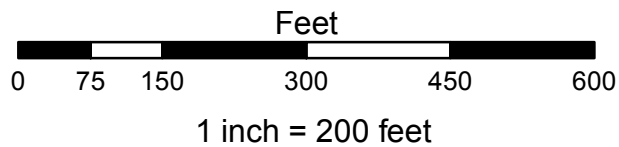


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RSF-8
- RSF-18
- RMF-12
- RMF-18
- Downtown General
- Neighborhood Conservation
- Commercial, Industrial, Residential

16-5500
EXHIBIT 'B'

Legal Description

Proposed Conversion from NC to DG

335 E 7th St:

Washington County Parcel ID: 765-04843-000

PT LOT 15 FURTHER DESCRIBED FROM DEED 2013-27512 AS: PART OF LOT NUMBERED FIFTEEN (15) IN EASTGATE ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS; BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT AND RUNNING NORTH 136 FEET, THENCE EAST 68.35 FEET, MORE OR LESS, THENCE SOUTH 136 FEET TO THE SOUTH LINE OF SAID LOT 15 THENCE WEST 67.56 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00**Sign Fee: \$5.00**

S-T-R:

PP#:

Zone:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:Indicate one contact person for this request: ☒ Applicant ☐ Representative***Applicant (person making request):***Name: Zara NiedermanAddress: 1530 Hotz Dr
Fayetteville AR 72701E-mail: zniederman@gmail.comPhone: (479) 387-2123

()

Fax:

()

Representative (engineer, surveyor, realtor, etc.):

Name: _____

Address: _____

E-mail: _____

Phone: _____

()

()

Fax: _____

()

Site Address / Location: 335 E. 7th St 765-04843-000Current Zoning District: NCRequested Zoning District: DGAssessor's Parcel Number(s) for subject property: 765-04843-000***FINANCIAL INTERESTS***

The following entities and / or people have financial interest in this project:

Zara Niederman

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): Zara Niederman

Date: 6/24/16

Signature: 

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

Property Owners of Record (attach additional info if necessary):

Name (printed): Ryan Russell

Address: 1685 N. Broadview Dr

Signature: Ryan Russell

Fayetteville, AR 72703

Date: 6/27/2016 9:12 AM CDT

Phone: .

() (479) 466-6177

Name (printed): 7th St Trust, Zara Niederman Trustee

Address: 1530 Hotz Dr

Signature: Zara Niederman

Fayetteville, AR 72701

Date: 6/27/2016 5:47 AM CDT

Phone: .

() 479-387-2123

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
 - \$325.00 application fee
 - \$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Quin Thompson, Current Planner

MEETING DATE: ~~August 8, 2016~~ **UPDATED AUGUST 10, 2016**

SUBJECT: **RZN 16-5500: Rezone (335 E. 7TH ST./NIEDERMAN, 563):** Submitted by ZARA NIEDERMAN for property at 335 E. 7TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.23 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends **RZN 15-5500** be denied, finding that the requested zone allows land uses that would be inappropriate in this location.

BACKGROUND:

The subject property is located at 335 E. 7th Street in the Walker Park Neighborhood and contains approximately 0.23 acres (10,018 Square Feet) within the NC zoning district. The property contains a 1,181 square foot single-family residence dating to 1921. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Two-Family Residential	RMF-12, Residential Multi-family
South	Undeveloped/Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single-Family Residential	NC, Neighborhood Conservation

Request: The request is to rezone the property from NC, Neighborhood Conservation to DG, Downtown General. The applicant has stated that the rezoning is needed so that the property can developed with multi-family housing.

Public Comment: Staff has received no public comment.

INFRASTRUCTURE:

Streets: The subject parcel has access to East 7th Street. This road is improved along the subject property's frontage with curb and sidewalk. Any required improvements to this street will be determined at time of development.

Water: Public water is available to the site. A 1.5" water main runs along the parcel frontage in 7th Street.

Sewer: Public sewer is available to the site. An 8" sewer main stubs out to the eastern portion of the property frontage in 7th Street.

Drainage: Any additional improvements or requirements for drainage would be determined at time of development. No portions of this parcel lie within the FEMA designated 100-yr floodplain. No protected streams are present on this parcel. No portion of this parcel lies within the HHOD, nor contains areas of 15% or greater slope.

Fire: The Fire Department did not express any concerns with the 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 **Complete Neighborhood Plan: Walker Park Neighborhood**. A central goal of the plan was to preserve single-family neighborhoods while encouraging additional housing types and a mix of uses. A digital copy of the adopted document has been provided separately.*

FINDINGS OF THE STAFF

RECOMMENDATION: Staff recommends RZN 15-5500 be denied, finding that the proposed zoning allows development incompatible with the existing adjacent uses and inconsistent with the Future Land Use Plan.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>August 8, 2015</u>	☐ Tabled	☐ Forwarded	☒ Denied
Motion: HOFFMAN	Second: SELBY	Vote: 4-4-1, WITH COMMISSIONERS COOK, AUTRY, HOSKINS, AND BROWN VOTING 'NO', AND COMMISSIONER QUINLAN ABSTAINING.	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date: <u>September 6, 2016</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:** The proposed zoning is incompatible with the surrounding mixture of single and multi-family residential uses. The proposed zoning would allow a wide variety of commercial uses that could have negative impacts on the existing residential neighborhood, when proposed at this mid-block location surrounded entirely by residential use. Additionally the DG zoning would allow a 56-foot tall apartment building that would be incompatible in scale and mass with surrounding established residences.

Land Use Plan Analysis: The City Plan 2030 Future Land Use Map (FLUM) designates this area as Complete Neighborhood Plan: Walker Park Neighborhood. The plan sought to preserve single-family neighborhoods

while encouraging additional housing types and a mix of uses. The proposed rezoning is consistent in some respects with the Walker Park Plan and the City's overall goals to promote infill and a variety of housing types and densities in the same neighborhood, however staff finds that while commercial zoning districts are appropriate within residential areas in certain circumstances, particularly on corners and where commercial activity has been present historically, it is not compatible in this entirely residential mid-block location.

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 at this time, as the proposed zoning will allow potentially incompatible infill development and land use in an area with a typically residential character.

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

Finding: The site has access to 7th Street, a partially improved local street. The rezoning would allow a variety residential uses, as well as commercial use which may increase slightly, but the size of the lot does not allow for development that is likely to 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 NC to DG would not undesirably affect density or 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 161.26 & 161.27
- Request Letter

- One Mile Map, Close-Up Map, Current Land Use Map, Future Land Use Map

Under separate cover:

- Walker Park Master Plan Vision Document
- Walker Park Master Plan Illustrative Plan

161.26 - Downtown General

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

Unit 45	Small scale production
---------	------------------------

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet
---------------------------	---------

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	56 feet
-------------------------	---------

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, § 1(Exh. A), 10-6-15)

161.27 - Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two (2) family dwellings
Unit 10	Three (3) family dwellings
Unit 12	Limited business*
Unit 24	Home occupations

Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cottage Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single Family	40 feet
Two Family	80 feet
Three Family	90 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet

Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
-------------------------	---------

(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, § 1(Exh. A), 10-6-15)

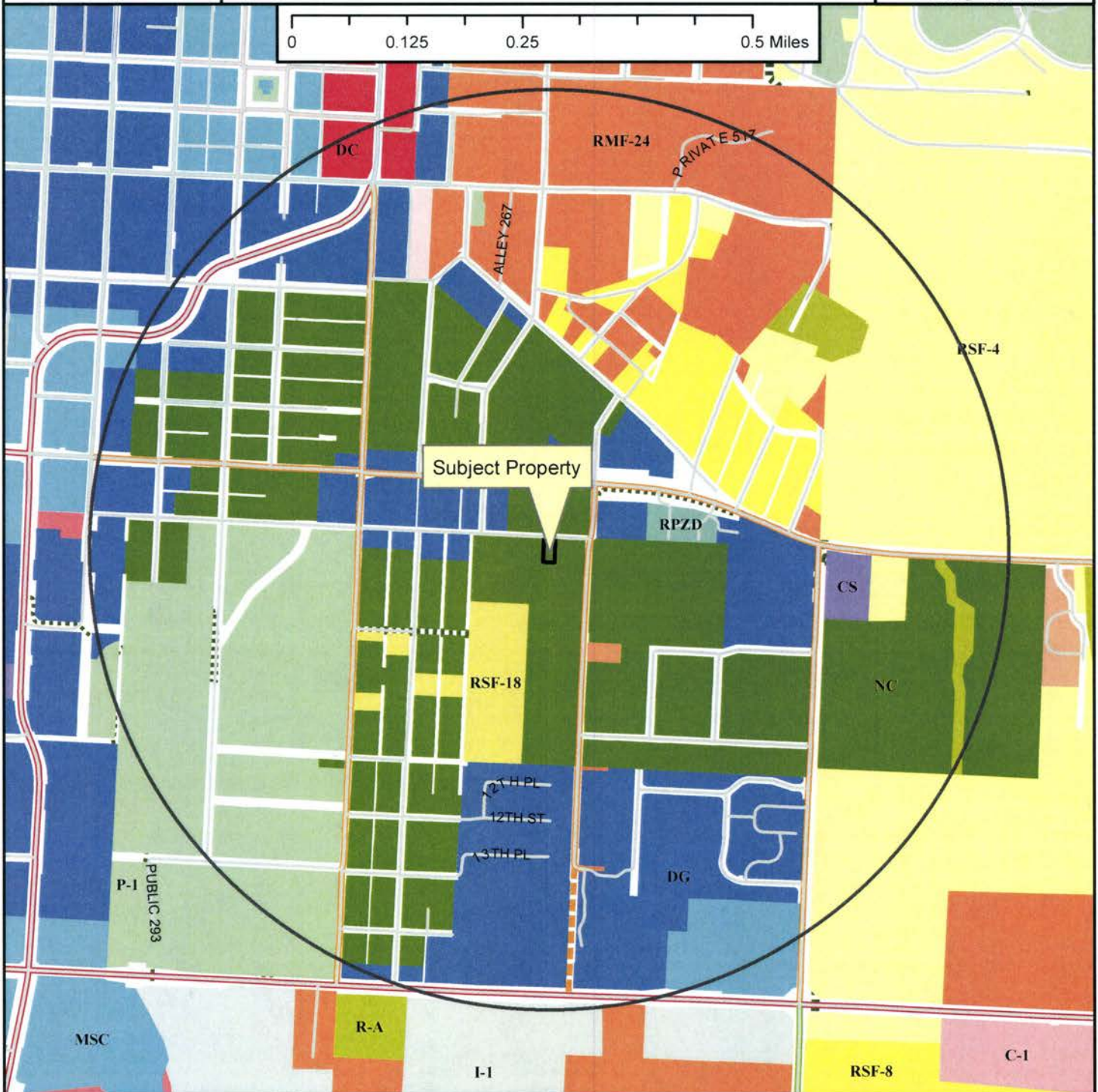
REZONING APPLICATION – Additional Items

- a) Current Ownership is Homestead Inc. It is currently under contract to be sold to 7th St Trust
- b) The proposed zoning would allow for "Missing Middle" type housing as opposed to a single family home in a location that is considered a neighborhood hub of the Walker Park Master Plan. Neighborhood Conservation requires 90' of frontage for a 3 or more units. This is true of Neighborhood Services and any of the Residential Multi-Family zoning districts.
- c) The surrounding zoning is primarily NC which is primarily a single family residential district. However, the two properties on the East and West are both multi-family and the lots across the street are also multi-family. Much of the surrounding area just North, East and West is zoned Downtown General. The traffic should not be heavily impacted as 7th St is not a heavily used street, and the number of cars added should be minimal. In terms of appearance and signage, Downtown General is a Form Based code, like Neighborhood Conservation, and will have minimal front setbacks with parking in the rear of the property.
- d) Currently there is 8" Sewer on the East side of the property and 6" Sewer on the West side. There is a 16" CIP Waterline across the property.
- e) The Future Land Use Map shows that this is part of the Walker Park Master Plan neighborhood. The proposed zoning is consistent with the City Plan 2030 and allows for appropriate infill and revitalization and advances Fayetteville's goal to grow a livable transportation network.
- f) The proposed rezoning is needed to allow for a transit-ready neighborhood in the Walker Park neighborhood. It is justified by the proximity to a major transportation corridor (MLK), Walker Park and the not-yet restored status of Jefferson Elementary as a neighborhood center. As appropriate infill development is one of the City of Fayetteville's stated goals, this rezoning helps allow appropriate infill.
- g) The proposed zoning will not appreciably increase traffic danger or congestion.
- h) The proposed zoning will increase density minimally, but should not appreciably change the load on public services. A moderate increase in density increases the operating and/or maintenance efficiencies of public service.
- i) Currently it is zoned as NC which only allows single family homes by right. All of the surrounding properties are multi-family. A two-family home would require 80 feet of frontage, and a 3-family home would require 90 feet. This property has approximately 68 feet of frontage.

RZN 16-5500

One Mile View

NIEDERMAN



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



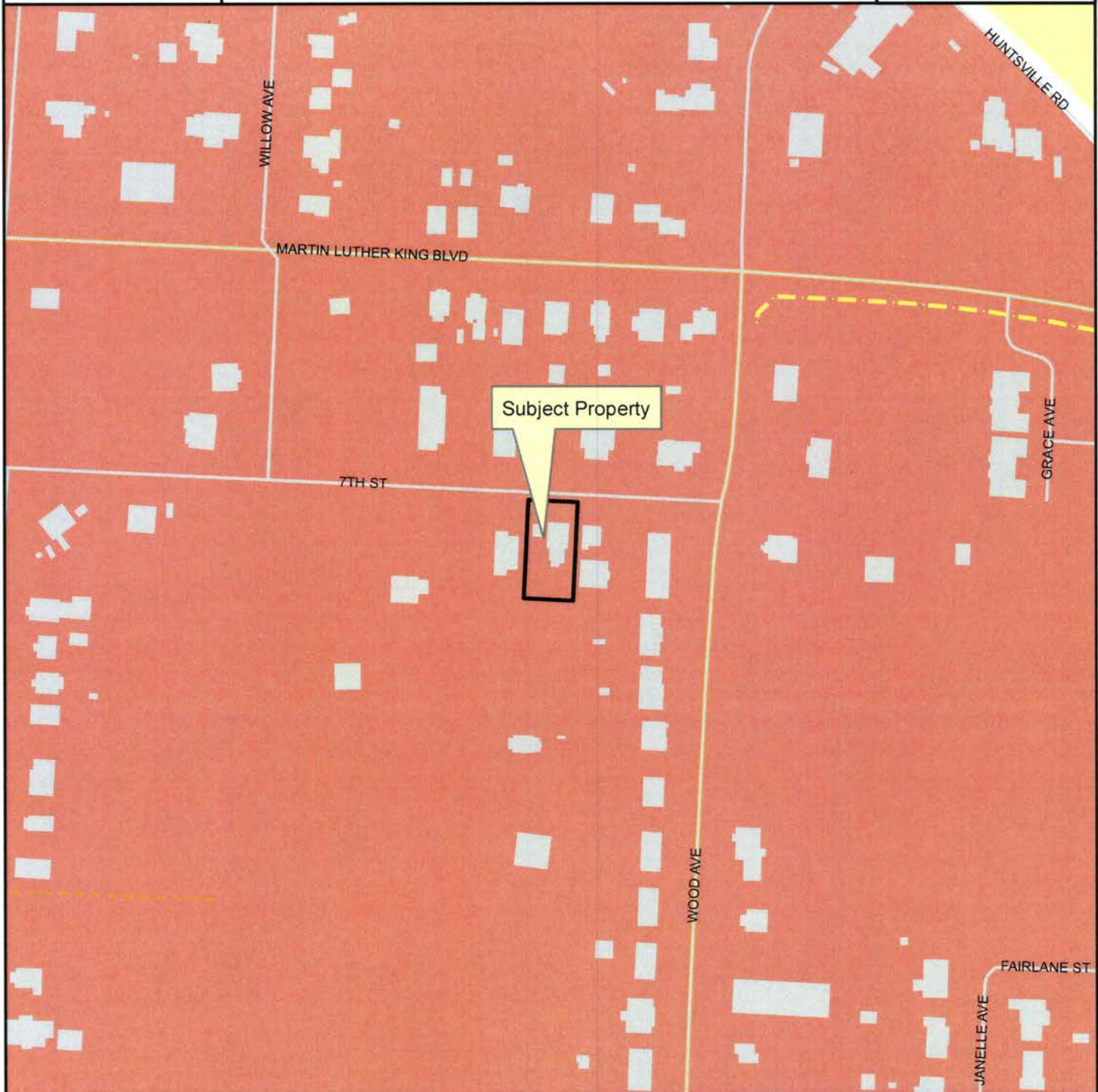
- | | |
|---|--|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> RSF-5 Residential-Agricultural RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-12 Residential Two and Three-family RMF-6 RMF-12 RMF-16 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial I-2 General Industrial | <p>EXTRACTION</p> <p>COMMERCIAL</p> <ul style="list-style-type: none"> E-1 Residential-Office C-1 C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential <p>INSTITUTIONAL</p> <ul style="list-style-type: none"> P-1 |
|---|--|

RZN 16-5500

NIEDERMAN

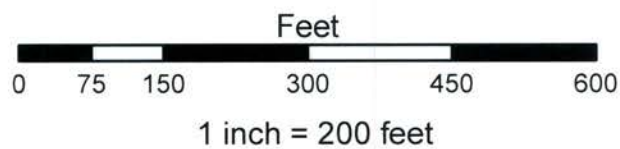


Future Land Use



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Residential Neighborhood Area
- Complete Neighborhood Plan

RZN 16-5500

Current Land Use

NIEDERMAN



Legend

Street

Streets Existing

MSP Class

COLLECTOR

Shared Use Paved Trail

Trail (Proposed)

RZN16-5500

Planning Area

Fayetteville City Limits

Feet



RZN 16-5500

NIEDERMAN

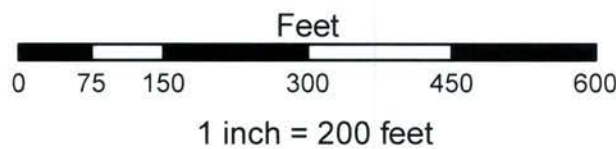


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RSF-8
- RSF-18
- RMF-12
- RMF-18
- Downtown General
- Neighborhood Conservation
- Commercial, Industrial, Residential



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0419

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: C. 1

CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS:

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY DRAKE ST PROPERTY, LLC, 1155 PROPERTIES, RPM1 PROPERTIES - FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC, AND NELMS, LLLP FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville and certain property owners have been unable to agree on a fair price for the portions of property owned by each of them which is needed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange; and

WHEREAS, the City of Fayetteville needs to gain possession of these needed properties promptly to begin work on these public improvements.

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

Section 1: That the City Council for the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange, and owned by Drake St Property, LLC that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange, and owned by 1155 Properties that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water

and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange, and owned by RPM1 Properties - Fayetteville, LLC a/k/a RMP1 Properties, LLC that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the planned water and sewer relocation project associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange, and owned by Nelms, LLLP that is needed for right-of-way or other easements for the Project, and to pay into the registry of the Circuit Court just compensation therefor.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2016-0419

Legistar File ID

9/20/2016

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

Tim Nyander

9/7/2016

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a Resolution authorizing the City Attorney to seek possession by condemnation of easements on of portions of properties necessary for Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations for an estimated cost of \$525,900.00 - 87.06% is reimbursable from the AHTD and approval of a budget adjustment. AHTD cost is \$457,848.00 and City cost is \$68,052.00.

Budget Impact:

5400.720.5700-5810.00

Water/Sewer

Account Number

Fund

11011.1501

Water/Sewer Relocations-Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 1,074,496.00

Funds Obligated \$ 89,559.84

Current Balance \$ 984,936.16

Does item have a cost? Yes

Item Cost \$ 525,900.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 457,848.00

Remaining Budget \$ 916,884.16

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff
Tim Nyander, Utilities Director
Water & Sewer Committee

FROM: Jim Beavers, P.E.

DATE: September 6, 2016

SUBJECT: Approval of a Resolution authorizing the City Attorney to seek condemnation and orders of possession for water and sewer easements necessary for the City of Fayetteville, Arkansas; Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations for an estimated cost of \$525,900.00 and approval of a budget adjustment. 87.06% is reimbursable from the AHTD. AHTD cost is \$457,848.00 and City cost is \$68,052.00.

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing the City Attorney to seek possession by condemnation of easements on of portions of properties necessary for Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations and approval of a budget adjustment.

The water and sanitary sewer relocations are required for the construction of the new highway interchange by the Arkansas Highway and Transportation Department, Project AHTD Job BB0414 (PORTER RD. – HWY. 112/71B WIDENING & INTCHNG. IMPVTS. (S).

BACKGROUND:

In February 2015, the City Council approved by Resolution no. 43-15 the engineering contract with Garver for design of the water/sewer relocations associated with AHTD project BB0414 – 1-49/Hwy 112. The design was substantially completed in June 2015.

As the new City of Fayetteville water and sewer easements are contiguous to the new AHTD right-of-way (ROW), the City's easement acquisition was dependent upon, and progressed with, the AHTD ROW acquisition. Certain easement negotiations were delayed until AHTD ROW acquisitions could be completed through AHTD purchase and/or condemnation.

The water and sewer relocations require ten new permanent easements. Five required easements have been acquired as of this date. Of the five remaining easements to be acquired, there are four entities and two general ownerships as follows:

AHTD Tract	Property Owner	Owner Contact	Parcel No
5	Drake Street Property LLC	Mr. Pendergraft	765-15840-000
6	1155 Properties	Mr. Pendergraft	765-15908-000
7	1155 Properties	Mr. Pendergraft	765-15889-000
8	RPM1 Properties LLC	Mr. Pendergraft	765-15887-000
10	Nelms, LLLP	Mr. Nelms	765-15847-000

The Highway Construction project, AHTD Job BB0414 (PORTER RD. – HWY. 112/71B WIDENING & INTCHNG. IMPVTS. (S) is scheduled to start construction in September 2016.

The City's water and sewer relocations construction (two Additional Agenda items) is also schedule to start in September 2016.

Staff will continue to negotiate with the property owners to avoid condemnation whenever possible. However, it is imperative that the easements be acquired in order not to delay the AHTD construction or contract.

DISCUSSION:

As of this date, the City is continuing discussion with the property owners for the referenced easement.

BUDGET/STAFF IMPACT:

The current working estimate for the costs of these 5 easements is \$525,900.00.

The water and sewer relocation project is 87.06% reimbursable from AHTD.

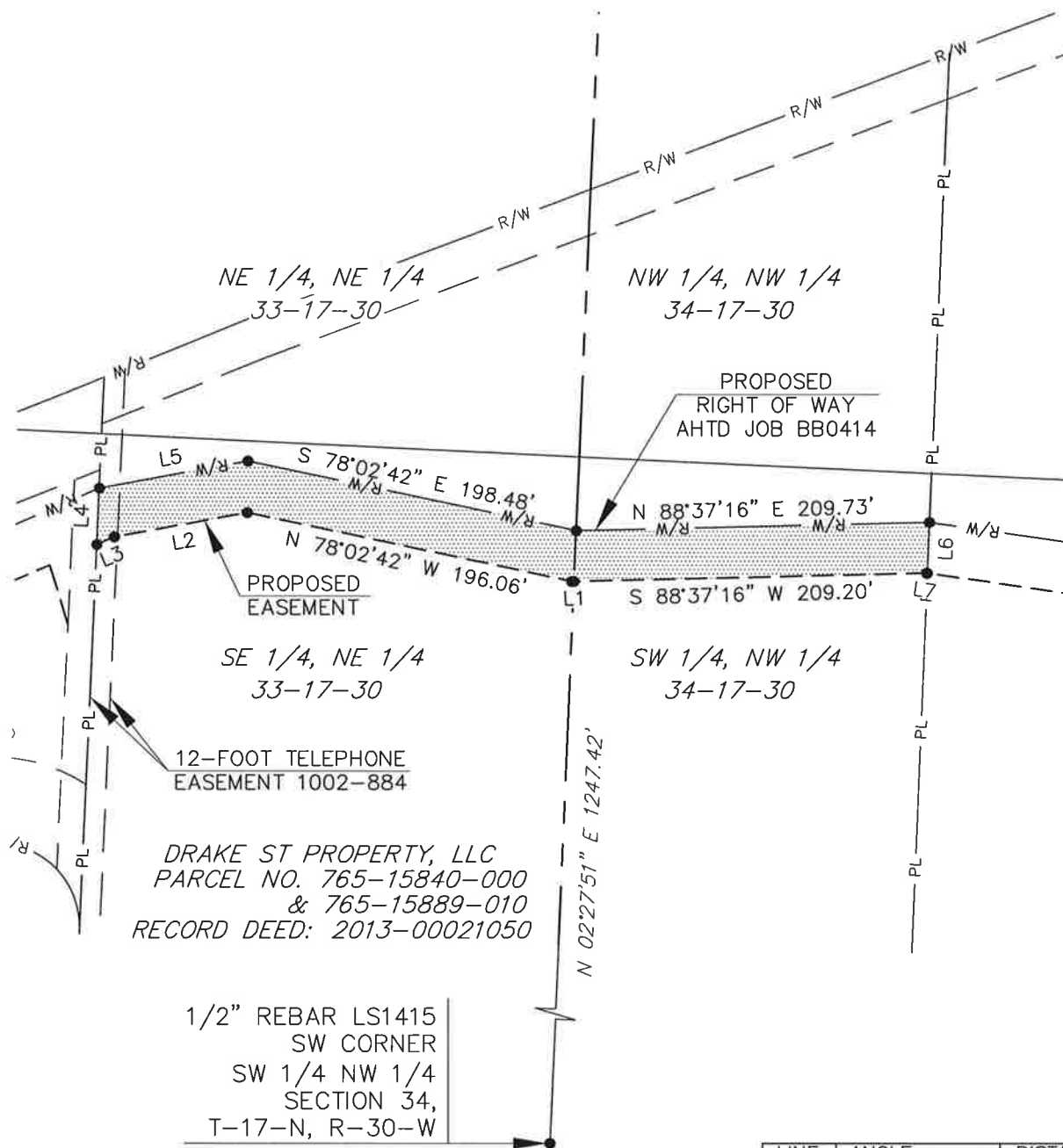
Budgeted funds for the City's portion are available in 11011 W/S Relocations for Street Bond Projects.

Attachments:

Staff Review Form

Budget Adjustment

Easement definition documents Tracts 5,6,7,8,10



AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	14,952	0.34

LINE	ANGLE	DISTANCE
L1	S 88°37'16" W	1.49'
L2	S 79°36'29" W	80.30'
L3	S 66°16'50" W	11.28'
L4	N 02°30'44" E	33.44'
L5	N 79°36'29" E	89.73'
L6	S 02°27'41" W	30.16'
L7	N 81°40'58" W	0.53'

LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
---	---	EXISTING EASEMENT LINE
---	---	PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.



2049 EAST JOYCE BOULEVARD
SUITE 400
FAYETTEVILLE, ARKANSAS 72704
479 527-9100

CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS
AHTD NO. BB0414
WATER & SEWER RELOCATIONS

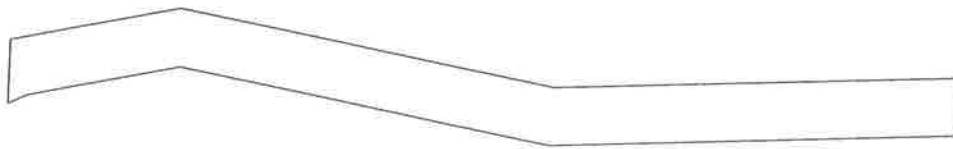


JOB NO.
14048160

DATE
APRIL 14, 2015

"EXHIBIT A"

TRACT
5



Polyline Report

Tue Mar 17 10:08:22 2015

Northing	Easting	Bearing	Distance
652467.954	670536.544		
652467.918	670535.053	S 88°37'16" W 1.491	
652508.532	670343.241	N 78°02'42" W 196.065	
652494.047	670264.255	S 79°36'29" W 80.303	
652489.510	670253.930	S 66°16'50" W 11.278	
652522.922	670255.396	N 02°30'44" E 33.444	
652539.109	670343.658	N 79°36'29" E 89.734	
652497.994	670537.837	S 78°02'42" E 198.484	
652503.041	670747.504	N 88°37'16" E 209.728	
652472.911	670746.209	S 02°27'41" W 30.157	
652472.988	670745.682	N 81°40'58" W 0.532	
652467.954	670536.544	S 88°37'16" W 209.199	

Closure Error Distance> 0.00000
Total Distance> 1060.415
Polyline Area: 14952.2 sq ft, 0.343 acres

Tract: 5

Parcels: 765-15840-000 & 765-15889-010

Owner: Drake St Property, LLC

Record: 2013-00021050

WATER/SEWER EASEMENT

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414.

Being more particularly described as follows:

A part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, and a part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, all within Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

Parcel: 765-15840-000

Prev. Parcel: 148836-000-00

As of: 2/9/2015 ID: 53099

Washington County Report

Property Owner

Name: DRAKE ST PROPERTY LLC**Mailing Address:** 75 N EAST AVE STE 500
FAYETTEVILLE, AR 72701**Type:** (AI) - Agri Improved**Tax Dist:** (011) - FAYETTEVILLE SCH,
FAY**Millage Rate:** 53.75**Legal:** PTE/2 8.36A.

Property Information

Physical Address: 1308 W DRAKE ST**Subdivision:** 33-17-30 FAYETTEVILLE
OUTLOTS**Block / Lot:** -- / --**S-T-R:** 33-17-30**Size (in Acres):** 8.360

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$46,400	\$9,280	\$9,280
Building	\$56,800	\$11,360	\$11,360
Total	\$103,200	\$20,640	\$20,640

Homestead Credit: 0.00 **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land:

Land Use	Size	Units
Homesite	1.000	Acres
Pasture(12)	0.430	Acres
Pasture(02)	1.960	Acres
Pasture(13)	4.970	Acres

Deed Transfers:

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

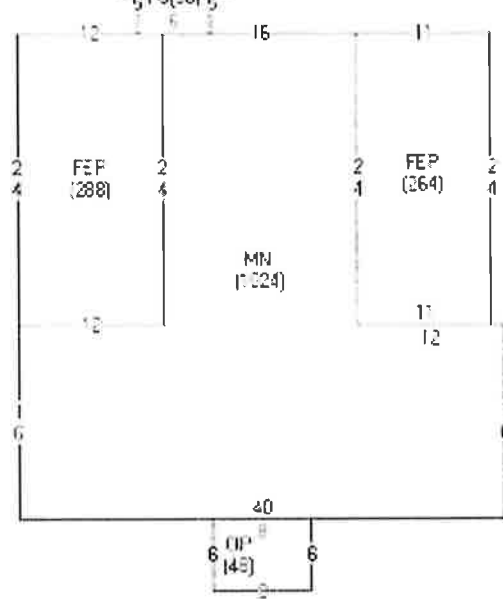
Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
6/20/2013		2013	36634	Survey			DRAKE ST		

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
							PROPERTY LLC		
6/20/2013		2013	23729	Survey			DRAKE ST PROPERTY LLC		
6/20/2013		2013	21050	Warr. Deed	10385.10	\$3,147,000	DRAKE ST PROPERTY LLC	Additional Properties	Improved
12/26/2000		2000	106682	Quit Claim	0.00	\$0	CROUCH LIMITED PARTNERSHIP		
10/27/2000		2000	93318	Quit Claim	0.00	\$0	CROUCH, JOE B, TTEE JOE B CROUCH 2000 REVOCABLE TRUST	Additional Properties	
1/1/1993		874	333	Warr. Deed	0.00	\$0	CROUCH, JOE B. 1030 GLENN LANE		

Details for Residential Card 1

Occupancy	Story	Finish	1st Liv Area	Other Liv Area	Total Liv Area	Grade	Year Built	Age	Condition	Beds
Single Family	ONE+	Frame Siding Std.	1024	640	1664	3-5	1911	99	Fair	N/A
Extrerior Wall: FS						Plumbing: Full: 1				
Foundation: Closed Piers						Fireplace: N/A				
Floor Struct: Wood with subfloor						Heat/Cool None				
Floor Cover: Carpet & Tile						Basement: N/A				
Insulation: N/A						Basement Area: N/A				
Roof Cover: Asphalt Shingle						Year Remodeled: N/A				
Roof Type: Gable						Style: N/A				

DataScout LLC



Base Structure:

Item	Label	Description	Area
A	MN	Main Living Area	1024
B	FEP	Frame enclosed porch	288
C	FEP	Frame enclosed porch	264
D	OP	Porch, open	48
E	PS	Patio slab	30
F	1+	1+, Upper Level	640

Outbuildings and Yard Improvements:

Item	Type	Size/Dim	Unit Multi.	Quality	Age
General Purpose Barn		32x40	1		
General Purpose Barn		14x14			
Misc.		26x40			
Wood deck		10x10			
Pole Shed		40x50			
Silo 30' H		2			
Fence, split rail 3		220			
Pole Shed		24x60			
Garage - frame unfinished, detach		23x30			

First National Title Company

3996 N. Frontage Road Suite 3
Fayetteville, AR 72703

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 6/24/2013 11:19:21 AM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2013-00021050

WARRANTY DEED

(Limited Partnership)

KNOW ALL MEN BY THESE PRESENTS:

That Crouch Limited Partnership, hereinafter referred to as Grantor, organized under and by virtue of the laws of State of Arkansas by Allen Oliver Crouch its General Partner, duly authorized, for the consideration of the sum of One and no one hundredths (\$1.00) Dollars and other good and valuable consideration in hand paid by Drake ST Property, LLC, an Arkansas limited liability company, hereinafter referred to as Grantee, the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Drake ST Property, LLC, an Arkansas limited liability company and unto its successors and/or assigns forever the following described land, situated in the County of Washington, State of Arkansas, to-wit:

A part of the East half of the Northeast Quarter of Section 33 and a part of the West half of the Northwest Quarter of Section 34, all in Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at an existing rebar on the North right-of-way of Arkansas HWY #180 which is S89°56'45"E 209.48' and N00°02'53"W 36.49' from the Southwest corner of the Northwest Quarter of said Section 34 and running thence along said right-of-way the following: N89°48'32"W 382.99', N61°20'32"W 118.80', N39°12'43"W 10.05', thence leaving said right-of-way North 1252.08' to the Southern right-of-way of Interstate 540, thence along said Southern right-of-way N65°33'03"E 111.21', thence continuing along said right-of-way N66°45'20"E 425.61', thence leaving said right-of-way S00°02'53"E 1532.12' to the point of beginning, containing 16.05 acres, more or less. Subject to all easements and rights-of-way of record.

TO HAVE AND TO HOLD the same unto the said Grantee and unto its successors and/or assigns forever, with all appurtenances thereunto belonging.

And Grantor hereby covenant with the said Grantee that Grantor will forever warrant and defend the title to said lands against all claims whatever, subject to existing easements, building lines, restrictions and assessments of record, if any. No warranty or representation is made as to any mineral interest on the aforementioned property.

Escrow No.: WAS05-114-13

Prepared under supervision of
James R. Pender
Attorney At Law
Little Rock, Arkansas

IN TESTIMONY WHEREOF, the name of the Grantor is hereunto affixed by its General Partner, this 20th day of June, 2013.



Crouch Limited Partnership

By: Allen Oliver Crouch
Its: General Partner

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument

Mr. ENTC as agent
Grantee: Drake ST Property, LLC
Address: P.O. Box 4245
Fayetteville, AR 72702



ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this 20th day of June, 2013, before me, Lela Reddekopp, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Allen Oliver Crouch to me personally well known, who stated that he is the General Partner of Crouch Limited Partnership, a limited partnership, and is duly authorized in his capacities to execute the foregoing instrument for and in the name and behalf of said partnership, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes herein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 20th day of June, 2013.



Lela Reddekopp
Notary Public.

My commission expires: December 5, 2018

Washington County, AR
I certify this instrument was filed on
6/24/2013 11:19:21 AM
and recorded in REAL ESTATE

File# 2013-00021050

Kyle Sylvester, Circuit Clerk

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED *for record*

That for and in consideration of One Dollar (\$ 1.00)

75 APR 14 A.M. 31

and other valuable considerations to the undersigned, Joe B. Crouch

WASHINGTON COUNTY, ARK.

with life estate to - Lottie M. Crouch and Nan Moore

ALMA KULLMEYER

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: Part of Section 33, Township 17 North, Range 30 west and part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows, to-wit: Beginning at a point on the North right-of-way of State Hwy. 180, said point being 209.47 feet East of the West line of said Section 34, and running thence North 1523.0 feet to a point on the South right-of-way of U.S. Hwy. 71 By-Pass; thence S 65° 59' W, along said right-of-way a distance of 405.76 feet, thence S 64° 16' W, along said right-of-way a distance of 111.21 feet; thence South 1317.77 feet to the North right-of-way of State Hwy. 180; thence East along said right-of-way, a distance of 476.7 feet to the point of beginning. Containing 15.55 acres, more or less.

RIGHT OF WAY DESCRIPTION: A part of the Southwest quarter of the Northwest quarter of Section 34, T 17 N, R 30 W, and part of the Southeast quarter of the Northeast quarter of Section 33, T 17 N, R 30 W, more particularly described as follows, to-wit: A twenty five (25) feet wide strip north of a line beginning on the north right-of-way line of Highway 180 and 1110.53 feet N 89° 33' W of the Southeast corner of the SW 1/4, NW 1/4, Section 34, T 17 N, R 30 W, thence N 89° 33' W 476.7 feet.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee; which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands, where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 14th day of April, 1975.



ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Joe B. Crouch, Christine R. Crouch, me well known as the person(s) who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 14th day of April, 1975.

My commission expires October 1, 1978

Ed A. Connell
Notary Public VOL 882 972

RIGHT OF WAY GRANT

TRACT NO. _____
STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED
FOR RECORD
77 NOV 10 AM 11:32
WASHINGTON COUNTY
ARKANSAS
ALMA KOLLNER
CIRCUIT CLERK

That for and in consideration of _____
and other valuable considerations to the undersigned, Joe B. Crouch and Cristine Crouch,
husband and wife,
paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto
the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right
of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines,
manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

Part of Section 33, Township 16 North, Range 30 West and part of Section 34, Township 17
North, Range 30 West, and being more particularly described as follows, to-wit: Beginning
at a point on the North right of way of State Hwy. 180, said point being 209.47 feet East of
the West line of said Section 34, and running thence North 1523.0 feet to a point on the
South right of way of U.S. Hwy. 71 Bypass; thence S 65° 59' W, along said right of way a
distance of 405.76 feet, thence S 64° 16' W, along said right of way a distance of 111.21
feet; thence South 1317.77 feet to the North right of way of State Hwy. 180; thence East
along said right of way, a distance of 476.7 feet to the point of beginning. Containing
15.55 acres, more or less.

The Grantors hereby reserve a life estate in one acre of land and the dwelling house and
barns situated thereon, said one acre of land being the land on which said dwelling house
and barns are situated.

Grantors reserve an easement over and across the North forty (20) feet of the within des-
cribed real property for ingress and egress to the United States Highway 71 Bypass from
real property on this date conveyed by Grantors to Mary C. Thomas, Patricia L. Browner
and Robert H. Crouch, said entrance to U.S. Highway 71 Bypass being located on the within
described real property.

EASEMENT DESCRIPTION: A permanent easement of 25 feet of equal and uniform width and a
temporary construction easement of 50 feet in width off of that part of the above described
real estate running parallel with and contiguous to the South right of way line of U. S. Hwy.
71 Bypass TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, man-
holes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove
described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances
of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said
Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation
of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they
shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the con-
struction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the
said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of
such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences
shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time
in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby
granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal
representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority
to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 7 day of November, 1977.

Joe B. Crouch
Cristine A. Crouch

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly
commissioned and acting, personally appeared Joe B. Crouch Cristine A. Crouch, to me well
known as the person(s) who executed the foregoing Right of Way Grant, and that They had executed the same
for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 7th day of November, 1977.

My commission expires 1-1-78

Notary Public

RIGHT OF WAY GRANT

TRACT NO.
STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED FOR RECORD

1978 AUG 28 PM 2:22

WASHINGTON COUNTY, ARK
CLERK OF COURT

That for and in consideration of

and other valuable considerations to the undersigned,

Joe B. Crouch and Christine Crouch

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

EASEMENT DESCRIPTION: A permanent easement of 25 feet in width, said easement lying easterly and northerly to, running parallel with and being contiguous with the proposed right of way line for the Ark. State Highway Department Job No. 4706 - Section No. 1 which is described below, and a temporary construction easement of 50 feet in width, said temporary easement lying easterly and northerly to, running parallel with and being contiguous with the above mentioned permanent easement. The above mentioned State Highway Department right of way is, hereby described as follows, to-wit: beginning at a point on the south line of the real estate described below, said point being 110.6 feet east of the southwest corner thereof, and running thence N 61° 32' W 118.8 feet, thence N 39° 24' W 11.6 feet to a point on the west line of the real estate described below, said point being 72.8 feet north of the southwest corner thereof.

PROPERTY DESCRIPTION: Part of Section 33, Township 17 North, Range 30 West, and part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows to-wit: beginning at a point on the north right of way of State Highway 180, said point being 209.47 feet east of the west line of said section 34, and running thence north 1523.0 feet to a point on the south right of way of U.S. Hwy 71 By-pass; thence S 65° 59' W along said right of way a distance of 405.76 feet; thence S 64° 16' W along said right of way a distance of 111.21 feet; thence south 1317.77 feet to the north right of way of State Highway 180; thence east along said right of way a distance of 476.7 feet to the point of beginning. Containing 15.55 acres, more or less.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed:

WITNESS the execution hereof this the 28th day of August, 1978.

x Joe B. Crouch
Christine C. Crouch

ACKNOWLEDGMENT

972 359

STATE OF ARKANSAS
COUNTY OF WASHINGTON

REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Joe B. Crouch Christine C. Crouch to me well known as the person(s) who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 28th day of August, 1978.

My commission expires

October 1, 1978

Notary Public

LINE LIST NO. _____
W. C. NO. _____

Form 1-1

EASEMENT

SOUTHWESTERN BELL TELEPHONE COMPANY

In consideration of the sum of \$ _____, receipt of which is hereby acknowledged, and the payment to the undersigned before construction is started of the additional sum of \$ 600.00, the undersigned, undersigned heirs and assigns, hereby grant to the Southwestern Bell Telephone Company, a Missouri Corporation, its associated and allied companies, their respective successors, assigns, lessees, and agents a permanent right of way and easement with the right, privilege and authority to construct, reconstruct, operate, maintain, or remove lines of telephone and telegraph, or other signal or communication circuits, consisting of underground conduits, cables, manholes and of other markers, fixtures and appurtenances as the grantee may from time to time require, upon, across, over and/or under the property which the grantor owns or has an interest in the following described land situated in the County of Washington, State of Arkansas, owned by the Grantors, to wit: Part of 1/4 1/4 of Section 33 & T 17 - N. R. 30 - W. Being one rod wide and extending approximately 1244.97 feet across the west of Grantors' property, a 12 foot strip beginning at a point 28.5 feet left of and perpendicular to centerline Station 5 + 75.2 North 61° 32' West along proposed right-of-way line a distance of 118.8 feet, thence North 39° 24' West along said proposed right-of-way line a distance of 11 feet and 6 inches to a point, thence North 1° 6' West a distance of 1244.97 feet, and upon, along, and/or under the roads, streets or highways adjoining said property, with the right of ingress and egress over and across said land. The Grantor, or Grantors' heirs, executors, administrators and assigns hereby covenants that no permanent structure will be erected or permitted on said line. All pipe, conduit or cable laid under this grant shall be laid upon the route selected by the grantee and grantor, and shall be buried to such depth as not to interfere with the ordinary use of said land.

** See Below

The Grantor, heirs or assigns, shall be entitled to recover from the grantee the reasonable amount of any damage caused to crops, fences, trees, lawns, shrubs or flowers by the grantee or its employees in the construction, operation, maintenance or removal of said communication system.

Grantee will restore said easement to as good or better condition that existed prior to the time of construction.

WITNESS my hand and seal this 3rd day of November 1979

at Fayetteville, Arkansas 72701
(Post Office Address)

Joe B. Crouch (SEAL)
(SEAL)
(SEAL)
(SEAL)

STATE OF ARKANSAS)

COUNTY OF Washington)

SS: _____

BE IT REMEMBERED, that on this 3rd day of November A.D., 1979, before me, the undersigned, a Notary Public in and for said County and State, came the above undersigned witnessed to be the same person(s) who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: 11-15-80

E. J. Ball Notary Public

Upon request from Grantor of his transferee, the Southwestern Bell Telephone Company at its expense shall relocate its cables and/or lines place in the aforesaid easement to another easement provided by the Grantor or his transferee on Grantor's property or the property of Grantor's family that joins Grantor's property, provided, however, that the manhole to be constructed on the aforesaid easement shall remain a permanent installation.

1002 884

RETURN TO: Southwestern Bell Telephone Company, Right of Way Supervisor, Room 817, 1111 West Capitol, Little Rock, AR 72201

SALE 143
1002-884

LINE LIST NO. _____
W. O. NO. _____

Form 14

EASEMENT

SOUTHWESTERN BELL TELEPHONE COMPANY

In consideration of the sum of \$ _____ receipt of which is hereby acknowledged and the payment to the undersigned before construction is started of the additional sum of \$ 600.00 the undersigned, undersigned heirs and assigns, hereby grant to the Southwestern Bell Telephone Company, a Missouri Corporation, its associated and allied companies, their respective successors, assigns, lessees, and agents a permanent right of way and easement with the right, privilege and authority to construct, reconstruct, operate, maintain or remove lines of telephone and telegraph, or other signal or communication circuits, consisting of underground conduits, cables, manholes and of other markers, fixtures and appurtenances as the grantee may from time to time require, upon, across, over and/or under the property which the grantor owns or has an interest in the following described land situated in the County of Washington, State of Arkansas, owned by the Grantors, to wit: Part of 1/4 of Section 3 & T-17 - N. R-10 - W. Being one rod wide and extending approximately 1244.97 feet across the west of Grantors' property.

a 12 foot strip beginning at a point 28.5 feet left of and perpendicular to centerline Station 5 + 75.2 North 61° 32' West along proposed right-of-way line a distance of 118.8 feet, thence North 39° 24' West along said proposed right-of-way line a distance of 11 feet and 6 inches to a point, thence North 6° West a distance of 1244.97 feet, and upon, along, and/or under the roads, streets or highways adjoining said property, with the right of ingress and egress over and across said land. The Grantor, or Grantors' heirs, executors, administrators and assigns hereby covenants that no permanent structure will be erected or permitted on said line. All pipe, conduit or cable laid under this grant shall be laid upon the route selected by the grantee and grantor, and shall be buried to such depth as not to interfere with the ordinary use of said land.

** See Below

The Grantor, heirs or assigns, shall be entitled to recover from the grantee the reasonable amount of any damage caused to crops, fences, trees, lawns, shrubs or flowers by the grantee or its employees in the construction, operation, maintenance or removal of said communication system.

Grantee will restore said easement to as good or better condition that existed prior to the time of construction.

WITNESS my hand and seal this 3rd day of November 1979

at Fayetteville, Arkansas
(Post Office Address)

STATE OF ARKANSAS)

COUNTY OF Washington)

SS: Joe B. Crouch (SEAL)

BE IT REMEMBERED, that on this 3rd day of November A.D., 1979, before me, (An undersigned, a Notary Public in and for said County and State, came the above undersigned witness to be the same person(s) who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: 11-15-80

E. J. Ball Notary Public

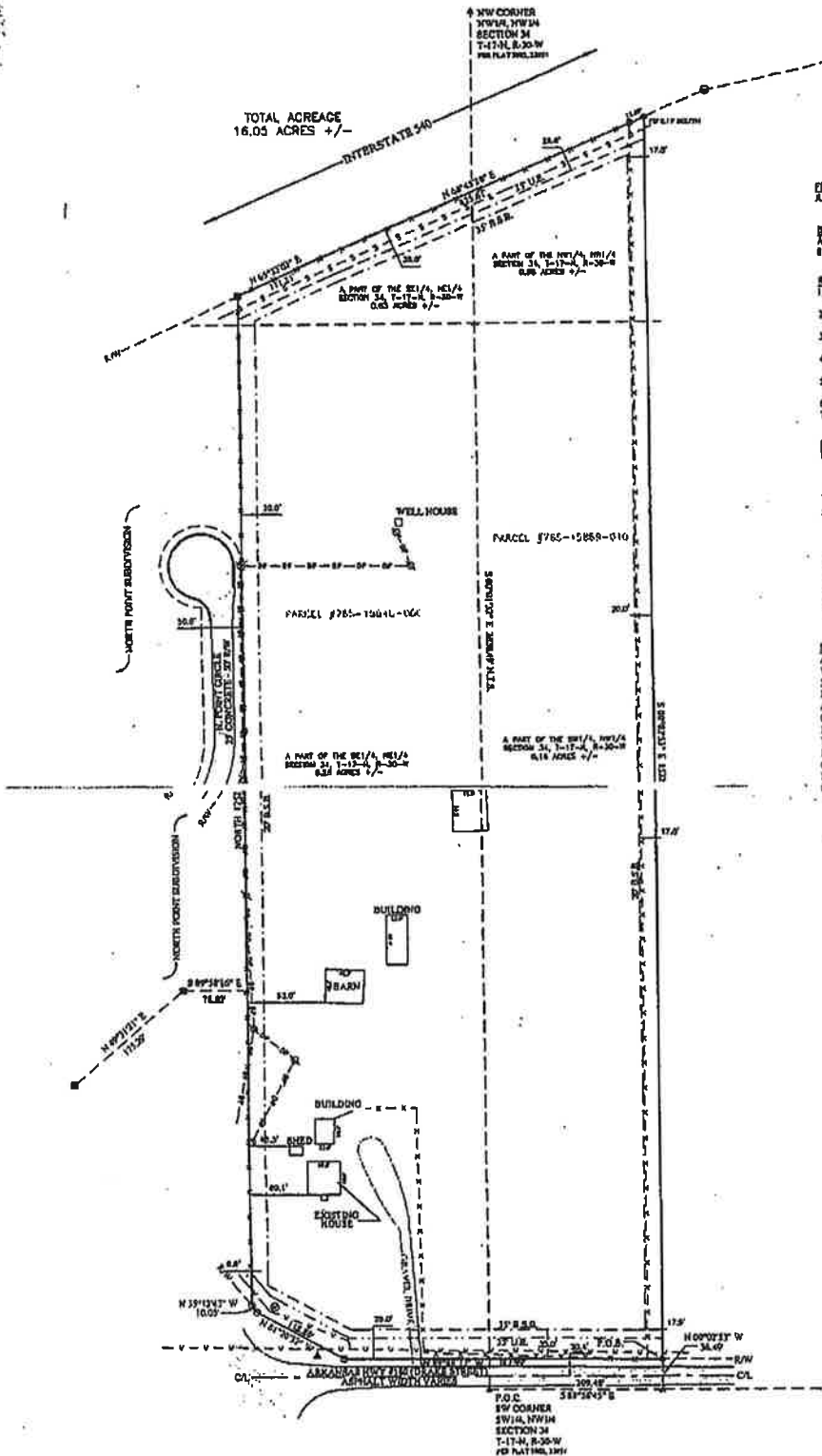
Upon request from Grantor or his transferee, the Southwestern Bell Telephone Company at its expense shall relocate its cables and/or lines placed in the aforesaid easement to another easement provided by the Grantor or his transferee on Grantor's property or the property of Grantor's family that joins Grantor's property, provided, however, that the manhole to be constructed on the aforesaid easement shall remain a permanent installation.

1015 399

PLAT OF SURVEY

Type: REAL ESTATE
Kind: SURVEY
Recorded: 7/12/2013 4:31:56 PM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2013-00023729



FIELD WORK:
JUNE 11, 2013

BASE OF BEARING:
ASSUMED NORTH - EAST LINE OF NORTH POINT
SUBDIVISION FILED IN PLAT BOOK 11 AT PAGE 74

REFERENCE DOCUMENTS:
1) FINAL PLAT OF NORTH POINT SUBDIVISION
FILED IN PLAT BOOK 11 AT PAGE 34
2) PLAT OF SURVEY FILED IN BOOK 2903 AT
PAGE 3394
3) RIGHT-OF-WAY GRANT FILED IN BOOK 882
AT PAGE 589
4) RIGHT-OF-WAY GRANT FILED IN BOOK 977
AT PAGE 339
5) STATE HIGHWAY RIGHT-OF-WAY MAP JOB 4708 SECT.
WASHINGTON COUNTY
6) QUITCLAIM DEED FILED IN BOOK 2081 AT PAGE 6482
7) WARRANTY DEED FILED IN BOOK 3008 AT PAGE 980

PROPERTY ZONED:
R-A

BUILDING SETBACKS:
FRONT 350'
SIDE 200'
REAR 250'

NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE
GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE
THAT MAY EXIST UNDERGROUND, NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF
EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.

SURVEY DESCRIPTION

A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 34 AND A PART OF THE
WEST HALF OF THE NORTHWEST QUARTER OF SECTION 34, ALL IN TOWNSHIP 17 NORTH, RANGE
10 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING BEAR ON THE NORTH RIGHT-OF-WAY OF
ARKANSAS HWY 610 WHICH IS S89°54'32"E 200.40' AND N60°02'33"W 34.49' FROM THE SOUTHWEST
CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34 AND RUNNING THENCE ALONG SAID
RIGHT-OF-WAY THIS FOLLOWING: N89°48'33"W 332.50', N61°20'22"W 118.87', N61°17'43"W 15.05',
THENCE LEAVING SAID RIGHT-OF-WAY NORTH 1232.87' TO THE SOUTHERN RIGHT-OF-WAY OF
INTERSTATE 540, THENCE ALONG SAID SOUTHERN RIGHT-OF-WAY N65°17'03"E 111.21', THENCE
CONTINUING ALONG SAID RIGHT-OF-WAY N66°45'02"E 45.84', THENCE LEAVING SAID
RIGHT-OF-WAY S02°02'33"E 1332.12' TO THE POINT OF BEGINNING, CONTAINING 16.05 ACRES, MORE
OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



GRAPHIC SCALE (IN FEET)
1 inch = 100'

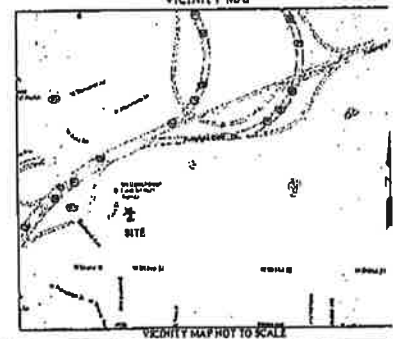
STATE RECORDING NUMBERS:
300-17N-10W-34-35-100-11-182
300-17N-10W-34-35-100-11-182

I, NORTH COUNTY, DO hereby certify that this is a true and correct
copy of the original and correct
on this the 12th day of June, 2013.



IF THE SIGNATURE ON THIS SEAL IS NOT AN
ORIGINAL, AND NOT BLUE IN COLOR,
THEN IT SHOULD BE ASSURED THAT THIS PLAT MAY
HAVE BEEN ALTERED. THE ABOVE CERTIFICATION
SHALL NOT APPLY TO ANY COPY THAT DOES NOT
BORN AN ORIGINAL SEAL AND SIGNATURE.

VICINITY MAP



VICINITY MAP NOT TO SCALE

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS
DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD
INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.
(FIRM PANEL 80614C0010F, DATED MAY 16, 2006)

FOR LESSEE AND BENEFIT OF:
1155 PROPERTIES, LLC.

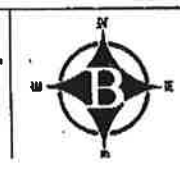
Bates & Associates, Inc.
Civil Engineering and Surveying Services
1111 N. Main Street, Suite 100, Fayetteville, Arkansas 72701-4000
Phone: (479) 241-2000 Fax: (479) 241-2008

DATE: 6-11-13
SCALE: 1" = 100'
LOCATION: SECTION 34 & 35
TOWNSHIP 17 NORTH
RANGE 10 WEST

BY: [Signature]
PROJ: 1155
SHEET: 01

LEGEND:

- FOUND BY MEASUREMENT
- BY 1/4" CURVATURE
- FOUND BY ADJACENT
- COMPUTED POINT
- CONCRETE MONUMENT
- RIGHT-OF-WAY EASEMENT
- ROAD LINES
- POWER POLE
- WATER WHEEL
- NEIGHBORLY LINE (DASHED)
- PORTY LINE (THICK)
- CELESTIAL LINE (THIN)
- RIGHT-OF-WAY
- OVERLAP POINT LINE
- THIN
- SHADED BENTON
- WATER LINE
- NEIGHBOR LINE



RECORDING NUMBERS DATE

Parcel: 765-15889-010
 Prev. Parcel: 148836-000-00
 As of: 2/9/2015 ID: 53176

1765-15840-000 (same chain)
 * (5)

Washington County Report

Property Owner

Name: DRAKE ST PROPERTY LLC

Mailing Address: 75 N EAST AVE STE 500
 FAYETTEVILLE, AR 72701

Type: (AV) - Agri Use/Vacant

Tax Dist: (011) - FAYETTEVILLE SCH,
 FAY

Millage Rate: 53.75

Legal: PT W/2 NW 7.10 AC.

Property Information

Physical Address:

Subdivision: 34-17-30 FAYETTEVILLE
 OUTLOTS

Block / Lot: -- / --

S-T-R: 34-17-30

Size (in Acres): 7.100

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$1,450	\$290	\$290
Building	\$0	\$0	\$0
Total	\$1,450	\$290	\$290

Homestead Credit: 0.00 **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land:

Land Use	Size	Units
Pasture(13)	1.390	Acres
Pasture(02)	2.400	Acres
Pasture(12)	3.310	Acres

Deed Transfers:

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
6/20/2013		2013	36634	Survey			DRAKE ST PROPERTY		

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
							LLC		
6/20/2013		2013	23729	Survey			DRAKE ST PROPERTY LLC		
6/20/2013		2013	21050	Warr. Deed	10385.10	\$3,147,000	DRAKE ST PROPERTY LLC	Unval.	Improved
1/19/2003		2000	106682	Quit Claim	0.00	\$0	CROUCH LIMITED PARTNERSHIP		
10/27/2000		2000	93318	Quit Claim	0.00	\$0	CROUCH, JOE B, TTEE JOE B CROUCH 2000 REVOCABLE TRUST	Additional Properties	
1/1/1985		874	333		0.00	\$0	CROUCH, JOE B. 1030 GLENN LANE		

Map:

First National Title Company

3996 N. Frontage Road Suite 3
Fayetteville, AR 72703

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 6/24/2013 11:19:21 AM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2013-00021050

WARRANTY DEED

(Limited Partnership)

KNOW ALL MEN BY THESE PRESENTS:

That Crouch Limited Partnership, hereinafter referred to as Grantor, organized under and by virtue of the laws of State of Arkansas by Allen Oliver Crouch its General Partner, duly authorized, for the consideration of the sum of One and no one hundredths (\$1.00) Dollars and other good and valuable consideration in hand paid by Drake ST Property, LLC, an Arkansas limited liability company, hereinafter referred to as Grantee, the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Drake ST Property, LLC, an Arkansas limited liability company and unto its successors and/or assigns forever the following described land, situated in the County of Washington, State of Arkansas, to-wit:

A part of the East half of the Northeast Quarter of Section 33 and a part of the West half of the Northwest Quarter of Section 34, all in Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at an existing rebar on the North right-of-way of Arkansas HWY #180 which is S89°56'45"E 209.48' and N00°02'53"W 36.49' from the Southwest corner of the Northwest Quarter of said Section 34 and running thence along said right-of-way the following: N89°48'32"W 382.99', N61°20'32"W 118.80', N39°12'43"W 10.05', thence leaving said right-of-way North 1252.08' to the Southern right-of-way of Interstate 540, thence along said Southern right-of-way N65°33'03"E 111.21', thence continuing along said right-of-way N66°45'20"E 425.61', thence leaving said right-of-way S00°02'53"E 1532.12' to the point of beginning, containing 16.05 acres, more or less. Subject to all easements and rights-of-way of record.

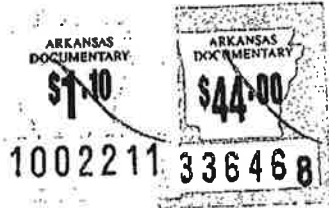
TO HAVE AND TO HOLD the same unto the said Grantee and unto its successors and/or assigns forever, with all appurtenances thereunto belonging.

And Grantor hereby covenant with the said Grantee that Grantor will forever warrant and defend the title to said lands against all claims whatever, subject to existing easements, building lines, restrictions and assessments of record, if any. No warranty or representation is made as to any mineral interest on the aforementioned property.

Escrow No.: WAS05-114-13

Prepared under supervision of
James R. Pender
Attorney At Law
Little Rock, Arkansas

IN TESTIMONY WHEREOF, the name of the Grantor is hereunto affixed by its General Partner, this 20th day of June, 2013.



Crouch Limited Partnership

By: Allen Oliver Crouch
Its: General Partner

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument

Mr. ENTC as agent
Grantee: Drake ST Property, LLC
Address: P.O. Box 4245
Fayetteville, AR 72702



ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this 20th day of June, 2013, before me, Lela Reddekopp, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Allen Oliver Crouch to me personally well known, who stated that he is the General Partner of Crouch Limited Partnership, a limited partnership, and is duly authorized in his capacities to execute the foregoing instrument for and in the name and behalf of said partnership, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes herein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 20th day of June, 2013.



Lela Reddekopp
Notary Public.

My commission expires: December 5, 2018

Washington County, AR
I certify this instrument was filed on
6/24/2013 11:19:21 AM
and recorded in REAL ESTATE

File# 2013-00021050

Kyle Sylvester, Clerk

RIGHT OF WAY GRANT

TRACT NO. _____
STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED *for record*

That for and in consideration of One Dollar (\$ 1.00)

75 APR 14 A.M. 31

and other valuable considerations to the undersigned, Joe B. Crouch

WASHINGTON COUNTY, ARK.

with life estate to Lottie M. Crouch and Nan Moore

ALMA KULLMEYER

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: Part of Section 33, Township 17 North, Range 30 west and part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows, to-wit: Beginning at a point on the North right-of-way of State Hwy. 180, said point being 209.47 feet East of the West line of said Section 34, and running thence North 1523.0 feet to a point on the South right-of-way of U.S. Hwy. 71 By-Pass; thence S 65° 59' W, along said right-of-way a distance of 405.76 feet, thence S 64° 16' W, along said right-of-way a distance of 111.21 feet; thence South 1317.77 feet to the North right-of-way of State Hwy. 180; thence East along said right-of-way, a distance of 476.7 feet to the point of beginning. Containing 15.55 acres, more or less.

RIGHT OF WAY DESCRIPTION: A part of the Southwest quarter of the Northwest quarter of Section 34, T 17 N, R 30 W, and part of the Southeast quarter of the Northeast quarter of Section 33, T 17 N, R 30 W, more particularly described as follows, to-wit: A twenty five (25) feet wide strip north of a line beginning on the north right-of-way line of Highway 180 and 1110.53 feet N 89° 33' W of the Southeast corner of the SW 1/4, NW 1/4, Section 34, T 17 N, R 30 W, thence N 89° 33' W 476.7 feet.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee; which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 14th day of April, 1975.



ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Joe B. Crouch, Christian R. Crouch to me well known as the person(s) who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 14th day of April, 1975.

My commission expires October 1, 1978

Notary Public

VOL 882 972

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of

and other valuable considerations to the undersigned, ... Joe B. Crouch and Cristine Crouch,
husband and wife,

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

Part of Section 33, Township 16 North, Range 30 West and part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows, to-wit: Beginning at a point on the North right of way of State Hwy. 180, said point being 209.47 feet East of the West line of said Section 34, and running thence North 1523.0 feet to a point on the South right of way of U.S. Hwy. 71 Bypass; thence S 65° 59' W, along said right of way a distance of 405.76 feet, thence S 64° 16' W, along said right of way a distance of 111.21 feet; thence South 1317.77 feet to the North right of way of State Hwy. 180; thence East along said right of way, a distance of 476.7 feet to the point of beginning. Containing 15.55 acres, more or less.

The Grantors hereby reserve a life estate in one acre of land and the dwelling house and barns situated thereon, said one acre of land being the land on which said dwelling house and barns are situated.

Grantors reserve an easement over and across the North forty (20) feet of the within described real property for ingress and egress to the United States Highway 71 Bypass from real property on this date conveyed by Grantors to Mary C. Thomas, Patricia L. Browner and Robert H. Crouch, said entrance to U.S. Highway 71 Bypass being located on the within described real property.

EASEMENT DESCRIPTION: A permanent easement of 25 feet of equal and uniform width and a temporary construction easement of 50 feet in width off of that part of the above described real estate running parallel with and contiguous to the South right of way line of U. S. Hwy. 71 Bypass. TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof, this the 7 day of November, 1977.

Joe B. Crouch
Cristine Crouch

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Joe B. Crouch and Cristine Crouch, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that They had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 7th day of November, 1977.

My commission expires 1-7-78

Notary Public

FILED
FOR RECORD
77 NOV 10 AM 11:32
WASHINGTON COUNTY
ARKANSAS
ALMA KOLLMEYER
CLERK

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of

and other valuable considerations to the undersigned, Joe B. Crouch and Christine C. Crouch

FILED FOR RECORD

1978 AUG 28 PM 2:22

WASHINGTON COUNTY, ARK
CIRKLE

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

EASEMENT DESCRIPTION: A permanent easement of 25 feet in width, said easement lying easterly and northerly to, running parallel with and being contiguous with the proposed right of way line for the Ark. State Highway Department Job No. 4706 - Section No. 1 which is described below, and a temporary construction easement of 50 feet in width, said temporary easement lying easterly and northerly to, running parallel with and being contiguous with the above mentioned permanent easement. The above mentioned State Highway Department right of way is, hereby described as follows, to-wit: beginning at a point on the south line of the real estate described below, said point being 110.6 feet east of the southwest corner thereof, and running thence N 61° 32' W 118.8 feet, thence N 39° 24' W 11.6 feet to a point on the west line of the real estate described below, said point being 72.8 feet north of the southwest corner thereof.

PROPERTY DESCRIPTION: Part of Section 33, Township 17 North, Range 30 West, and part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows to-wit: beginning at a point on the north right of way of State Highway 180, said point being 209.47 feet east of the west line of said section 34, and running thence north 1523.0 feet to a point on the south right of way of U.S. Hwy 71 By-pass; thence S 65° 59' W along said right of way a distance of 405.76 feet; thence S 64° 16' W along said right of way a distance of 111.21 feet; thence south 1317.77 feet to the north right of way of State Highway 180; thence east along said right of way a distance of 476.7 feet to the point of beginning. Containing 15.55 acres, more or less.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed:

WITNESS the execution hereof this the 28th day of August, 1978.

Joe B. Crouch
Christine C. Crouch

ACKNOWLEDGMENT

972 359

STATE OF ARKANSAS
COUNTY OF WASHINGTON

REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Joe B. Crouch and Christine C. Crouch to me well known as the person(s) who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 28th day of August, 1978.

My commission expires October 1, 1978

Ed J. Connell
Notary Public

EASEMENT

SOUTHWESTERN BELL TELEPHONE COMPANY

In consideration of the sum of \$ _____, receipt of which is hereby acknowledged, and the payment to the undersigned before construction is started of the additional sum of \$ 600.00, the undersigned, undersigned heirs and assigns, hereby grant to the Southwestern Bell Telephone Company, a Missouri Corporation, its associated and allied companies, their respective successors, assigns, lessees, and agents a permanent right of way and easement with the right, privilege and authority to construct, reconstruct, operate, maintain, or remove lines of telephone and telegraph, or other signal or communication circuits, consisting of underground conduits, cables, manholes and of other markers, fixtures and appurtenances as the grantee may from time to time require, upon, across, over and/or under the property which the grantor owns or has an interest in the following described land situated in the County of Washington, State of Arkansas, owned by the Grantors, to wit: Part of _____/4 _____/4 of Section 33 & T-17 - N. R-30 - W. Being one rod wide and extending approximately 1244.97 feet across the _____ of Grantors' property,

a 12 foot strip beginning at a point 28.5 feet left of and perpendicular to centerline Station 5 + 75.2 North 61° 32' West along proposed right-of-way line a distance of 118.8 feet, thence North 39° 24' West along said proposed right-of-way line a distance of 11 feet and 6 inches to a point, thence North 16° 6' West a distance of 1244.97 feet, and upon, along, and/or under the roads, streets or highways adjoining said property, with the right of ingress and egress over and across said land. The Grantor, or Grantors' heirs, executors, administrators and assigns hereby covenants that no permanent structure will be erected or permitted on said line. All pipe, conduit or cable laid under this grant shall be laid upon the route selected by the grantee and grantor, and shall be buried to such depth as not to interfere with the ordinary use of said land.

** See Below

The Grantor, heirs or assigns, shall be entitled to recover from the grantee the reasonable amount of any damage caused to crops, fences, trees, lawns, shrubs or flowers by the grantee or its employees in the construction, operation, maintenance or removal of said communication system.

Grantee will restore said easement to as good or better condition that existed prior to the time of construction.

WITNESS my hand and seal this 3rd day of November 1979

at Fayetteville, Arkansas 72701
(Post Office Address)

STATE OF ARKANSAS)

COUNTY OF Washington)

SS: _____

BE IT REMEMBERED, that on this 3rd day of November A.D., 1979, before me, the undersigned, a Notary Public in and for said County and State, came the above undersigned witnessed to be the same person(s) who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: 11-15-80

E. J. Ball Notary Public

Upon request from Grantor of his transferee, the Southwestern Bell Telephone Company at its expense shall relocate its cables and/or lines place in the aforesaid easement to another easement provided by the Grantor or his transferee on Grantor's property or the property of Grantor's family that joins Grantor's property, provided, however, that the manhole to be constructed on the aforesaid easement shall remain a permanent installation.

1002 884

LINE LIST NO. _____
W. O. NO. _____

Form 14

EASEMENT

SOUTHWESTERN BELL TELEPHONE COMPANY

In consideration of the sum of \$ _____, receipt of which is hereby acknowledged, and the payment to the undersigned before construction is started of the additional sum of \$ 600.00, the undersigned, undersigned heirs and assigns, hereby grant to the Southwestern Bell Telephone Company, a Missouri Corporation, its associated and allied companies, their respective successors, assigns, lessees, and agents a permanent right of way and easement with the right, privilege and authority to construct, reconstruct, operate, maintain, or remove lines of telephone and telegraph, or other signal or communication circuits, consisting of underground conduits, cables, manholes and of other markers, fixtures and appurtenances as the grantee may from time to time require, upon, across, over and/or under the property which the grantor owns or has an interest in the following described land situated in the County of Washington, State of Arkansas, owned by the Grantors, to wit: Part of _____/4 _____/4 of Section 3 & T-17 N. R. 30 W. Being one rod wide and extending approximately 1244.97 feet across the _____ west _____ of Grantors' property.

a 12 foot strip beginning at a point 28.5 feet left of and perpendicular to centerline Station 5 + 75.2 North 61° 32' West along proposed right-of-way line a distance of 118.8 feet, thence North 39° 24' West along said proposed right-of-way line a distance of 11 feet and 6 inches to a point, thence North 6° West a distance of 1244.97 feet, and upon, along, and/or under the roads, streets or highways adjoining said property, with the right of ingress and egress over and across said land. The Grantor, or Grantors' heirs, executors, administrators and assigns hereby covenants that no permanent structure will be erected or permitted on said line. All pipe, conduit or cable laid under this grant shall be laid upon the route selected by the grantee and grantor, and shall be buried to such depth as not to interfere with the ordinary use of said land.

See Below

The Grantor, heirs or assigns, shall be entitled to recover from the grantee the reasonable amount of any damage caused to crops, fences, trees, lawns, shrubs or flowers by the grantee or its employees in the construction, operation, maintenance or removal of said communication system.

Grantee will restore said easement to as good or better condition that existed prior to the time of construction.

WITNESS my hand and seal this 3rd day of November 1979

at Fayetteville, Arkansas
(Post Office Address)

STATE OF ARKANSAS)

COUNTY OF Washington)

SS: _____

BE IT REMEMBERED, that on this 3rd day of November A.D., 1979, before me, the undersigned, a Notary Public in and for said County and State, came the above undersigned witness to be the same person(s) who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: 11-15-80

E. J. Ball Notary Public

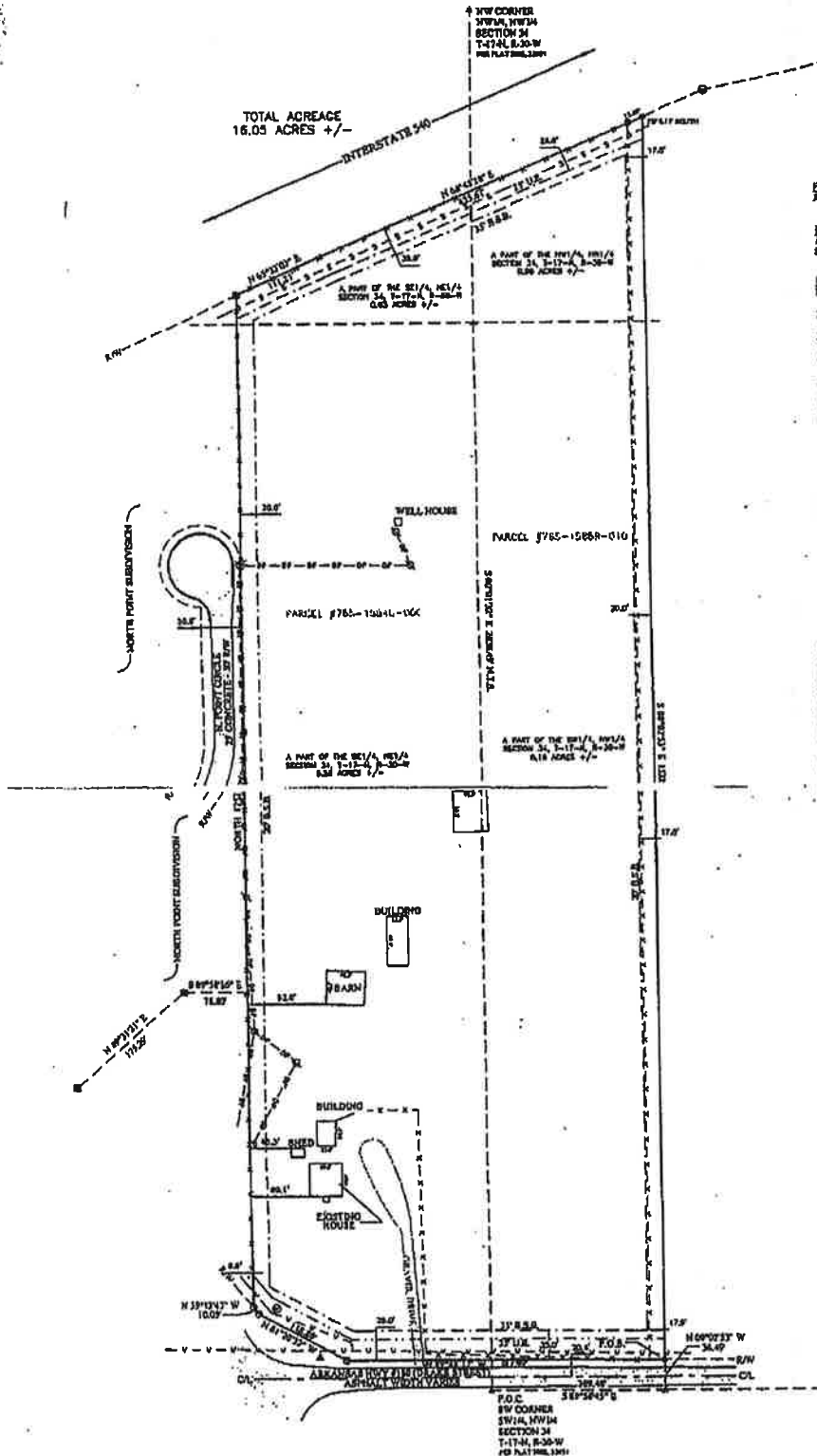
Upon request from Grantor or his transferee, the Southwestern Bell Telephone Company at its expense shall relocate its cables and/or lines placed in the aforesaid easement to another easement provided by the Grantor or his transferee on Grantor's property or the property of Grantor's family that joins Grantor's property, provided, however, that the manhole to be constructed on the aforesaid easement shall remain a permanent installation.

1015 399

PLAT OF SURVEY

Type: REAL ESTATE
Kind: SURVEY
Recorded: 7/12/2013 4:31:56 PM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2013-00023729



FIELD WORK:
JUNE 7-12, 2013

BASE OF SURVEY:
EAST LINE OF NORTH POINT
SUBDIVISION FILED IN PLAT BOOK 11 AT PAGE 74

- REFERENCE DOCUMENTS:
- 1) FINAL PLAT OF NORTH POINT SUBDIVISION FILED IN PLAT BOOK 11 AT PAGE 74
 - 2) PLAT OF SURVEY FILED IN BOOK 2003 AT PAGE 3754
 - 3) RIGHT-OF-WAY GRANT FILED IN BOOK 982 AT PAGE 988
 - 4) RIGHT-OF-WAY GRANT FILED IN BOOK 972 AT PAGE 339
 - 5) STATE HIGHWAY RIGHT-OF-WAY MAP JOB 4796 SECL, WASHINGTON COUNTY,
 - 6) COTTELOAN DEED FILED IN BOOK 3001 AT PAGE 662
 - 7) WARRANTY DEED FILED IN BOOK 3001 AT PAGE 963

PROPERTY ZONES:
R-A

BUILDING SETBACKS:
FRONT 350
SIDE 200
REAR 250

NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.

SURVEY DESCRIPTION:

A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 34 AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 34, ALL IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS HWY 610 WHICH IS 889'54" S 202'40" E 111'31" FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34 AND RUNNIN' THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING: N11°42'23" W 382.29', 141°12'02" W 118.07', N01°12'43" W 18.07', THENCE LEAVING SAID RIGHT-OF-WAY NORTH 1232.88' TO THE SOUTHERN RIGHT-OF-WAY OF INTERSTATE 540, THENCE ALONG SAID SOUTHERN RIGHT-OF-WAY N01°12'43" W 111.31', THENCE CONTINUING ALONG SAID RIGHT-OF-WAY N60°42'32" E 425.62', THENCE LEAVING SAID RIGHT-OF-WAY S00°02'33" E 1132.12' TO THE POINT OF BEGINNING, CONTAINING 16.03 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



GRAPHIC SCALE (IN FEET)

1 inch = 100 feet

STATE RECORDING NUMBER:

200-17N-30W-4-31-1057-160

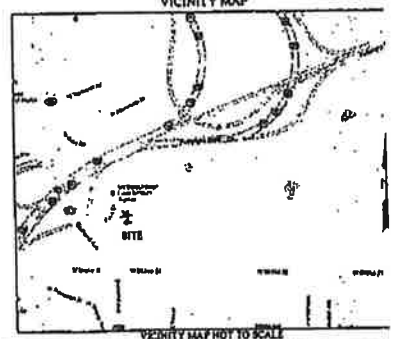
200-17N-30W-4-34-1057-160

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 7th DAY OF JUNE, 2013.



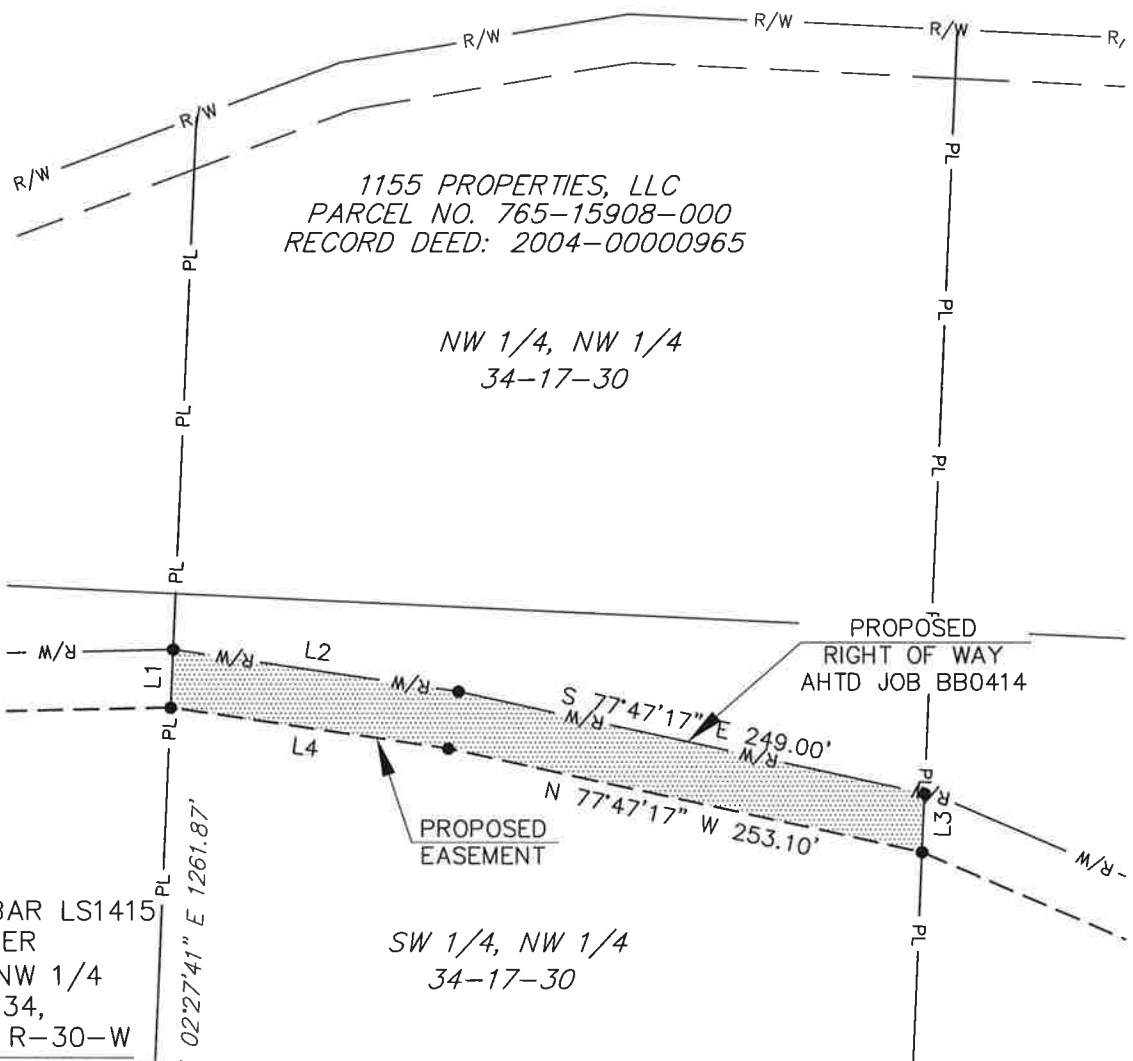
IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL, AND NOT BLUE IN COLOR, THEN IT SHOULD BE ASSURED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BORN AN ORIGINAL SEAL AND SIGNATURE.

VICINITY MAP



FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS. (FIRM PANEL 2001430010F, DATED MAY 14, 2008)

FOR USE AND BENEFIT OF: 1155 PROPERTIES, LLC.	
1155 & BAILEY STREET FAIRFAXVILLE, ARKANSAS	
DATE: 6-13-13	SCALE: 1" = 100'
LOCATION: SECTION 34 & 35 TOWNSHIP 17 NORTH RANGE 30 WEST	REVISIONS: 1. 6/13/13 2. 6/13/13 3. 6/13/13 4. 6/13/13 5. 6/13/13 6. 6/13/13 7. 6/13/13 8. 6/13/13 9. 6/13/13 10. 6/13/13 11. 6/13/13 12. 6/13/13 13. 6/13/13 14. 6/13/13 15. 6/13/13 16. 6/13/13 17. 6/13/13 18. 6/13/13 19. 6/13/13 20. 6/13/13 21. 6/13/13 22. 6/13/13 23. 6/13/13 24. 6/13/13 25. 6/13/13 26. 6/13/13 27. 6/13/13 28. 6/13/13 29. 6/13/13 30. 6/13/13 31. 6/13/13 32. 6/13/13 33. 6/13/13 34. 6/13/13 35. 6/13/13 36. 6/13/13 37. 6/13/13 38. 6/13/13 39. 6/13/13 40. 6/13/13 41. 6/13/13 42. 6/13/13 43. 6/13/13 44. 6/13/13 45. 6/13/13 46. 6/13/13 47. 6/13/13 48. 6/13/13 49. 6/13/13 50. 6/13/13 51. 6/13/13 52. 6/13/13 53. 6/13/13 54. 6/13/13 55. 6/13/13 56. 6/13/13 57. 6/13/13 58. 6/13/13 59. 6/13/13 60. 6/13/13 61. 6/13/13 62. 6/13/13 63. 6/13/13 64. 6/13/13 65. 6/13/13 66. 6/13/13 67. 6/13/13 68. 6/13/13 69. 6/13/13 70. 6/13/13 71. 6/13/13 72. 6/13/13 73. 6/13/13 74. 6/13/13 75. 6/13/13 76. 6/13/13 77. 6/13/13 78. 6/13/13 79. 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1/2" REBAR LS1415
SW CORNER
SW 1/4 NW 1/4
SECTION 34,
T-17-N, R-30-W

S 87°24'17" E
209.32'

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	11,967	0.27

LINE	ANGLE	DISTANCE
L1	N 02°27'41" E	30.16'
L2	S 81°40'58" E	149.89'
L3	S 02°31'22" W	30.43'
L4	N 81°40'58" W	145.80'

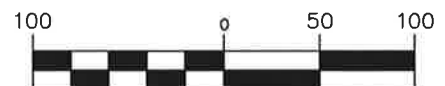
LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
---	---	EXISTING EASEMENT LINE
---	---	PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.



2049 EAST JOYCE BOULEVARD
SUITE 400
FAYETTEVILLE, ARKANSAS 72704
479 527-9100

CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS
AHTD NO. BB0414
WATER & SEWER RELOCATIONS



JOB NO.
14048160

DATE
APRIL 14, 2015

"EXHIBIT A"

TRACT
6

Polyline Report

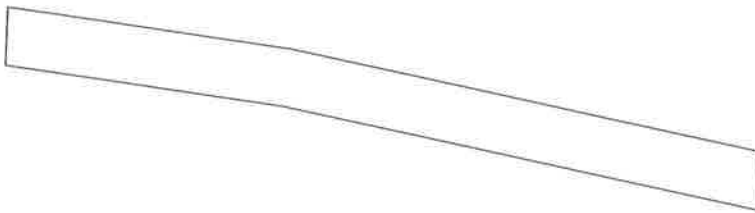
Mon Mar 16 15:23:12 2015

Northing	Easting	Bearing	Distance
652472.911	670765.272		
		N 02°27'41" E	30.157
652503.041	670766.568		
		S 81°40'58" E	149.892
652481.358	670914.883		
		S 77°47'17" E	248.997
652428.688	671158.245		
		S 02°31'22" W	30.434
652398.284	671156.906		
		N 77°47'17" W	253.099
652451.821	670909.534		
		N 81°40'58" W	145.795
652472.911	670765.272		

Closure Error Distance> 0.00000

Total Distance> 858.374

Polyline Area: 11966.7 sq ft, 0.275 acres



Tract: 6

Parcel: 765-15908-000

Owner: 1155 Properties, LLC

Record: 2004-00000965

WATER/SEWER EASEMENT

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414.

Being more particularly described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 209.32 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E a distance of 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E a distance of 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E a distance of 149.89 feet; thence S77°47'17"E a distance of 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W a distance of 30.43 feet; thence leaving said East property line N77°47'17"W a distance of 253.10 feet; thence N81°40'58"W a distance of 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

Parcel: 765-15908-000
 Prev. Parcel: 148897-000-00
 As of: 2/9/2015 ID: 53207



Washington County Report

Property Owner

Name: 1155 PROPERTIES LLC

Mailing Address: PO BOX 4245
 FAYETTEVILLE, AR 72702

Type: (AV) - Agri Use/Vacant

Tax Dist: (011) - FAYETTEVILLE SCH,
 FAY

Millage Rate: 53.75

Legal: PT W/2 14.86 AC.

Property Information

Physical Address:

Subdivision: 34-17-30 FAYETTEVILLE
 OUTLOTS

Block / Lot: -- / --

S-T-R: 34-17-30

Size (in Acres): 14.860

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$3,050	\$610	\$610
Building	\$0	\$0	\$0
Total	\$3,050	\$610	\$610

Homestead Credit: 0.00 **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land:

Land Use	Size	Units
Pasture(13)	2.900	Acres
Pasture(12)	5.070	Acres
Pasture(02)	6.890	Acres

Deed Transfers:

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
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Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
8/26/2003		2004	965	Warr. Deed			1155 PROPERTIES LLC	Inc. Additional Prop.	
4/8/2003		2003	21493	Trust Deed	4537.50	\$1,375,000	1155 PARTNERS LP, A NEVADA LIMITED PARTNERSHIP	Valid	Land Only
12/27/2000		2001	1616	Spec Warr	0.00	\$0	BROWNER, PATRICIA C., TTEE, PATRICIA C. BROWNER REVOCABLE *		
9/21/1999		99	89944	Spec Warr	0.00	\$0	BROWNER, PATRICIA C.;BROWNER, PATRICIA C., TTEE, PATRICIA C.*		
1/1/1985		874	336		0.00	\$0	BROWNER, PATRICIA L. 5900 TIMLE LANE		

Map:

Doc ID: 006865110003 Type: REL
Recorded: 01/08/2004 at 02:40:50 PM
Fee Amt: \$14.00 Page 1 of 3
Washington County, AR
Betts Stamps Circuit Clerk
File 2004-00000965

**WARRANTY DEED
(LIMITED PARTNERSHIP)**

KNOW ALL MEN BY THESE PRESENTS:

That 1155 Partners, LP, Grantor, operating under and by virtue of the laws of the State of Nevada by its General Partner, for the consideration of the sum of ten dollars and no/100...(\$10.00), in hand paid by 1155 Properties, LLC, an Arkansas limited liability company, Grantee the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Grantee, and unto Grantee's successors and assigns forever the following described land, situate in the County of Washington, State of Arkansas, to-wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD The same unto the said Grantee and unto its successors and assigns forever, with all appurtenances thereunto belonging. And Grantor hereby covenants with the said Grantee that Grantor will forever warrant and defend the title to said lands against all claims whatever, except easements and restrictions existing and/or of record, if any.

IN TESTIMONY WHEREOF, The name of the grantor is hereunto affixed by its General Partner, this 26th day of August, 2003.

1155 Partners, LP, a Nevada limited partnership

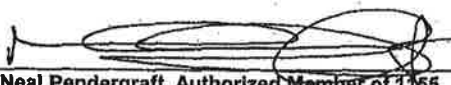

Neal Pendergraft, Authorized Member of 1155
Management, LLC, General Partner

EXHIBIT "A"

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 620.80 feet East of the West line of said Section 34 and running thence North 1,695.00 feet to the South Right-of-Way of U.S. Highway No. 71 by-pass; thence S 65°59'00" W along said Right-of-Way 446.90 feet; thence South 1,523.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 411.33 feet to the point of beginning, containing 15.19 acres, more or less

Subject to the reservation of an easement over and across the North 40 feet of the above described real property for ingress and egress to the U.S. Highway 71 By-pass from real property conveyed on August 27, 1974, by Lottie M. Crouch and Nan Moore to Mary C. Thomas and filed for record in land record book 874 at page 362, land records of Washington County, Arkansas. Said entrance to said U.S. Highway No. 71 By-pass being located on real property conveyed on August 27, 1974 by Lottie M. Crouch and Nan Moore to Joe B. Crouch.

LESS AND EXCEPT:

A part of the NW ¼ of the NW ¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW Corner of the NW ¼ of the NW ¼ of Section 34; thence N 88°34'00" E along the North line 964.00 feet to a point; thence S 01°07'00" E, 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence S 65°51'00" W along said existing Right-of-Way line 198.80 feet to a point; thence S 85°47'00" W along said existing Right-of-Way line 201.50 feet to the point of beginning; thence S 01°05'00" E, 106.20 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S 89°08'00" W along said proposed Right-of-Way line 171.80 feet to a point; thence S 76°55'00" W along said proposed Right-of-Way line a distance of 152.90 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence N 65°48'00" E along said existing Right-of-Way line 298.20 feet to the point of beginning, containing .33 acres, more or less.

AND ALSO

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly describe as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 990.00 feet East of the West line of said Section 34 and running thence North 1,850.00 feet to the South Right-of-Way of U.S. Highway No. 71 By-pass; thence S 65°59'00" W along said Right-of-Way a distance of 401.14 feet; thence South 1,695.00 feet to the North Right-of-Way of said Highway No. 180; thence East along said Right-of-Way a distance of 369.20 feet to the point of beginning, containing 15.02 acres, more or less.

LESS AND EXCEPT:

A part of the NW ¼ of the NW ¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW Corner of the NW ¼ of the NW ¼ of Section 34, thence N 88°34'00" E along the North line a distance of 964.00 feet to a point; thence S 01°07'00" E, 769.70 feet to a point on the Southeasterly existing Right-of-Way of U.S. Highway No. 71 By-pass for the point of beginning; thence S 01°07'00" E, 264.70 feet to a point on the Southeasterly proposed Right-of-Way of relocated U.S. Highway No. 71; thence S 89°08'00" W along said proposed Right-of-Way line 368.40 feet to a point; thence N 01°05'00" W, 106.20 feet to a point on the Southeasterly Right-of-Way line of U. S. Highway No. 71 By-pass; thence N 65°47'00" E along said existing Right-of-Way line 201.50 feet to a point; thence N 65°51'00" E along said propose Right-of-Way line 198.80 feet to the point of beginning, containing 1.57 acres, more or less.

ACKNOWLEDGMENT

State of Arkansas)
County of Washington)SS

On this, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for the said County and State, appeared in person the within named Neal Pendergraft to me personally well known, who stated that he was the authorized member of 1155 Management, LLC, General Partner of 1155 Partners, LP, a Nevada limited partnership, and that he was duly authorized in his capacity to execute the foregoing instrument purposes herein mentioned and set forth by signing the name of the partnership by himself as such member.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 26th day of August, 2003.



Lisa A. Rodman
Notary Public

Prepared by: Heritage Land Title of Arkansas
2153 E. Joyce Blvd. Suite 201
Fayetteville, AR 72703
479.442.6400

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

No Revenue Required; No Consideration Given
Grantee or Grantee's Agent

PO Box 1948 Fayetteville, AR 72702
Address to send next tax statement

RIGHT OF WAY GRANT

TRACT NO. _____

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED *for Record*

'75 APR 14 4:11:31

That for and in consideration of One Dollar (\$ 1.00)

and other valuable considerations to the undersigned,

Patricia L. Browne

WASHINGTON COUNTY, ARK.

ALMA KOLLMEYER
CIRCUIT CLERK

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: Part of Section 34, Township 17 North, Range 30 West, and being more particularly described as follows, to-wit: Beginning at a point on the North right-of-way of State Hwy. 180, said point being 620.8 feet East of the West line of said Section 34 and running thence North 1695.0 feet to the South right-of-way of U.S. Hwy. 71 By-pass; thence S 65° 59' W; along said right-of-way, a distance of 446.9 feet; thence South 1523.0 feet to the North right-of-way of State Hwy. 180; thence East along said right-of-way 411.33 feet, to the point of beginning. Containing 15.19 acres, more or less.

RIGHT OF WAY DESCRIPTION: A part of the Southwest quarter of the Northwest quarter Section 34, T 17 N, R 30 W, more particularly described as follows, to wit: A twenty five (25) feet wide strip North of a line beginning on the North right-of-way line of Highway 180 and 699.20 feet N 89° 33' West of the Southeast corner of said forty acre tract, thence N 89° 33' W 411.33 feet.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 7th day of April, 1975.

Patricia L. Browne



ACKNOWLEDGMENT

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared *Patricia L. Browne*, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that *she* had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 7th day of April, 1975.

Ed M. Connell

My commission, expires October 1, 1978

Notary Public

VOL 882 970

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of

and other valuable considerations to the undersigned, Patricia L. Browner,

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL, AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

Part of Section 34, Township 16 North, Range 30 West, and being more particularly described as follows, to-wit: Beginning at a point on the North right of way of State Hwy. 180, said point being 620.8 feet East of the West line of said Section 34 and running thence North 1695.0 feet to the South right of way of U. S. Hwy. 71 Bypass; thence S 65° 59' W. along said right of way, a distance of 446.9 feet; thence South 1523.0 feet to the North right of way of State Hwy. 180; thence East along said right of way 411.33 feet to the point of beginning. Containing 15.19 acres, more or less.

Grantors reserve an easement over and across the North forty (40) feet of the within described real property for ingress and egress to the United States Highway 71 Bypass from real property on this date conveyed by Grantors to Mary C. Thomas, said entrance to said U. S. Highway 71 Bypass being located on real property conveyed on this date by Grantors to Joe B. Crouch.

EASEMENT DESCRIPTION: A permanent easement of 25 feet of equal and uniform width and a temporary construction easement of 50 feet in width off of that part of the above described real estate running parallel with and contiguous to the south right of way line of U. S. Highway 71 Bypass.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the

28th day of

October

1977

943 616

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Patricia L. Browner, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that she had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this

28th

day of

October

1977

My commission expires

11-14-79

Notary Public

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of
and other valuable considerations to the undersigned,

Patricia Browner

FILED FOR RECORD
1981 JUL 13 AM 11:31
CLERK OF COUNTY OF WASHINGTON

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

Easement Description:

A permanent easement 25 feet of equal and uniform width and a temporary construction easement of 25 feet of equal and uniform width (parallel with and contiguous to said permanent easement) across a part of lands situated in the NW1/4 of the NW1/4 of Section 34, Township 17 North, Range 30 West, said lands more specifically described on page 336 of Deed Book 874 of the records of Washington County, Arkansas.

The northerly edge of said permanent easement is described as being the southerly right of way line of U. S. Highway 71 Bypass and further described as beginning at the east line of and 106.2 feet south of the northeast corner of lands described above, thence south 89° 08 west 171.8 feet; thence south 76° 55' west 152.9 feet.

Grantor hereby reserves unto herself, her heirs and assigns, the right to connect a line or lines to the sewer line to be constructed within the easement without payment of any extension fee or fees charged by the City of Fayetteville. Nothing in this reservation is to be construed as requiring the City of Fayetteville to waive their usual tap fees for any such connection.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 10th day of July, 1981.

Patricia Browner

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

1045 117

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared *Patricia Browner*, to me well

known as the person(s) who executed the foregoing Right of Way Grant, and that had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 10th day of July, 1981.

[Signature]
Notary Public

Copy

Doc ID: 011294830006 Type: REL
Recorded: 06/27/2007 at 02:32:35 PM
Fee Amt: \$23.00 Page 1 of 6
Washington County, AR
Bette Stamps Circuit Clerk
File 2007-00024590

**LICENSE TO USE CERTAIN REAL PROPERTY
(COUPLED WITH AN INTEREST)**

This License to Use Certain Real Property (Coupled with an Interest) is entered this 1st day of February, 2007, between 1155 Partners, L.P., a Nevada Limited Partnership ("Owner"), and WALTON ARTS CENTER ("WAC") (the "License").

RECITALS:

WAC is a non-profit entity committed to bringing works of art to Northwest Arkansas and its residents. WAC has commissioned artist Lee Littlefield to create several works to be installed throughout the I-540 corridor in Northwest Arkansas. WAC has identified the property of the Owner described on Exhibit A hereto (the "Property") as a potential site for a Littlefield sculpture.

Owner wishes have a sculpture placed on Owner's property and believes that the placement of such sculpture will be personally enjoyable and provide greater visibility for the Property.

Therefore, in consideration of \$1.00, and other valuable consideration, receipt of which is acknowledged, Owner grants WAC a license to place and maintain a sculpture or sculptures on the Property, subject to the following terms and conditions:

1. Sculpture: The sculpture or sculptures (collectively, herein the "Sculpture") located on Owner's property shall be approximately 14 to 20 feet in height and require approximately 30 square feet of ground space. The Sculpture will be created at the sole discretion of the Lee Littlefield. The location of the Sculpture on the Property shall be as reflected on the diagram attached as Exhibit B.

2. Installation, Maintenance and Removal: WAC will manage and conduct all activities relating to the installation, maintenance and removal of the Sculpture and will do so at its own cost and expense. Owner will be notified not less than seven days before installation of the Sculpture is to begin. In the event the Sculpture is damaged at any point, WAC will repair the damage on a reasonable and timely basis and will conduct the necessary activities on its own or through its agents. Owner has authority to remove if repair is not accomplished in a timely manner. Upon the expiration or earlier termination of this License, WAC shall manage and conduct the removal of the Sculpture

Copy

at WAC's sole cost and expense. In removing the Sculpture, WAC will take reasonable precautions to avoid damaging the Property. WAC agrees to reasonably repair any damage caused by the placement or removal of the Sculpture.

3. Access: WAC and/or its employees, agents and representatives may enter upon the Property at all reasonable times during the term of this License for the purpose of erecting, maintaining, repairing, cleaning and/or removing the Sculpture. Owner grants Lessee ingress and egress over the Property with the provisions that Lessee will close all gates and stay on existing roads and trails if possible.

4. WAC Representation: WAC represents and warrants to the Owner that WAC shall during the term of this License:

- (a) Use the Property in a prudent manner and in accordance with all applicable laws and regulations,
- (b) Not construct any permanent fixtures or improvements upon the Property other than the Sculpture;
- (c) Secure all gates upon entering and leaving the Property;
- (d) Clean up and remove all trash, litter and construction materials generated by WAC's use;

The representations and warranties in this paragraph shall survive the expiration or earlier termination of this License.

5. Owner Representation: Owner represents and warrants to WAC that:

- (a) Owner is the record owner of title to the Property and has full authority to enter into and grant this License and perform under its terms without the joinder or approval of any other party;
- (b) Owner agrees that it will promptly notify WAC if it comes to Owner's attention that any alteration or damage to the Sculpture has occurred that might cause damage to person or property; and
- (c) Owner will not take any action or permit any invitees, licensees, employees, agents or representatives of Owner to take any action which reasonably could be expected to result in damage to the Sculpture or that would block the Sculpture from public view.

The representations and warranties in this paragraph shall survive the expiration or earlier termination of this License.

6. Liability and Indemnity: WAC agrees that it shall defend, indemnify and hold Owner harmless from all costs, expenses (including attorney's fees), claims, suits, losses or damages incurred as a result of the placement of the Sculpture on the Property and/or the negligent or willful acts or omissions of WAC or its employees, agents or representatives relating to the installation, maintenance and removal of the Sculpture, unless and except such costs, expenses, claims, suits, losses or damages result from the

Copy

gross negligent or willful action of the Owner and/or Owner's invitees, licensees, employees, agents or representatives.

7. Term; Termination: The term of this License shall be from the date of this License up and until the date which is the earlier of: (a) eight (8) years from the date of this License; (b) the closing of the sale of the Property by the Owner to a third party to which Owner has no relation and in which Owner is not an investor or director; or (c) the earlier removal of the Sculpture by WAC in its sole discretion.

8. Binding Nature: Except as expressly provided in Paragraph 7 above, this License shall be binding on the parties hereto and their successors and assigns.

9. Administrative Provisions: There is no joint venture or partnership between the parties hereto, and nothing in this License is intended to create or does create such a joint venture or partnership. If any term of this License is determined invalid or unenforceable, the remainder of the agreement shall remain valid and enforceable to the fullest extent permitted by law. One or more waivers by a party of the other party's breach of a representation, warranty, covenant or condition shall not be construed as a waiver of a further breach of the same representation, warranty, covenant or condition. This agreement constitutes the entire agreement between the parties and there are no other representations, warranties or covenants except as set forth herein. This agreement may not be modified except as set forth in writing and signed by the parties hereto. This agreement shall be construed under Arkansas law and the parties agree that appropriate venue and jurisdiction for termination of matters under this agreement is in Washington County, Arkansas.

IN WITNESS WHEREOF, the parties have set their signatures effective the date first set forth hereinabove:

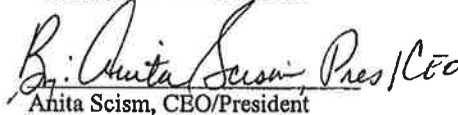
OWNER:



Neal Pendergraft, Trustee for the Neal R. Pendergraft Trust No. 1, Task Partner

WAC:

WALTON ARTS CENTER



Anita Scism, CEO/President

Copy

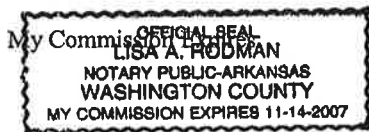
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County and State aforesaid, Neal Pendergraft, Trustee for the Neal R. Pendergraft Trust No. 1, Task Partner, to me well known as the person in the foregoing document, and stated that he had executed the same in said capacity for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 1st day of February, 2007.

Lisa A. Rodman
Notary Public



ACKNOWLEDGMENT

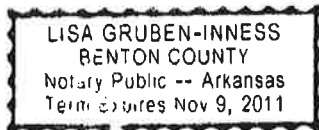
STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County and State aforesaid, Anita Scism, CEO/President of the Walton Arts Center, to me well known as the person in the foregoing document, and stated that she had executed the same in said capacity for the consideration, uses and purposes therein mentioned and set forth.

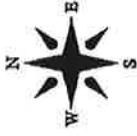
WITNESS my hand and seal as such Notary Public this 1st day of March, 2007.

Lisa Gruben-Inness
Notary Public

My Commission Expires:



Copy



TRACT 'A'

A PART OF THE WEST HALF (W1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 80 ACRE TRACT; THENCE S88°41'33"E ALONG THE SOUTH LINE OF SAID 80 ACRE TRACT 990.00 FEET; THENCE N01°12'19"E 34.62 FEET TO A SET 1/2" IRON REBAR ON THE NORTH RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY #180 FOR THE TRUE POINT OF BEGINNING; THENCE N01°12'19"E 1596.55 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 540; THENCE N88°33'10"W ALONG SAID RIGHT-OF-WAY LINE 357.60 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE N88°35'25"W ALONG SAID RIGHT-OF-WAY LINE 11.60 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE S01°12'19"W 1596.56 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID ARKANSAS HIGHWAY #180; THENCE S88°33'20"E ALONG SAID RIGHT-OF-WAY LINE 369.20 FEET TO THE POINT OF BEGINNING, CONTAINING 13.53 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 13.53 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

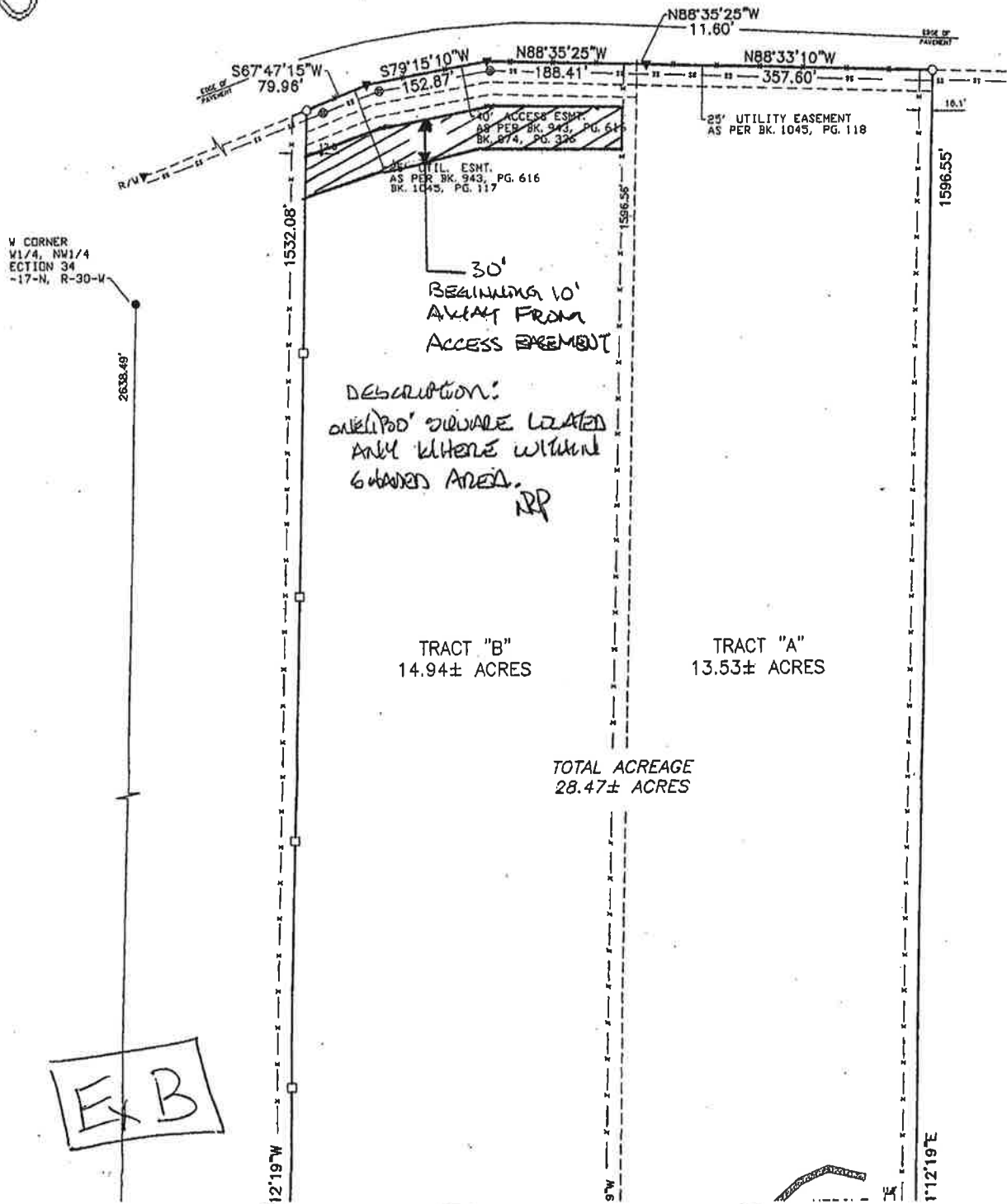
TRACT 'B'

A PART OF THE WEST HALF (W1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 80 ACRE TRACT; THENCE S88°41'33"E ALONG THE SOUTH LINE OF SAID 80 ACRE TRACT 620.80 FEET; THENCE N01°12'19"E 35.50 FEET TO A SET 1/2" IRON REBAR ON THE NORTH RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY #180 FOR THE TRUE POINT OF BEGINNING; THENCE N01°12'19"E 1596.56 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 540; THENCE N88°33'10"W ALONG SAID RIGHT-OF-WAY LINE 188.41 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S79°15'10"W ALONG SAID RIGHT-OF-WAY LINE 152.87 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE S67°47'15"W 79.96 TO A SET 1/2" IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY LINE S01°12'19"W 1532.08 FEET TO A SET 1/2" IRON REBAR ON THE NORTH RIGHT-OF-WAY LINE OF SAID ARKANSAS HIGHWAY #180; THENCE S88°33'20"E ALONG SAID RIGHT-OF-WAY LINE 411.33 FEET TO THE POINT OF BEGINNING, CONTAINING 14.94 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 13.53 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Exhibit A

Copy

INTERSTATE 540



Copy

AEP/SWEPCO
2109 S. 8th Street
Rogers, AR 72758

Doc ID: 011790520003 Type: REL
Recorded: 11/29/2007 at 12:52:22 PM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk
File: 2007-00043906

RIGHT-OF-WAY AND EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That **1155 Properties, L.L.C.**, (hereinafter referred to as "Grantors", whether one or more), for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid and given by Southwestern Electric Power Company (hereinafter referred to as "Grantee"), a Delaware corporation, whose address 428 Travis Street, P.O. Box 21106, Shreveport, LA 71156, the receipt and sufficiency of which is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto said Grantee an easement and right of way as hereinafter described for the perpetual right, privilege and authority to construct, operate, maintain, reconstruct and remove a line or lines of structures with wires and fixtures and other equipment related thereto (whether located in or on the ground or on said structures) for the transmission and distribution of electrical current and other forms of energy and for the transmission or communication of data, audio and video information upon, over, under and across the following described lands located in Section 34, Township 17 North, Range 30 West, Washington County, Arkansas to-wit:

An easement and right of way over and across a tract or parcel of land as described on Exhibit "A", attached and made a part hereof.

Grantee shall have the right of ingress and egress over, along and across adjacent lands owned, leased, or controlled by Grantors, to or from said right of way for any and all purposes relating to or in any way connected with the construction, operation, maintenance and use of lines, wires, structures, facilities and other property of Grantee located on the easement and right of way above described. Grantee shall have and is hereby granted the right to install gates in existing fences and culverts where needed to facilitate access to said right of way. Said gates and culverts shall be left in place and become landowner's property upon completion of Grantee's construction and right of way restoration activities, unless Grantor requests that they be removed before said restoration is completed. Grantee shall have and is hereby granted the right of constructing, reconstructing facilities and appurtenances as may be required in the future, and maintaining and removing said lines and appurtenances. Grantee shall have and is hereby granted the further right at all times to remove from said lands all undergrowth, trees and parts thereof (whether within or outside of said right of way), or other obstructions, which in the opinion of Grantee, constitute a hazard or endanger the safety and/or the reliability of said lines or their appurtenances and/or the public.

No building, structures or other improvements (other than fences which do not interfere with Grantee's use of the easement and right of way) may be constructed by Grantors above ground, and no trees (except fruit trees which do not endanger said line) shall be planted or permitted by grantors on said right of way.

Grantee will repair or pay for any actual damages to crops, fences and bridges which might be sustained during construction and maintenance of said transmission or distribution lines, and will pay the prevailing market price for any trees cut outside the easement area as above described.

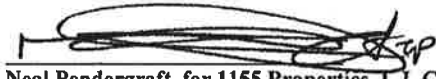
Copy

The cash consideration hereinabove mentioned is paid by Grantee and accepted by Grantor's as full and total payment for the easement and right of way, all trees, undergrowth or other obstructions, trimmed or removed from said lands during the construction and maintenance of Company's facilities, and for all other rights and privileges hereinabove set forth.

TO HAVE AND TO HOLD the above described easement and rights unto said Grantee, its successors and assigns, forever or until said right of way is fully abandoned.

Grantors agree to warrant and forever defend all and singular the above described easement and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim any part thereof.

Grantors for and in consideration of the said sum of money do hereby release and relinquish unto the said Grantee, all of Grantors rights of dower, curtesy and homestead in and to the said premises to the extent of the rights and privileges granted hereby.


Neal Pendergraft, for 1155 Properties, L.L.C., as Task Partner for 1155 Properties. L.P.,
sole member of 1155 Properties, L.L.C.

IN WITNESS WHEREOF, the hands and seals of Grantors are hereunto set, this 28th day of November, 2007.

Acknowledgement

On this the 28th day of November, 2007, before me, a Notary Public, personally appeared, **Neal Pendergraft**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes herein set forth.

In witness whereof I hereunto set my hand and official seal.



Notary Public

Fayetteville – North Fayetteville
LINE # 154D1
W/O # 40829115

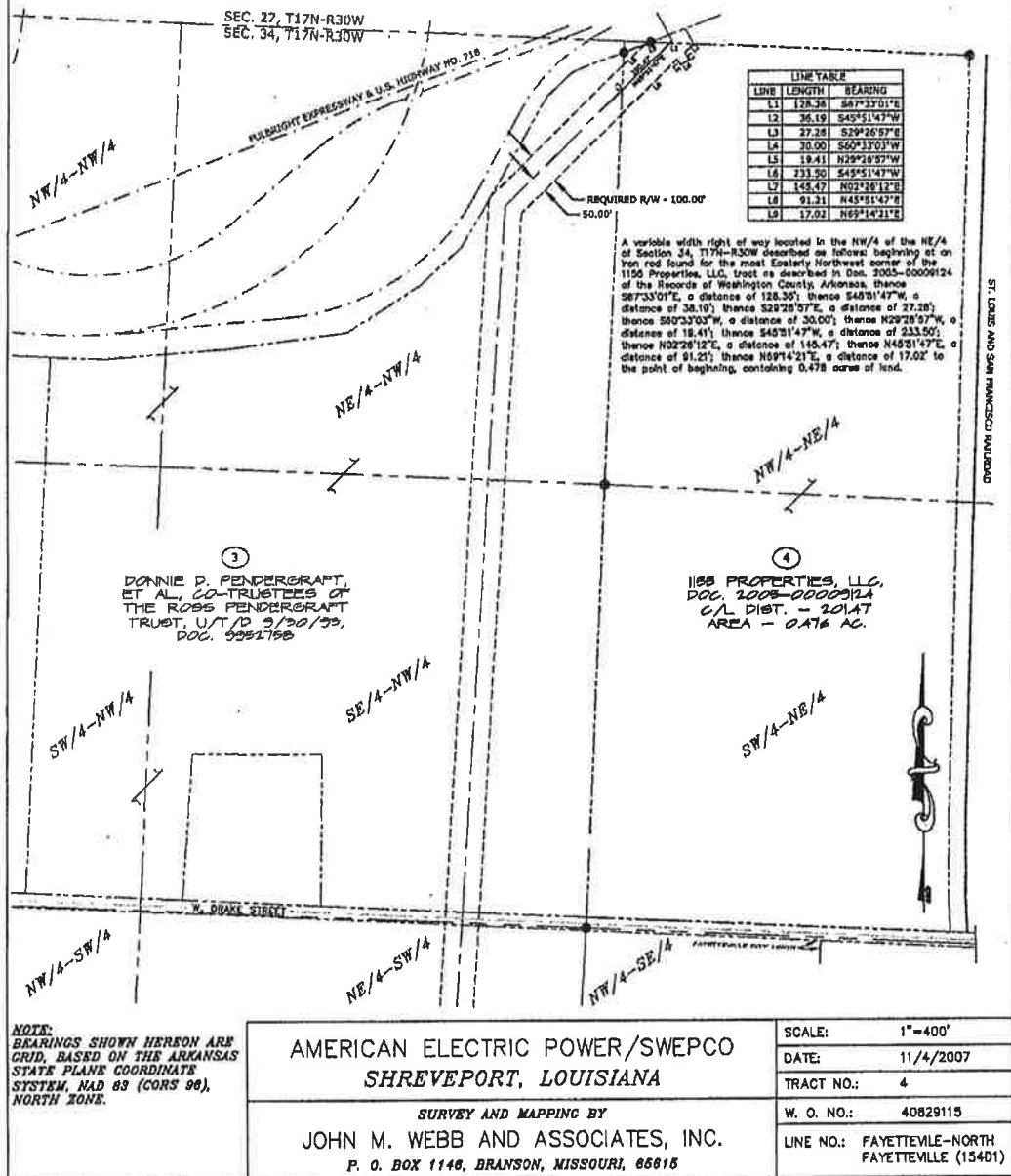
LISA A. RODMAN
NOTARY PUBLIC
WASHINGTON COUNTY-ARKANSAS
COMMISSION # 12363113
EXPIRES: NOVEMBER 15, 2017

Copy

Exhibit "A"

PLAT SHOWING

AN ELECTRIC TRANSMISSION LINE CROSSING THE PROPERTY OF 1155 PROPERTIES, LLC, LOCATED IN THE NW/4 OF THE NE/4 OF SECTION 34, T17N, R30W, FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS





File# 2003-00033924
Washington County, AR
Bette Stamps Circuit Clerk
Doc ID: 006079150001 Type: REL
Recorded: 06/26/2003 at 09:00:12 AM
Fee Amt: \$8.00 Page 1 of 1

- S.O.D. MONUMENT
- △ STAKE ON LINE
- CORNER
- SET IRON PIN
- FOUND IRON PIN
- STAKE ON PROP. LINE
- △ STATE MONUMENT
- △ SEWER HANGOFF
- SS- SANITARY SEWER LINE
- X- FENCE LINE



NEAL PENDERGRAFT

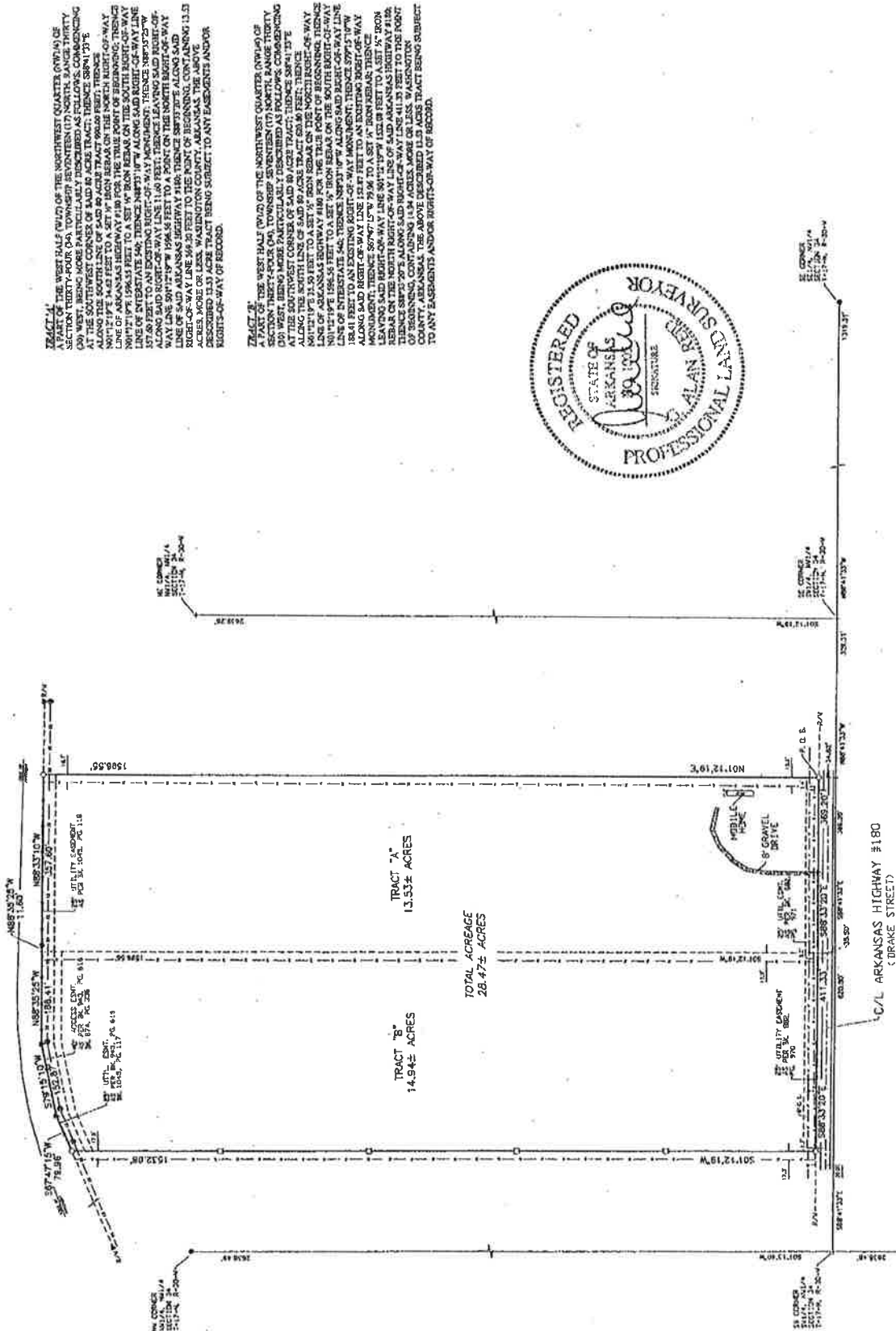
DATE	06/21/03	BY	ALAN RIED & ASSOC.
DATE	06/21/03	BY	118 E. COLLEGE AVE.
DATE	06/21/03	BY	PAITTSVILLE, AR
DATE	06/21/03	BY	479-444-1784
SCALE	1" = 100'	PROJECT NO.	00148

BASE OF BEARING: GEODETIC NORTH
G.P.S. OBSERVATION
TRIMBLE NAVIGATION
SYSTEM 4400

STATE LAND SURVEYOR FILE CODE
200-170-30W-2-34-409-12-1005



INTERSTATE 540



C/L ARKANSAS HIGHWAY #180
(DRAKE STREET)

TRACT "A"
13.53± ACRES

TRACT "B"
14.94± ACRES

TOTAL ACRES
28.47± ACRES

1155 PROPERTIES, LLC
 PARCEL NO. 765-15889-000
 RECORD DEED: 2004-00000965

NW 1/4, NW 1/4
 34-17-30

SW 1/4, NW 1/4
 34-17-30

PROPOSED
 RIGHT OF WAY
 AHTD JOB, BB0414

PROPOSED
 EASEMENT

1/2" REBAR LS1415
 SW CORNER
 SW 1/4 NW 1/4
 SECTION 34,
 T-17-N, R-30-W

S 87°24'17" E
 602.51'

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	11,646	0.27

LINE	ANGLE	DISTANCE
L1	N 02°31'22" E	30.43'
L2	S 77°47'17" E	8.10'
L3	S 87°06'30" E	77.97'
L4	S 02°29'38" W	30.00'
L5	N 87°06'30" W	83.54'
L6	N 77°47'17" W	0.11'

LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
		EXISTING EASEMENT LINE
		PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
 ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
 1 inch = 100 ft.



2049 EAST JOYCE BOULEVARD
 SUITE 400
 FAYETTEVILLE, ARKANSAS 72704
 479 527-9100

CITY OF FAYETTEVILLE
 FAYETTEVILLE, ARKANSAS
 AHTD NO. BB0414
 WATER & SEWER RELOCATIONS



JOB NO.
 14048160

DATE
 APRIL 14, 2015

"EXHIBIT A"

TRACT 7

Polyline Report

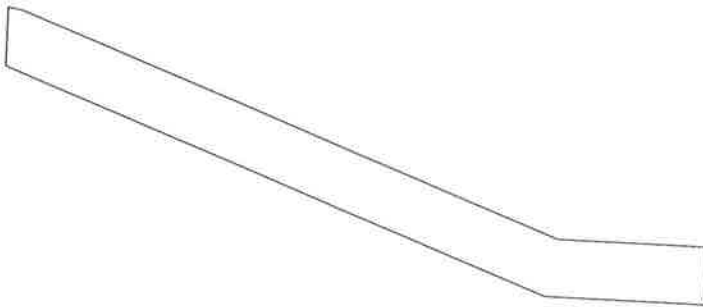
Mon Mar 16 15:06:24 2015

Northing	Easting	Bearing	Distance
652398.284	671147.818		
		N 02°31'22" E	30.434
652428.688	671149.158		
		S 77°47'17" E	8.103
652426.975	671157.077		
		S 66°50'23" E	302.076
652308.167	671434.809		
		S 87°06'30" E	77.974
652304.234	671512.683		
		S 02°29'38" W	30.001
652274.261	671511.378		
		N 87°06'30" W	83.544
652278.476	671427.940		
		N 66°50'23" W	304.564
652398.262	671147.921		
		N 77°47'17" W	0.105
652398.284	671147.818		

Closure Error Distance> 0.00000

Total Distance> 836.801

Polyline Area: 11645.5 sq ft, 0.267 acres



Tract: 7

Parcel: 765-15889-000

Owner: 1155 Properties, LLC

Record: 2004-00000965

WATER/SEWER EASEMENT

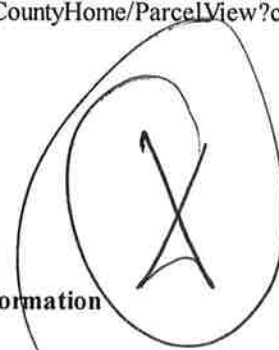
A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414.

Being more particularly described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E a distance of 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E a distance of 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E a distance of 8.10 feet, S66°50'23"E a distance of 302.08 feet, S87°06'30"E a distance of 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W a distance of 30.00 feet; thence leaving said East property line N87°06'30"W a distance of 83.54 feet; thence N66°50'23"W a distance of 304.56 feet; thence N77°47'17"W a distance of 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

Parcel: 765-15889-000
 Prev. Parcel: 148881-000-00
 As of: 2/9/2015 ID: 53175

Washington County Report



Property Owner		Property Information	
Name:	1155 PROPERTIES LLC	Physical Address:	1094 W DRAKE ST
Mailing Address:	PO BOX 4245 FAYETTEVILLE, AR 72702	Subdivision:	34-17-30 FAYETTEVILLE OUTLOTS
Type:	(AV) - Agri Use/Vacant	Block / Lot:	-- / --
Tax Dist:	(011) - FAYETTEVILLE SCH, FAY	S-T-R:	34-17-30
Millage Rate:	53.75	Size (in Acres):	13.450
Legal:	PT W/2 NW 13.45 AC.		

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$47,450	\$9,490	\$8,997
Building	\$0	\$0	\$0
Total	\$47,450	\$9,490	\$8,997

Homestead Credit: 0.00 **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land:

Land Use	Size	Units
Homesite	1.000	Acres
Pasture(12)	2.650	Acres
Pasture(02)	3.960	Acres
Pasture(13)	5.840	Acres

Deed Transfers:

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
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Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
8/26/2003		2004	965	Warr. Deed			1155 PROPERTIES LLC	Mobile Home	Improved
4/8/2003		2003	21495	Warr. Deed			1155 PARTNERS LP, A NEVADA LIMITED PARTNERSHIP; THOMAS, MARY C. TTEE**		
4/8/2003		2003	21494	Trust Deed	4108.50	\$1,245,000	1155 PARTNERS LP, A NEVADA LIMITED PARTNERSHIP	Mobile Home	Improved
11/20/1998		98	103467	Warr. Deed	0.00	\$0	THOMAS, ZARA L., TRUSTEE ZARA L. THOMAS REVOCABLE TRUST; THOMAS, **	Additional Properties	
1/1/1985		880	421		0.00	\$0	THOMAS, MARY C. 1094 DRAKE		

Map:

Doc ID: 008865110003 Type: REL
Recorded: 01/09/2004 at 02:40:50 PM
Fee Amt: \$14.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk
File 2004-00000965

**WARRANTY DEED
(LIMITED PARTNERSHIP)**

KNOW ALL MEN BY THESE PRESENTS:

That 1155 Partners, LP, Grantor, operating under and by virtue of the laws of the State of Nevada by its General Partner, for the consideration of the sum of ten dollars and no/100...(\$10.00), in hand paid by 1155 Properties, LLC, an Arkansas limited liability company, Grantee the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Grantee, and unto Grantee's successors and assigns forever the following described land, situate in the County of Washington, State of Arkansas, to-wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD The same unto the said Grantee and unto its successors and assigns forever, with all appurtenances thereunto belonging. And Grantor hereby covenants with the said Grantee that Grantor will forever warrant and defend the title to said lands against all claims whatever, except easements and restrictions existing and/or of record, if any.

IN TESTIMONY WHEREOF, The name of the grantor is hereunto affixed by its General Partner, this 26th day of August, 2003.

1155 Partners, LP, a Nevada limited partnership



**Neal Pendergraft, Authorized Member of 1155
Management, LLC, General Partner**

EXHIBIT "A"

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 620.80 feet East of the West line of said Section 34 and running thence North 1,695.00 feet to the South Right-of-Way of U.S. Highway No. 71 by-pass; thence S 65°59'00" W along said Right-of-Way 446.90 feet; thence South 1,523.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 411.33 feet to the point of beginning, containing 15.19 acres, more or less

Subject to the reservation of an easement over and across the North 40 feet of the above described real property for Ingress and egress to the U.S. Highway 71 By-pass from real property conveyed on August 27, 1974, by Lottie M. Crouch and Nan Moore to Mary C. Thomas and filed for record in land record book 874 at page 362, land records of Washington County, Arkansas. Said entrance to said U.S. Highway No. 71 By-pass being located on real property conveyed on August 27, 1974 by Lottie M. Crouch and Nan Moore to Joe B. Crouch.

LESS AND EXCEPT:

A part of the NW ¼ of the NW ¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW Corner of the NW ¼ of the NW ¼ of Section 34; thence N 88°34'00" E along the North line 964.00 feet to a point; thence S 01°07'00" E, 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence S 65°51'00" W along said existing Right-of-Way line 198.80 feet to a point; thence S 65°47'00" W along said existing Right-of-Way line 201.50 feet to the point of beginning; thence S 01°05'00" E, 106.20 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S 89°08'00" W along said proposed Right-of-Way line 171.80 feet to a point; thence S 76°55'00" W along said proposed Right-of-Way line a distance of 152.90 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence N 65°48'00" E along said existing Right-of-Way line 298.20 feet to the point of beginning, containing .33 acres, more or less.

AND ALSO

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly describe as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 990.00 feet East of the West line of said Section 34 and running thence North 1,850.00 feet to the South Right-of-Way of U.S. Highway No. 71 By-pass; thence S 65°59'00" W along said Right-of-Way a distance of 401.14 feet; thence South 1,695.00 feet to the North Right-of-Way of said Highway No. 180; thence East along said Right-of-Way a distance of 369.20 feet to the point of beginning, containing 15.02 acres, more or less.

LESS AND EXCEPT:

A part of the NW ¼ of the NW ¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW Corner of the NW ¼ of the NW ¼ of Section 34, thence N 88°34'00" E along the North line a distance of 964.00 feet to a point; thence S 01°07'00" E, 769.70 feet to a point on the Southeasterly existing Right-of-Way of U.S. Highway No. 71 By-pass for the point of beginning; thence S 01°07'00" E, 264.70 feet to a point on the Southeasterly proposed Right-of-Way of relocated U.S. Highway No. 71; thence S 89°08'00" W along said proposed Right-of-Way line 368.40 feet to a point; thence N 01°05'00" W, 106.20 feet to a point on the Southeasterly Right-of-Way line of U. S. Highway No. 71 By-pass; thence N 65°47'00" E along said existing Right-of-Way line 201.50 feet to a point; thence N 65°51'00" E along said propose Right-of-Way line 198.80 feet to the point of beginning, containing 1.57 acres, more or less.

ACKNOWLEDGMENT

State of Arkansas)
County of Washington)SS

On this, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Neal Pendergraft to me personally well known, who stated that he was the authorized member of 1155 Management, LLC, General Partner of 1155 Partners, LP, a Nevada limited partnership, and that he was duly authorized in his capacity to execute the foregoing instrument purposes herein mentioned and set forth by signing the name of the partnership by himself as such member.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 26th day of August, 2003.



Lisa A. Rodman
Notary Public

Prepared by: Heritage Land Title of Arkansas
2153 E. Joyce Blvd. Suite 201
Fayetteville, AR 72703
479.442.6400

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

No Revenue Required; No Consideration Given
Grantee or Grantee's Agent

PO. Box 1948, Fayetteville, AR 72702
Address to send next tax statement

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

FILED *for Record*

That for and in consideration of One Dollar (\$1.00)

75 APR 14 4 11 PM '75

and other valuable considerations to the undersigned, Mary C. Thomas

WASHINGTON COUNTY, ARK.

ALMA KOLLMEYER

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: Part of Section 34, Township 17 North, Range 30 West, being more particularly described as follows, to-wit: Beginning at a point on the North right-of-way of State Hwy. 180, said point being 990.0 feet East of the West line of said section 34 and running thence North 1850.0 feet to the South right-of-way of U.S. Hwy. 71 By-Pass; thence S 65° 59' W along said right-of-way, a distance of 401.14 feet; thence South 1695.0 feet, to the North right-of-way of said Hwy. 180, thence East, along said right-of-way, a distance of 369.2 feet to the point of beginning. Containing 15.02 acres more or less.

RIGHT OF WAY DESCRIPTION: A part of the Southwest quarter of the Northwest quarter Section 34, T 17 N, R 30 W, more particularly described as follows, to-wit: A twenty five (25) feet wide strip North of a line beginning on the North right-of-way line of Highway 180 and 330.00 feet N 89° 33' W of the Southeast corner of said forty acre tract; thence N 89° 33' W 369.2 feet.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described; and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 7th day of April, 1975.



ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Mary C. Thomas, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that she had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 7th day of April, 1975.

My commission expires

October 1, 1978

Notary Public

VOL 882 971

RIGHT OF WAY GRANT FILED
FOR RECORD

TRACT NO.
STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

'77 NOV 16 PM 2: 27

That for and in consideration of

and other valuable considerations to the undersigned, Mary C. Thomas,

WASHINGTON COUNTY
ARKANSAS
ALMA KOLLMEYER
CIRCUIT CLERK

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines,

manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

Part of Section 34, Township 17 North, Range 30 West, being more particularly described as follows, to-wit: Beginning at a point on the North right of way of State Hwy. 180, said point being 990.0 feet East of the West line of said Section 34 and running thence North 1850.0 feet to the South right of way of U. S. Hwy. 71 Bypass; thence S 65° 59' W along said right of way, a distance of 401.14 feet; thence South 1695.0 feet, to the North right of way of said Hwy. 180, thence East, along said right of way, a distance of 369.2 feet to the point of beginning. Containing 15.02 acres more or less.

EASEMENT DESCRIPTION: A permanent easement of 25 feet of equal and uniform width and a temporary construction easement of 50 feet of equal and uniform width off of that part of the above real estate parallel with and contiguous with the south right of way line of U. S. Highway 71 Bypass.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 15th day of November, 1977.

Mary C. Thomas

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

943 810

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Mary C. Thomas, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that she had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 15th day of November, 1977.

My commission expires October 1, 1978 Ed D. Corneil Notary Public

That for and in consideration of
and other valuable considerations to the undersigned, Mary C. Thomas

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

Easement Description:

A permanent easement 25 feet of equal and uniform width and a temporary construction easement of 25 feet of equal and uniform width (parallel with and contiguous to said permanent easement) across a part of lands situated in the NW1/4 of the NW1/4 of Section 34, Township 17 North, Range 30 West, said lands more specifically described on page 421 of Deed Book 880 of the records of Washington County, Arkansas.

The northerly edge of said permanent easement is described as being the southerly right of way line of U. S. Highway 71 Bypass and further described as beginning at the east line of and 264.7 feet south of the northeast corner of lands described above, thence south 89° 08' west 368.4 feet. Grantor hereby reserves unto herself, her heirs and assigns, the right to connect a line or lines to the sewer line to be constructed within the easement without payment of any extension fee or fees charged by the City of Fayetteville. Nothing in this reservation is to be construed as requiring the City of Fayetteville to waive their usual tap fees for any such connection.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 10th day of June, 1981.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

ACKNOWLEDGMENT

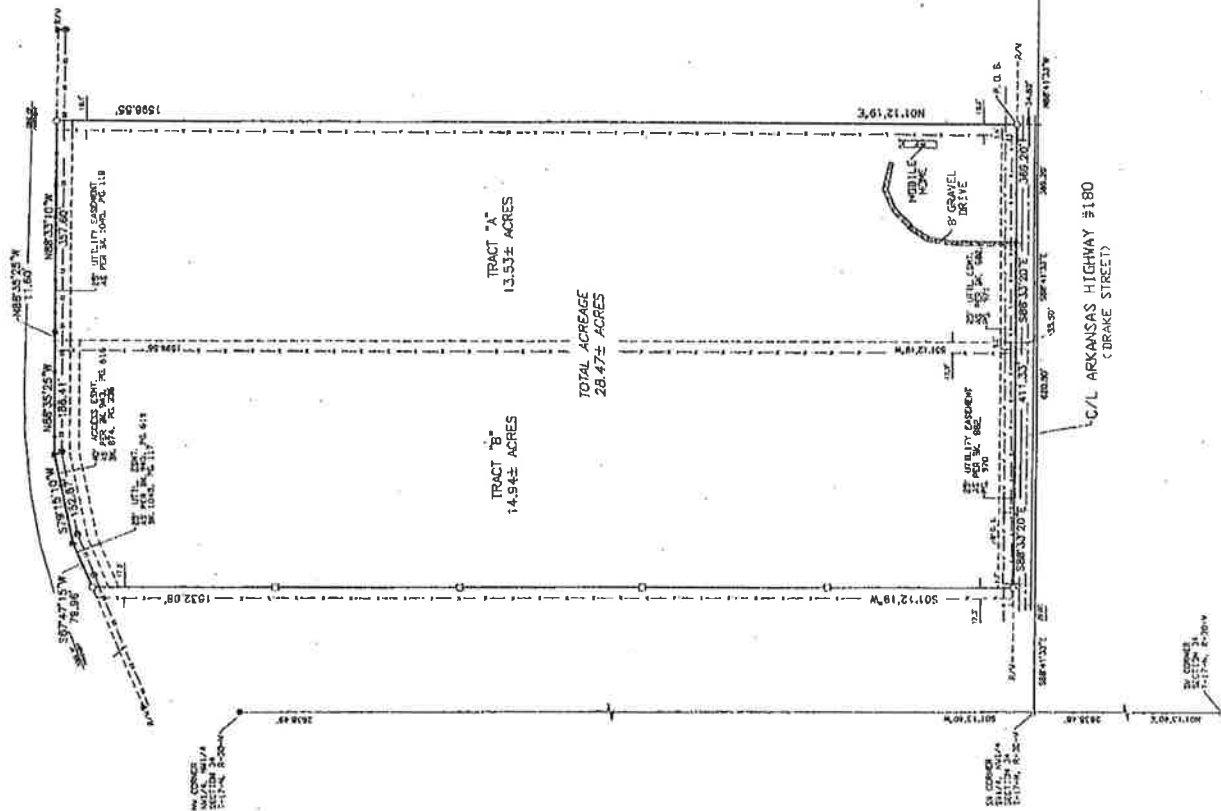
1045 116

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared MARY C. THOMAS, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that SHE had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 10th day of June, 1981.

Commission expires

Notary Public

[illegible][illegible]

DATE	TIME	DESCRIPTION
9. 0. 0.	MONUMENT	STAKE ON LINE
COMPUTED	CORNER	SET IRON PIN
FIND	IRON PIN	STAKE ON PROP. LINE
STATE	MONUMENT	SEWER MANHOLE
SEMI	SEWER	SEWER LINE
FENCE	LINE	

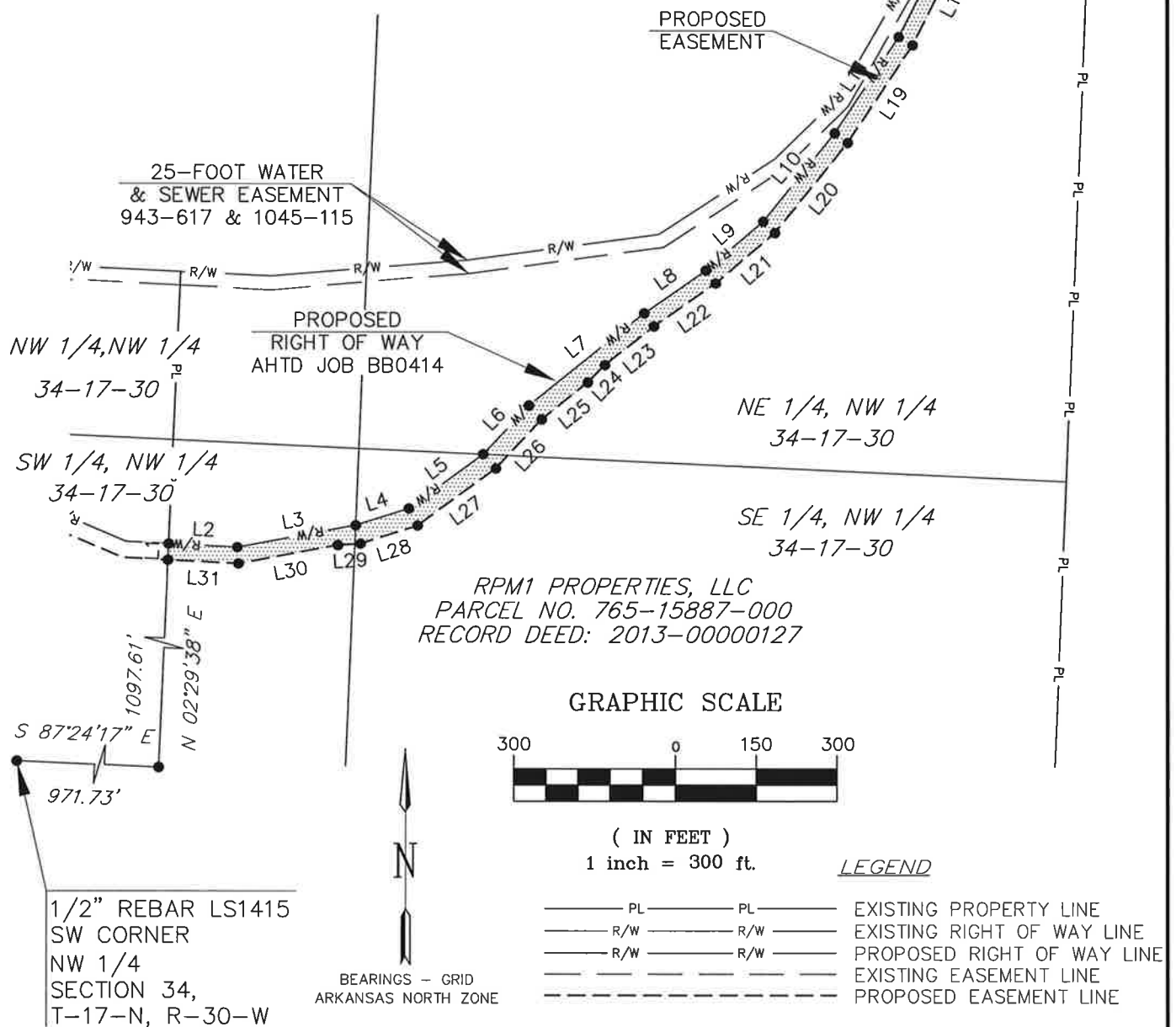
NEAL PENDERCRAFT	
DEATH	DATE
JCC	05/21/98
APPROVED	DATE
	ALAN RAY & ASSOC 118 S. COLLIER AVE. FAYETTEVILLE, AL 479-664-8784
SCALE	SHEET
1" = 160'	00348

BASIS OF BEARING-GEODETIC NORTH
G.P.S. OBSERVATION
TRIMBLE NAVIGATIONAL

STATE LAND SURVEYOR FILE CODE
500-17N-20W-2-34-403-72-1005

LINE	ANGLE	DISTANCE
L1	N 02°29'38" E	30.00'
L2	S 87°06'30" E	127.05'
L3	N 79°28'03" E	223.05'
L4	N 72°16'47" E	102.47'
L5	N 53°49'31" E	170.40'
L6	N 43°18'52" E	123.92'
L7	N 51°32'44" E	273.79'
L8	N 55°05'30" E	138.50'
L9	N 49°44'01" E	140.32'
L10	N 39°02'57" E	211.18'
L11	N 33°46'36" E	214.85'
L12	N 27°04'56" E	219.23'
L13	N 34°35'25" E	160.58'
L14	N 43°06'54" E	89.59'
L15	N 69°01'00" E	68.68'
L16	S 43°06'54" W	149.13'

LINE	ANGLE	DISTANCE
L17	S 34°35'25" W	156.37'
L18	S 27°04'56" W	219.02'
L19	S 33°46'36" W	217.99'
L20	S 39°02'57" W	215.37'
L21	S 49°44'01" W	144.53'
L22	S 55°05'30" W	138.98'
L23	S 51°32'44" W	114.91'
L24	S 45°15'53" W	45.70'
L25	S 51°32'44" W	110.00'
L26	S 43°18'52" W	124.62'
L27	S 53°49'31" W	179.30'
L28	S 72°16'47" W	110.04'
L29	S 86°17'59" W	41.70'
L30	S 79°28'03" W	187.69'
L31	N 87°06'30" W	130.37'



THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	69,995	1.61



2049 EAST JOYCE BOULEVARD
SUITE 400
FAYETTEVILLE, ARKANSAS 72704
479 527-9100

CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS
AHTD NO. BB0414
WATER & SEWER RELOCATIONS

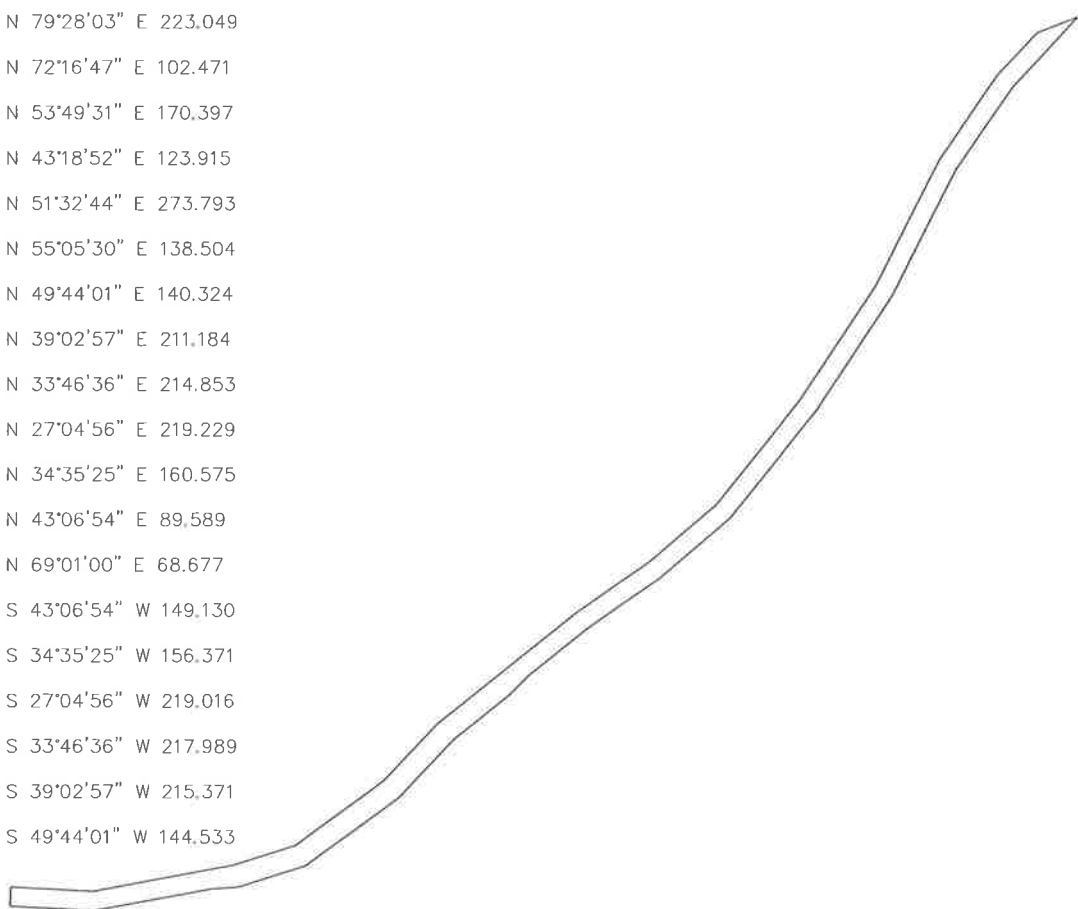


JOB NO.
14048160
"EXHIBIT A"

DATE
APRIL 14, 2015
TRACT
8

Polyline Report Fri Mar 13 10:37:11 2015

Northing	Easting	Bearing	Distance
652274.261	673533.464	N 02°29'38" E 30.001	
652304.234	673534.769	S 87°06'30" E 127.047	
652297.825	673661.655	N 79°28'03" E 223.049	
652338.597	673880.946	N 72°16'47" E 102.471	
652369.786	673978.556	N 53°49'31" E 170.397	
652470.363	674116.103	N 43°18'52" E 123.915	
652560.524	674201.109	N 51°32'44" E 273.793	
652730.793	674415.517	N 55°05'30" E 138.504	
652810.054	674529.101	N 49°44'01" E 140.324	
652900.751	674636.174	N 39°02'57" E 211.184	
653064.759	674769.217	N 33°46'36" E 214.853	
653243.346	674888.667	N 27°04'56" E 219.229	
653438.538	674988.475	N 34°35'25" E 160.575	
653570.729	675079.634	N 43°06'54" E 89.589	
653636.127	675140.864	N 69°01'00" E 68.677	
653660.720	675204.987	S 43°06'54" W 149.130	
653551.857	675103.061	S 34°35'25" W 156.371	
653423.127	675014.289	S 27°04'56" W 219.016	
653228.126	674914.578	S 33°46'36" W 217.989	
653046.932	674793.386	S 39°02'57" W 215.371	
652879.673	674657.705	S 49°44'01" W 144.533	
652786.256	674547.420	S 55°05'30" W 138.980	
652706.723	674433.447	S 51°32'44" W 114.915	
652635.258	674343.457	S 45°15'53" W 45.703	
652603.091	674310.991	S 51°32'44" W 110.003	
652534.681	674224.848	S 43°18'52" W 124.616	
652444.011	674139.361	S 53°49'31" W 179.302	
652338.177	673994.625	S 72°16'47" W 110.042	
652304.684	673889.804	S 86°17'59" W 41.698	
652301.993	673848.193	S 79°28'03" W 187.687	
652267.685	673663.668	N 87°06'30" W 130.370	
652274.261	673533.464		



Closure Error Distance> 0.00000
Total Distance> 4579.333
Polyline Area: 69994.5 sq ft, 1.607 acres

Tract: 8

Parcel: 765-15887-000

Owner: RPM1 Properties, LLC

Record: 2013-00000127

WATER/SEWER EASEMENT

A 30 foot easement South and East of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414.

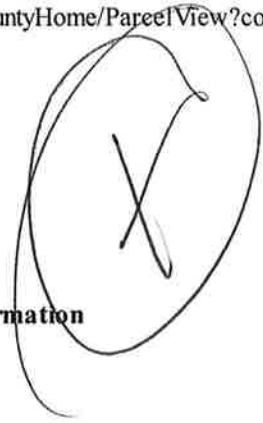
Being more particularly described as follows:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E a distance of 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E a distance of 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E a distance of 127.05 feet, N79°28'03"E a distance of 223.05 feet, N72°16'47"E a distance of 102.47 feet, N53°49'31"E a distance of 170.40 feet, N43°18'52"E a distance of 123.92 feet, N51°32'44"E a distance of 273.79 feet, N55°05'30"E a distance of 138.50 feet, N49°44'01"E a distance of 140.32 feet, N39°02'57"E a distance of 211.18 feet, N33°46'36"E a distance of 214.85 feet, N27°04'56"E a distance of 219.23 feet, N34°35'25"E a distance of 160.58 feet, N43°06'54"E a distance of 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E a distance of 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W a distance of 149.13 feet; thence S34°35'25"W a distance of 156.37 feet; thence S27°04'56"W a distance of 219.02 feet; thence S33°46'36"W a distance of 217.99 feet; thence S39°02'57"W a distance of 215.37 feet; thence S49°44'01"W a distance of 144.53 feet; thence S55°05'30"W a distance of 138.98 feet; thence S51°32'44"W a distance of 114.91 feet; thence S45°15'53"W a distance of 45.70 feet; thence S51°32'44"W a distance of 110.00 feet; thence S43°18'52"W a distance of 124.62 feet; thence S53°49'31"W a distance of 179.30 feet; thence S72°16'47"W a distance of 110.04 feet; thence S86°17'59"W a distance of 41.70 feet; thence S79°28'03"W a distance of 187.69 feet; thence N87°06'30"W a distance of 130.37 feet to the POINT OF BEGINNING, containing 69,995 square feet or 1.61 acres, more or less.

8

Parcel: 765-15887-000
 Prev. Parcel: 148880-000-00
 As of: 2/9/2015 ID: 53172

Washington County Report



Property Owner

Name: RPM1 PROPERTIES LLC

Mailing Address: 1770 N GREGG #11
 FAYETTEVILLE, AR 72703

Type: (AV) - Agri Use/Vacant

Tax Dist: (011) - FAYETTEVILLE SCH,
 FAY

Millage Rate: 53.75

Property Information

Physical Address:

Subdivision: 34-17-30 FAYETTEVILLE
 OUTLOTS

Block / Lot: -- / --

S-T-R: 34-17-30

Size (in Acres): 76.020

Legal: PT NE NW PT SE NW PT E/2 E/2 W/2 NW 76.02 AC FURTHER DESCRIBED FROM 2013-127 AS: Part of the Northwest Quarter (NW 1/4) of Section Thirty-Four (34), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, described as follows, to-wit: Beginning at the Southeast corner of the said Northwest Quarter (NW 1/4) and running thence N00 Degrees 05' 21" W 2565.78 feet to the South line of the Arkansas State Highway Commission Right of Way; thence along said Right of Way line, S66 Degrees 33' 41" W 145.31 feet, S45 Degrees 02' 15" W 107.74 feet, S27 Degrees 28' 44" W 517.93 feet, S43 Degrees 37' 19" W 163.19 feet, S54 Degrees 22' 38" W 256.17 feet, S79 Degrees 4 7' 51" W 358.46 feet, S82 Degrees 53' 50" W 364.0 feet, S89 Degrees 53' 44" W 167.44 feet; thence leaving said Right of Way line and running S00 Degrees 00' 01" E 1588.21 feet; thence S89 Degrees 39' 28" E 466.92 feet; thence N01 Degrees 30' 39" E 431.40 feet; thence N87 Degrees 37' 53" E 383.

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$58,150	\$11,630	\$11,630
Building	\$0	\$0	\$0
Total	\$58,150	\$11,630	\$11,630
Homestead Credit:	0.00	Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.	

Land:

Land Use	Size	Units
----------	------	-------

Land Use	Size	Units
Misc(59)	6.020	Acres
Pasture(02)	0.780	Acres
Pasture(12)	7.510	Acres
Pasture(02)	6.910	Acres
Pasture(04)	7.060	Acres
Pasture(13)	47.740	Acres

Deed Transfers:

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
12/27/2012		2013	127	Warr. Deed			RPM1 PROPERTIES LLC		
2/6/2012		2012	30261	Warr. Deed			PENDERGRAFT, ROSS TRUST		
6/8/1999		99	52758	Trust Deed	14850.00	\$4,500,000	PENDERGRAFT, ROSS TRUST	Valid	Land Only
1/1/1985		799	81		0.00	\$0	GREEN, P R TRUST		

Map:

Doc ID: 014963250003 Type: REL
Kind: WARRANTY DEED
Recorded: 01/02/2013 at 02:04:19 PM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Kyle Sylvester Circuit Clerk
File **2013-00000127**

WARRANTY DEED

KNOWN ALL MEN BY THESE PRESENTS:

That the **Ross Pendergraft Trust (utd 9/30/93)**, Grantor, by its Co-Trustees, Neal R. Pendergraft, Donnie D. Pendergraft and Lauri A. Mason, for the consideration of the sum of ten dollars and no/100 (\$10.00), in hand paid by **RPM1 Properties, LLC, an Arkansas Limited Liability Company**, Grantee the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Grantee, and unto Grantee's successors and assigns forever the following described land, situated in the County of Washington, State of Arkansas, to-wit:

Part of the Northwest Quarter (NW 1/4) of Section Thirty-Four (34), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, described as follows, to-wit: Beginning at the Southeast corner of the said Northwest Quarter (NW 1/4) and running thence N00 Degrees 05' 21" W 2565.78 feet to the South line of the Arkansas State Highway Commission Right of Way; thence along said Right of Way line, S66 Degrees 33' 41" W 145.31 feet, S45 Degrees 02' 15" W 107.74 feet, S27 Degrees 28' 44" W 517.93 feet, S43 Degrees 37' 19" W 163.19 feet, S54 Degrees 22' 38" W 256.17 feet, S79 Degrees 47' 51" W 358.46 feet, S82 Degrees 53' 50" W 364.0 feet, S89 Degrees 53' 44" W 167.44 feet; thence leaving said Right of Way line and running S00 Degrees 00' 01" E 1588.21 feet; thence S89 Degrees 39' 28" E 466.92 feet; thence N01 Degrees 30' 39" E 431.40 feet; thence N87 Degrees 37' 53" E 383.01 feet; thence S01 Degrees 58' 26" E 450.30 feet; thence S89 Degrees 47' 21" E 778.31 feet to the point of beginning, and being subject to easements and right of ways of record.

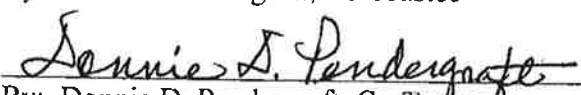
TO HAVE AND TO HOLD the same unto the said Grantee and unto its successors and assigns forever, with all appurtenances thereunto belonging. And Grantor hereby covenants with the said Grantee that Grantor will forever warrant and defend the title to said lands against all claims whatever, except easements and restrictions existing and/or of record, if any.

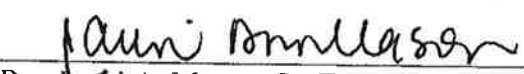
IN TESTIMONY WHEREOF, the name of the grantor is hereunto affixed by its Co-Trustees, this 21 day of DECEMBER, 2012.

F:\doc\mrp\rpm1\warrantydeed-greenproperty.wpd

Ross Pendergraft Trust (utd 9/30/93)


By: Neal R. Pendergraft, Co-Trustee


By: Donnie D. Pendergraft, Co-Trustee


By: Lauri A. Mason, Co-Trustee

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

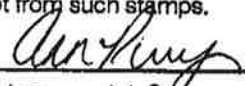
On this, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Neal R. Pendergraft to me personally well known, who stated that he was the Co-Trustee of the Ross Pendergraft Trust, and was duly authorized to execute the foregoing document, and further stated that he had so signed, executed and delivered said document for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 27 day of December, 2012.


NOTARY PUBLIC



I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed in this instrument, or is exempt from such stamps.

Grantee 

Address 1770 N Gregg, # 11
Fayetteville, AR
72703

f:\doc\nrp\rpm1\warrantydecd-greenproperty.wpd

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Donnie D. Pendergraft, to me personally well known, who stated that she was the Co-Trustee of the Ross Pendergraft Trust, and was duly authorized to execute the foregoing document, and further stated that she had so signed, executed and delivered said document for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 27 day of December, 2012.



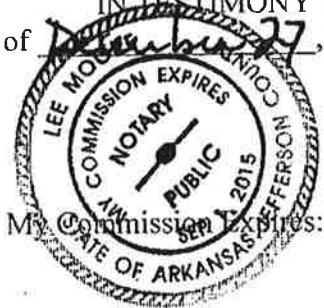
Lee Moore
NOTARY PUBLIC

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Lauri A. Mason, to me personally well known, who stated that she was the Co-Trustee of the Ross Pendergraft Trust, and was duly authorized to execute the foregoing document, and further stated that she had so signed, executed and delivered said document for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 27 day of December, 2012.



Lee Moore
NOTARY PUBLIC

f:\doc\nrp\rpm\warrantydeed-greenproperty.wpd

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of

and other valuable considerations to the undersigned,

Helen Louise Dunlap, Executrix of

P. R. Green (Estate)

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 17 NORTH, RANGE 30 WEST. CONTAINING 80 ACRES MORE OR LESS.

TWENTY ACRES OF EQUAL AND UNIFORM WIDTH OFF OF THE EAST SIDE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 17 NORTH, RANGE 30 WEST. CONTAINING 20 ACRES MORE OR LESS.

RIGH OF WAY DESCRIPTION: A PART OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 17 NORTH, RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: A TWENTY-FIVE FEET WIDE STRIP NORTH OF A LINE BEGINNING ON THE NORTH RIGHT-OF-WAY LINE HIGHWAY 180 AND SOUTHEAST CORNER OF SAID QUARTER SECTION, THENCE N 89° 33' W 777.60 FEET ALONG RIGHT-OF-WAY OF 180. ALSO A TWENTY-FIVE WIDE STRIP NORTH OF A LINE BEGINNING 118.7.10 FEET N 89° 33' W OF SOUTHEAST CORNER OF SAID QUARTER SECTION, ON NORTH RIGHT-OF-WAY LINE OF HIGHWAY 180, THENCE N 89° 33' W 463.91 FEET ALONG RIGHT-OF-WAY OF HIGHWAY 180, THENCE CONTAINING 0.71 ACRES MORE OR LESS.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 12 day of August, 1974.

Helen Louise Dunlap
Executrix of P. R. Green Estate

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Helen Louise Dunlap, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that she had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 12 day of Sept, 1974.

My commission expires Jan 18, 1975

Notary Public 882 514

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of

and other valuable considerations to the undersigned, William C. Whitfield, III

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

LEGAL DESCRIPTION: A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION THIRTY-FOUR (34), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 180, SAID POINT BEING N 89° 33' W A DISTANCE OF 277.6 FEET FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, AND RUNNING THENCE N 1° 57' W A DISTANCE OF 450.00 FEET, THENCE S 87° 45' E A DISTANCE OF 383.00 FEET, THENCE S 0° 42' W A DISTANCE OF 431.80 FEET TO SAID NORTH RIGHT-OF-WAY OF HIGHWAY 180, THENCE S 89° 33' E A DISTANCE OF 409.50 FEET TO THE POINT OF BEGINNING. CONTAINING 4 ACRES, MORE OR LESS.

RIGHT OF WAY DESCRIPTION: A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION THIRTY-FOUR (34), T 17 N, R 30 W, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: TWENTY-FIVE (25) FEET WIDE, NORTH OF A LINE BEGINNING AT A POINT 77.6 FEET N 89° 33' W FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, THENCE N 89° 33' W 409.50 FEET, ALONG NORTH RIGHT-OF-WAY OF SAID HIGHWAY 180, CONTAINING 0.24 ACRES, MORE OR LESS.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 30th day of August, 1974.

William C. Whitfield, III
Beverly P. Whitfield

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared William C. Whitfield, III, Ruth A. Whitfield, to me well known as the persons who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 30th day of August, 1974.

My commission expires

October 1, 1974

Notary Public
VOL 882 515

RIGHT OF WAY GRANT

TRACT NO. _____
STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of _____

and other valuable considerations to the undersigned, ... Helen Louise Dunlap, Executrix of the Estate of _____

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

Part of the North half of the Northwest Quarter of Section 34, part of the Southeast Quarter of the Southwest Quarter of Section 26, and part of the Southwest Quarter of the Southeast Quarter of Section 26, all in Township 17 North, Range 30 West, Washington County Arkansas.

EASEMENT DESCRIPTION:

A permanent easement of 25 feet of equal and uniform width and a temporary construction easement of 50 feet of equal and uniform width off of that part of the above described real estate running parallel with and contiguous to the south right of way line of U. S. Highway 71 Bypass.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil; and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof, this the 9th day of November, 1977.

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Cerald Jones, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that he had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 9th day of November, 1977.

My commission expires October 1, 1978 Ed M. Connell Notary Public

FILED
FOR RECORD
77 NOV 10 AM 11:30
WASHINGTON COUNTY
ARKANSAS
ALMA KOELNER, CLERK

RIGHT OF WAY GRANT

TRACT NO.

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of
and other valuable considerations to the undersigned,

Helen Louise Dunlap, Executrix

of P. R. Green

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement, to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

Easement Description:

A permanent easement 25 feet of equal and uniform width and a temporary construction easement of 25 feet of equal and uniform width (parallel with and contiguous to said permanent easement) across a part of lands situated in the NW1/4 of Section 34, Township 17 North, Range 30 West, said lands more specifically described on page of Deed Book of the records of Washington County, Arkansas.

The northerly edge of said permanent easement is described as being the southerly right of way line of U. S. Highway 71 Bypass and further described as beginning at the west line of and 264.7 feet south of the northwest corner of lands described above, thence north 89° 08' east 167.6 feet; thence north 81° 47' east 364 feet; thence north 78° 43' east 359 feet; thence north 53° 26' east 256 feet; thence north 42° 24' east 163.5 feet; thence north 26° 19' east 518.6 feet; thence north 44° 02' east 107.7 feet.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 21st day of May, 1981.

Gerald B. Green
Gerald B. Green, Attorney at Law

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

1045 115

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared *Gerald B. Green* Attorney at Law to me well known as the person(s) who executed the foregoing Right of Way Grant, and that *he* had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 21st day of May, 1981.

My commission expires *October 1, 1982*
Ed N. Connell
Notary Public

Copy

FILED FOR RECORD

'94 SEP 22 PM 12 11

WASHINGTON CO AR
A. KOLLMAYER

91BVR
TRACT NO. S-134
Project No. 91-5904
Parcel Nos. 765-18155-140
765-15783-000
765-15773-000

NOT IN
PROJ

RIGHT OF WAY GRANT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

BE IT KNOWN BY THESE PRESENTS:

That HELEN LOUISE DUNLAP, TRUSTEE of the P. R. GREEN TRUST, (herein styled Grantor), for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, cash in hand paid by the City of Fayetteville, the receipt of which is hereby acknowledged, do hereby GRANT, SELL AND CONVEY to the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, inspect, enlarge and operate a water transmission line, water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION:

The East Half (E½) of the Southwest Quarter (SW¼) AND the East Half (E½) of the West Half (W½) of the Southwest Quarter (SW¼) AND the East Half (E½) of the Northwest Quarter (NW¼) AND the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) AND the East Half (E½) of the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) AND All of the West Half (W½) of the Southeast Quarter (SE¼) lying West of the West right of way line of the Arkansas-Missouri Railroad, ALL in Section 27, Township 17 North, Range 30 West; ALSO, the East Half (E½) of the Northwest Quarter (NW¼) AND twenty (20) acres off the East side of the West Half (W½) of the Northwest Quarter (NW¼) of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, as described in Deed Book 799 at Pages 81 and 82 of the records of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION (In two segments):

Segment 1: A thirty (30) foot wide permanent utility easement of equal and uniform width located across a part of the above described property and being 2,085 feet, more or less, in length, said easement being fifteen (15) feet on both sides of the centerline of said easement, said centerline being more particularly described as follows: From the Southwest Corner of the SW¼ of the NW¼ of said Section 27, thence along the South line of said SW¼ of the NW¼ South 88° 16' 25" East 594.08 feet; thence North 02° 44' 10" East 95.00 feet to the Point of Beginning of Segment 1 of said centerline, said point being on the West line of the above described property; thence along said centerline South 85° 27' 17" East 1,114.62 feet to a point 15.00 feet North of the South line of an existing 100 foot wide SWEPCO easement which is recorded in Deed Book 682 at Page 344 of the records of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; thence South 88° 08' 34" East paralleling said South line a distance of 817.03 feet; thence South 36° 49' 10" East 48.97 feet to a point which is South 88° 16' 25" West 12.76 feet from the Southeast Corner of the SE¼ of the NW¼ of said Section 27; thence South 36° 49' 10" East 103.83 feet to a point which is 60.00 feet South of the South right of way line of Van Asche Drive, said point being the end of the 30 foot wide portion of the permanent utility easement.

Segment 2: A forty (40) foot wide permanent utility easement of equal and uniform width located across a part of the above described property and being 938 feet, more or less, in length, said easement being twenty (20) feet on both sides of the centerline of said easement, said centerline being more particularly described as follows: Commencing at the Southeast Corner of SE¼ of the NW¼ of said Section 27; thence South 88° 16' 25" West 12.76 feet; thence South 36° 49' 10" East 103.83 feet to a point which is 60.00 feet South of the South right of way line of Van Asche Drive, said point being the Point of Beginning of said 40 foot wide easement; thence along said centerline, paralleling the South right of way line of Van Asche Drive South 86° 45' 22" East 938.06 feet to the West right of way line of the Arkansas-Missouri Railroad and the end of the 40 foot wide portion of the permanent utility easement.

Segments 1 and 2 are 3,023 feet, more or less, in total length and contain 2.30 acres, more or less, in total area. The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

94057435

copy

RIGHT OF WAY GRANT

HELEN LOUISE DUNLAP, TRUSTEE of the P. R. GREEN TRUST

Tract No. S-134

Page 2 of 3

TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION (In two segments):

Segment 1: A temporary construction easement fifty (50) feet in width being parallel with and contiguous to the above described Segment 1 (30 foot wide portion) of the permanent utility easement and situated on the South side thereof.

Segment 2: A temporary construction easement forty (40) feet in width being parallel with and contiguous to the above described Segment 2 (40 foot wide portion) of the permanent utility easement and situated on the North side thereof.

These temporary construction easements contain 3.25 acres, more or less, in total area and shall terminate when the hereinabove referenced project has been completed and accepted by the City of Fayetteville, Arkansas.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said right of way other than fences and said fences shall not exceed six (6) feet in height. It is the understanding of all parties to this agreement that the Grantor shall not be required to remove or modify any permanent structure or building located within the above described temporary construction easement at the time of the execution of this Right of Way Grant.

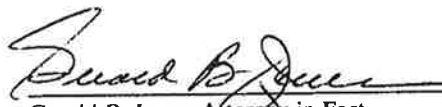
The Grantee shall have the right to construct additional pipe lines upon the above described permanent easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this grant in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof this the 17th day of Sept, 1994.

HELEN LOUISE DUNLAP, TRUSTEE
of the P. R. GREEN TRUST



Gerald B. Jones, Attorney in Fact
for Helen Louise Dunlap, Trustee

94057436

Copy

RIGHT OF WAY GRANT
HELEN LOUISE DUNLAP, TRUSTEE of the P. R. GREEN TRUST
Tract No. S-134
Page 3 of 3

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Gerald B. Jones, Attorney in Fact for Helen Louise Dunlap, Trustee, of the P. R. Green Trust,

to me well known as the person who executed the foregoing document, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 17th day of September, 1994.

Edmund D. Connell



MY COMMISSION EXPIRES:

05-01-2000

94057437

County of WASHINGTON

THAT DONNIE PENDERGRAFT, LAURI MASON, AND NEAL PENDERGRAFT C/O TRUSTEES
OF THE ROSS PENDERGRAFT MI TRUST u/t/d 9/15/03 of WASHINGTON COUNTY, ARKANSAS

ARKANSAS

An easement and right of way 130 feet in width and approximately 15 feet

WASHINGTON
B. STAMPS

01 AUG 15 AM 11 48

FILED FOR RECORD

Grantor further agrees that the easement and right of way described herein shall include the right to construct, install, maintain and repair necessary water lines and gas, water and sewer lines, conduits, pipes, valves and other appurtenant facilities and structures, and to install, maintain and repair any other facilities necessary or desirable.

Grantee will repair or pay for any actual damages to land, crops, fences and bridges which might be sustained during the construction and maintenance of said transmission or distribution lines, and will pay the prevailing market price for any trees cut outside the easement area as above described.

TO HAVE AND TO HOLD the above described easement and rights unto said Grantee, its successors and assigns, forever or until said right of way is finally abandoned.

And I, XX X XX X X X X X X X X X X X,
 wife of the said X X X X X X X X X X X X X X X X X X,
 for and in consideration of said sum of money, do hereby release and relinquish unto said Grantee all my right
 of dower and homestead in and to said premises to the extent of the rights and privileges granted hereby X

- Sennie S. Pendergast
 - ~~_____~~
 - Lavinia Olson

2001098119

WO # 22808907

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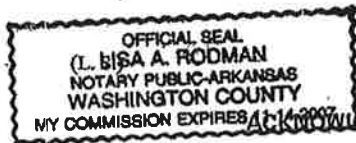
JOINT ACKNOWLEDGMENT

THE STATE OF ARKANSAS,

County of Washington

BE IT REMEMBERED, that on this day came before me, the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Danette Pendergraft, Lauri Mason and Neal Pendergraft, to me well known as the Grantors in the foregoing instrument, and acknowledged that they each had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public, on this 27th day of October, A. D. 2000



Lisa A. Rodman
Notary Public, Washington County, Arkansas.
My commission expires: 11-14-2007

ACKNOWLEDGMENT BY CORPORATION

THE STATE OF ARKANSAS,

County of _____

On this _____ day of _____, 19____, before me _____, a Notary Public duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named _____ and _____ to me personally well known, who stated that they were the _____ and the _____ of the _____ a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 19____.

Notary Public

My commission expires _____

CERTIFICATE OF RECORD

STATE OF _____ ss. _____
County of _____ ss. _____

I, _____, Clerk of the Circuit Court and Ex-Officio Recorder for the County aforesaid, do hereby certify that the within and foregoing instrument of writing was filed for record in my office on this _____ day of _____, 19____, at _____ o'clock _____ M., and the same is now duly recorded, with the acknowledgments and certificates thereon, in "Record Book _____," Page _____

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this _____ day of _____, 19____.

Clerk.

By _____ D. C.

Filed for Record
in Book _____ Page _____
at _____ M.
Clerk and Ex-Officio Recorder

2001098120

TO
SOUTHWESTERN ELECTRIC
POWER COMPANY

RIGHT-OF-WAY AND EASEMENT

Copy

AEP/SWEPCO
2109 S. 8th Street
Rogers, AR 72758

CAN'T PLACE
NO TIES TO CORNERS OR LINES



Doc ID: 011790510003 Type: REL
Recorded: 11/29/2007 at 12:51:48 PM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Bette Stamos Circuit Clerk

RIGHT-OF-WAY AND EASEMENT

File **2007-00043905**

KNOW ALL MEN BY THESE PRESENTS:

That Neal Pendergraft, Donnie D. Pendergraft and Lauri A. Mason, Co-Trustees of the Ross Pendergraft Trust u/t/d 9/30/93, (hereinafter referred to as "Grantors", whether one or more), for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid and given by Southwestern Electric Power Company (hereinafter referred to as "Grantee"), a Delaware corporation, whose address 428 Travis Street, P.O. Box 21106, Shreveport, LA 71156, the receipt and sufficiency of which is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto said Grantee an easement and right of way as hereinafter described for the perpetual right, privilege and authority to construct, operate, maintain, reconstruct and remove a line or lines of structures with wires and fixtures and other equipment related thereto (whether located in or on the ground or on said structures) for the transmission and distribution of electrical current and other forms of energy and for the transmission or communication of data, audio and video information upon, over, under and across the following described lands located in Section 34, Township 17 North, Range 30 West, Washington County, Arkansas to-wit:

An easement and right of way over and across a tract or parcel of land as described on Exhibit "A", attached and made a part hereof.

Grantee shall have the right of ingress and egress over, along and across adjacent lands owned, leased, or controlled by Grantors, to or from said right of way for any and all purposes relating to or in any way connected with the construction, operation, maintenance and use of lines, wires, structures, facilities and other property of Grantee located on the easement and right of way above described. Grantee shall have and is hereby granted the right to install gates in existing fences and culverts where needed to facilitate access to said right of way. Said gates and culverts shall be left in place and become landowner's property upon completion of Grantee's construction and right of way restoration activities, unless Grantor requests that they be removed before said restoration is completed. Grantee shall have and is hereby granted the right of constructing, reconstructing facilities and appurtenances as may be required in the future, and maintaining and removing said lines and appurtenances. Grantee shall have and is hereby granted the further right at all times to remove from said lands all undergrowth, trees and parts thereof (whether within or outside of said right of way), or other obstructions, which in the opinion of Grantee, constitute a hazard or endanger the safety and/or the reliability of said lines or their appurtenances and/or the public.

No building, structures or other improvements (other than fences which do not interfere with Grantee's use of the easement and right of way) may be constructed by Grantors above ground, and no trees (except fruit trees which do not endanger said line) shall be planted or permitted by grantors on said right of way.

Grantee will repair or pay for any actual damages to crops, fences and bridges which might be sustained during construction and maintenance of said transmission or distribution lines, and will pay the prevailing market price for any trees cut outside the easement area as above described.

Copy

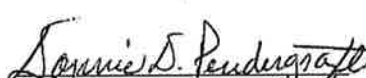
The cash consideration hereinabove mentioned is paid by Grantee and accepted by Grantor's as full and total payment for the easement and right of way, all trees, undergrowth or other obstructions, trimmed or removed from said lands during the construction and maintenance of Company's facilities, and for all other rights and privileges hereinabove set forth. Both parties understand that this easement is being granted to allow SWEPCO to relocate the existing transmission line that crosses Grantors' property. When that line has been removed, the right-of-way for it has been abandoned, and the new line rebuilt and energized, SWEPCO will release its easements over the then unused portion of right-of-way.

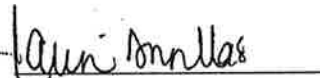
TO HAVE AND TO HOLD the above described easement and rights unto said Grantee, its successors and assigns, forever or until said right of way is fully abandoned.

Grantors agree to warrant and forever defend all and singular the above described easement and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim any part thereof.

Grantors for and in consideration of the said sum of money do hereby release and relinquish unto the said Grantee, all of Grantors rights of dower, curtesy and homestead in and to the said premises to the extent of the rights and privileges granted hereby.


Neal Pendergraft, Co-Trustee


Donnie D. Pendergraft, Co-Trustee


Lauri A. Mason, Co-Trustee

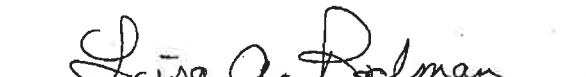
IN WITNESS WHEREOF, the hands and seals of Grantors are hereunto set, this 26th day of October, 2007.

Acknowledgement

On this the 26th day of October, 2007, before me, a Notary Public, personally appeared, **Neal Pendergraft, Donnie D. Pendergraft, and Lauri A. Mason**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes herein set forth.

In witness whereof I hereunto set my hand and official seal.



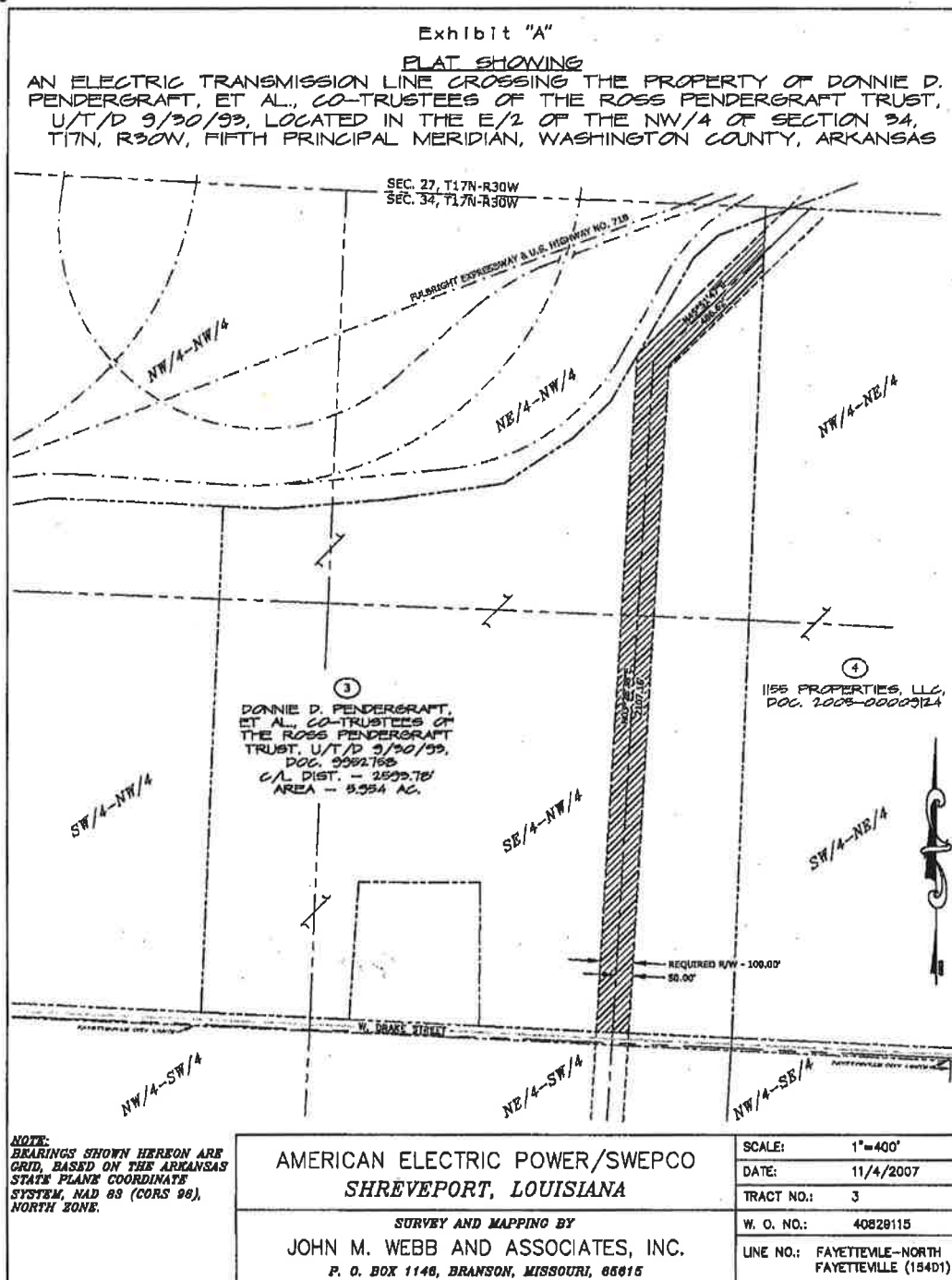

Notary Public

Fayetteville - North Fayetteville
LINE # 154D1
W/O # 40829115

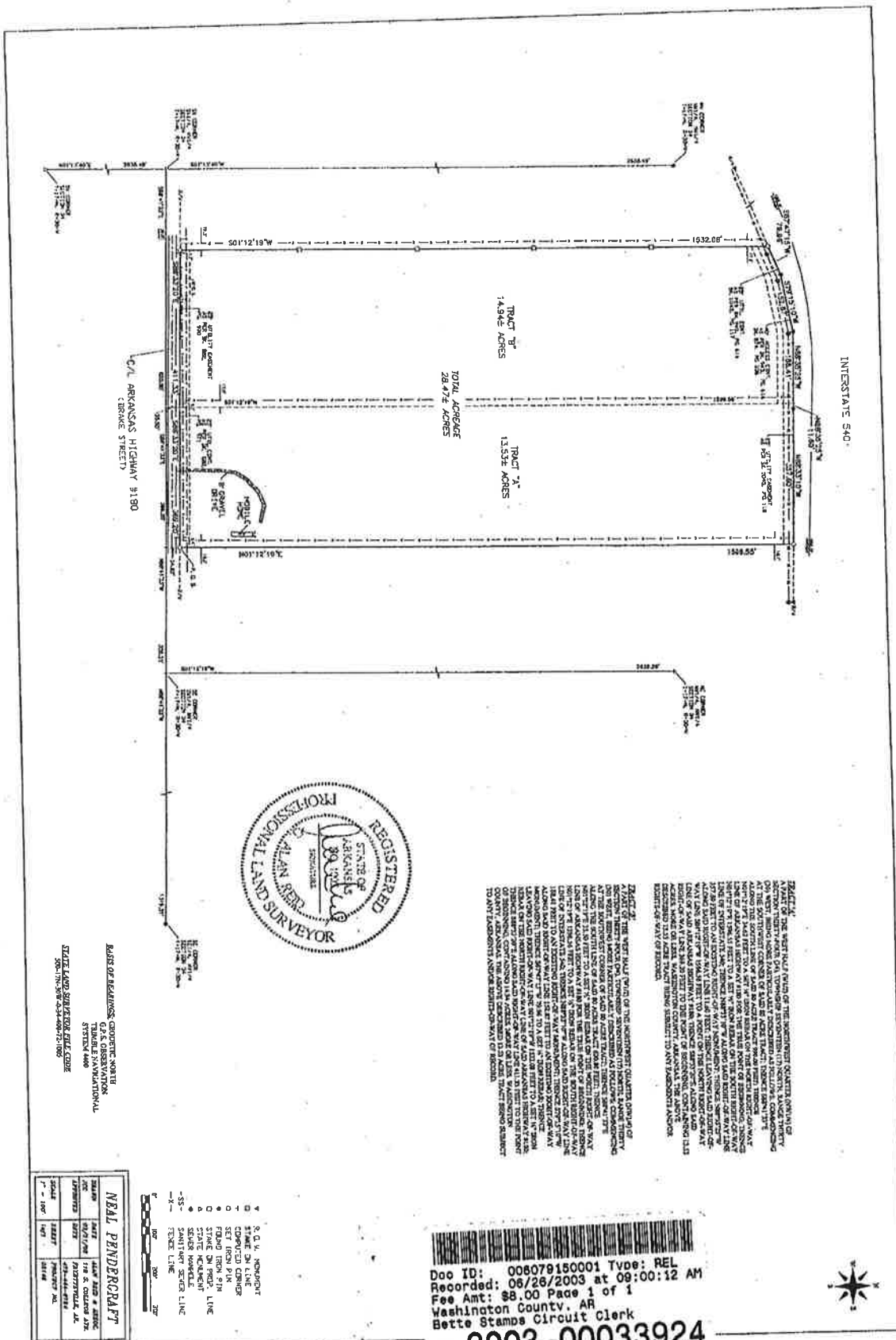
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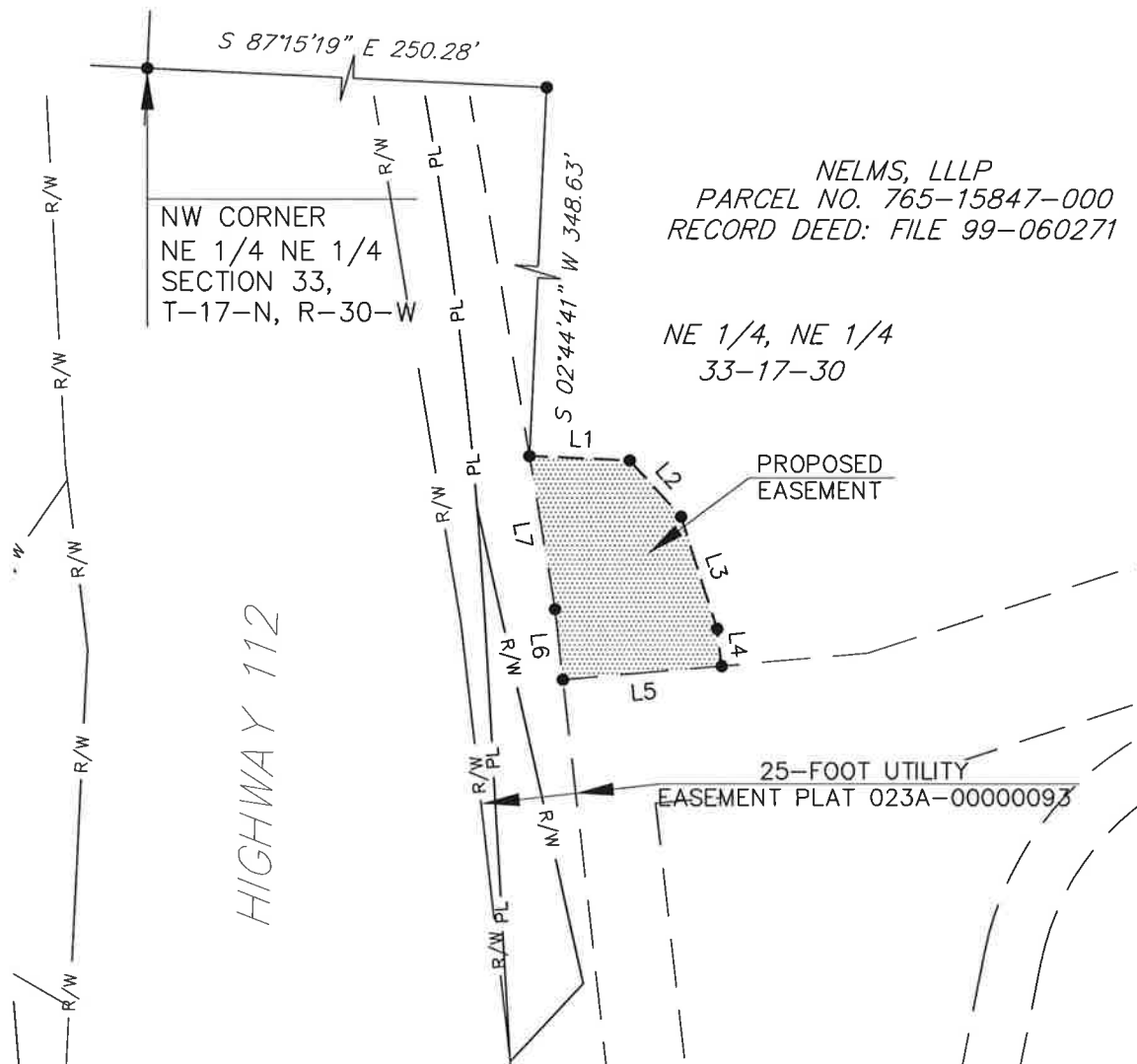
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BASIS OF BEARINGS: GEODETIC NORTH
 G.A. DISSEMINATION
 ATTEND 400
 STATE LAND SURVEYOR'S OFFICE
 2001 N. 3180 HWY 3180

NEAL PENDERGRAFT			
DATE	10/1/03	DATE	10/1/03
TIME	10:00 AM	TIME	10:00 AM
LOCATION	118 S. CHURCH AVE.	LOCATION	118 S. CHURCH AVE.
PROPERTY	118 S. CHURCH AVE.	PROPERTY	118 S. CHURCH AVE.
OWNER	118 S. CHURCH AVE.	OWNER	118 S. CHURCH AVE.
ADJACENT	118 S. CHURCH AVE.	ADJACENT	118 S. CHURCH AVE.
ADJACENT	118 S. CHURCH AVE.	ADJACENT	118 S. CHURCH AVE.

Doc ID: 006079150001 Type: REL
 Recorded: 06/26/2003 at 09:00:12 AM
 Fee Amt: \$8.00 Page 1 of 1
 Washington County, AR
 Bette Stamps Circuit Clerk
 File: 2003-00033924



NELMS, LLLP
 PARCEL NO. 765-15847-000
 RECORD DEED: FILE 99-060271

NE 1/4, NE 1/4
 33-17-30

25-FOOT UTILITY
 EASEMENT PLAT 023A-00000093

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	2,156	0.05

LINE	ANGLE	DISTANCE
L1	S 87°26'45" E	26.53'
L2	S 42°26'45" E	20.06'
L3	S 17°57'54" E	31.08'
L4	S 06°42'54" E	9.91'
L5	S 85°08'06" W	42.18'
L6	N 06°21'19" W	18.69'
L7	N 09°23'47" W	40.95'

LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
---	---	EXISTING EASEMENT LINE
---	---	PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
 ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
 1 inch = 50 ft.



2049 EAST JOYCE BOULEVARD
 SUITE 400
 FAYETTEVILLE, ARKANSAS 72704
 479 527-9100

CITY OF FAYETTEVILLE
 FAYETTEVILLE, ARKANSAS
 AHTD NO. BB0414
 WATER & SEWER RELOCATIONS

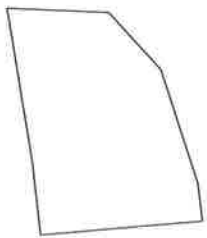


JOB NO.
 14048160

DATE
 APRIL 14, 2015

"EXHIBIT A"

TRACT
 10



Polyline Report

Thu Mar 19 15:19:20 2015

Northing	Easting	Bearing	Distance
653564.831	668920.633		
653563.649	668947.133	S 87°26'45" E	26.526
653548.843	668960.674	S 42°26'45" E	20.063
653519.275	668970.261	S 17°57'54" E	31.084
653509.431	668971.420	S 06°42'54" E	9.912
653505.853	668929.388	S 85°08'06" W	42.184
653524.425	668927.320	N 06°21'19" W	18.687
653564.831	668920.633	N 09°23'47" W	40.955

Closure Error Distance> 0.00000

Total Distance> 189.411

Polyline Area: 2156.2 sq ft, 0.049 acres

Tract: 10

Parcels: 765-15847-000

Owner: Nelms, LLLP

Record: 99060271

WATER/SEWER EASEMENT

A part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 33; thence S87°15'19"E a distance of 250.28 feet along the North line of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33; thence S02°44'41"W a distance of 348.63 feet to a point on the East line of an existing 25 foot utility easement shown on survey Plat 023A-00000093 Said point also being the POINT OF BEGINNING;

thence S87°26'45"E a distance of 26.53 feet; thence S42°26'45"E a distance of 20.06 feet; thence S17°57'54"E a distance of 31.08 feet; thence S06°42'54"E a distance of 9.91 feet to the North line of an existing utility easement shown on survey Plat 023A-00000093; thence S85°08'06"W a distance of 42.18 feet to a point on said East line of an existing 25 foot utility easement shown on survey Plat 023A-00000093; thence along said East line N06°21'19"W a distance of 18.69 feet; thence N09°23'47"W a distance of 40.95 feet to the POINT OF BEGINNING, containing 2,156 square feet or 0.05 acres, more or less.

Parcel: 765-15847-000
Prev. Parcel: 148843-000-00
As of: 2/9/2015 ID: 53111



Washington County Report

Property Owner

Name: NELMS LLLP

Mailing Address: PO BOX 1649
BENTON, AR 72018

Type: (CI) - Comm. Impr.

Tax Dist: (011) - FAYETTEVILLE SCH,
FAY

Millage Rate: 53.75

Legal: PT E/2 NE 15.91 AC.

Property Information

1310 W SHOWROOM DR, 1352
W SHOWROOM DR, 1384 W
SHOWROOM DR, 1384 W
SHOWROOM DR, 1418 W
SHOWROOM DR, 1320 W
Physical Address: TRANSPORT RD, 1380 W
TRANSPORT RD, 1394 W
TRANSPORT RD, 1400 W
TRANSPORT RD, 1450 W
TRANSPORT RD

Subdivision: 33-17-30 FAYETTEVILLE
OUTLOTS

Block / Lot: -- / --

S-T-R: 33-17-30

Size (in Acres): 15.910

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	\$1,153,500	\$230,700	\$230,700
Building	\$7,698,600	\$1,539,720	\$1,539,720
Total	\$8,852,100	\$1,770,420	\$1,770,420

Homestead Credit: 0.00 **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land:

Land Use	Size	Units
	15.910	Acres

Deed Transfers:

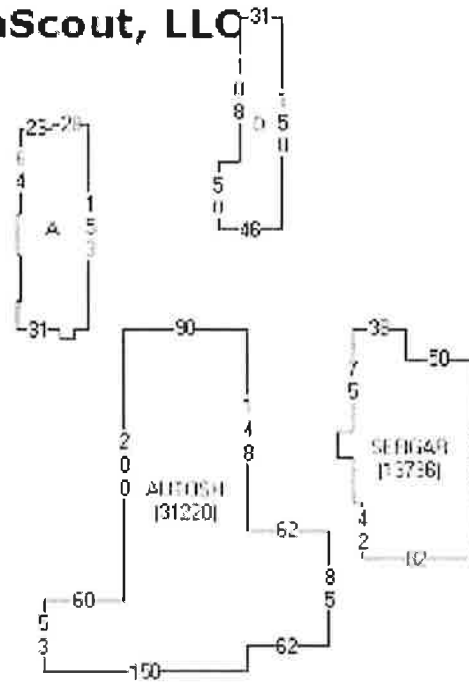
Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

Date	View Deed	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
6/28/1999		99	60271	Quit Claim	0.00	\$0	NELMS, LLLP	Additional Properties	
7/3/1995		95	32971	Warr. Deed	1732.50	\$525,000	NELMS, ROBERT D & MILLIE S	Inc. Additional Prop.	Land Only
1/1/1985		92	68859	Warr. Deed	132.00	\$120,000	CALABRIA, MERIAM J ET AL	Unval.	

Details for Commercial Card 1

Business Name(s): LANDERS TOYOTA**Number of Units:** 1**Total Floor Area:** 58,566**Site Work:** Excavate ; Fill ; Prep**Floor Cover:** None**Foundation:** Concrete**Ceilings:** None**Floor Struct:** Elevated Slab**Interior Finish** None**Struct Frame:** Conc.Blk**Insulation** Walls**Exterior Wall:** Conc.Blk : DryvTile**Appliances:** None**Ext. Wall Load:** NonLoadB**Plumbing:** Water.Cl : WaterHtr : Lavatory**Roof Struct:** Steel.JC**Electrical:** Avg.B**Roof Cover:** Tar&Grav**Misc:** 01, 02, 05, 08, 09

DataScout, LLO



Building: 1

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C2

Occupancy	Heating/Cooling	Sprinkler
Primary: Automotive Showrooms (65%)	H/A-NZ (65%)	Part.Dry (65%)
Secondary: Garages - Service (35%)	Steam (35%)	(0%)

Avg. Floor Area: 7,962 **Common Wall:**
Avg. Perimeter: 432 **Total Floor Area:** 7,962
No. Floors: 1 **Total Height:** 20
Avg. Floor Hgt: 20 **Unit Multiplier** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Canopies	STEEL	972			

Building: 2

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C2

Occupancy	Heating/Cooling	Sprinkler
-----------	-----------------	-----------

Primary: Automotive Showrooms (40%) H/A-NZ (60%) Part.Dry (60%)

Secondary: Garages - Service (60%) Steam (40%) (0%)

Avg. Floor Area: 31,220 **Common Wall:**

Avg. Perimeter: 930 **Total Floor Area:** 31,220

No. Floors: 1 **Total Height:** 20

Avg. Floor Hgt: 20 **Unit Multiplier** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Canopies	ALUM	580			
Canopies	STEEL	1472			

Building: 3

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C2

	Occupancy	Heating/Cooling	Sprinkler
Primary:	Garages - Service (55%)	Steam (55%)	Part.Dry (45%)
Secondary:	Automotive Showrooms (45%)	H/A-NZ (45%)	(0%)

Avg. Floor Area: 13,736 **Common Wall:**

Avg. Perimeter: 538 **Total Floor Area:** 13,736

No. Floors: 1 **Total Height:** 20

Avg. Floor Hgt: 20 **Unit Multiplier** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Canopies	STEEL	972			
Canopies	STEEL	820			

Building: 4

Age/YC: 2004 **Condition:** G **Effective Age:** 6 **Grade:** C3

	Occupancy	Heating/Cooling	Sprinkler

Primary: Garages - Service (100%) Steam (100%) (0%)

Secondary: (0%) (0%) (0%)

Avg. Floor Area: 5,648 **Common Wall:**

Avg. Perimeter: 408 **Total Floor Area:** 5,648

No. Floors: 1 **Total Height:** 18

Avg. Floor Hgt: 18 **Unit Multiplier** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Car Wash	DRVTEQ	2			
Car Wash	WDEQBY	9			

Details for Commercial Card 2

Business Name(s): LANDERS AUTO PARK
BODY SHOP,CHEVROLET,USED CARS

Number of Units: 1 **Total Floor Area:** 40,462

Site Work: Excavate ; Fill ; Prep **Floor Cover:** None

Foundation: Concrete **Ceilings:** None

Floor Struct: Elevated Slab **Interior Finish** None

Struct Frame: Conc.Blk **Insulation** Walls

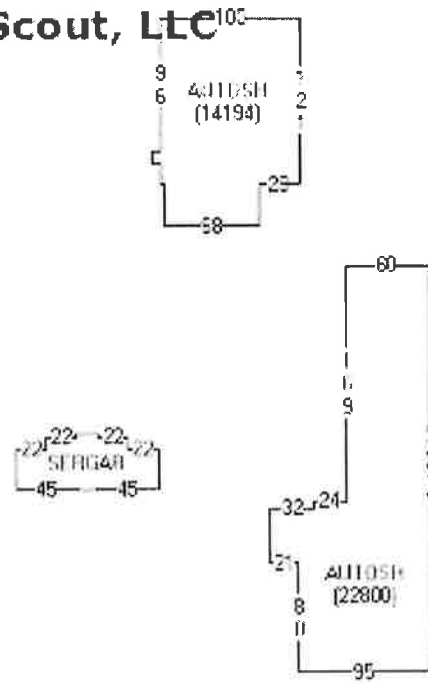
Exterior Wall: Conc.Blk : DryvTile **Appliances:** None

Ext. Wall Load: NonLoadB **Plumbing:** Water.Cl : WaterHtr : Lavatory

Roof Struct: Steel.JC **Electrical:** Avg.B

Roof Cover: Tar&Grav **Misc:** 01, 02, 05, 08, 09

DataScout, LLC



Building: 1

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C3

Occupancy	Heating/Cooling	Sprinkler
Primary: Garages - Service (85%)	Steam (85%)	Part.Wet (15%)
Secondary: Office Buildings - Comm. (15%)	H/A-NZ (15%)	(0%)

Avg. Floor Area: 14,194 **Common Wall:**

Avg. Perimeter: 514 **Total Floor Area:** 14,194

No. Floors: 1 **Total Height:** 20

Avg. Floor Hgt: 16 **Unit Multiplier:** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Fence, Chain Link	#9WIRE	6x380			

Building: 2

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C2

Occupancy	Heating/Cooling	Sprinkler
-----------	-----------------	-----------

Primary: Garages - Service (65%) Steam (65%) Part.Dry (35%)

Secondary: Automotive Showrooms (35%) H/A-NZ (35%) (0%)

Avg. Floor Area: 22,800 **Common Wall:**

Avg. Perimeter: 820 **Total Floor Area:** 22,800

No. Floors: 1 **Total Height:** 20

Avg. Floor Hgt: 20 **Unit Multiplier** 1

Outbuildings and Yard Improvements

Item	Type	Size/Dim.	Unit Multi.	Quality	Age
Canopies	STEEL	1360			
Canopies	STEEL	760			
Pumps, Gas	MECHDB		1		
Tanks, Under, Fuel, Fiberglass		12000			
Signs, Plastic Illum.	SFACEF	36			
Signs, Plastic Illum.	SFACEF	12			

Building: 3

Age/YC: 2000 **Condition:** G **Effective Age:** 10 **Grade:** C2

Occupancy	Heating/Cooling	Sprinkler
Primary: Automotive Showrooms (100%)	H/A-NZ (100%)	(0%)
Secondary: (0%)	(0%)	(0%)

Avg. Floor Area: 3,468 **Common Wall:**

Avg. Perimeter: 290 **Total Floor Area:** 3,468

No. Floors: 1 **Total Height:** 16

Avg. Floor Hgt: 16 **Unit Multiplier** 1

Map:

QUITCLAIM DEED

(HUSBAND AND WIFE)

KNOW ALL MEN BY THESE PRESENTS:

That we, Robert Don Nelms and Millie Sue Nelms, also known as Don Nelms and Millie Nelms, husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by

Nelms, LLLP, an Arkansas limited liability limited partnership

hereinafter called Grantee, do hereby grant, sell and quitclaim unto the said Grantee, and Grantee's heirs and assigns, the following described land, situate in

Washington County, State of Arkansas, to-wit:

TRACT I

A tract of land located within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33 and the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows:

Beginning at a 3/8" rebar found at the common corner of Sections 27, 28, 33, 34; thence along the common line of Sections 27 and 34 S87°00'52"E 336.13 feet to a found 1/2" rebar with plastic cap (LS1263) on the westerly right-of-way line of US Highway 71; thence along said westerly right-of-way line of US Highway 71 the following courses and distances; S13°26'17"W 145.14 feet to a found rebar with cap; thence S02°52'20"E 194.00 feet to a found rebar with cap; thence S14°30'03"E 150.77 feet to a found rebar with cap; thence S20°32'54"E 189.87 feet to a found rebar with cap; thence S54°17'37"W 155.31 feet to a found rebar with cap; thence S68°58'46"W 103.92 feet to a concrete post; thence S69°17'31"W 247.55 feet to the line common to said Sections 33 and 34; thence S69°17'31"W 303.05 feet to a concrete post; thence S66°10'50"W 358.57 feet to a concrete post; thence S71°03'37"W 213.47 feet to a concrete post; thence N70°55'36"W 97.20 feet to a found rebar with cap on the easterly right-of-way line of Arkansas Highway 112; thence along said easterly right-of-way line the following courses and distances: N15°46'57"W 204.33 feet to a found rebar with cap; thence N15°48'44"W 204.20 to a found rebar with cap; thence N06°16'15"W 200.00 feet to a found highway right-of-way marker; thence N06°21'33"W 249.22 feet to a found 1/2" rebar with cap; thence N09°24'28"W 159.05 feet; thence N16°50'10"W 104.37 feet to a found 1/2" rebar with cap; thence N23°08'21"W 163.39 feet to a found 1/2" rebar on the common line of Sections 28 and 33; thence leaving the said easterly right-of-way line of Arkansas Highway 112 S86°56'18"E 1226.73 feet to the Point of Beginning and containing 1,462,089 Square Feet or 33.5649 Acres, more or less.

TRACT II

A part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 17 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Commencing at the SW corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 35, said point being a 5/8 inch iron pin; thence along the South line of said Section 35, East 97.67 feet, to a 5/8 inch iron pin at the SE Corner of Plat DR1-631, for the Point of Beginning; thence along the East line of said plat DR1-631, North 325.38 feet to a 5/8 inch iron pin as shown on plat DR1-631, also being on the South line of Lot 5 of the Preliminary plat of Sunbridge East; thence along said South line, East 429.00 feet, to a 5/8 inch iron pin; thence S0°29'08"W 130.55 feet, to a 5/8 iron pin on the West right of way of College Avenue; thence along said right of way, S 12°06'24"W 199.27 feet, to a 5/8 inch iron pin on the South line of said Section

*Transfer to Capital partnership,
No stamp required.
Willie J. Smith
Grantor & Agent*

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WASHINGTON CO AR
K. HARNES

99060271

35; thence along the South line of said Section 35, West 386.10 feet, to the Point of Beginning, containing 3.10 acres more or less and being subject to the right of way of Township Road on the South side thereof and to any and all easements of record or fact.

TRACT III

A tract of land in the East Half (E½) of the Southeast Quarter (SE¼) of Section 28, and the West Half (W½) of the Southwest Quarter (SW¼) of Section 27, Township 17 North, Range 30 West in Washington County, Arkansas, being more fully described as follows: Commencing at the Northwest Corner of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼); thence North 89 degrees 42'32" East, along the North line thereof, 911.89 feet; thence South 00 degrees 40'00" East, 448.81 feet; thence South 02 degrees 45'56" East, along an existing fence, 300.00 feet to the Point of Beginning thence South 02 degrees 45'56" East, 1884.24 feet to a point on the South line of Section 28; thence South 89 degrees 49'09" East, along said line, 649.51 feet to a point on the West right-of-way line of Highway 71; thence following said right-of-way North 10 degrees 32'48" East, 367.70 feet; thence North 04 degrees 37'13" East, 238.29 feet; thence North 08 degrees 00'11" West, 372.85 feet; thence North 14 degrees 18'13" West, 206.22 feet; thence North 26 degrees 54'45" West, 399.56 feet; thence North 34 degrees 03'53" West, 301.66 feet; thence North 29 degrees 33'06" East, 126.30 feet; thence leaving said right-of-way West, 311.95 feet to the Point of Beginning. Containing 27.81 acres, more or less.

No Stamps Required. Transfer is by Gift.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns forever.

WITNESS our hands and seals on this 28 day of June, 1999.

THIS INSTRUMENT PREPARED BY:

Davis, Cox & Wright PLC
Attorneys at Law
19 East Mountain Street
P. O. Drawer 1688
Fayetteville, AR 72702-1688

Robert Don Nelms
Robert Don Nelms, a/k/a Don Nelms

Millie Sue Nelms
Millie Sue Nelms, a/k/a Millie Nelms

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid in the State of Arkansas, do hereby certify that Robert Don Nelms, aka Don Nelms, and Millie Sue Nelms, aka Millie Nelms, husband and wife, whose names are signed to the foregoing writing bearing date on the 28 day of June, 1999, has this day acknowledged the same before me in my jurisdiction aforesaid.

SUBSCRIBED AND SWORN to before me this 28 day of June, 1999.

My Commission Expires:

9-15-05

Stacey Canady
Notary Public

OFFICIAL SEAL
STACEY CANADY
Notary Public - AR
Washington County
MY COMMISSION EXPIRES 09-15-05

99060272

I hereby authorize Ozarks Electric to build, maintain, enlarge, and operate an electrical power line on my property as shown on this Work Order. Should it become necessary to change the location or extend the line, no construction will be done without my permission. I understand that Ozarks Electric is to have reasonable access to their line and have the right to cut, trim and control any trees and shrubbery which may interfere with or endanger the operation of the line.

Mari Calabria

ACKNOWLEDGMENT

STATE OF Texas SS
COUNTY OF Dallas

Before me, MARIE D. FRICKE, a Notary Public duly commissioned, qualified and acting within and for DALLAS County, Arkansas. On this day personally appeared MARI CALABRIA to me well known as the grantors in the foregoing instrument and stated that they had executed the same for the consideration and purposes therein mentioned and set forth. And on the same day also voluntarily appeared before me the said Mari Calabria wife of the said Mari Calabria to me well known, and in the absence of her husband declared that she had of her own free will signed and sealed the relinquishment, of dower and homestead in said instrument for the consideration and purposes therein contained and set forth without compulsion or undue influence of her said husband. In testimony whereof, I have hereunto set my hand and official this 4th day of February, A.D., 1985.

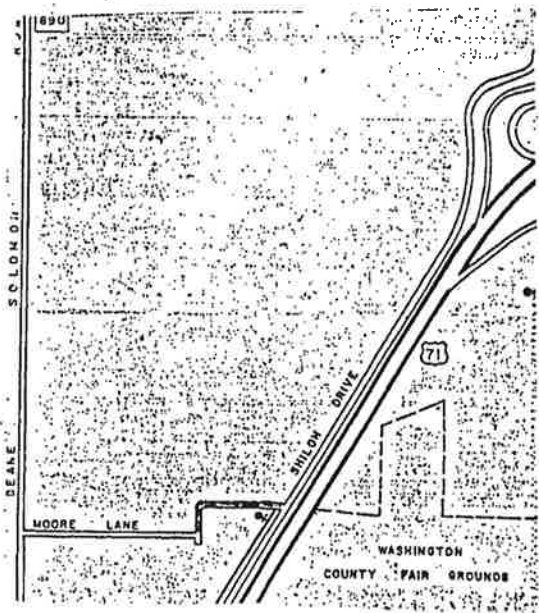
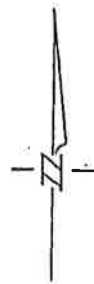
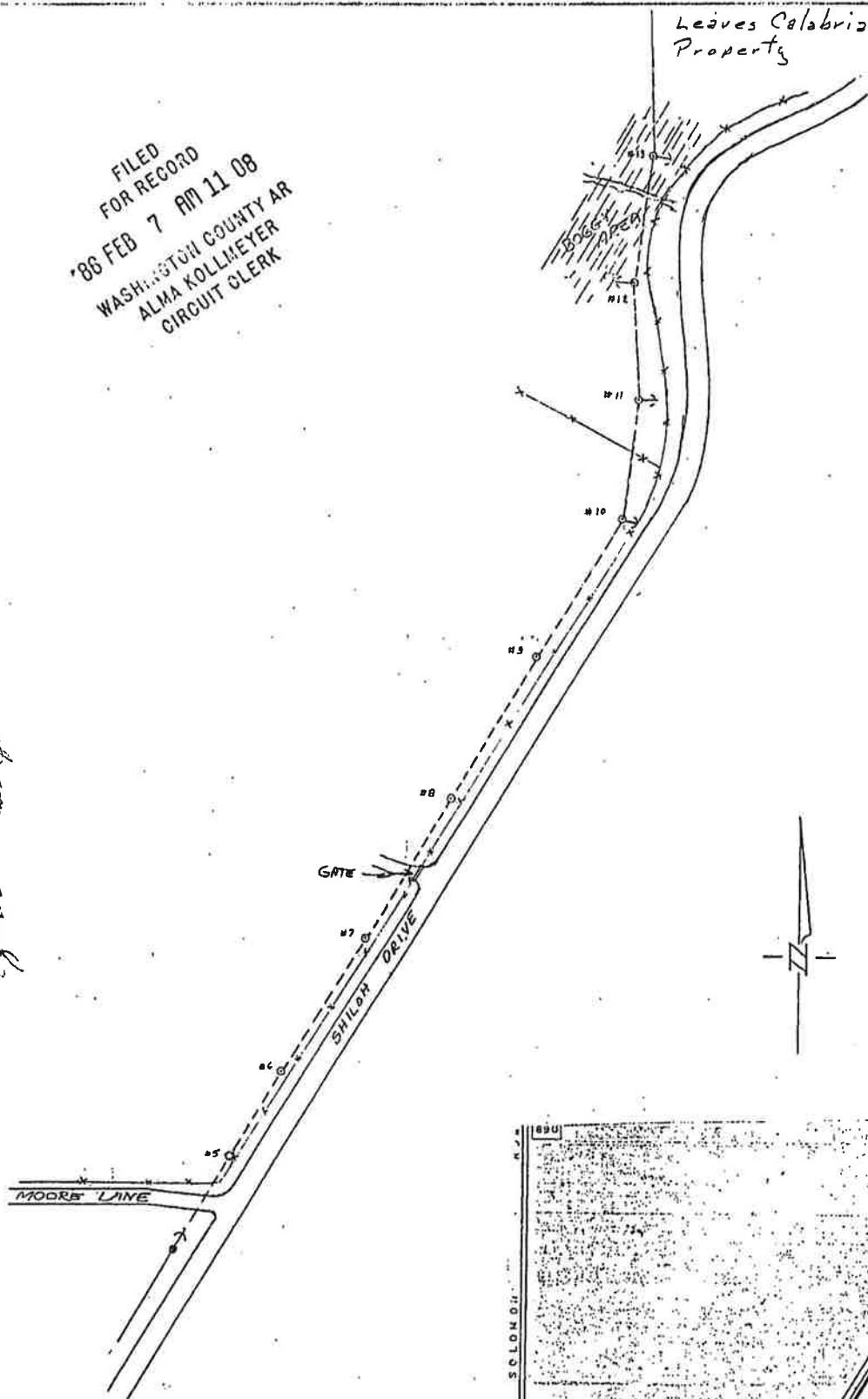


Mari D. Fricke
Notary Public in and for Texas County, Arkansas

My Commission expires 2-10-90.

FILED
FOR RECORD
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WASHINGTON COUNTY AR
ALMA KOLLMAYER
CIRCUIT CLERK

By 5/10



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Recorded: 12/13/2005 at 11:17:07 AM
Fee Amt: \$32.00 Page 1 of 8
Washington County, AR
Bette Stamps Circuit Clerk
File 2005-00055425

THIS INSTRUMENT PREPARED BY:
Timothy W. Grooms, Esq.
QUATTLEBAUM, GROOMS,
TULL & BURROW PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
501-379-1700

Fayetteville, Arkansas (Store #8209)

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement ("Agreement") is entered into by and between **LANDERS AUTO SALES, LLC**, a Delaware limited liability company and successor in interest to Landers Auto Sales, Inc. ("Landers") and **NELMS, LLLP**, an Arkansas limited liability company ("Nelms") (Landers and Nelms, collectively, "Dealership") and **SAM'S WEST, INC.**, an Arkansas corporation ("Sam's").

WHEREAS, Nelms owns certain real property depicted on Exhibit 1 and more particularly described on Exhibit 2 (the "Dealership Tract");

WHEREAS, Landers leases the Dealership Tract from Nelms;

WHEREAS, Dealership wishes to grant to Sam's a temporary construction easement over and across the Dealership Tract for the purpose of relocating a driveway pursuant to a separate written agreement between Dealership and Sam's.

NOW THEREFORE, for Ten and No/100 United States Dollars (\$10.00) and other good and valuable consideration including the terms, conditions, covenants, and provisions contained herein, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. **Incorporation of Recitals.** The recitals set forth in this Agreement are not mere recitals of fact but are contractual in nature and incorporated into this Agreement by reference, except in the event of a conflict between the incorporated recitals and the numbered sections of this Agreement, the numbered sections of this Agreement shall control.
2. **Dealership Grant of Temporary Construction Easement.** For and in consideration of Ten and No/100 Dollars (\$10.00) and subject to the terms and conditions set forth herein, Dealership grants, bargains, sells and conveys to Sam's, TO HAVE AND TO HOLD the same unto Sam's, its successors and assigns, the right of ingress, egress and access on, across and over the Dealership Tract for purpose relocating a driveway pursuant to a separate written agreement between Dealership and Sam's. Notwithstanding the foregoing, Sam's shall use of

Copy

this temporary construction easement shall be substantially confined to the area indicated on Exhibit 3.

3. **Binding Effect; Duration; Enforcement.** The Easement shall (a) touch, concern, encumber and run with the Dealership Tract in favor of the Sam's, its successors and assigns, (b) bind Dealership and all successors and assigns of Dealership, (c) be enforceable by Sam's, its successors and assigns, (d) expire on a date which is the earlier of: (i) thirty-six (36) months from the date this Agreement is placed of record in the real estate records of Washington County, Arkansas, or (ii) twelve (12) months from the date Sam's opens a new store on along Arkansas State Highway 112 and commences sales of merchandise and groceries to the general public and a traffic light is installed at the intersection of Arkansas State Highway 112 and Truckers Drive, and (e) remain in effect until the expiration date referenced in subparagraph 3(d), unless sooner terminated by written agreement executed by all persons or entities benefiting from or having rights pursuant to any portion of this Agreement or the Easement as provided herein and recorded in the real estate records of Washington County, Arkansas.
4. **No Adequate Remedy at Law.** Dealership agrees (i) violation or threatened violation of any provision of the Easement or this Agreement by Dealership cannot be adequately compensated solely by monetary damages; (ii) Sam's shall be entitled to equitable relief in the form of a temporary restraining order, injunction or otherwise for the sole and exclusive purpose of enforcing Sam's rights in and across the Dealership Tract; and (iii) Sam's shall additionally be entitled to a claim for monetary damages for breach hereof. In no event whatsoever shall Dealership, or any other party, have the right to prevent Sam's from using the easement for access purposes as set forth herein, the parties agreeing Sam's use of the access easement can never be enjoined or terminated for any reason whatsoever.
5. **Counterparts.** This Agreement, including all attached exhibits, may be executed at different times and in any number of originals or counterparts and by each party on a separate counterpart, each of which shall be deemed an original but all of which together shall constitute only one agreement, notwithstanding all the parties shall not have signed the same counterpart. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. Facsimile and email signatures shall be deemed valid on all documents related to this Agreement. Any signature page from one counterpart may be appended to another counterpart to create a fully executed counterpart hereof.
6. **Governing Law.** This Agreement shall be governed by the laws of the State of Arkansas and any disputes arising hereunder shall be adjudicated in the State of Arkansas.

Copy

7. **No Modification.** This agreement is specifically subject to, and does not contravene or modify, the separate written agreement between Sam's and Dealership concerning the relocation of the driveway.

[Signatures on following pages]

Copy

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this
17th day of November, 2005.

SAM'S WEST, INC.,
an Arkansas corporation

Approved as to legal terms only
by: BEU
WAL-MART, LEGAL DEPT
Date: 11/10/2005

By: [Signature]
Name: Robert Stoker
Title: Assistant Vice President

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

ACKNOWLEDGMENT

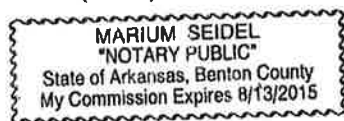
On this day, before me, a Notary Public, duly commissioned, qualified and acting, with
and for said County and State, appeared in person the within named
Robert W. Stoker, to me well known, who stated he/she was the
Assistant Vice President of Sam's West, Inc., an Arkansas corporation, and was duly
authorized in such capacity to execute the foregoing instrument for and in the name and on
behalf of the corporation, and further stated and acknowledged he/she had so signed, executed
and delivered the foregoing instrument for the consideration, uses and purposes therein
mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 17th
day of November, 2005.

[Signature]
Notary Public

My commission expires:

8.13.2015
(SEAL)



Copy

LANDERS AUTO SALES, LLC,
a Delaware limited liability company
and successor in interest to Landers Auto Sales, Inc.

By: [Signature]
Name: Dwight Everett
Title: AVP

STATE OF Arkansas
COUNTY OF Saline)ss:

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named Dwight Everett to me well known, who stated that he/she was the AVP of LANDERS AUTO SALES, LLC, a Delaware limited liability company, and was duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said company, and further stated and acknowledged that he/she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 3rd day of November, 2005.

[Signature]
Notary Public

My Commission Expires:
March 13, 2012
(SEAL)

Copy

NELMS, LLLP,
an Arkansas limited liability limited partnership

By: Robert D. Nelms
Robert D. Nelms, general partner

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named Robert D. Nelms, to me well known, who stated that he/ was the general partner of NELMS, LLLP, an Arkansas limited liability limited partnership, and was duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said partnership, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28
day of OCTOBER, 2005.

Dawn M. Fachting
Notary Public

My commission expires:

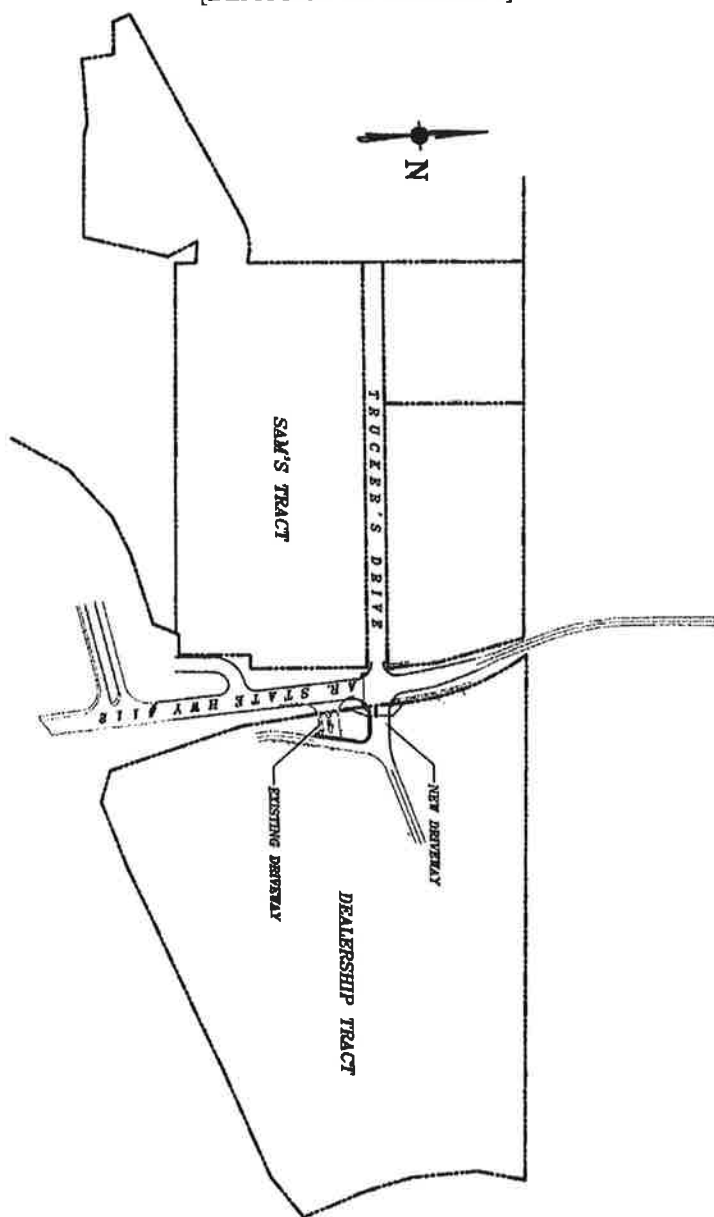
7-14-07
(SEAL)



Copy

EXHIBIT 1 TO TEMPORARY CONSTRUCTION EASEMENT

[DEPICTION OF PROPERTY]



Copy

EXHIBIT 2 TO TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION OF DEALERSHIP TRACT

A tract of land located within the NE/4 of the NE/4 of Section 33 and the NW/4 of the NW/4 of Section 34, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows:

Beginning at a 3/8" rebar found at the common corner of Sections 27, 28, 33, 34; thence along the common line of Sections 27 and 34 S87°00'52"E 336.13 feet to a found 1/2" rebar with plastic cap (LS1263) on the westerly Right-of-Way line of U.S. Highway 71; thence along said westerly Right-of-Way line of U.S. Highway 71 the following courses and distances; S13°26'17"W 145.14 feet to a found rebar with cap; thence S02°52'20"E 194.00 feet to a found rebar with cap; thence S14°30'03"E 150.77 feet to a found rebar with cap; thence S20°32'54"E 189.87 feet to a found rebar with cap; thence S54°17'37"W 155.31 feet to a found rebar with cap; thence S68°58'46"W 103.92 feet to a concrete post; thence S69°17'31"W 247.55 feet to the line common to said Sections 33 and 34; thence S69°17'31"W 303.05 feet to a concrete post; thence S66°10'50"W 358.57 feet to a concrete post; thence S71°03'37"W 213.47 feet to a concrete post; thence N70°55'36"W 97.20 feet to a found rebar with cap on the easterly Right-of-Way line of Arkansas Highway 112; thence along said easterly Right-of-Way line the following courses and distances: N15°46'57"W 204.33 feet to a found rebar with cap; thence N15°48'44"W 204.20 feet to a found rebar with cap; thence N06°16'15"W 200.00 feet to a found highway right-of-way marker; thence N06°21'33"W 249.22 feet to a found 1/2" rebar with cap; thence N09°24'28"W 159.05 feet; thence N16°50'10"W 104.37 feet to a found 1/2" rebar with cap; thence N23°08'21"W 163.39 feet to a found 1/2" rebar on the common line of Sections 28 and 33; thence leaving the said easterly Right-of-Way line of Arkansas Highway 112 S86°56'18"E 1226.73 feet to the Point of Beginning and containing 1,462,089 Square Feet or 33.5649 Acres, more or less.

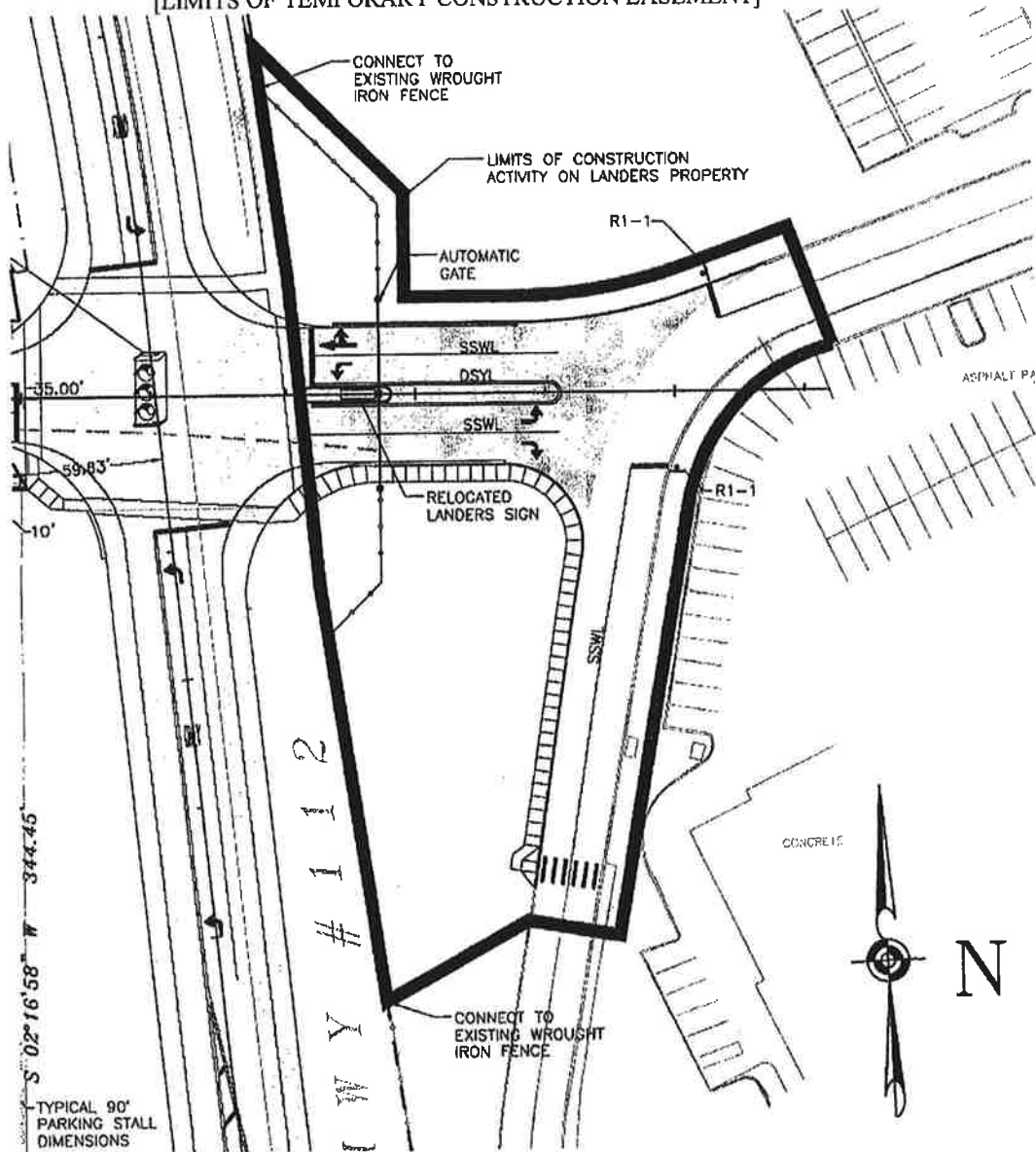
LESS AND EXCEPT THAT PARCEL DEEDED TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN IN WARRANTY DEED FILED FOR RECORD AS DOCUMENT NO. 2004-0010893 AND DESCRIBED AS FOLLOWS:

A tract of land located within the NE1/4 of the NE1/4 of Section 33, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows: Commencing at a 3/8 inch rebar found at the Northeast corner of Section 33; thence along the North line of Section 33, N86°56'18"W 1226.73 feet to a point on the existing East right-of-way line of U.S. Highway 112 for the Point of Beginning; thence along the North line of Section 33, S86°56'18"E 36.99 feet to a point on the proposed East right-of-way line of U.S. Highway 112; thence continuing along the proposed East right-of-way line of U.S. Highway 112, S18°33'59"E 90.53 feet; thence 321.06 feet along a curve to the right, said curve having a radius of 1201.28 feet, a delta angle of 15°18'48" and a long chord of S10°54'29"E 320.11 feet; thence S03°14'59"E 118.14 feet to a point on the existing East right-of-way line of U.S. Highway 112; thence along the existing East right-of-way line of U.S. Highway 112, N06°21'33"W 1.75 feet; thence N06°21'33"W 111.96 feet; thence N09°24'28"W 159.05 feet; thence N16°50'10"W 104.37 feet; thence N23°08'21"W 163.39 feet to the Point of Beginning, containing approximately 8,289 sq. ft. or 0.190 acres, more or less.

Copy

EXHIBIT 3 TO TEMPORARY CONSTRUCTION EASEMENT

[LIMITS OF TEMPORARY CONSTRUCTION EASEMENT]



Copy

Doc ID: 010280110010 Type: REL
Recorded: 08/17/2006 at 12:38:00 PM
Fee Amt: \$32.00 Page 1 of 10
Washington County, AR
Bette Stamps Circuit Clerk
File 2006-00033724

THIS INSTRUMENT PREPARED BY:
J. Cliff McKinney, Esq.
QUATTLEBAUM, GROOMS,
TULL & BURROW PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
501-379-1700

Fayetteville, Arkansas (Store #8209-06)

AMENDED AND RESTATED TEMPORARY CONSTRUCTION EASEMENT

(Terminating the Temporary Construction Easement recorded on December 13, 2005 in the real estate records of Washington County, Arkansas at File 2005-00055425)

This Amended and Restated Temporary Construction Easement ("Agreement") is entered into by and between LANDERS AUTO SALES, LLC, a Delaware limited liability company and successor in interest to Landers Auto Sales, Inc. ("Landers") and NELMS, LLLP, an Arkansas limited liability limited partnership ("Nelms") (Landers and Nelms, collectively, "Dealership") and SAM'S WEST, INC., an Arkansas corporation ("Sam's").

WHEREAS, Nelms owns certain real property depicted on Exhibit 1 and more particularly described on Exhibit 2 (the "Dealership Tract");

WHEREAS, Landers leases the Dealership Tract from Nelms;

WHEREAS, Dealership wishes to grant to Sam's a temporary construction easement over and across the Dealership Tract for the purpose of relocating a driveway pursuant to a separate written agreement between Dealership and Sam's.

NOW THEREFORE, for Ten and No/100 United States Dollars (\$10.00) and other good and valuable consideration including the terms, conditions, covenants, and provisions contained herein, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. **Incorporation of Recitals.** The recitals set forth in this Agreement are not mere recitals of fact but are contractual in nature and incorporated into this Agreement by reference, except in the event of a conflict between the incorporated recitals and the numbered sections of this Agreement, the numbered sections of this Agreement shall control.
2. **Termination of Easement.** The parties agree that the Temporary Construction Easement recorded on December 13, 2005 in the real estate records of Washington County, Arkansas at File 2005-00055425 is hereby terminated and is of no further force or effect. Instead, the parties agree that this Amended and Restated Temporary Construction Easement shall control the intentions of the parties.

Copy

3. **Dealership Grant of Temporary Construction Easement.** For and in consideration of Ten and No/100 Dollars (\$10.00) and subject to the terms and conditions set forth herein, Dealership grants, bargains, sells and conveys to Sam's, TO HAVE AND TO HOLD the same unto Sam's, its successors and assigns, the right of ingress, egress and access on, across and over the Dealership Tract for the purpose of relocating a driveway pursuant to a separate written agreement between Dealership and Sam's. Notwithstanding the foregoing, Sam's use of this temporary construction easement shall be substantially confined to the area indicated on Exhibit 3.
4. **Binding Effect; Duration; Enforcement.** The Easement shall (a) touch, concern, encumber and run with the Dealership Tract in favor of Sam's, its successors and assigns, (b) bind Dealership and all successors and assigns of Dealership, (c) be enforceable by Sam's, its successors and assigns, (d) expire on a date which is the earlier of: (i) thirty-six (36) months from the date this Agreement is placed of record in the real estate records of Washington County, Arkansas, or (ii) twelve (12) months from the date Sam's opens a new store on Arkansas State Highway 112 and commences sales of merchandise and groceries to the general public and a traffic light is installed at the intersection of Arkansas State Highway 112 and Truckers Drive, and (e) remain in effect until the expiration date referenced in subparagraph 4(d), unless sooner terminated by written agreement executed by all persons or entities benefiting from or having rights pursuant to any portion of this Agreement or the Easement as provided herein and recorded in the real estate records of Washington County, Arkansas.
5. **No Adequate Remedy at Law.** Dealership agrees (i) violation or threatened violation of any provision of the Easement or this Agreement by Dealership cannot be adequately compensated solely by monetary damages; (ii) Sam's shall be entitled to equitable relief in the form of a temporary restraining order, injunction or otherwise for the sole and exclusive purpose of enforcing Sam's rights in and across the Dealership Tract; and (iii) Sam's shall additionally be entitled to a claim for monetary damages for breach hereof. In no event whatsoever shall Dealership, or any other party, have the right to prevent Sam's from using the Easement for access purposes as set forth herein, the parties agreeing Sam's use of the access Easement can never be enjoined or terminated for any reason whatsoever.
6. **Counterparts.** This Agreement, including all attached exhibits, may be executed at different times and in any number of originals or counterparts and by each party on a separate counterpart, each of which shall be deemed an original but all of which together shall constitute only one agreement, notwithstanding all the parties shall not have signed the same counterpart. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. Facsimile and email signatures shall be deemed valid on all documents related to this Agreement. Any signature

Copy

page from one counterpart may be appended to another counterpart to create a fully executed counterpart hereof.

7. **Governing Law.** This Agreement shall be governed by the laws of the State of Arkansas and any disputes arising hereunder shall be adjudicated in the State of Arkansas.
8. **No Modification.** This agreement is specifically subject to, and does not contravene or modify, the separate written agreement between Sam's and Dealership concerning the relocation of the driveway.

[SIGNATURES ON FOLLOWING PAGE]

Copy

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this
28th day of July, 2006.

SAM'S WEST, INC.,
an Arkansas corporation

By: [Signature]
Name: Robert Stoker
Title: Assistant Vice President

STATE OF ARKANSAS)
)ss.
COUNTY OF)

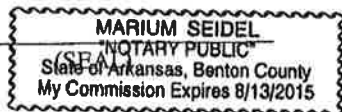
ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named Robert W. Stoker, to me well known, who stated he/she was the Assistant Vice President of Sam's West, Inc., an Arkansas corporation, and was duly authorized in such capacity to execute the foregoing instrument for and in the name and on behalf of the corporation, and further stated and acknowledged he/she had so signed, executed and delivered the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28th
day of July, 2006.

[Signature]
Notary Public

My commission expires:



Approved as to legal terms only
by [Signature]
WAL-MART LEGAL DEPT.
Date: 7/17/06

LANDERS AUTO SALES, LLC,
a Delaware limited liability company
and successor in interest to Landers Auto Sales, Inc.

By: [Signature]
Name: Bill Kullgren
Title: Pres.

STATE OF ARKANSAS)
COUNTY OF TULSA) ss: ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named BILL KNIGHT, to me well known, who stated that he/she was the PRESIDENT of LANDERS AUTO SALES, LLC, a Delaware limited liability company, and was duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said company, and further stated and acknowledged that he/she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 7th
day of AUGUST, 2006.

Julie Ladman
Notary Public

My Commission Expires:
8-24-06 #02011254
 (SEAL)



Copy

NELMS, LLLP,
an Arkansas limited liability limited partnership

By: Robert D. Nelms
Robert D. Nelms, general partner

STATE OF ARKANSAS)
)ss.
COUNTY OF Washington)

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named Robert D. Nelms, to me well known, who stated that he/ was the general partner of NELMS, LLLP, an Arkansas limited liability limited partnership, and was duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said partnership, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 10
day of AUGUST, 2006.

Dawn M. Fachting
Notary Public

My commission expires:

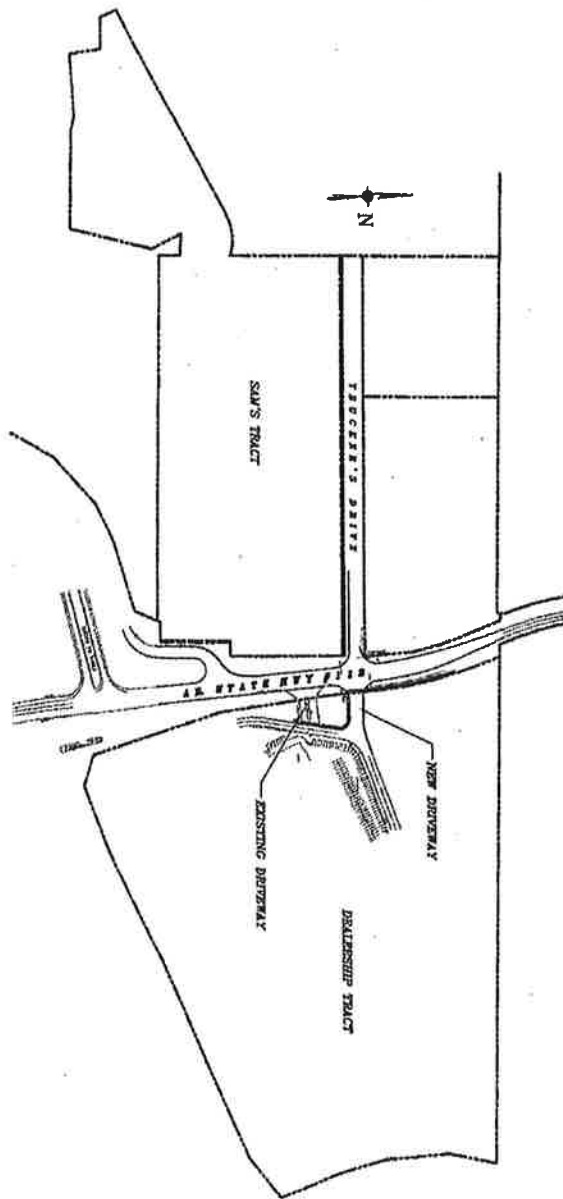
7-14-07
(SEAL)



Copy

EXHIBIT 1 TO TEMPORARY CONSTRUCTION EASEMENT

[DEPICTION OF PROPERTY]



Copy

EXHIBIT 2 TO TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION OF DEALERSHIP TRACT

A tract of land located within the NE/4 of the NE/4 of Section 33 and the NW/4 of the NW/4 of Section 34, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows:

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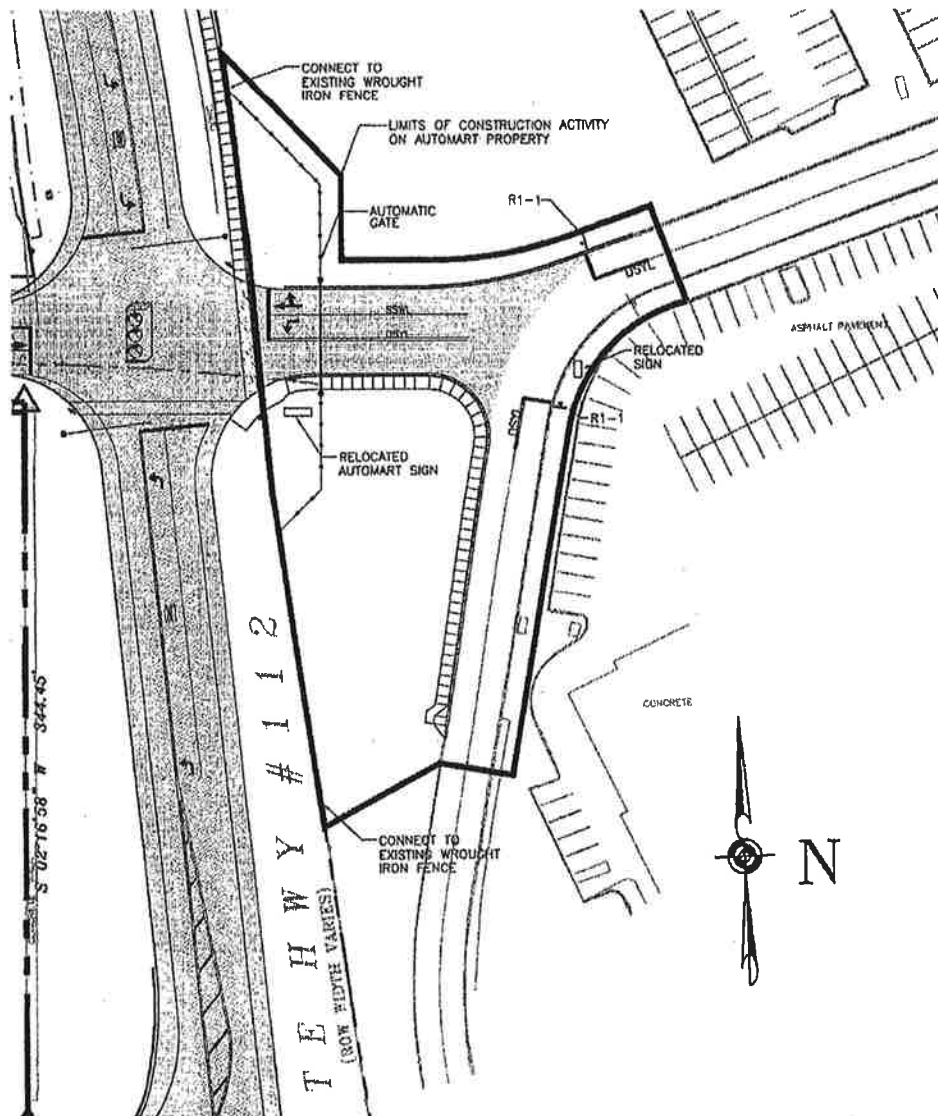
LESS AND EXCEPT THAT PARCEL DEEDED TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN IN WARRANTY DEED FILED FOR RECORD AS DOCUMENT NO. 2004-0010893 AND DESCRIBED AS FOLLOWS:

A tract of land located within the NE1/4 of the NE1/4 of Section 33, Township 17 North, Range 30 West in Washington County, Arkansas, being more particularly described as follows: Commencing at a 3/8 inch rebar found at the Northeast corner of Section 33; thence along the North line of Section 33, N86°56'18"W 1226.73 feet to a point on the existing East right-of-way line of U.S. Highway 112 for the Point of Beginning; thence along the North line of Section 33, S86°56'18"E 36.99 feet to a point on the proposed East right-of-way line of U.S. Highway 112; thence continuing along the proposed East right-of-way line of U.S. Highway 112, S18°33'59"E 90.53 feet; thence 321.06 feet along a curve to the right, said curve having a radius of 1201.28 feet, a delta angle of 15°18'48" and a long chord of S10°54'29"E 320.11 feet; thence S03°14'59"E 118.14 feet to a point on the existing East right-of-way line of U.S. Highway 112; thence along the existing East right-of-way line of U.S. Highway 112, N06°21'33"W 1.75 feet; thence N06°21'33"W 111.96 feet; thence N09°24'28"W 159.05 feet; thence N16°50'10"W 104.37 feet; thence N23°08'21"W 163.39 feet to the Point of Beginning, containing approximately 8,289 sq. ft. or 0.190 acres, more or less.

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EXHIBIT 3 TO TEMPORARY CONSTRUCTION EASEMENT

[LIMITS OF TEMPORARY CONSTRUCTION EASEMENT]



Copy

Mayor Patrick Henry Hays

City Hall

300 Main Street

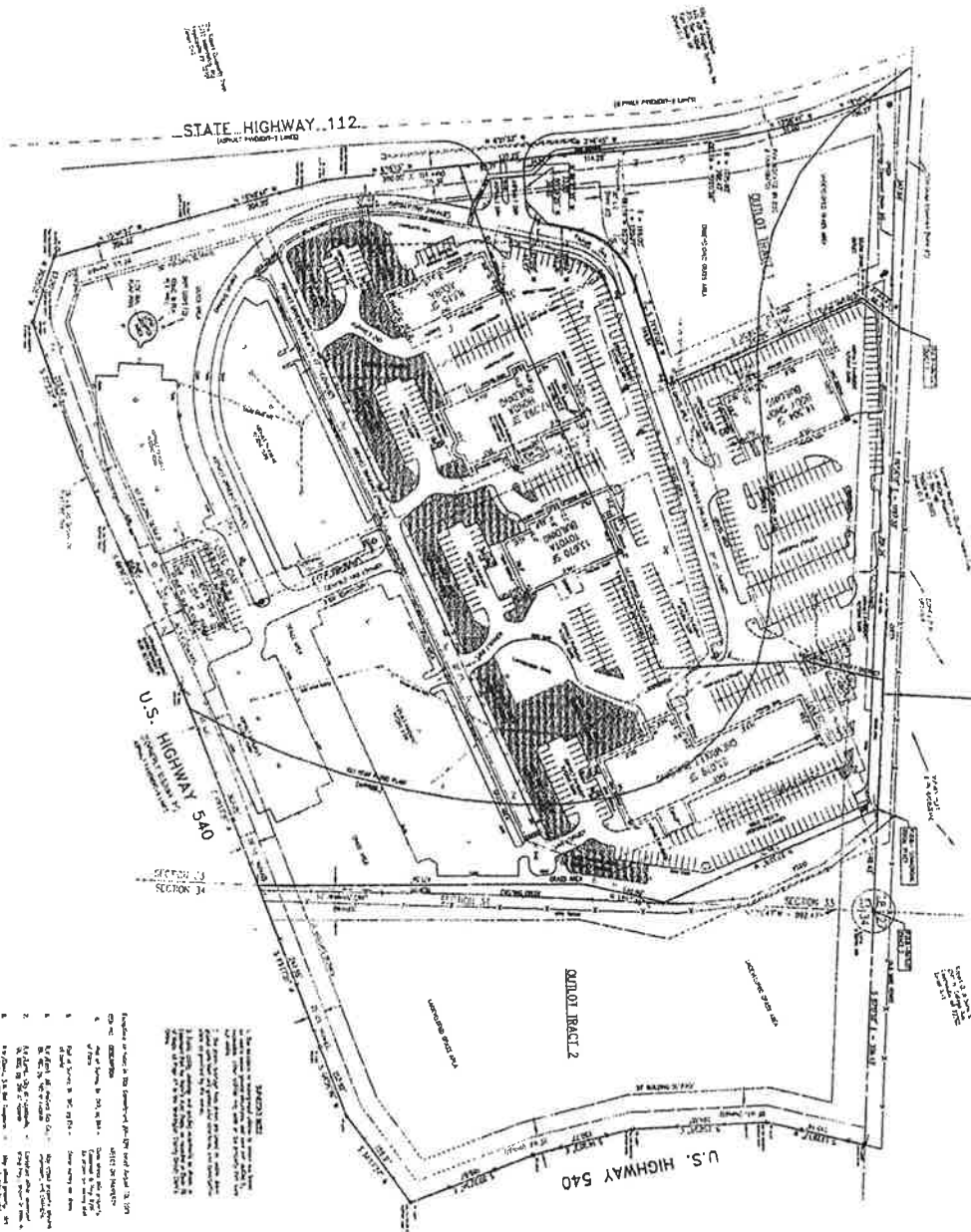
North Little Rock, AR 72114

Phone: 501-340-5301

Fax: 501-340-5333

E-mail: mayor@northlittlerock.ar.gov

BANK OF AMERICA, N.A. (BANK OF AMERICA CORPORATION)		BANK OF AMERICA, N.A. (BANK OF AMERICA CORPORATION)	
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1. The authors do not provide evidence to suggest that the authors' findings are not due to the authors' bias.
2. The authors do not provide evidence to suggest that the authors' findings are not due to the authors' bias.
3. The authors do not provide evidence to suggest that the authors' findings are not due to the authors' bias.
4. The authors do not provide evidence to suggest that the authors' findings are not due to the authors' bias.
5. The authors do not provide evidence to suggest that the authors' findings are not due to the authors' bias.

[illegible]

陳其南

[illegible]

1998, 2001)

of the 1990s. The 1990s have been a decade of change for the U.S. economy, with a strong emphasis on the service sector. The U.S. economy has grown at a rapid pace, with a strong emphasis on the service sector. The U.S. economy has grown at a rapid pace, with a strong emphasis on the service sector. The U.S. economy has grown at a rapid pace, with a strong emphasis on the service sector.

2014-2015

[illegible]

Order Date of Survey September 28, 2008
 Report See Notes



INDEX

[illegible]

1. BlackBerry:
 Partner to the security are Apple and Google and Microsoft.
 as well as the other major IT companies in the world
 on July 21, 2017

Authors' disclosures of potential conflicts of interest and author contributions are found at the end of this article.

ALTA/ACSM
LAND TITLE SURVEY
LANDERS AUTO PARK
FAYETTEVILLE
ARKANSAS

**Crafton,
Tull &
Associates,
Inc.**
Architect, Engineers &
Surveyors
2345 N. Green Acres Rd.
Fayetteville, Arkansas
Phone: 501-443-4535
www.crafton.com
© 2002 by Crafton, Tull & Associates, Inc.

11

1

1

Figure 1

2

1000

1000

[illegible]

1101

The following is a description of the land shown on the plat, to-wit:

 Beginning at the intersection of the line of the old road and the line of the new road, and running

 North 89° 53' 20" West 449.00 feet to a point on the line of the old road,

 then North 32° 56' 10" West 63.72 feet to a point on the line of the new road,

 then North 16° 55' 34" West 262.8 feet to a point on the line of the old road,

 then North 89° 53' 20" West 449.00 feet to the beginning.

 The area of the land shown on the plat is 33.55 acres.

 The land shown on the plat is subject to the following easements:

 1. A 10-foot wide easement for a road, running North 89° 53' 20" West 449.00 feet.

 2. A 10-foot wide easement for a road, running North 32° 56' 10" West 63.72 feet.

 3. A 10-foot wide easement for a road, running North 16° 55' 34" West 262.8 feet.

 The land shown on the plat is also subject to the following easements:

 1. A 10-foot wide easement for a road, running North 89° 53' 20" West 449.00 feet.

 2. A 10-foot wide easement for a road, running North 32° 56' 10" West 63.72 feet.

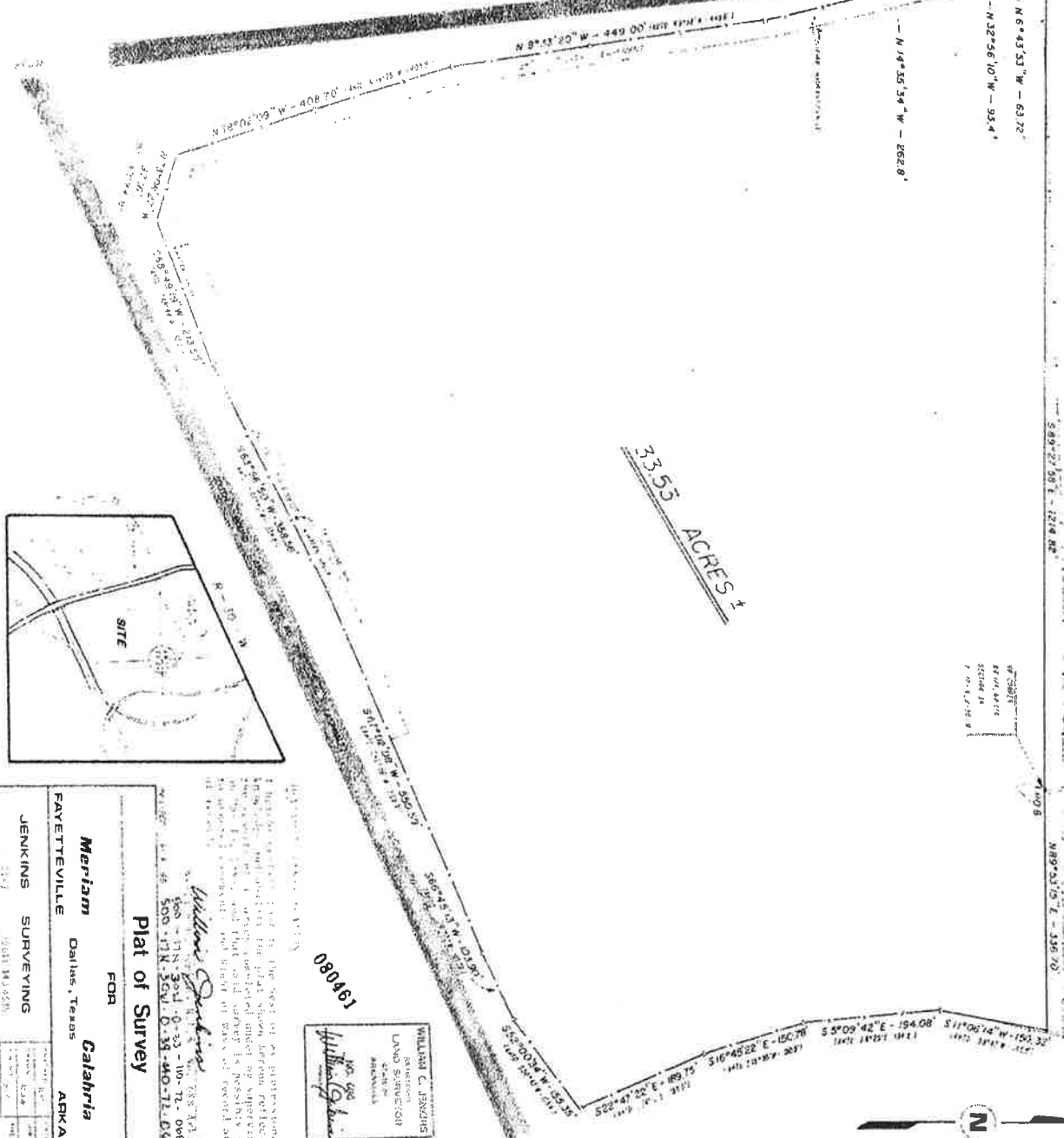
 3. A 10-foot wide easement for a road, running North 16° 55' 34" West 262.8 feet.

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 2. A 10-foot wide easement for a road, running North 32° 56' 10" West 63.72 feet.

 3. A 10-foot wide easement for a road, running North 16° 55' 34" West 262.8 feet.



WILLIAM C. JENKINS
 LAND SURVEYOR
 ARKANSAS

080461

Meriam Calahria
 DALLAS, TEXAS
 ARKANSAS

JENKINS SURVEYING
 1001 N. 10TH ST.
 DALLAS, TEXAS 75201

Plat of Survey
 300.00' x 300.00' x 300.00' x 300.00'

CAME OFF WITH THE CHIEF

APPRAISAL REPORT

PARTIAL TAKING FROM THREE TRACTS OF LAND
I-49 & Highway 112
Fayetteville, Washington County, Arkansas 72703
CBRE, Inc. File No. 16-361HO-2354
Client Reference No. 16-0000256-001

Holly Jones
CITY OF FAYETTEVILLE
4500 S School Ave
Fayetteville, Arkansas 72701

www.cbre.com/valuation

CBRE



August 4, 2016

Holly Jones
CITY OF FAYETTEVILLE
4500 S School Ave
Fayetteville, Arkansas 72701

RE: Appraisal of Partial Taking from Three Tracts of Land
I-49 & Highway 112
Fayetteville, Washington County, Arkansas
CBRE, Inc. File No. 16-361HO-2354
Client Reference No. 16-0000256-001

Dear Ms. Jones:

At your request and authorization, CBRE, Inc. has prepared an appraisal of the market value of the referenced property. Our analysis is presented in the following appraisal report.

The subject property of this appraisal consists of a partial taking. The parent tract is a 92.83-acre (4,043,675 sq. ft.) tract of land located near the intersection of Interstate 49 and State Highway 112 in Fayetteville, Arkansas. Although titled under three ownerships, all are reportedly beneficially owned by the same person(s) and we have therefore considered the property as one. The partial taking by the City of Fayetteville (the condemning authority) consists of 2.49 acres and is located along the northern property boundary.

As of the effective date of this analysis, the property was currently zoned as a combination of residential-office and residential-agricultural designations. However, the future land use map for the city of Fayetteville indicates that the property is intended for mixed-use type of project and, in fact, the City of Fayetteville Council did approve a rezoning to Urban Thoroughfare on June 20, 2016. We have taken this new zoning into account in our analysis.

Based on the analysis contained in the following report, the due the owner as a result of the imposition of the partial taking as described in this report is as follows:

JUST COMPENSATION CONCLUSION			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
Just Compensation - Drake St Property, LLC	Fee Simple Estate	May 4, 2016	\$100,000
Just Compensation - 1155 Properties, LLC	Fee Simple Estate	May 4, 2016	\$100,000
Just Compensation - RPM1 Properties, LLC	Fee Simple Estate	May 4, 2016	\$300,000
Compiled by CBRE			

The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter.

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The intended use and user of our report are specifically identified in our report as agreed upon in our contract for services and/or reliance language found in the report. No other use or user of the report is permitted by any other party for any other purpose. Dissemination of this report by any party to non-client, non-intended users does not extend reliance to any other party and CBRE will not be responsible for unauthorized use of the report, its conclusions or contents used partially or in its entirety.

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE can be of further service, please contact us.

Respectfully submitted,

CBRE - VALUATION & ADVISORY SERVICES



Jeff Ford, MAI
Vice President

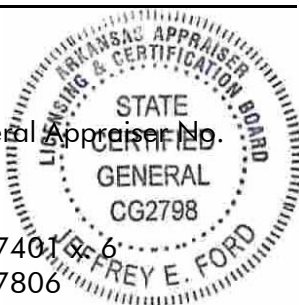
AR State Certified General Appraiser No.
CG2798

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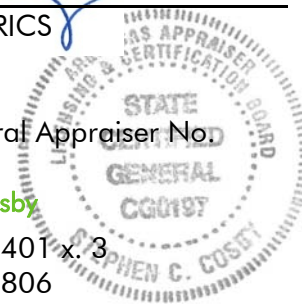
Stephen Cosby, MAI, MRICS
Executive Vice President
Managing Director
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CG0197

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Email: steve.cosby@cbre.com



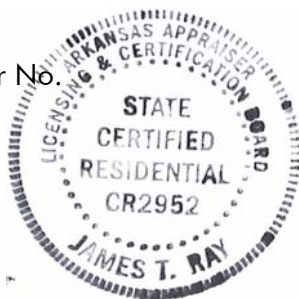
James Tanner Ray
Appraiser

AR State Certified Residential Appraiser No.
CR2952

Phone: +1 479 442 7401 x. 227

Fax: +1 479 442 7806

Email: james.ray@cbre.com



CBRE

Certification

We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in or bias with respect to the property that is the subject of this report and have no personal interest in or bias with respect to the parties involved with this assignment.
4. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
5. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
6. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.
7. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice, as well as the requirements of the State of Arkansas.
8. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
9. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
10. As of the date of this report, Jeff Ford, MAI and Stephen Cosby, MAI, MRICS have completed the continuing education program for Designated Members of the Appraisal Institute.
11. As of the date of this report, James T Ray has completed the Standards and Ethics Education Requirements for Candidates/Practicing Affiliates of the Appraisal Institute.
12. James T Ray, Jeff Ford, MAI and Stephen Cosby, MAI, MRICS have made a personal inspection of the property that is the subject of this report.
13. No one provided significant real property appraisal assistance to the persons signing this report.
14. Valuation & Advisory Services operates as an independent economic entity within CBRE, Inc. Although employees of other CBRE, Inc. divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy were maintained at all times with regard to this assignment without conflict of interest.
15. Within this report, "CBRE", "CBRE, Inc.", and similar forms of reference refer only to the appraiser(s) who have signed this certification and any persons noted above as having provided significant real property appraisal assistance to the persons signing this report.

16. James T Ray, Jeff Ford, MAI and Stephen Cosby, MAI, MRICS have not provided any services, as appraisers or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

James Tanner Ray
AR State Certified Residential Appraiser No.
CR2952



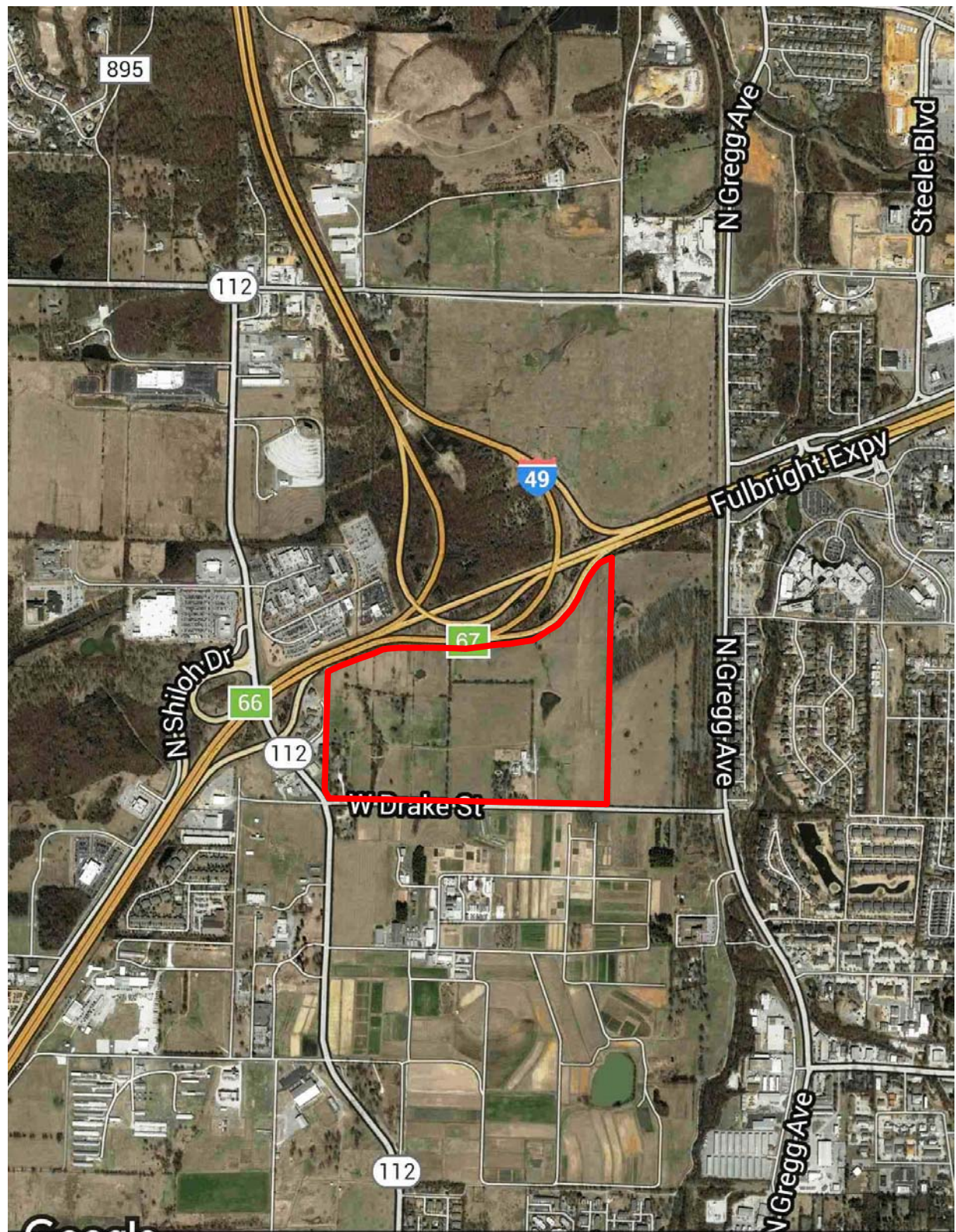
Stephen Cosby, MAI, MRICS
AR State Certified General Appraiser No.
CG0197



Jeff Ford, MAI
AR State Certified General Appraiser No.
CG2798



Subject Photographs



Google State of Arkansas, USDA Farm Service Agency, Washington County

Aerial View – Not Legal Boundaries



Typical view of the western part of the subject



Existing improvements – not considered



Existing improvements – not considered



Existing improvements – not considered



Typical view of the subject



Typical view of the subject



View of the eastern part of the subject



View of the eastern part of the subject



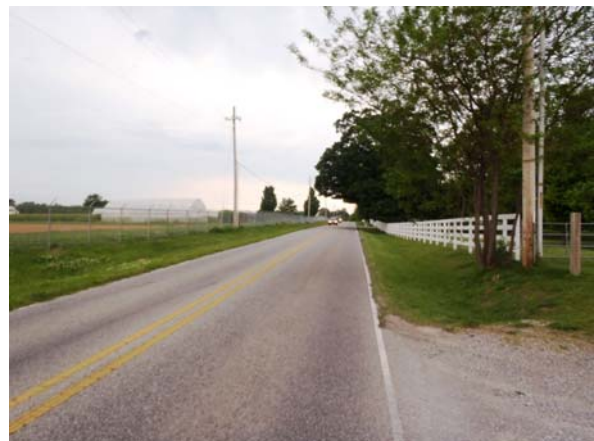
Drake Street looking east at the western part of the property



Drake Street looking west at the western part of the property



Drake Street looking east at the eastern part of the property



Drake Street looking west at the eastern part of the property

Executive Summary

Property Name	Partial Taking from Three Tracts of Land	
Location	I-49 & Highway 112, Fayetteville, Washington County, Arkansas 72703	
Client Reference Number	16-0000256-001	
Highest and Best Use	Mixed-use development	
As If Vacant		
Property Rights Appraised	Fee Simple Estate	
Date of Report	August 4, 2016	
Date of Inspection	May 4, 2016	
Estimated Exposure Time	24 Months	
Estimated Marketing Time	24 Months	
Land Area	92.83 AC	4,043,675 SF
Buyer Profile	Developer	

JUST COMPENSATION BY ENTITY

Drake St Property, LLC	\$100,000
1155 Properties, LLC	\$100,000
RPM1 Properties, LLC	\$300,000
Compiled by CBRE	

EXTRAORDINARY ASSUMPTIONS

An extraordinary assumption is defined as “an assumption directly related to a specific assignment, as of the effective date of the assignment results, which if found to be false, could alter the appraiser’s opinions or conclusions.” ¹

- The subject site is currently improved with residential and agricultural structures. Although significant, these structures do not conform to the highest and best use of the subject site as though vacant. Because of the distance from the partial taking and the fact that the property already lies along I-49, the imposition of the City's proposed partial taking should not have a detrimental effect on the existing improvements. We have therefore assumed this to be the case and have not addressed the contributory value of the improvements.
- The use of this extraordinary assumption might have affected the assignment results.

HYPOTHETICAL CONDITIONS

A hypothetical condition is defined as “a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purposes of analysis.” ²

- None noted.

¹ The Appraisal Foundation, *USPAP*, 2016-2017 ed. 3.

² The Appraisal Foundation, *USPAP*, 2016-2017 ed. 3.

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Introduction

OWNERSHIP AND PROPERTY HISTORY

The subject is made up of three different tracts which are owned by different, but related, entities.

Parcel Nos. 765-15840-000 and 765-15889-010 are vested in the name of Drake ST Property, LLC who acquired title to the property on June 20, 2013 for the recorded price of \$3,147,000 which amounts to \$4.50 per square foot (\$196,075 per acre). According to the buyer's representative, the purchase was arm's length but the purchase price is considered to be above market which is likely due to the fact that the buyer also owned the adjacent property. No other transactions are known to have occurred within the past three years. Parcel Nos. 765-15908-000 and 765-15889-000 are vested in the name of 1155 Properties, LLC who has owned the property for at least the past three years. Parcel No. 765-15887-000 is vested in the name of RPM1 Properties, LLC who has also owned the property for at least the past three years. It should also be mentioned that the true owner of all three entities is the same. The property is not known to be offered for sale at this time nor is it known to be under contract at this time.

The original cumulative size of all three tracts was 111.06 acres; however, the Arkansas Highway Transportation Department (AHTD) recently condemned 18.23 acres along the northern part of the property as part of the right-of-way taking for the Interstate 49 highway expansion. Thus, the cumulative size of the tracts is now 92.83 acres (pre-taking). The partial taking by the city of Fayetteville consists of a 30 foot utility easement containing a total of acres which basically runs parallel to the new right-of-way along the northern boundary. The size of the property after the taking will be (post-taking).

INTENDED USE OF REPORT

This appraisal is to be used for possible litigation purposes, and no other use is permitted.

INTENDED USER OF REPORT

This appraisal is to be used by City of Fayetteville, and no other user may rely on our report unless as specifically indicated in the report.

Intended Users - the intended user is the person (or entity) who the appraiser intends will use the results of the appraisal. The client may provide the appraiser with information about other potential users of the appraisal, but the appraiser ultimately determines who the appropriate users are given the appraisal problem to be solved. Identifying the intended users is necessary so that the appraiser can report the opinions and conclusions developed in the appraisal in a manner that is clear and understandable to the intended users. Parties who receive or might receive a copy of

the appraisal are not necessarily intended users. The appraiser's responsibility is to the intended users identified in the report, not to all readers of the appraisal report.³

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate the just compensation due the owner as a result of the imposition of the partial taking described in this report.

DEFINITION OF JUST COMPENSATION

Just Compensation is defined as follows:

In condemnation, the amount of loss for which a property owner is compensated when his or her property is taken. Just compensation should put the owner in as good a position as he or she would be if the property had not been taken.⁴

In the State of Arkansas, the measure of Just Compensation is the difference in the fair market value of the whole property immediately before the taking and the fair market value of the remaining property immediately after the taking.⁵ The following is the Model Jury Instruction promulgated by the Arkansas Supreme Court Committee on Jury Instructions:

In arriving at the amount of just compensation to which (the property owner) is entitled, you first determine the fair market value of the whole property immediately before the taking, and then you determine the fair market value of the remaining property immediately after the taking. The compensation (the property owner) is entitled to recover is the difference, if any, between the fair market value of the whole property immediately before the taking and the fair market value of the remaining property immediately after the taking. In determining the fair market value of the remaining property immediately after the taking, you should consider the remaining property as if (the condemning authority's) project was completed and permanently in place according to the construction plans now on file.

The current economic definition of market value agreed upon by agencies that regulate federal financial institutions in the U.S. (and used herein) is as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;

³ Appraisal Institute, *The Appraisal of Real Estate*, 14th ed. (Chicago: Appraisal Institute, 2013), 50.

⁴ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 5th ed. (Chicago: Appraisal Institute, 2010).

⁵ Pope v. Overton, 2011 Ark. 11, 376 S.W.3d 400; Arkansas State Highway Commission v. Littlefield, 247 Ark. 686, 447 S.W.2d 146 (1969); and Property Owners Improvement District No. 247 v. Williford, 40 Ark. App. 172, 843 S.W.2d 862 (1992).

2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.⁶

In Arkansas, however, the definition of value is termed “Fair Market Value” and it is different than the above Market Value definition. The following is the Model Jury Instruction promulgated by the Arkansas Supreme Court Committee on Jury Instructions for Fair Market Value:

When I use the expression “fair market value,” I mean the amount of money which a purchaser who is willing but not obligated to buy the property would pay to an owner who is willing but not obligated to sell it, taking into consideration all uses to which the land is adapted and might reasonably be applied. Fair market value is not necessarily based on the use to which the property was being put at the date of taking, but is to be based on the fair market value of the land put to its highest and best use.

This appraisal is concerned with the development of the Just Compensation due the owner as a result of the partial taking. As the subject property is located in Arkansas, the appraisal must conform to the court instructions. Therefore, the definition of Fair Market Value stated in the Jury Instruction above is applicable. Further, Just Compensation is the difference between the Fair Market Value of the subject property before the taking and the Fair Market Value after the taking, again as directed by the court. This appraisal therefore proceeds under this framework and definitions.

INTEREST APPRAISED

The value estimated represents the Fee Simple Estate and is defined as follows:

Fee Simple Estate - Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat.⁷

EXPOSURE/MARKETING TIME

The exposure/marketing time associated with the value indications before and after the taking is a function of price, time, and use. It is not an isolated estimate of time alone. In consideration of these factors, we have analyzed the following:

⁶ Interagency Appraisal and Evaluation Guidelines; December 10, 2010, Federal Register, Volume 75 Number 237, Page 77472.

⁷ *Dictionary of Real Estate Appraisal*, 78.

EXPOSURE/MARKETING TIME DATA		
Investment Type	Exposure/Mktg. (Months)	
	Range	Average
Local Market Professionals	12.0 - 36+	24.0
CBRE Exposure Time Estimate	24 Months	
CBRE Marketing Period Estimate	24 Months	
CBRE National Investor Survey & PwC Real Estate Survey		

SCOPE OF WORK

This Appraisal Report is intended to comply with the reporting requirements set forth under Standards Rule 2 of USPAP. The scope of the assignment relates to the extent and manner in which research is conducted, data is gathered and analysis is applied. CBRE, Inc. completed the following steps for this assignment:

Extent to Which the Property is Identified

The property is identified through the following sources:

- assessor's records
- legal description

Extent to Which the Property is Inspected

CBRE, Inc. observed the subject site and its surrounding environs on the effective date of appraisal.

Our inspection included viewing the site from public roads. We did not walk the entire site or drive the entire interior of the site and have assumed that the portions of the site not actually observed are in similar condition to the areas observed.

Type and Extent of the Data Researched

CBRE reviewed the following:

- applicable tax data
- zoning requirements
- flood zone status
- demographics
- comparable data

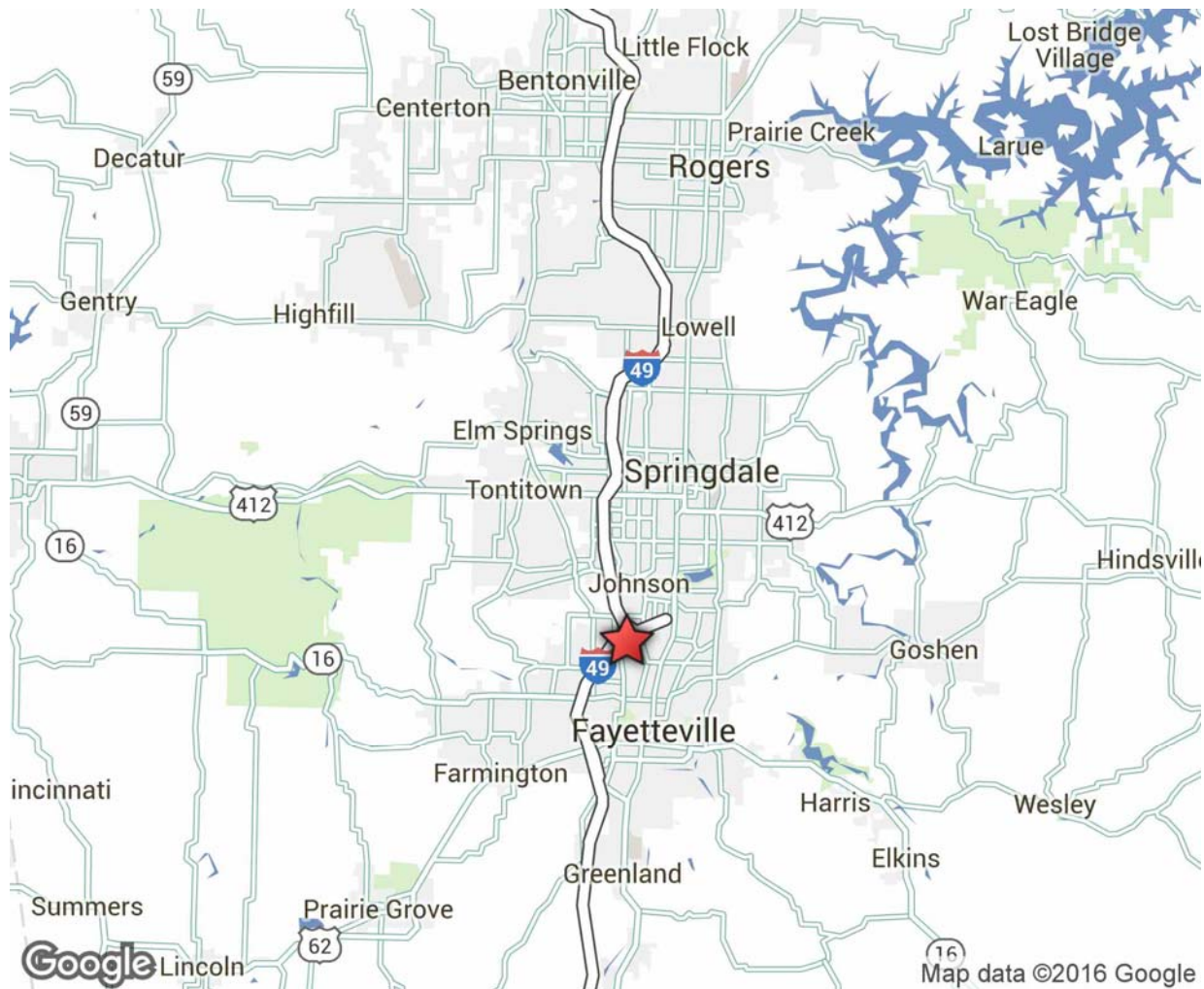
Type and Extent of Analysis Applied

CBRE, Inc. analyzed the data gathered through the use of appropriate and accepted appraisal methodology to arrive at a probable value indication via each applicable approach to value. For vacant land, the sales comparison approach has been employed for this assignment.

Data Resources Utilized in the Analysis

DATA SOURCES	
Item:	Source(s):
Site Data	
Size	Combination of legal descriptions and surveys for the proposed right-of-way.
Area Breakdown/Use	CBRE Observation
Other	
Demographic Data	Claritas
Zoning Map	City of Fayetteville, GIS
Flood Map	FEMA
Compiled by CBRE	

Area Analysis



Moody's Economy.com provides the following Fayetteville-Springdale-Rogers, AR-MO metro area economic summary as of March, 2016. The full Moody's Economy.com report is presented in the Addenda.

FAYETTEVILLE-SPRINGDALE-ROGERS, AR-MO - ECONOMIC INDICATORS												
Indicators	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Gross Metro Product (C\$B)	18.1	18.3	18.9	19.7	20.5	21.1	22.2	23.3	24.3	25.0	25.6	26.4
% Change	4.2	1.2	3.0	4.5	4.0	2.7	5.1	5.4	3.9	3.0	2.6	3.0
Total Employment (Ths)	200.2	204.2	209.5	214.8	224.4	235.5	243.4	248.1	252.5	256.1	258.2	260.3
% Change	0.4	2.0	2.6	2.5	4.5	5.0	3.4	1.9	1.8	1.4	0.8	0.8
Unemployment Rate (%)	6.7	6.4	5.8	5.5	4.5	4.0	3.7	3.8	4.0	4.1	4.2	4.3
Personal Income Growth (%)	3.3	14.1	15.9	2.1	4.9	5.2	2.8	4.3	5.3	3.9	3.4	3.8
Median Household Income (\$ Ths)	44.8	45.3	46.2	47.9	50.1	51.5	51.7	52.8	54.2	55.2	55.8	56.5
Population (Ths)	465.7	474.2	483.1	492.2	501.7	511.9	522.4	533.0	543.8	556.8	570.5	584.6
% Change	2.3	1.8	1.9	1.9	1.9	2.0	2.0	2.0	2.0	2.4	2.5	2.5
Net Migration (000)	6.6	4.7	5.1	5.4	5.6	6.3	6.6	6.7	7.0	9.1	9.9	10.2
Single-Family Permits	1,081.0	1,289.0	1,906.0	2,391.0	2,639.0	3,313.0	3,099.4	3,441.2	3,627.4	3,587.1	3,553.4	3,747.0
Multifamily Permits	140.0	48.0	160.0	133.0	965.0	990.6	1,667.5	1,512.4	1,664.2	1,664.7	1,769.8	1,903.0
Fhfa House Price (1995Q1=100)	152.1	145.1	146.2	152.6	159.2	166.0	171.9	176.8	180.7	185.2	191.0	197.7

Source: Moody's Economy.com

RECENT PERFORMANCE

The Northwest Arkansas economy is expanding rapidly and is easily outperforming the rest of the Natural State as well as the nation. Payroll employment is already 16% above its prerecession peak, and job growth since the turn of the decade has consistently exceeded that in other Arkansas metro areas. Private services are on fire; the only parts of the economy not adding jobs are manufacturing and transportation. Population-dependent industries are shouldering the load, but office-using industries are growing at an above-average rate. With the jobless rate closing in on a low 3%, there should be upward pressure on wages. Average hourly earnings have struggled to grow, however, because job creation has been greatest in low-wage industries. Still, with so many new jobs, total incomes are growing at an above-average rate. House prices have rebounded back to their late-2007 levels, and greater real estate wealth is a positive for spending as credit quality improves.

FOOD PROCESSING

Food processors will expand and lead a turnaround effort in manufacturing. In particular, local chicken processors will expand as growing national poultry demand increases the need for additional productive capacity. U.S. households are consuming more chicken than beef these days because of beef's higher cost. U.S. per capita chicken consumption hit an all-time high of 90.1 pounds in 2015, according to the National Chicken Council. Tyson Foods and Ozark Mountain Poultry are constructing new chicken processing facilities to keep up with rising demand. Feed costs have also declined for local chicken processors over the past several years, boosting profits and encouraging investment in property, plant and equipment.

Foreign chicken demand will also be a source of long-term growth. In particular, China's rapidly growing middle class will be targeted by local producers. Southeast Asian countries will provide producers with additional opportunities.

HEALTH SERVICES

Healthcare will provide further fuel to the expanding northwest Arkansas economy. Industry job growth will exceed the state and national averages over the medium term because of superior demographic gains. Population growth in Northwest Arkansas is nearly three times the national average, and multiple healthcare providers are responding to surging demand by expanding their facilities. Washington Regional Medical Center is constructing a new medical plaza that will open in early 2017 that will provide urgent and specialty healthcare. Arkansas Children's Hospital System is building a new \$184 million hospital in Springdale that will be complete in early 2018. In addition to capital investments in healthcare, the recent veto by the governor of a bill that would have ended the Arkansas Medicaid expansion takes a downside risk to the near-term healthcare outlook off the table.

ADVANTAGES

Northwest Arkansas will also retain key competitive advantages that will enable it to outperform the rest of Arkansas over the long term. First, population growth will be much stronger than in the rest of the state thanks to outsize natural increases as well as robust in-migration as younger, more educated workers are attracted to Northwest Arkansas's better-paying jobs. Jobs in high-wage industries account for one-fifth of employment, almost twice the share statewide.

STRENGTHS AND WEAKNESSES

Strengths

- Headquarters of several industry leaders, including Walmart.
- Home to large research university.
- Support to private research firms from Arkansas Research and Technology Park.
- Strong in-migration and favorable age structure.

Weaknesses

- Above-average employment volatility.
- Less broad-based job creation compared with the national average.

FORECAST RISKS

Upside

- Chicken exports rise, providing extra income for local producers.
- Out-of-area firms boost hiring of white-collar staff to take advantage of low business costs and a comparatively well-educated workforce.
- Strong population growth generates more healthcare jobs than expected

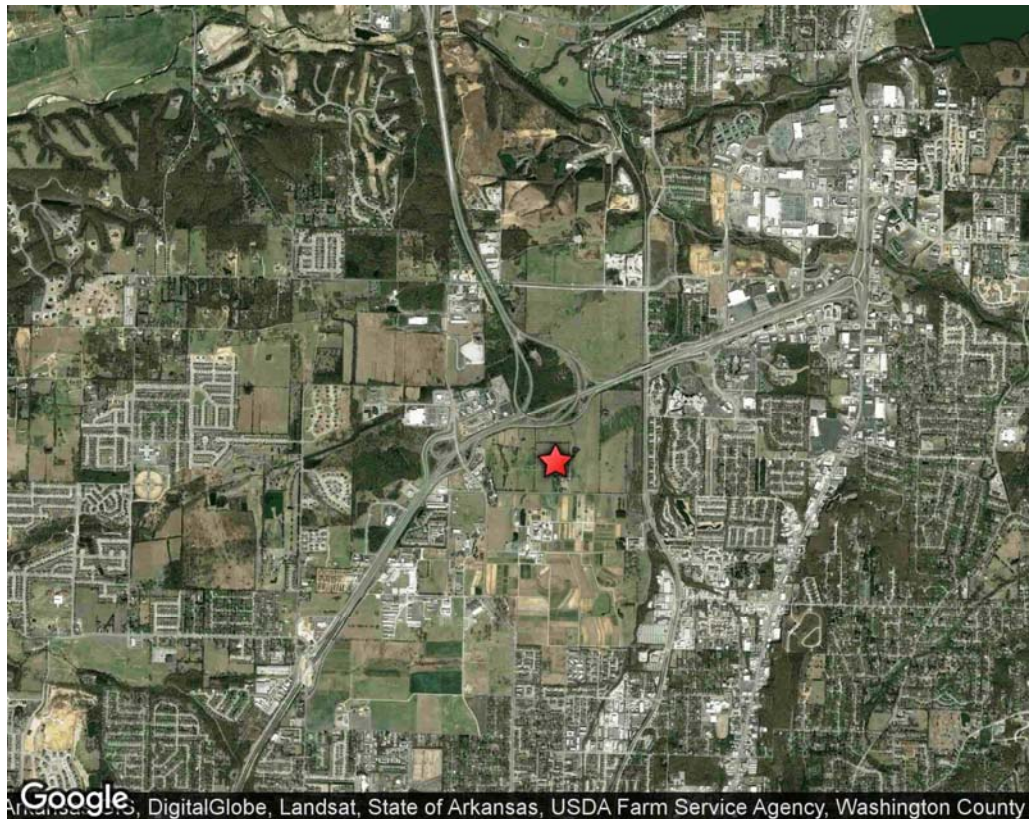
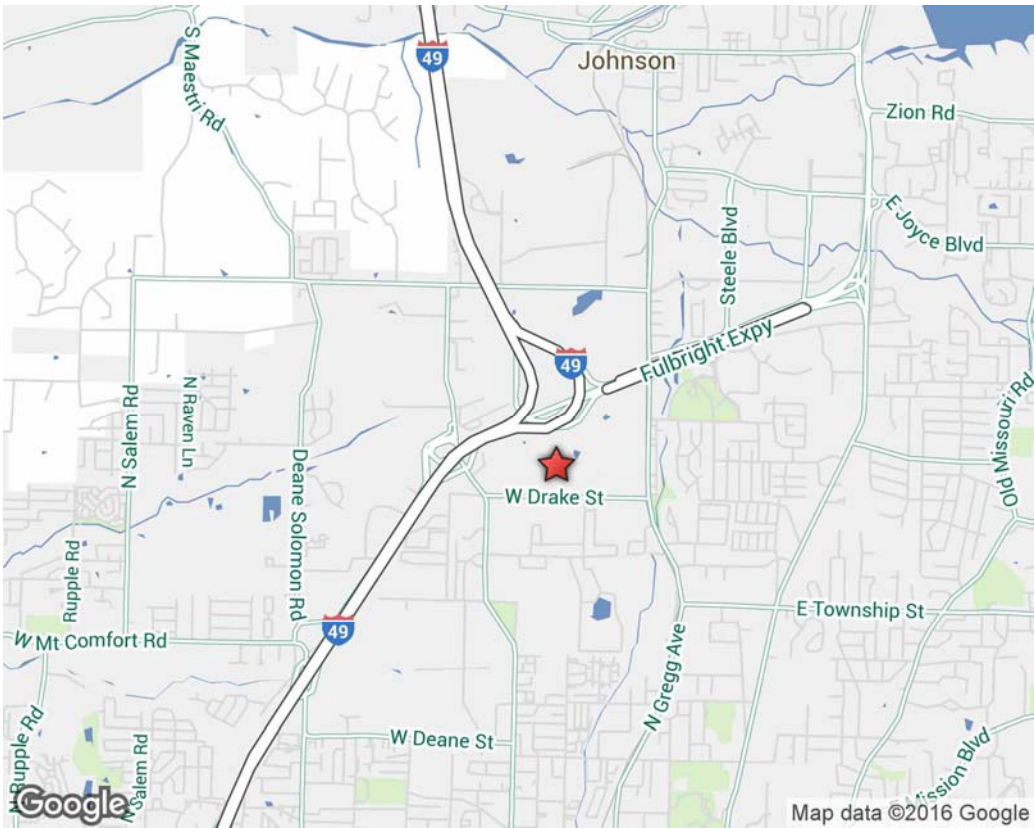
Downside

- Grain prices rebound, compressing margins at local food processors and restraining hiring.

CONCLUSION

The Northwest Arkansas economy will perform better than average this year thanks to gains in food processing, healthcare and other services, but job growth will be slower than 2015's breakneck pace. Longer term, growth will outpace that of the state and nation. Consumer-related industries and housing will perform better than average because of its strong demographics.

Neighborhood Analysis



LOCATION

The subject is in the city of Fayetteville and is considered a suburban location. Fayetteville is situated in north-central Washington County, about 25 miles south of the Wal-Mart Home Offices

BOUNDARIES

The neighborhood boundaries for the subject are ill-defined – but, loosely they are considered to be the corridor of Interstate 49 extending north from Martin Luther King Jr. Boulevard to AR Highway 112. Natural extensions of the neighborhood would be northeasterly along U.S. Highway 71 Business/John Paul Hammerschmidt Highway which runs in a general easterly/northeasterly direction from its intersection with Interstate 49. The highway turns northerly and connects with North College Avenue a short distance easterly from Interstate 49. Basically, this extension of the neighborhood encompasses the Northwest Arkansas Mall, CMN Business Park, Steele Crossing, etc.

LAND USE

Land uses in the subject neighborhood consist of primarily commercial at the intersections along Interstate 49 with the exception of the Porter Road intersection. Porter Road has more light industrial, residential and special-purpose uses at its intersection with Interstate 49.

At the intersection of Martin Luther King Jr. Boulevard and Interstate 49 is an established area of commercial use with hotel/motel, retail, fast-food restaurants, etc. Martin Luther King Jr. Boulevard runs westerly from Fayetteville and turns to U.S. Highway 62 and connects Farmington, Prairie Grove, etc. with Fayetteville. These areas are growing as people move outward to smaller communities and commute further distances to work. With the completion of a Wal-Mart Supercenter a short distance westerly from Interstate 49, this has given renewed emphasis on commercial development in and around the Supercenter.

At the intersection of Arkansas Highway 16/Wedington Drive with Interstate 49 is a newer area of commercial development as this area is being developed to service the rapid residential development just to the west of this intersection along Wedington Drive. Commercial uses in this area include Harps Grocery Store, retail strip centers, branch banks, hotels, fast-food restaurants, etc.

At the intersection of Arkansas Highway 112 with Interstate 49 is a newer area of commercial development with a Sam's Club and the Fayetteville Auto Park. This area is primed for further commercial development with Meadow Field Commercial Subdivision developed to the south of Sam's Club and the future development of Park West (commercial and residential) to the north of Sam's Club.

As previously indicated, the natural extension to the subject market includes the Northwest Arkansas Mall and surrounding commercial uses primarily to the south. The Mall was developed in early 1970's. The area to the south of the Mall has been developed for commercial uses

encompassing the CMN Business Park II/Steele Crossing area as well as the areas along Joyce Boulevard between the Mall and CMN including the Home Depot and the Wal-Mart Supercenter. The area to the south of the Mall has been developed with a Target, Kohls, PetsMart, Best Buy, Mattress Firm, Malco Movie Theatre, strip centers, Wal-Mart Supercenter, Home Depot, etc. as well as regional and national restaurant chains and a Courtyard by Marriott. Steele Crossing, which is located in the western part of this area, has the most vacant commercial acreage still available. In addition, Van Asche Drive has been extended westerly to Gregg Avenue, which opens up this area of the development with an additional ingress/egress point. There are a couple of apartment complexes which are currently under construction.

The area to the south of the Mall and surrounding commercial development, along the south side of U.S. Highway 71 Business/John Paul Hammerschmidt Highway is improved with the Washington Regional Hospital and adjacent North Hills Medical Park (medical offices, rehabilitation hospital, etc.) and professional offices along Millsap Road. Closer to the intersection of Millsap Road and North College Avenue, two hotels and two restaurants along with office space was noted.

GROWTH PATTERNS

In general, the economic trend of this area is good with retail and office development continuing at a steady pace. Property values are mostly increasing as developable land becomes scarce and intensity of development increases.

ACCESS

Primary access to the subject neighborhood is provided by Interstate 49. This is the major north-south thoroughfare in Northwest Arkansas. This arterial connects the subject neighborhood with the City of Bentonville to the north, and the City of Fort Smith to the south.

DEMOGRAPHICS

Selected neighborhood demographics in 1-, 3-, and 5-mile radii from the subject are shown in the following table:

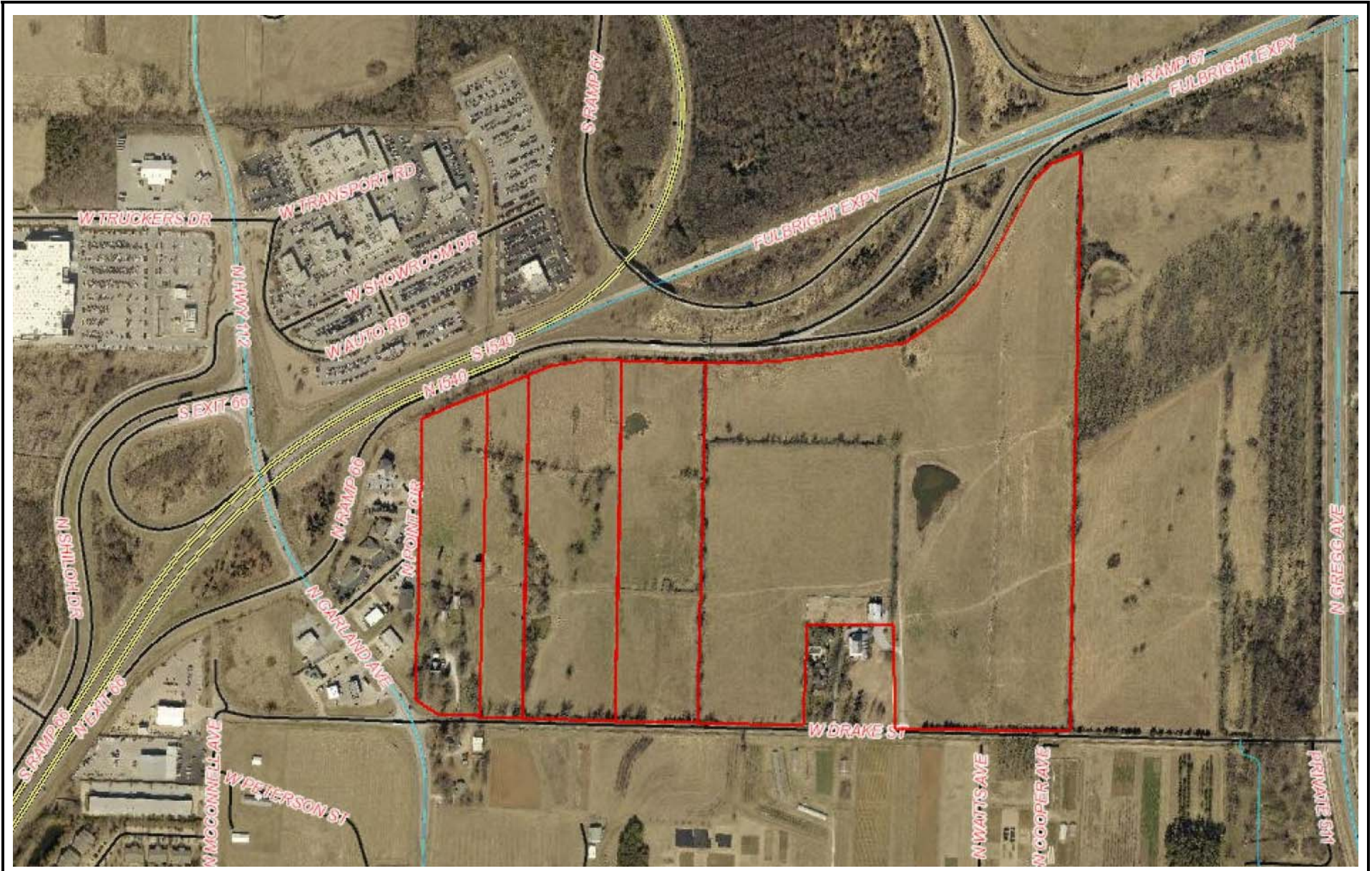
SELECTED NEIGHBORHOOD DEMOGRAPHICS			
I-49 & Highway 112 Fayetteville, Arkansas	1 Mile	3 Miles	5 Miles
Population			
2021 Population	4,240	59,825	116,168
2016 Population	4,051	56,346	108,306
2010 Population	3,760	51,011	96,289
2000 Population	4,763	43,890	77,002
Annual Growth 2016 - 2021	0.92%	1.21%	1.41%
Annual Growth 2010 - 2016	1.25%	1.67%	1.98%
Annual Growth 2000 - 2010	-2.34%	1.51%	2.26%
Households			
2021 Households	2,353	25,394	48,334
2016 Households	2,224	23,768	44,879
2010 Households	2,023	21,255	39,635
2000 Households	2,320	18,017	31,010
Annual Growth 2016 - 2021	1.13%	1.33%	1.49%
Annual Growth 2010 - 2016	1.59%	1.88%	2.09%
Annual Growth 2000 - 2010	-1.36%	1.67%	2.48%
Income			
2016 Median Household Income	\$25,343	\$38,568	\$40,838
2016 Average Household Income	\$39,688	\$66,144	\$66,578
2016 Per Capita Income	\$21,790	\$27,901	\$27,588
Age 25+ College Graduates - 2016	805	14,807	25,890
Age 25+ Percent College Graduates - 2016	31.8%	45.8%	40.4%
Source: Nielsen/Claritas			

CONCLUSION

The neighborhood appears to be in the growth phase of its life cycle. We do note the growth for both population and households is indicated as being negative from 2000-2010 within a one mile radius of the subject. But, this is rather difficult to accept because the area has generally been growing. Growth is indicated as positive from 2010-2016 and this growth is forecast to continue into the future (albeit at a slightly slower but still healthy pace).

The subject is a large tract of land that is highly visible from Interstate 49 and it should benefit from the increase in population as this contributes to the demand for real estate. The recent growth in the neighborhood has primarily been related to both residential and commercial development, which appears to be supported by the neighborhood demographics and the primary traffic carriers within the neighborhood.

PARCEL MAP - PRE-TAKING BY THE AHTD AND THE CITY OF FAYETTEVILLE



The subject parcels are outlined in red. In total, the above area reflects approximately 111.06 acres; however, the AHTD recently acquired 18.23 acres for the expansion of the Interstate 49. The gross site area for the subject is actually 92.83.

Site Analysis

The following chart summarizes the salient characteristics of the subject site before the taking.

SITE SUMMARY AND ANALYSIS - BEFORE THE TAKING			
Physical Description			
Gross Site Area	92.83 Acres	4,043,675 Sq. Ft.	
Net Site Area	92.83 Acres	4,043,675 Sq. Ft.	
Primary Road Frontage	Interstate 49	3,553 Feet	
Secondary Road Frontage	W Drake Street	2,531 Feet	
Excess Land Area	None	n/a	
Surplus Land Area	None	n/a	
Shape	Irregular		
Topography	Undulating to gently sloping from south to north		
Primary Traffic Counts (24 hrs.)	Interstate 49	85,000	
	@ N Garland Ave	Year: 2015	
Secondary Traffic Counts (24 hrs.)	W Drake St	9,600	
	@ N Gregg Ave	Year: 2015	
Zoning District	UT, Urban Thoroughfare		
Flood Map Panel No. & Date	05143C0210F	16-May-08	
Flood Zone	Zone X		
Adjacent Land Uses	Commercial, residential and agricultural uses		
Comparative Analysis		Rating	
Visibility	Good		
Functional Utility	Assumed adequate		
Traffic Volume	Average/Good (W Drake Street vs. Interstate 49)		
Adequacy of Utilities	Assumed adequate		
Landscaping	Average		
Drainage	Assumed adequate		
Utilities	Provider	Adequacy	
Water	City of Fayetteville	Yes	
Sewer	City of Fayetteville	Yes	
Natural Gas	Black Hills Energy	Yes	
Electricity	SWEPCO/Ozarks Electric	Yes	
Telephone	Various Providers	Yes	
Other	Yes	No	Unknown
Detrimental Easements			X
Encroachments			X
Deed Restrictions			X
Reciprocal Parking Rights			X
Source: Various sources compiled by CBRE			

INGRESS/EGRESS

The subject site has an ample amount of roadway frontage along W Drake Street which is a two-lane thoroughfare running in an east-west direction. Currently there are three access points along the northern right-of-way W Drake Street.

The subject also has a significant amount of roadway frontage along the southern right of way of Interstate 49; however, by its nature this is a controlled access commercial thoroughfare and the subject is not accessible from it.

ENVIRONMENTAL ISSUES

CBRE, Inc. is not qualified to detect the existence of potentially hazardous material or underground storage tanks which may be present on or near the site. The existence of hazardous materials or underground storage tanks may affect the value of the property. For this appraisal, CBRE, Inc. has specifically assumed that the property is not affected by any hazardous materials that may be present on or near the property.

ADJACENT PROPERTIES

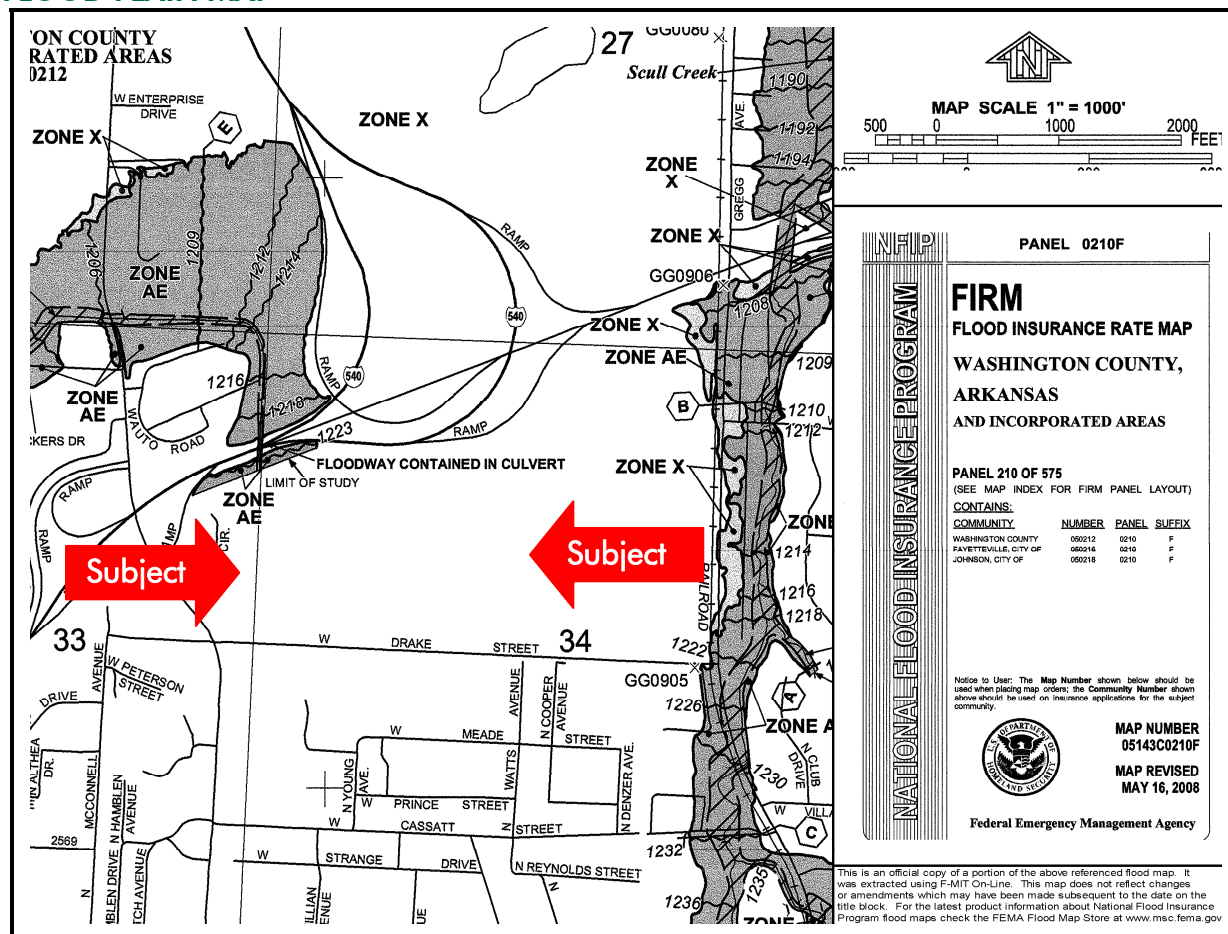
The adjacent land uses are summarized as follows:

North:	Interstate 49 with a mix of commercial uses and vacant land beyond.
South:	W Drake Street with agricultural property utilized by the University of Arkansas beyond.
East:	Vacant land.
West:	Commercial uses.

CONCLUSION

The site is well located and afforded good visibility and adequate access from roadway frontage. The size of the site is not uncommon for the area and use; however, it is on the larger side which may preclude developing the entire site all at once. There are no known detrimental uses in the immediate vicinity. Overall, there are no known factors which are considered to prevent the site from development to its highest and best use, as if vacant, or adverse to the existing use of the site.

FLOOD PLAIN MAP



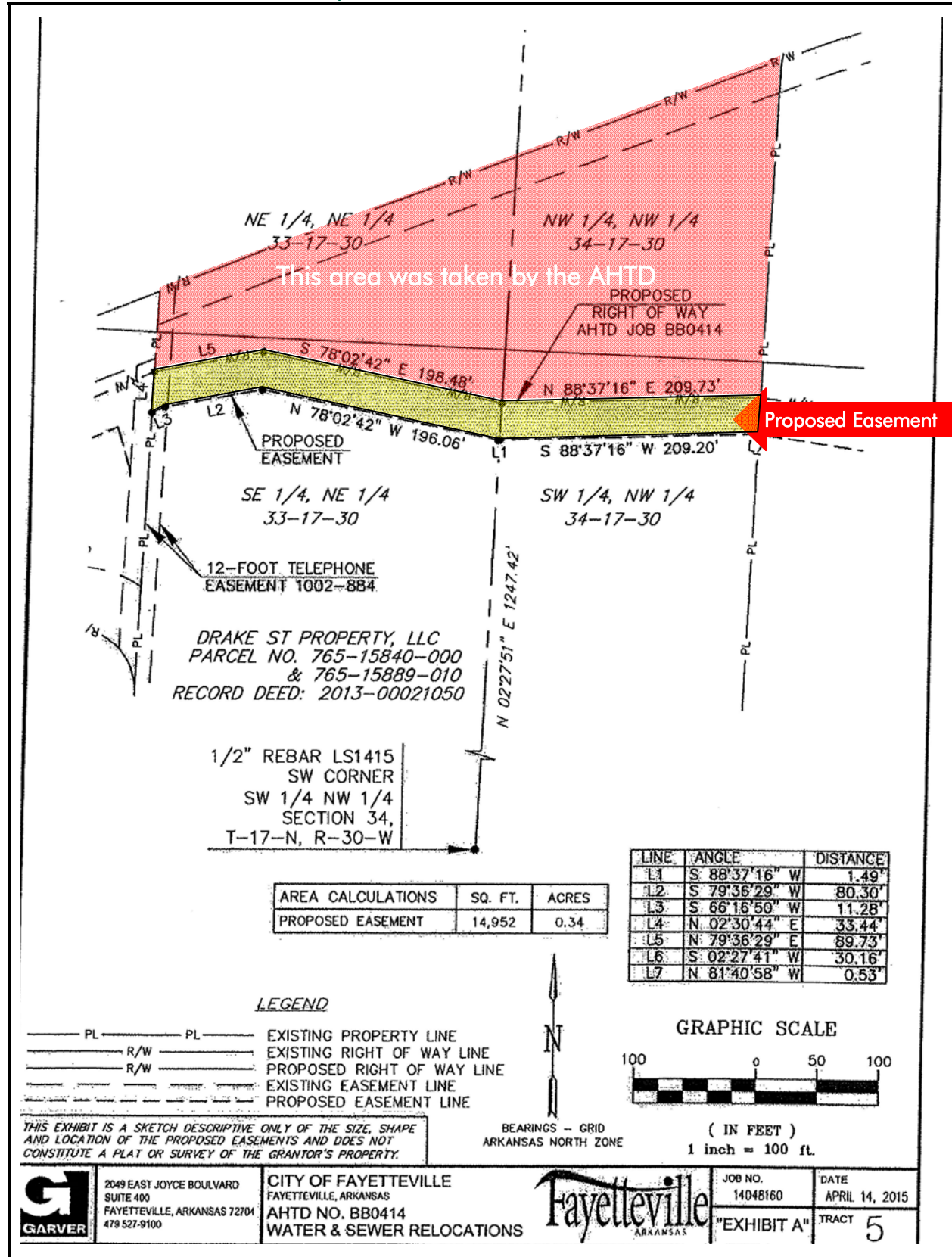
Based on the FEMA flood map it appears that a smaller part of the northwest portion of the subject site could be located in the floodplain. But, it appears that this area has been acquired by the AHTD as part of the Interstate 49 expansion project.

Partial Taking

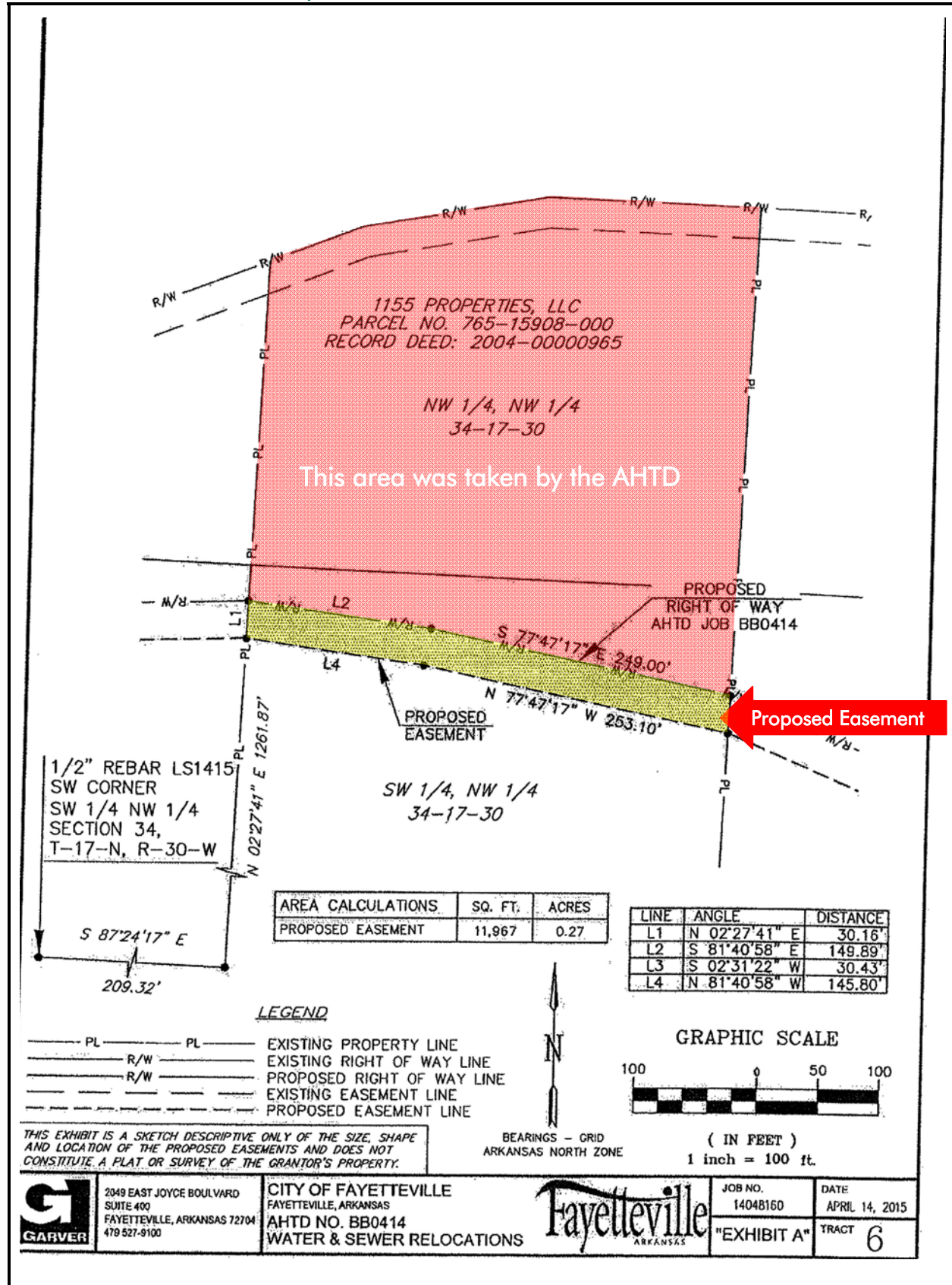
The Arkansas Highway and Transportation Department recently acquired 18.23 acres along the northern boundary of the subject for the expansion of the Interstate 49. Now, the City of Fayetteville is seeking to acquire a new 30-foot wide utility easement which will run along the southern boundary of the new Interstate 49 right-of-way. The easement will contain a total of acres and traverse the property in an east-northeast direction (basically comprising the northern boundary of the property).

The proposed layout of the new easement is illustrated in the following surveys. Note that the surveys do not illustrate the entire tract but rather, they emphasize the location of the proposed easement. We have highlighted the proposed easement in yellow. The areas to the north of the easement have already been acquired by the AHTD and are highlighted in red – also note that the areas highlighted in red do not necessarily represent legal boundaries.

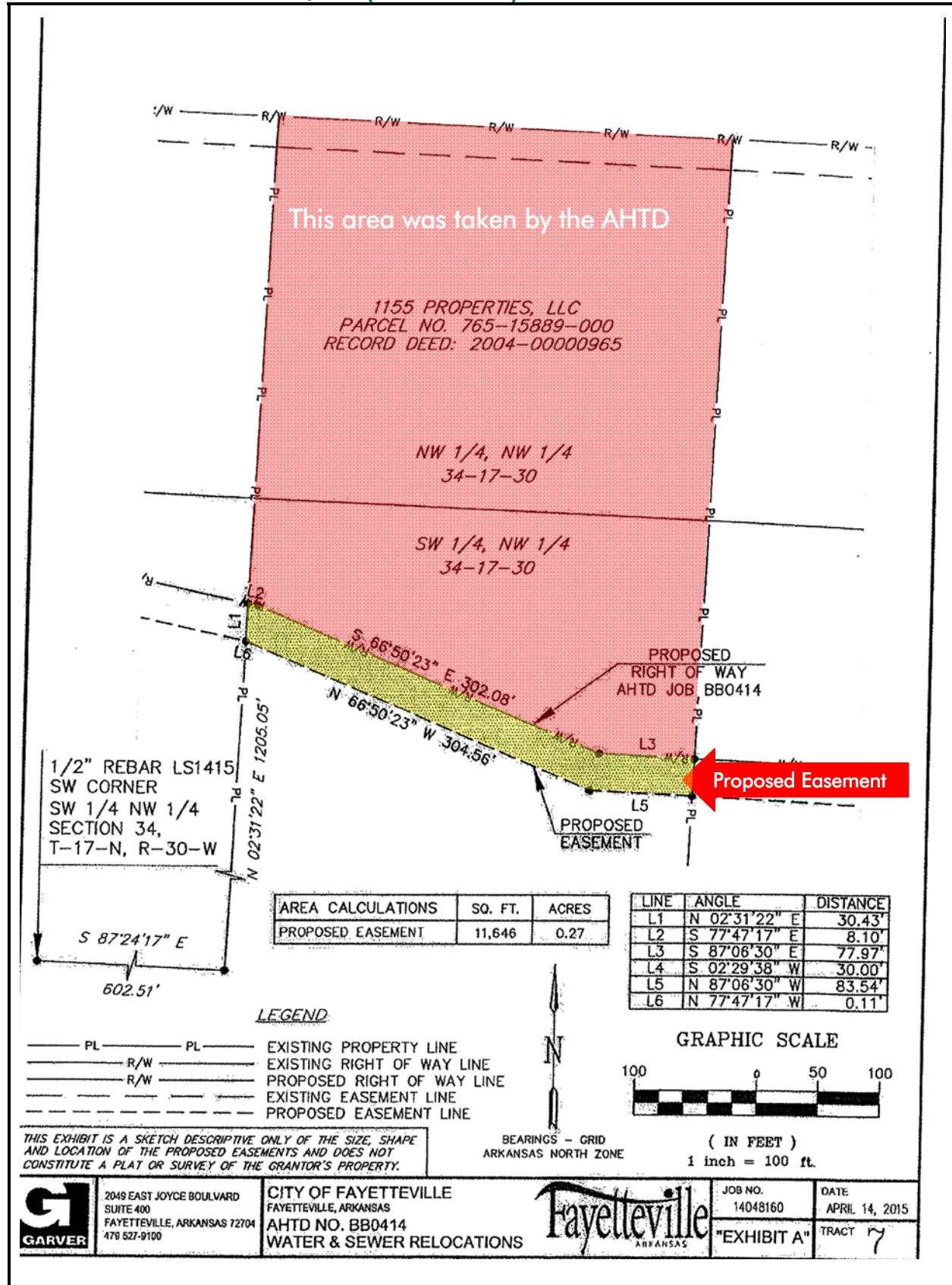
SURVEY – DRAKE ST PROPERTY, LLC



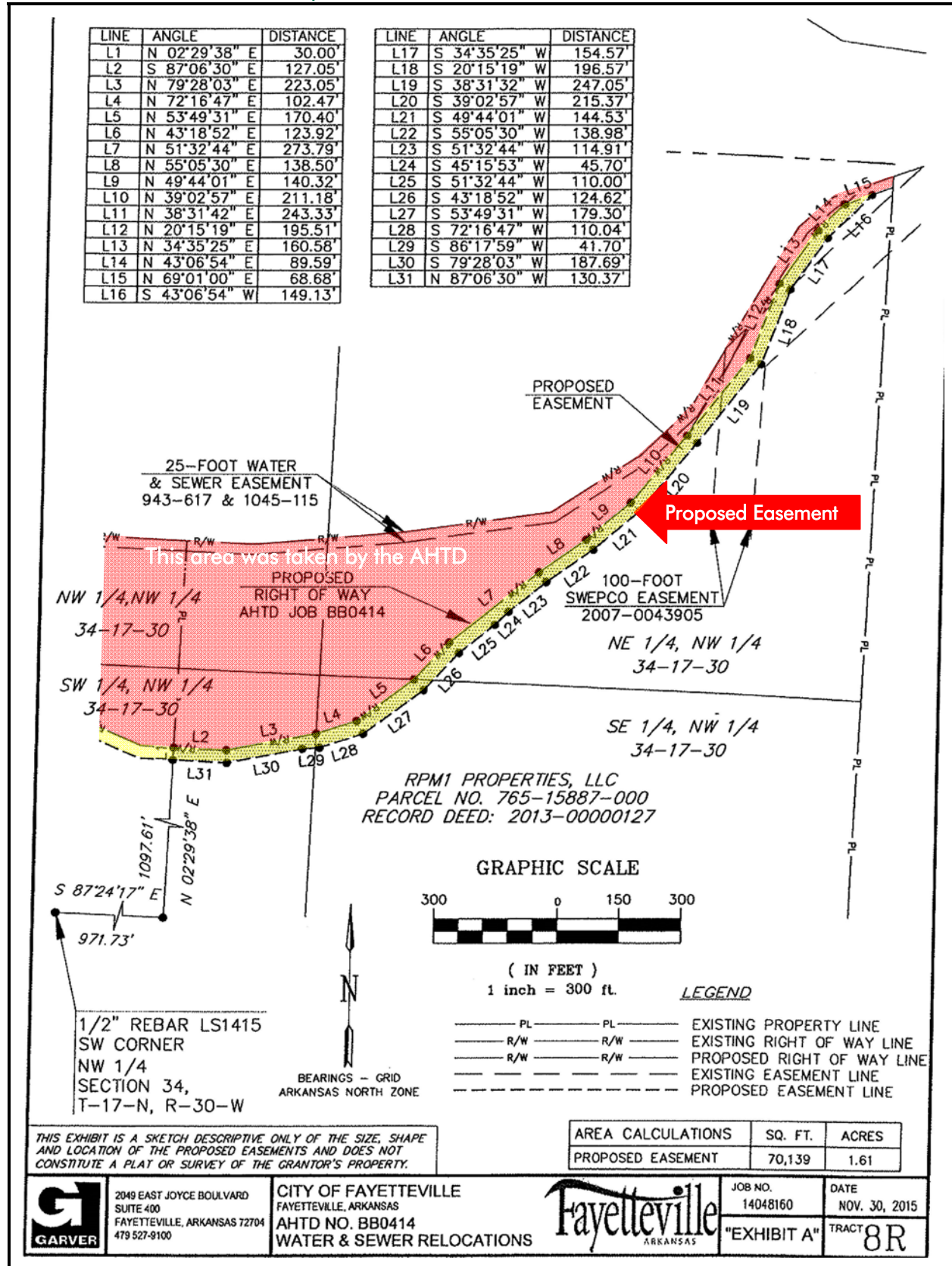
SURVEY - 1155 PROPERTIES, LLC



SURVEY - 1155 PROPERTIES, LLC (CONTINUED)



SURVEY – RPM1 PROPERTIES, LLC



Zoning

The following chart summarizes the subject's zoning requirements.

ZONING SUMMARY	
Current Zoning	UT, Urban Thoroughfare
Legally Conforming	Yes
Uses Permitted	See comments below.
Zoning Change	See comments below.
Source: Planning & Zoning Dept.	

On June 20, 2016, the City of Fayetteville Planning Commission approved a request to have the property rezoned from R-O, Residential Office and R-A, Residential Agricultural to UT, Urban Thoroughfare. The Urban Thoroughfare District is a commercial zone designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. The intent of this zoning district is to provide standards that enable development to be approved administratively

ZONING MAP



FUTURE LAND USE MAP



According to the City of Fayetteville's future land use map, the subject is designated for Urban Center use which is consistent with its recent rezoning. According to documents from the city planning office, Urban Center Areas contain the most intense and dense development patterns within the City, as well as the tallest and greatest variety of buildings. They accommodate row-houses, apartments, local and regional retail, including large-scale stores, hotels, clean tech industry and entertainment uses. These areas are typified by their location adjacent to major thoroughfares with high visibility, usually automobile-dependent customers and large areas dedicated to parking. Although Urban Center Areas recognize the conventional big-box and strip retail centers developed along major arterials, it is expected that vacant properties will be developed into traditional mixed-use centers, allowing people to live, work and shop in the same areas. Additionally, infill of existing development centers should be strongly encouraged, since there is greater return for properties already served by public infrastructure.

ANALYSIS AND CONCLUSION

The current zoning of the subject appears to accommodate its current use as tract of agricultural land. According to the city's future land use map the site is intended for mixed-use development. Thus, we assume that the property could be rezoned (with minimal effort) to accommodate a variety of uses. Additional information may be obtained from the appropriate governmental authority. For purposes of this appraisal, CBRE has assumed the information obtained is correct.

Tax and Assessment Data

The following summarizes the local assessor's estimate of the subject's market value before the taking, assessed value, and taxes, and does not include any furniture, fixtures or equipment. The CBRE estimated tax obligation before the taking is also shown.

AD VALOREM TAX INFORMATION			
Assessor's Market Value	2015	Current	Pro Forma
765-15840-000	\$103,200	\$91,500	
765-15889-010	1,450	1,595	
765-15908-000	3,050	3,355	
765-15889-000	44,985	47,900	
765-15887-000	58,150	60,400	
Subtotal	\$210,835	\$204,750	\$204,750
Assessed Value @	20%	20%	20%
	\$42,167	\$40,950	\$40,950
General Tax Rate (per \$100 A.V.)	5.375000	5.475000	5.475000
Total Taxes	\$2,266	\$2,242	\$2,242
Source: Assessor's Office			

The local Assessor's methodology for valuation is the cost approach supplemented by sales data. Arkansas requires property be assessed at its fee simple market value although this is not always properly done. Some Assessors describe the values as "bricks, sticks, and mortar". The exclusion of the effects of leasing or operation of the property is the key point. Washington County recently re-assessed its real estate in 2015 and the next re-assessment is scheduled for 2020. Arkansas is a disclosure State and Assessors have knowledge of the sale price of properties.

CONCLUSION

Based on the foregoing, the total taxes for the subject have been estimated as \$2,242 for the base year of our analysis, based upon an assessed value of \$40,950 or \$441 per acre. This is marginally lower than the historical assessment, but it is consistent with the current assessment. For purposes of this analysis, CBRE, Inc. assumes that all taxes are current.

Market Analysis

The market analysis forms a basis for assessing market area boundaries, supply and demand factors, and indications of financial feasibility. The subject is large tract of development land and could support a variety of uses ranging from residential (high density/multi-family) to commercial (both office and retail). In reality the most probable use would be a combination. Based on this we have analyzed the multi-family, retail, and office markets for the Fayetteville area. Primary data sources utilized for this analysis include the Arvest Bank funded Skyline Report by the University of Arkansas, Streetsmart Data Services, Inc (formerly The Reed Report), Real Capital Analytics, primary research by CBRE, and interviews with market participants and professionals.

APARTMENT MARKET

Market Overview

The following discussion illustrates some general observations in the surrounding apartment market.

MARKET SUMMARY

CBRE/Northwest Arkansas began publishing a semi-annual market study as of 2012. Prior to the end of 2014, CBRE/Northwest Arkansas and CBRE, Inc. were separate entities. CBRE, Inc. Valuation & Advisory Services assisted in the collection and analysis of data for this study. CBRE/Northwest Arkansas (whose parent was CBRE/Oklahoma) was acquired in late 2014 by CBRE, Inc. and we are now part of the same corporate umbrella. The Year-End 2015 report included the following market statistics.

APARTMENT MARKET		
Category	Fayetteville MSA	Fayetteville
Sample Size (Units)	22,276	9,622
Average Occupancy	98.5%	98.5%
Range of Occupancy	83% - 100%	90% - 100%
Average Rent PSF (2BR/2BA Units)	\$0.73	\$0.70
Date of Survey	Year-End 2015	
Source: CBRE		

Streetsmart provided the following market statistics for the Fayetteville-Springdale-Rogers, AR-MO MSA area as of the Third Quarter, 2014 (the most recent data available). Note that this information has become dated.

APARTMENT MARKET		
Category	Fayetteville MSA	Fayetteville
Existing Supply (Units)	27,086	12,777
New Construction (Units)	271	264
Average Occupancy	98.1%	97.9%
Average Rent PSF (2BR Units)	\$0.69	\$0.69
Date of Survey	3rd Q-2014	
Source: Streetsmart Data Services		

Within the past few years, the housing crisis has driven households back to apartments and the University of Arkansas student population continues to grow. The rather dramatic increase in occupancy is primarily a result of these two events. It is anticipated that the apartment market in Fayetteville could once again face high supply with the introduction of a large number of student apartment complexes to the market in the next 12-18 months. But, for now, it is obvious that apartment occupancies are quite good and a general increase in rents has also occurred.

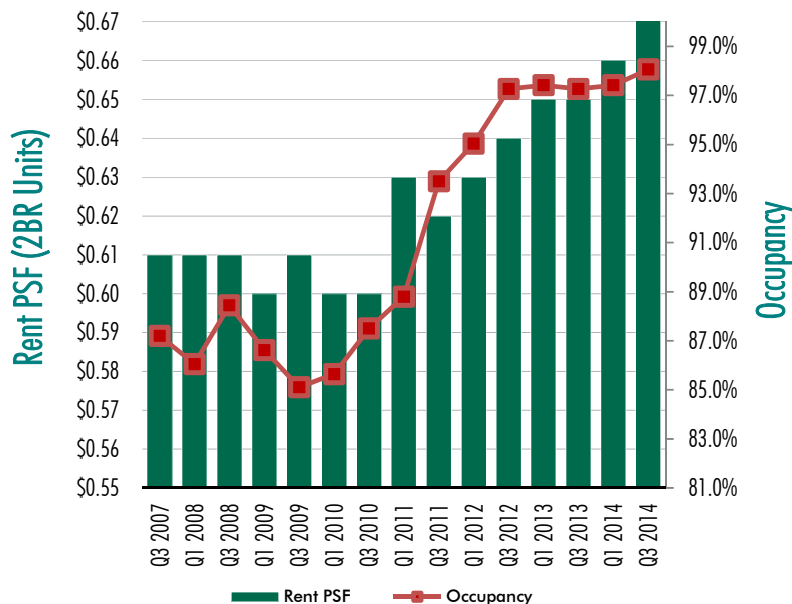
Market Trends

The following provides an indication of apartment trends in the area based on Streetsmart data.

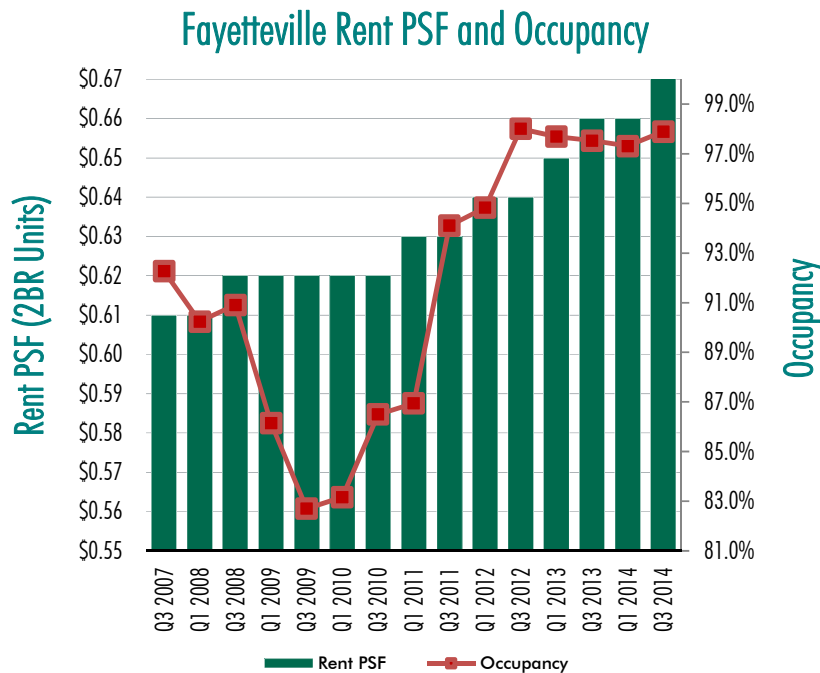
APARTMENT MARKET TRENDS				
Date	Fayetteville MSA		Fayetteville	
	Rent PSF	Occ.	Rent PSF	Occ.
Q3 2007	\$0.61	87.2%	\$0.61	92.3%
Q1 2008	\$0.61	86.1%	\$0.61	90.2%
Q3 2008	\$0.61	88.4%	\$0.62	90.9%
Q1 2009	\$0.60	86.6%	\$0.62	86.2%
Q3 2009	\$0.61	85.1%	\$0.62	82.7%
Q1 2010	\$0.60	85.6%	\$0.62	83.2%
Q3 2010	\$0.60	87.5%	\$0.62	86.5%
Q1 2011	\$0.63	88.8%	\$0.63	87.0%
Q3 2011	\$0.62	93.5%	\$0.63	94.1%
Q1 2012	\$0.63	95.0%	\$0.64	94.8%
Q3 2012	\$0.64	97.3%	\$0.64	98.0%
Q1 2013	\$0.65	97.4%	\$0.65	97.7%
Q3 2013	\$0.65	97.3%	\$0.66	97.5%
Q1 2014	\$0.66	97.4%	\$0.66	97.3%
Q3 2014	\$0.69	98.1%	\$0.69	97.9%

Source: Streetsmart Data Services (Rent PSF is 2BR rent)

Fayetteville MSA Rent PSF and Occupancy



As can be seen, the market reached a low occupancy in the third quarter of 2009 but improved dramatically from that point. Since that time, the combination of the recession forcing people from homeownership as well as increasing University of Arkansas enrollment has combined to improve occupancy levels. Occupancy in the MSA has basically reached a level that it cannot improve further since there are always rollover periods for tenants. Of course, at this occupancy level, there simply has to be new development going on.



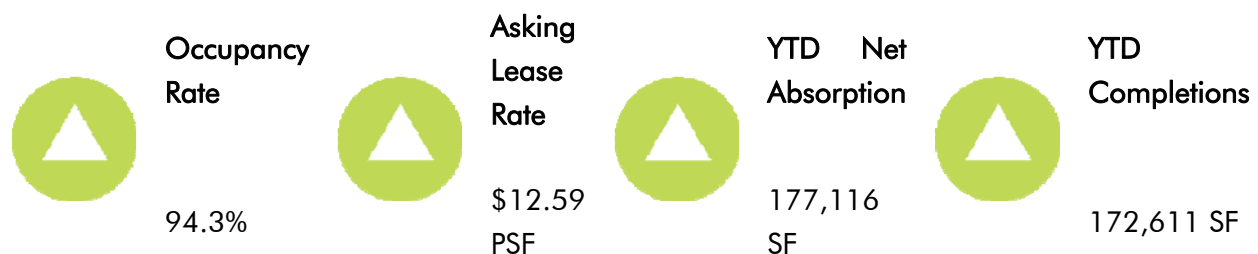
All cities have experienced significantly dramatically improving occupancies over 2011. Because Fayetteville is the location of the majority of the apartment units (47% of the MSA), it has the greatest impact on overall occupancy. The major segment of the market, comprising over 10,000 units within Northwest Arkansas, is apartment complexes developed by Lindsey Multifamily Group.

RETAIL MARKET

Market Overview

The following discussion illustrates some general observations in the surrounding retail market.

MARKET SUMMARY



Market statistics for the Fayetteville-Springdale-Rogers, AR-MO MSA area and the subject submarket are shown in the following table summarizing Xceligent data as of the Fourth Quarter of 2015:⁸

RETAIL MARKET		
Category	Fayetteville MSA	Fayetteville
Existing Supply (SF)	8,236,226	5,612,640
Leasing / Absorption (SF)	177,116	96,314
Average Occupancy	94.3%	94.9%
Date of Survey	4th Q-2015	
Source: Xceligent		

Xceligent provides a type of space cut to their occupancy data. The following provides an indication of occupancy data in different categories of retail space.

RETAIL MARKET					
Category	Fayetteville MSA	Regional / Community Centers	Convenience / Nei. Strip Centers	Freestanding Retail Stores	Big Box Retail Stores
Existing Supply (SF)	8,236,226	4,470,080	4,813,314	1,835,906	2,531,073
Leasing / Absorption (SF)	177,116	116,220	63,276	-2,380	0
Average Occupancy	94.3%	95.6%	90.7%	94.1%	99.9%
Date of Survey	4th Q-2015				
Source: Xceligent					

The following is Costar's reporting on the various market segments as of the Fourth Quarter of 2015:

RETAIL MARKET		
Category	Fayetteville MSA	Fayetteville
Existing Supply (SF)	27,785,819	8,333,018
YTD New Construction (SF)	365,282	75,686
YTD Leasing / Absorption (SF)	534,697	130,655
Average Occupancy	95.4%	95.7%
Average Rent PSF (Quoted Rates)	\$14.37	\$15.25
Date of Survey	4th Q-2015	
Source: Costar		

CBRE Econometrics Advisors refers to a "natural rate" of vacancy which is an indication of the equilibrium point at which a market undergoes some form of change. If vacancy is increasing and passes this number, this is usually the point at which rental rates begin to decline. If vacancy is declining, though, additional supply is brought into a market in addition to increases in rental rates. The CBRE-EA "Natural Rate" for retail is 9-10%. As Northwest Arkansas and the subject submarket are both below this level, this implies the introduction of new supply and increasing

⁸ For all of the following tables, not all submarkets may be shown so total for submarkets will not equal to the MSA total.

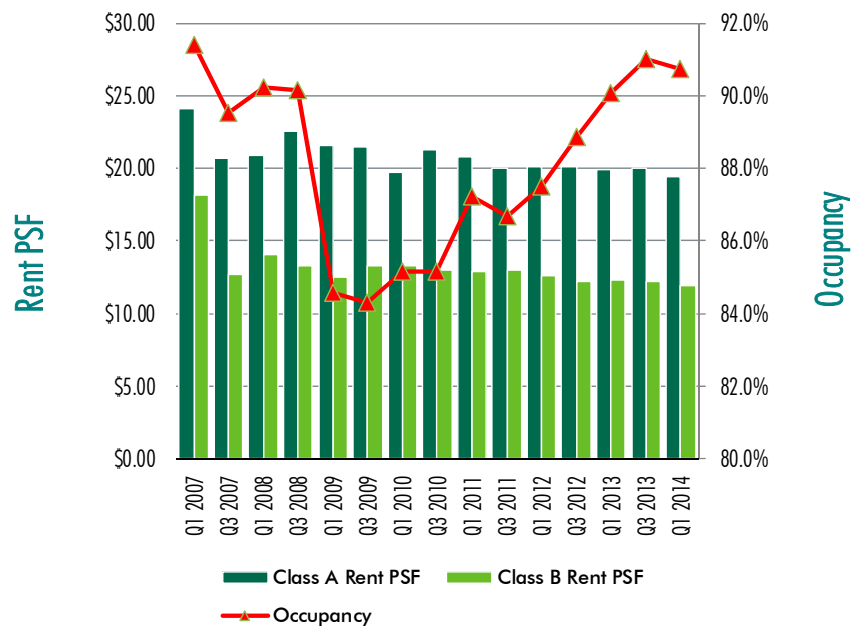
rental rates. So far, there has been an uptick in new supply with 365,282 square feet under construction as of the fourth quarter of 2015).

Market Trends

The table below presents the quarterly trends in rental rates and occupancy for the Fayetteville-Springdale-Rogers, AR-MO MSA area since the first quarter of 2007 through the end of 2014 as reported by Streetsmart:

RETAIL MARKET TRENDS							
Date	Rent PSF		A Total	A Vac	B Total	B Vac	Occupancy
	Class A	Class B					
Q1 2007	\$24.15	\$18.16	2,915,625	201,333	2,072,561	228,398	91.4%
Q3 2007	\$20.66	\$12.75	3,103,705	232,983	2,527,381	357,132	89.5%
Q1 2008	\$20.91	\$14.05	3,097,887	205,487	2,741,214	364,940	90.2%
Q3 2008	\$22.54	\$13.27	3,113,993	222,485	2,762,274	357,156	90.1%
Q1 2009	\$21.53	\$12.56	3,329,968	429,667	2,766,296	510,650	84.6%
Q3 2009	\$21.50	\$13.32	3,301,465	434,110	2,910,277	540,628	84.3%
Q1 2010	\$19.71	\$13.28	3,296,877	402,211	2,957,907	526,419	85.2%
Q3 2010	\$21.27	\$13.02	3,308,091	398,369	2,980,843	534,613	85.2%
Q1 2011	\$20.75	\$12.90	3,338,513	362,460	2,964,539	442,464	87.2%
Q3 2011	\$20.02	\$13.02	3,342,890	341,575	3,013,040	505,383	86.7%
Q1 2012	\$20.11	\$12.60	3,343,670	329,612	3,072,359	473,073	87.5%
Q3 2012	\$20.11	\$12.23	3,348,748	268,587	3,112,647	450,691	88.9%
Q1 2013	\$19.96	\$12.29	3,348,748	215,870	3,112,647	426,484	90.1%
Q3 2013	\$20.02	\$12.21	3,343,748	184,444	3,108,772	395,577	91.0%
Q1 2014	\$19.46	\$11.97	3,343,748	245,738	3,149,383	356,754	90.7%
Q3 2014	\$19.47	\$12.68	3,343,748	235,179	3,254,926	430,266	89.9%

Source: Streetsmart Data Services



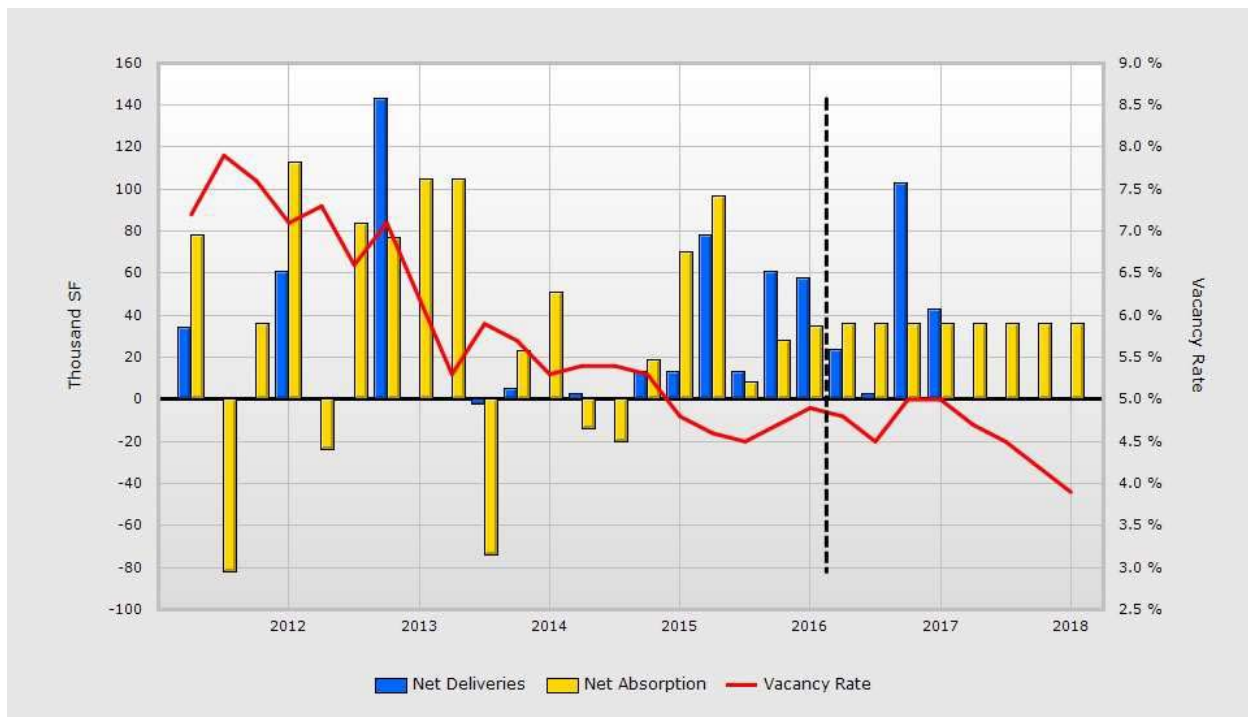
Occupancy was relatively reasonable at the start of this survey but declined significantly during the 2008 into 2009 period. Since then, overall market retail occupancy began climbing and has returned to the pre-recession levels. Prior to the start of this survey data, the typical vacancy level was in the range from 5-10% across all cities of Northwest Arkansas. The amount of available

space has continued to climb until latter 2009 and remains excessive – basically 600,000 square feet.

The data is slightly misleading in that large single tenant buildings such as the new Academy Sports and Cabela's stores are not included in this particular survey. It is significant to note that there has been significant activity in that sector and that it demonstrates a faster retail space absorption pace. These recent projects include the new Target store in Rogers, Cabela's in Rogers, and two Harp's grocery stores. There are also new Wal-Mart Neighborhood Markets in the area plus a recently completed Wal-Mart Supercenter in Springdale. An Academy Sports store was added in Fayetteville near the NWA Mall.

Class B rents have been declining while Class A rents have been basically stable. In most markets, a vacancy level exceeding 10% would typically result in substantially declining rents. This did occur to an extent but not to the levels seen in other markets out of the recession. That stated, we are aware of significant concessions in some areas which would not necessarily show up directly in the survey data. The rental data is not reflective of "effective rents" which would be inclusive of these concessions.

As noted previously, the Streetsmart data ends with 2014. So far, there is no other comprehensive survey with sufficient reliability past that point. Costar does provide the following view including their expectations of future growth in supply and absorption:



This data does have limitations and should not be viewed to the minute level. The general trends are useful, however, and demonstrate the improving occupancy with muted supply additions.

OFFICE MARKET

Market Overview

The following discussion illustrates some general observations in the surrounding North Fayetteville office market with near-term trending.

Basic market statistics for the Fayetteville-Springdale-Rogers, AR-MO MSA area and various defined submarkets are shown in the following table summarizing Xceligent data as of the First Quarter of 2016:⁹

OFFICE MARKET					
Category	Fayetteville MSA	Fayetteville	Springdale	Rogers/Lowell	Bentonville
Existing Supply (SF)	10,677,115	1,978,448	763,451	3,048,864	4,886,352
YTD Leasing / Absorption (SF)	143,216	17,856	0	86,026	39,334
Average Occupancy	88.6%	94.1%	97.3%	87.7%	92.2%
Date of Survey	1st Q-2016				
Source: Xceligent					

Xceligent provides a class cut to their occupancy data. The following provides an indication of Class A and Class B occupancy data in the major submarkets. Note that the definitions of "Class A" and "Class B" at the local level do not conform with the national investment classification viewpoints.

OFFICE MARKET					
	Fayetteville MSA Class A and B	Rogers / Lowell and Bentonville Class A	Rogers / Lowell and Bentonville Class B	Fayetteville Class A	Fayetteville Class B
Category					
Existing Supply (SF)	8,809,756	2,834,276	3,696,290	557,676	1,069,777
YTD Leasing / Absorption (SF)	149,116	70,180	61,080	380	17,476
Average Occupancy	86.9%	86.3%	91.0%	93.6%	94.3%
Date of Survey	1st Q-2016				
Source: Xceligent					

The following is Costar's reporting on the various market segments as of the First Quarter of 2016:

OFFICE MARKET					
					Bentonville / Benton County
Category	Fayetteville MSA	Fayetteville	Springdale	Rogers/Lowell	
Existing Supply (SF)	14,373,053	3,636,555	1,878,734	3,299,068	5,309,903
YTD New Construction (SF)	37,584	5,384	0	3,731	28,469
YTD Leasing / Absorption (SF)	79,714	-2,560	-1,290	61,229	22,335
Average Occupancy	90.2%	93.1%	94.6%	84.7%	89.7%
Average Rent PSF (Quoted Rates)	\$16.51	\$14.63	\$13.95	\$17.44	\$17.08
Date of Survey	1st Q-2016				
Source: Costar					

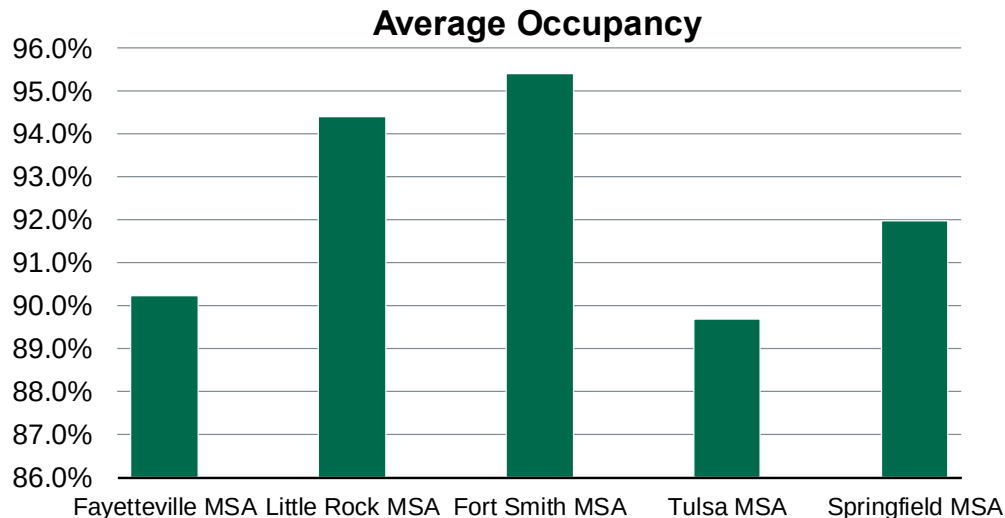
⁹ For all of the following tables, not all submarkets may be shown so total for submarkets will not equal to the MSA total.

Comparison to Other Markets

It is useful to consider the Northwest Arkansas office market against other surrounding areas. This provides an indication of the relative health of the market. The following table uses data from Costar for the market areas noted. Costar covers all of these markets whereas the other services may not.

OFFICE MARKETS					
Category	Fayetteville MSA	Little Rock MSA	Fort Smith MSA	Tulsa MSA	Springfield MSA
Existing Supply (SF)	14,373,053	33,800,693	4,536,489	51,545,135	8,601,378
YTD New Construction (SF)	37,584	0	0	21,032	0
YTD Leasing / Absorption (SF)	79,714	-116,502	2,884	135,649	-8,451
Average Occupancy	90.2%	94.4%	95.4%	89.7%	92.0%
Average Rent PSF (Quoted Rates)	\$16.51	\$15.22	\$9.54	\$14.33	\$12.91
Date of Survey	1st Q-2016				
Source: Costar					

The following is a graph of the occupancy levels.



As can be seen, the subject market tracks with Tulsa and Springfield in terms of occupancy level. Tulsa is a nearly four times larger office market while Springfield is smaller than Northwest Arkansas. The higher occupancy of the Little Rock MSA can be traced to its State government influence as well as the fact that it is the largest city, and center, of the State along with all the State and corporate owned office space. The high occupancy of Fort Smith may be more a function of Costar not tracking all available space and/or excluding obsolete space.

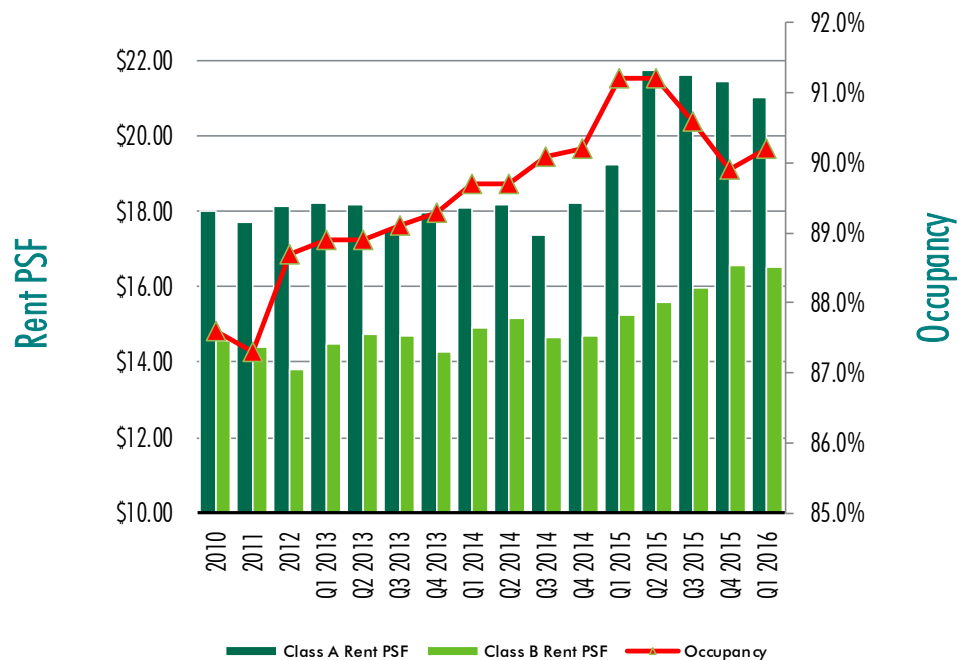
Market Trends

The table below presents the quarterly trends in occupancy for the Fayetteville-Springdale-Rogers, AR-MO area over the period from 2010 to the First Quarter of 2016:

OFFICE MARKET TRENDS			
Date	Rent PSF		Overall Occupancy
	Class A	Class B	
2010	\$18.02	\$14.59	87.6%
2011	\$17.70	\$14.39	87.3%
2012	\$18.15	\$13.82	88.7%
Q1 2013	\$18.24	\$14.49	88.9%
Q2 2013	\$18.18	\$14.74	88.9%
Q3 2013	\$17.56	\$14.69	89.1%
Q4 2013	\$17.97	\$14.29	89.3%
Q1 2014	\$18.11	\$14.90	89.7%
Q2 2014	\$18.16	\$15.17	89.7%
Q3 2014	\$17.36	\$14.66	90.1%
Q4 2014	\$18.20	\$14.69	90.2%
Q1 2015	\$19.25	\$15.24	91.2%
Q2 2015	\$21.74	\$15.61	91.2%
Q3 2015	\$21.61	\$15.96	90.6%
Q4 2015	\$21.44	\$16.55	89.9%
Q1 2016	\$21.03	\$16.52	90.2%

Source: Costar

The following is a graph of this data.



As demand increased into 2014 and 2015, rent levels also began increasing. The introduction of new product into the market has simultaneously caused occupancy to decline slightly. Note that Costar tracks many owner-occupied buildings such as the Wal-Mart, JB Hunt, and Tyson

Foods headquarters complexes and this tends to overstate the occupancy somewhat over the occupancy of strictly tenant occupied properties. Nevertheless, general trends are visible – most specifically the increasing occupancy out of 2011 to 2015.

CONCLUSION

The area apartment market experienced shocks in the 2007 period from both the movement from the area of the construction trades workers and the introduction of Class A product that was proven to be of very low demand initially. Occupancy rates remained impaired into 2010. This reversed itself and occupancy levels are now quite good in most areas. The introduction of additional student housing complexes could result in an increase in vacancy levels in the near term, however.

Apartment demand has been very good as economic conditions continue to improve in Northwest Arkansas. Continued employment growth translates to apartment demand. The fear has been that the introduction of significant numbers of student housing complexes would depress occupancy. To date, this has not occurred as non-student complexes have actually seen improved occupancy levels.

Sales activity has been significant in the local area and reflects some degree of compression of capitalization rates. The same has been true of the national market. Because of the availability of FNMA and FHLMC financing (as well as HUD), sales activity nationally has been able to continue at significant levels. This type of secondary funding is now focusing on the smaller markets because the large markets have essentially been exhausted in terms of refinances and sales activity.

As for the retail market, Northwest Arkansas has been experiencing good absorption levels since the low point in 2009. According to Streetsmart data, the lowest recorded market occupancy was in the third quarter of 2009 at 84.3%. According to Xceligent, occupancy is now at 94.9%. At this level, it can be expected that new construction will occur and that is, in fact, what is happening. Rental rates are also increasing

The retail property investment market in Northwest Arkansas is beginning to come back with a number of sales occurring in 2013, 2014, and 2015. Until recently, the only properties selling were impaired and were frequently bank owned properties being divested. The credit single-tenant retail market continues to be very active both regionally and nationally. There is strong investor appetite for these properties.

The Northwest Arkansas office market has improved dramatically out of the recession. Occupancy levels are above what was seen pre-recession and continue to improve. Rent levels are climbing as well. Absorption was positive through 2013 with additions to supply generally well occupied upon completion. Supply additions are noted, however, which could have a dampening effect on recent trends.

Outside of the Wal-Mart oriented office market, continuing population growth (which has been strong) is driving the office market. The additions to building stock to Fayetteville created what appeared to be an overbuilt condition for the better classes of office space but this has effectively cleared. The introduction of the Park Centre development did not vacate as much space as was added but it put a shock on the market which has apparently been overcome.

Sales activity returned in 2013 and this trend continued into 2014 and 2015. There is a very large office building in play for sale right now. Northwest Arkansas lagged national pricing trends (due to the dominance of what would be considered Class B or less product when compared to the national level) but recent transactions reflected lower capitalization rates. Since the recent transactions are more similar to national trends, the upper price range product may be near a top in terms of value unless rent growth continues and/or national pricing trends continue to push higher.

With regard to the subject in particular, the property is well located for a mixed-use type project. The property has good visibility from Interstate 49 and is easily accessible from other areas of Fayetteville. All market segments have been improving over the past couple of years and this has led to some additions in the market. The size of the property would likely preclude development the entire site all at once and with regard to retail or office development any potential project should be carefully targeted to demand.

Highest and Best Use – Before the Taking

In appraisal practice, the concept of highest and best use represents the premise upon which value is based. The four criteria the highest and best use must meet are:

- legally permissible;
- physically possible;
- financially feasible; and
- maximally productive.

The highest and best use analysis of the subject before the taking is discussed below.

AS VACANT

Legally Permissible

The legally permissible uses were discussed in the Site Analysis and Zoning Sections. As mentioned, the property was recently rezoned to UT, Urban Thoroughfare which is consistent with the future land use map for the city of Fayetteville.

Physically Possible

The subject is adequately served by utilities, and has an adequate shape and size, sufficient access, etc., to be a separately developable site. There are no known physical reasons why the subject site would not support any legally probable development (i.e. it appears adequate for development).

Existing structures on similar sites provides additional evidence for the physical possibility of development.

Financially Feasible

The determination of financial feasibility is dependent primarily on the relationship of supply and demand for the legally probable land uses versus the cost to create the uses. With respect to the legal uses for the subject site, the local apartment, retail and office market segments are stabilized and have generally been improving. There are two large apartment facilities that are under construction to the north of the subject. With regard to retail and office properties, there have been additions to the market but most of these have either been owner occupied or pre-leased prior to construction. Thus any potential retail or office project should be carefully targeted to demand.

Maximally Productive - Conclusion

The final test of highest and best use of the site as if vacant is that the use be maximally productive, yielding the highest return to the land.

Based on the information presented above and upon information contained in the market and neighborhood analysis, we conclude that the highest and best use of the subject as if vacant would be the development of a mixed use project. Our analysis of the subject and its respective

market characteristics indicate the most likely buyer, as if vacant, would be an investor (land speculation) or a developer.

Appraisal Methodology

In appraisal practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available. Depending on a specific appraisal assignment, any of the following four methods may be used to determine the market value of the fee simple interest of land:

- Sales Comparison Approach;
- Income Capitalization Procedures;
- Allocation; and
- Extraction.

The following summaries of each method are paraphrased from the text.

The first is the sales comparison approach. This is a process of analyzing sales of similar, recently sold parcels in order to derive an indication of the most probable sales price (or value) of the property being appraised. The reliability of this approach is dependent upon (a) the availability of comparable sales data, (b) the verification of the sales data regarding size, price, terms of sale, etc., (c) the degree of comparability or extent of adjustment necessary for differences between the subject and the comparables, and (d) the absence of nontypical conditions affecting the sales price. This is the primary and most reliable method used to value land (if adequate data exists).

The income capitalization procedures include three methods: land residual technique, ground rent capitalization, and Subdivision Development Analysis. A discussion of each of these three techniques is presented in the following paragraphs.

The land residual method may be used to estimate land value when sales data on similar parcels of vacant land are lacking. This technique is based on the principle of balance and the related concept of contribution, which are concerned with equilibrium among the agents of production--i.e. labor, capital, coordination, and land. The land residual technique can be used to estimate land value when: 1) building value is known or can be accurately estimated, 2) stabilized, annual net operating income to the property is known or estimable, and 3) both building and land capitalization rates can be extracted from the market. Building value can be estimated for new or proposed buildings that represent the highest and best use of the property and have not yet incurred physical deterioration or functional obsolescence.

The subdivision development method is used to value land when subdivision and development represent the highest and best use of the appraised parcel. In this method, an appraiser determines the number and size of lots that can be created from the appraised land physically, legally, and economically. The value of the underlying land is then estimated through a discounted cash flow analysis with revenues based on the achievable sale price of the finished product and expenses based on all costs required to complete and sell the finished product.

The ground rent capitalization procedure is predicated upon the assumption that ground rents can be capitalized at an appropriate rate to indicate the market value of

a site. Ground rent is paid for the right to use and occupy the land according to the terms of the ground lease; it corresponds to the value of the landowner's interest in the land. Market-derived capitalization rates are used to convert ground rent into market value. This procedure is useful when an analysis of comparable sales of leased land indicates a range of rents and reasonable support for capitalization rates can be obtained.

The allocation method is typically used when sales are so rare that the value cannot be estimated by direct comparison. This method is based on the principle of balance and the related concept of contribution, which affirm that there is a normal or typical ratio of land value to property value for specific categories of real estate in specific locations. This ratio is generally more reliable when the subject property includes relatively new improvements. The allocation method does not produce conclusive value indications, but it can be used to establish land value when the number of vacant land sales is inadequate.

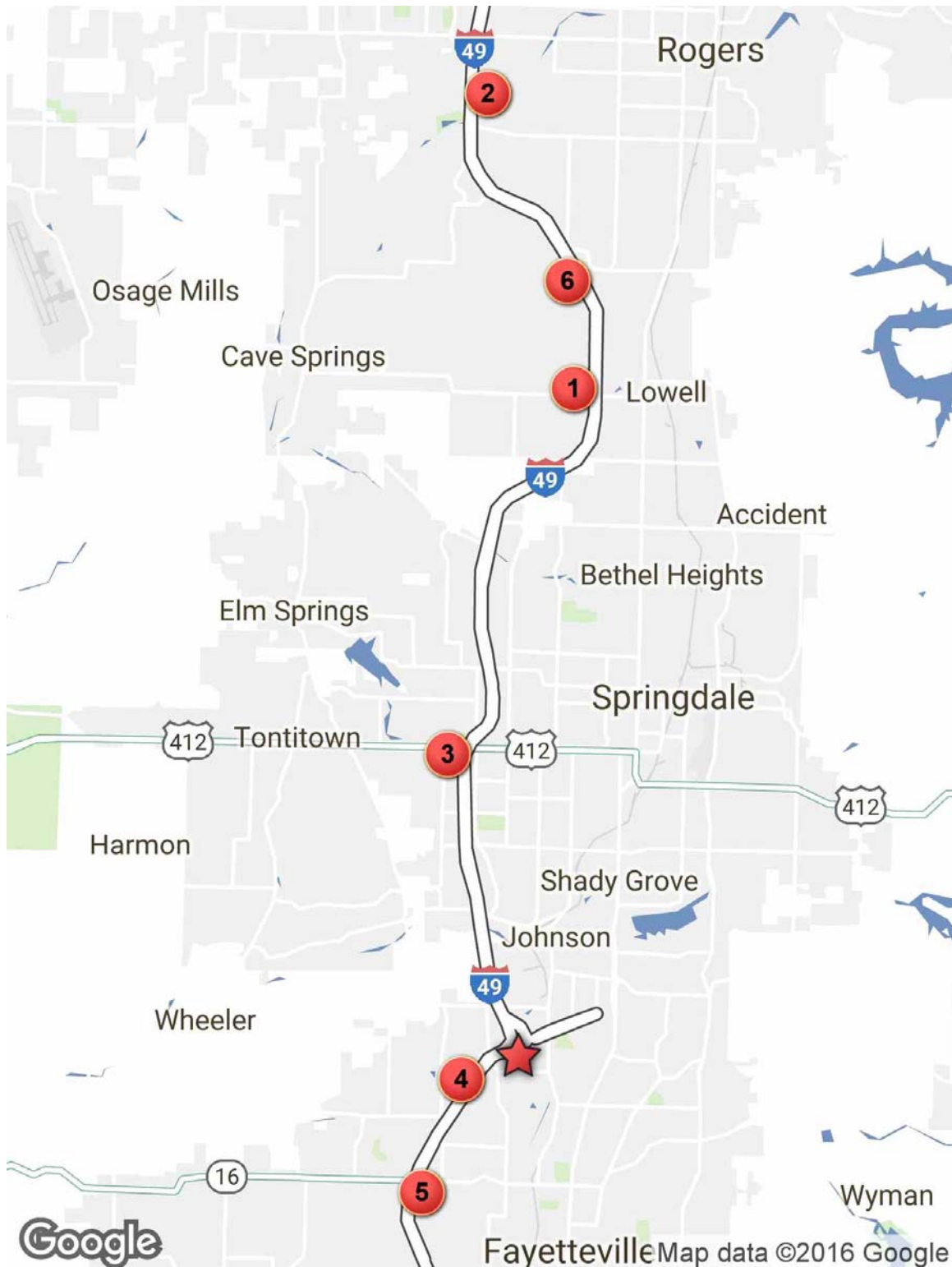
The extraction method is a variant of the allocation method in which land value is extracted from the sale price of an improved property by deducting the contribution of the improvements, which is estimated from their depreciated costs. The remaining value represents the value of the land. Value indications derived in this way are generally unpersuasive because the assessment ratios may be unreliable and the extraction method does not reflect market considerations.

METHODOLOGY APPLICABLE TO THE SUBJECT

For the purposes of this analysis, we have utilized the sales comparison approach only. The other methodologies are used primarily when comparable land sales data is non-existent. Therefore, these approaches have not been used. We have conducted an analysis of the overall taking as well as the individual takings. The overall analysis is presented first with the individual takings presented subsequently.

Overall Land Value – Before the Taking

The following map and table summarize the comparable data used in the valuation of the subject site. A detailed description of each transaction is included in the addenda.



SUMMARY OF COMPARABLE LAND SALES								
No.	Property Location	Transaction Type	Date	Proposed Use	Actual Sale Price	Adjusted Sale Price ¹	Size (SF)	Price Per SF
1	NW/C W Monroe Ave & N Goad Springs Rd, Lowell, AR	Sale	Sep-15	Harp's Food Store	\$2,622,720	\$2,622,720	780,160	\$3.36
2	Oliver Dr & S Promenade Blvd, Bentonville, AR	Sale	Mar-15	Office Park	\$8,300,000	\$8,300,000	3,483,493	\$2.38
3	5555 W Sunset Ave, Springdale, AR	Sale	Feb-15	Commercial	\$12,407,885	\$12,407,885	3,071,058	\$4.04
4	N Shiloh Dr & Foxglove Dr, Fayetteville, AR	Sale	Oct-13	Auto Dealership	\$2,268,000	\$2,268,000	494,842	\$4.58
5	2455 W Wedington Dr, Fayetteville, AR	Available/ Listing	Jun-16	Mixed-use commerical	\$28,225,000	\$28,225,000	4,704,480	\$6.00
6	1502 S Mills Pl, Rogers, AR	Available/ Listing	Jun-16	Mixed-use Commerical	\$37,700,000	\$37,700,000	8,371,796	\$4.50
Subject	I-49 & Highway 112, Fayetteville, Arkansas	---	---		---	---	4,043,675	---

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)
Compiled by CBRE

The sales utilized represent the best data available for comparison with the subject and were selected from the greater Northwest Arkansas area with an emphasis on the Interstate 49 Corridor stretching from Fayetteville to Bentonville. These sales were chosen based upon location and physical characteristics.

DISCUSSION/ANALYSIS OF LAND SALES

Land Sale One

This comparable represents 17.91 acres at the northwest corner of W Monroe Avenue and N Goad Springs Road. The site has a rectangular shape with generally level topography. At the time of the sale, the property was vacant/agricultural land. The site is zoned for commercial use and the proposed use is to build a Harp's Food Store. All utilities were available to the site. The property sold in September 2015 for \$2,622,720, or \$3.36 per square foot (\$146,439 per acre).

The downward adjustment for size reflects this comparable's superior feature with respect to economies of scale regarding parcel size. Typically, a smaller parcel will sell for a higher price per unit of measure and vice versa. The adjustment is not readily noticeable from the available data set but it does fall within a commonly observed range of 5% to 15% for every doubling or halving of size. This property is located back off of Interstate 49, thus it doesn't have frontage on I-49 and is less visible from the interstate than the subject which renders it inferior in terms of location. Therefore, an upward adjustment was deemed appropriate for this comparable. Overall, this comparable was deemed inferior in comparison to the subject and an upward net adjustment was warranted to the sales price indicator.

Land Sale Two

This comparable represents the sale of 7 contiguous office park lots plus an unimproved tract of land for a combined total of 79.97 acres at the intersection of Oliver Drive and S Promenade Boulevard. The lots are part of the Farms development and Promenade Boulevard bisects the site. The lots are located on the east side of the street and the unimproved tract of land is located on the west side of the street. The site has an irregular shape with rolling topography. The site is zoned A-1, C-2, C-3, and R-O; the property was purchased for speculative holding for future development. All public utilities were available to the site. The property sold in March 2015 for \$8,300,000, or \$2.38 per square foot (\$103,789 per acre). This was a lender driven transaction. The property was nearing foreclosure. A portion of the undeveloped land will, in the future, be dedicated to the construction of an east-west street and bridge over I-49 connecting the Metro Park development to this side of I-49. Because of the lack of demand to this point, the fact that the eastern part of this property was platted and included subdivision improvements was not a primary motivation to this sale. Rather, it was the combination of a large tract of land within an area with proven commercial demand and growth. It is anticipated by the buyer that changes to the subdivision layout and improvements will be needed.

As mentioned this sale was a lender driven transaction because the property was nearing foreclosure. Thus, an upward adjustment for conditions of sale is considered appropriate based against Comparables One and Three. An adjustment for topography was considered appropriate for this comparable given its rolling nature - we do note that the eastern portion is more level but the frontage portion along I-49 is not and the topography would contribute to higher development costs, thus an upward adjustment was considered appropriate. Overall, this comparable was deemed inferior in comparison to the subject and an upward net adjustment was warranted to the sales price indicator.

Land Sale Three

This comparable represents 67.5566 acres at 5555 W Sunset Avenue. The site has an irregular shape with generally level topography and exhibits frontage along both W Sunset Avenue as well as Interstate 49. At the time of the sale, the property was vacant land. The site is zoned C-5; Commercial, and the proposed use is to build a Sam's Club retail store. All public utilities were available to the site. The property sold in February 2015 for \$11,707,886, or \$3.98 per square foot (\$173,305 per acre).

Due to its highly similar features, no net or absolute adjustments were required for this comparable when compared to the subject property.

Land Sale Four

This comparable represents 11.36 acres at N Shiloh Drive and Foxglove Drive. The site has an irregular shape with generally level topography. At the time of the sale, the property was part of a vacant commercial subdivision. The site is zoned CPZD, and the proposed use is to build an

auto dealership. All public utilities were available to the site. The property sold in October 2013 for \$2,268,000, or \$4.58 per square foot (\$199,648 per acre).

The upward market conditions (time) adjustment reflects the improved market conditions since the date of sale. The downward adjustment for size reflects this comparable's superior feature with respect to . Overall, this comparable was deemed superior in comparison to the subject and a downward net adjustment was warranted to the sales price indicator.

Land Listing Five

This comparable represents the listing of 108 acres at 2455 W Wedington Drive. The site has an irregular shape with generally level to gently sloping topography and exhibits frontage along W Wedington Drive as well as Interstate 49. At the time of our research, the property was vacant/agricultural land. The site is zoned RSF-4, but based on the future land use map from the city of Fayetteville, the intended use is for mixed development of commercial and residential properties. All public utilities were available to the site. The property has been listed off and on for the past several years. The most recent listing dates back to November of 2013; as of June 2016 the listing price was \$28,225,000, or \$6.00 per square foot (\$261,343 per acre). Note that there has been no reduction in the listing price.

In terms of conditions of sale, this comparable was considered superior and received a downward adjustment for this characteristic due to the fact that it is a current listing and as such has not tested the price discovery method that occurs between a knowledgeable buyer and seller. The downward adjustment is generally based against Comparable Three. Overall, this comparable was deemed superior in comparison to the subject and a downward net adjustment was warranted to the sales price indicator.

Land Listing Six

This comparable represents the listing of 192.19 acres at 1502 S Mills Place in Rogers, AR. The site has an irregular shape with rolling (undulating) topography and primary frontage along both Pleasant Grove Road and Interstate 49. At the time of the sale, the property was vacant/agricultural land; we do note that there were some older residences and agricultural related site improvements but they were not considered to be any contributory value. The site is zoned A-1, Agricultural, but it is being marketed for mixed use development. All public utilities are available to the site. As of June 2016 the property was listed for \$37,700,000, or \$4.50 per square foot (\$196,160 per acre). This listing dates back to February of 2016, but the property is believed to have been for sale at other times over past few years.

Similar to Comparable Listing Five, a downward adjustment for conditions of sale was considered appropriate due to the fact that this data point represents a current listing. This data point is a more recent listing as compared to Comparable Listing Four and there it is adjusted downward at a lesser rate. The upward adjustment for size reflects this comparable's inferior feature with respect to economies of scale regarding parcel size as discussed with Comparable One. Overall,

this comparable was deemed superior in comparison to the subject and a downward net adjustment was warranted to the sales price indicator.

SUMMARY OF ADJUSTMENTS

Based on our comparative analysis, the following chart summarizes the adjustments warranted to each comparable.

LAND SALES ADJUSTMENT GRID - BEFORE THE TAKING						
Comparable Number	1	2	3	4	5	6
Transaction Type	Sale	Sale	Sale	Sale	Available/Listing	Available/Listing
Transaction Date	Sep-15	Mar-15	Feb-15	Oct-13	Jun-16	Jun-16
Proposed Use	Harp's Food Store	Office Park	Commercial	Auto Dealership	Mixed-use commercial	Mixed-use Commercial
Actual Sale Price	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000
Adjusted Sale Price ¹	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000
Size (Acres)	17.91	79.97	70.50	11.36	108.00	192.19
Size (SF)	780,160	3,483,493	3,071,058	494,842	4,704,480	8,371,796
Price Per SF	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50
Price (\$ PSF)	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50
Property Rights Conveyed	0%	0%	0%	0%	0%	0%
Financing Terms ¹	0%	0%	0%	0%	0%	0%
Conditions of Sale	0%	50%	0%	0%	-30%	-10%
Market Conditions (Time)	0%	0%	0%	10%	0%	0%
Subtotal	\$3.36	\$3.57	\$4.04	\$5.04	\$4.20	\$4.05
Size	-15%	0%	0%	-15%	0%	5%
Shape	0%	0%	0%	0%	0%	0%
Corner	0%	0%	0%	0%	0%	0%
Frontage	0%	0%	0%	0%	0%	0%
Topography	0%	25%	0%	0%	0%	0%
Location	50%	0%	0%	0%	0%	0%
Zoning/Density	0%	0%	0%	0%	0%	0%
Utilities	0%	0%	0%	0%	0%	0%
Highest & Best Use	0%	0%	0%	0%	0%	0%
Total Other Adjustments	35%	25%	0%	-15%	0%	5%
Value Indication for Subject	\$4.54	\$4.47	\$4.04	\$4.29	\$4.20	\$4.26
Absolute Adjustment	65%	75%	0%	25%	30%	15%

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)

Compiled by CBRE

CONCLUSION

Based on the preceding analysis, Comparable Three is a closed sale and was considered to be the most representative of the subject as it required the least amount of total adjustment, thus it was given additional consideration. In conclusion, a price per square foot indication towards the upper end of the range was most appropriate for the subject. The following table presents the valuation conclusion:

CONCLUDED LAND VALUE - BEFORE THE TAKING				
\$ PSF		Subject SF		Total
\$4.04	x	4,043,675	=	\$16,337,511
\$4.54	x	4,043,675	=	\$18,351,791
Indicated Value:				\$17,400,000
(Rounded \$ PSF)				\$4.30
Compiled by CBRE				

The value equates to approximately \$4.30 per square foot. This falls within the range of \$2.38 PSF to \$6.00 PSF indicated by the comparable sales and listings before adjustment, thereby lending support to our value conclusion.

Highest and Best Use – After the Taking

In appraisal practice, the concept of highest and best use represents the premise upon which value is based. The four criteria the highest and best use must meet are:

- legally permissible;
- physically possible;
- financially feasible; and
- maximally productive.

The highest and best use analysis of the subject after the taking is discussed below.

AS VACANT

Previously, the concluded highest and best use of the subject property before the taking would be for the development of a mixed use type project. The partial taking consists of 2.49 acres (108,464 SF) along the northern boundary which itself is along the frontage of I-49 / Fullbright Expressway. The partial taking does not change the potential uses for the subject and, further, it does not appear to result in a change to the highest and best use as though vacant. It is simply slightly smaller. Therefore, the highest and best use of the subject property after the taking remains for the development of a mixed use type project. The difference is simply that the property is slightly smaller.

Overall Land Value – After the Taking

In the absence of severance damage or enhanced value, the valuation of the subject property after the imposition of the taking is a rather simple undertaking and is simply reapplication of the applicable sales to the new size of the subject property. The difficulty arises, of course, if there exists some element of severance damage or even enhancements as a result of the easement. This has not occurred in this case.

SEVERANCE DAMAGE

Severance damage only arises where the remainder is in some way suffers a further loss in value than when it was part of the whole. Severance damage arises when there is a significant negative change in the highest and best use of the remainder tract. As previously stated, the highest and best use of the subject property before the taking was considered to be for a mixed use type of development project. With the partial taking, this is still considered to be the case; therefore, no severance damage occurs.

ENHANCEMENT

There are cases in which the remainder property is actually enhanced. These enhanced values have to be specific to the property itself and cannot consist of general benefits which accrue to the property. In the cases of electric transmission lines, for example, this general benefit usually occurs from an improvement in electric service to the individual customers. The following summarizes the two types of benefits which can accrue to a property.

- I. General Benefits
 - a. result from the extension of utility services to an area, improved highways
 - b. basically things that benefit more than the subject property itself
- II. Special Benefits
 - a. Specific to the subject property
 - b. Benefits “which arise from the peculiar relation of the land in question to the public improvement”

In this case, the purpose of the taking is for the relocation of an existing easement due to the expansion of Interstate 49. Based on our analysis, there are no enhancements to the subject property by the taking of the proposed right of way.

LAND VALUATION – AFTER THE TAKING

Given that no severance damage or enhancement is considered to be present, the development of the “after” fair market value of the subject property is fairly simple. The only consideration is simply that the subject property is smaller. As shown in the prior land value before the taking section of this report, size adjustments are necessary when significant size differences exist.

However, in this case the taking is not overly significant and no additional size adjustments were considered to be necessary.

The following is then the concluded value of the subject property after the taking.

CONCLUDED LAND VALUE - AFTER THE TAKING				
\$ PSF		Subject SF		Total
\$4.04	x	3,935,210	=	\$15,899,287
\$4.54	x	3,935,210	=	\$17,859,537
Indicated Value:				\$16,900,000
(Rounded \$ PSF)				\$4.29
Compiled by CBRE				

Drake St Property, LLC

Note that the same set of data which was used in the analysis of the overall tract will also be utilized in the analysis of those parcels vested in the name of Drake St Property, LLC. As such a detailed discussion is not necessary. The adjustments are also similar with the exception of size. The following table summarizes the comparable data used in the valuation of those parcels vested in the name of Drake St Property, LLC.

DRAKE ST PROPERTY - SUMMARY OF COMPARABLE LAND SALES								
No.	Property Location	Transaction Type	Date	Proposed Use	Actual Sale Price	Adjusted Sale Price ¹	Size (SF)	Price Per SF
1	NW/C W Monroe Ave & N Goad Springs Rd, Lowell, AR		Sep-15	Harp's Food Store	\$2,622,720	\$2,622,720	780,160	\$3.36
2	Oliver Dr & S Promenade Blvd, Bentonville, AR	Sale	Mar-15	Office Park	\$8,300,000	\$8,300,000	3,483,493	\$2.38
3	5555 W Sunset Ave, Springdale, AR	Sale	Feb-15	Commercial	\$12,407,885	\$12,407,885	3,071,058	\$4.04
4	N Shiloh Dr & Foxglove Dr, Fayetteville, AR	Sale	Oct-13	Auto Dealership	\$2,268,000	\$2,268,000	494,842	\$4.58
5	2455 W Wedington Dr, Fayetteville, AR	Available/ Listing	Jun-16	Mixed-use commercial	\$28,225,000	\$28,225,000	4,704,480	\$6.00
6	1502 S Mills Pl, Rogers, AR	Available/ Listing	Jun-16	Mixed-use Commerical	\$37,700,000	\$37,700,000	8,371,796	\$4.50
Subject	Drake St Property, LLC	---	---		---	---	614,196	---
¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)								
Compiled by CBRE								

SUMMARY OF ADJUSTMENTS

Based on our comparative analysis, the following chart summarizes the adjustments warranted to each comparable.

DRAKE ST PROPERTY LAND SALES ADJUSTMENT GRID - BEFORE THE TAKING							
Comparable Number	1	2	3	4	5	6	Subject
Transaction Type	Sale	Sale	Sale	Sale	Available/Listing	Available/Listing	---
Transaction Date	Sep-15	Mar-15	Feb-15	Oct-13	Jun-16	Jun-16	---
Proposed Use	Harp's Food Store	Office Park	Commercial	Auto Dealership	Mixed-use commercial	Mixed-use Commercial	---
Actual Sale Price	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000	---
Adjusted Sale Price ¹	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000	---
Size (Acres)	17.91	79.97	70.50	11.36	108.00	192.19	14.10
Size (SF)	780,160	3,483,493	3,071,058	494,842	4,704,480	8,371,796	614,196
Price Per SF	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50	---
Price (\$ PSF)	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50	
Property Rights Conveyed	0%	0%	0%	0%	0%	0%	
Financing Terms ¹	0%	0%	0%	0%	0%	0%	
Conditions of Sale	0%	50%	0%	0%	-30%	-10%	
Market Conditions (Time)	0%	0%	0%	10%	0%	0%	
Subtotal	\$3.36	\$3.57	\$4.04	\$5.04	\$4.20	\$4.05	
Size	0%	15%	15%	0%	15%	20%	
Shape	0%	0%	0%	0%	0%	0%	
Corner	0%	0%	0%	0%	0%	0%	
Frontage	0%	0%	0%	0%	0%	0%	
Topography	0%	25%	0%	0%	0%	0%	
Location	50%	0%	0%	0%	0%	0%	
Zoning/Density	0%	0%	0%	0%	0%	0%	
Utilities	0%	0%	0%	0%	0%	0%	
Highest & Best Use	0%	0%	0%	0%	0%	0%	
Total Other Adjustments	50%	40%	15%	0%	15%	20%	
Value Indication for Subject	\$5.04	\$5.00	\$4.65	\$5.04	\$4.83	\$4.86	
<i>Absolute Adjustment</i>	50%	90%	15%	10%	45%	30%	

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)
Compiled by CBRE

CONCLUSION

The following table presents the valuation conclusion:

CONCLUDED LAND VALUE - BEFORE THE TAKING					
\$ PSF		Subject SF		Total	
\$4.65	x	614,196	=	\$2,853,741	
\$5.04	x	614,196	=	\$3,097,182	
Indicated Value:				\$3,000,000	
				(Rounded \$ PSF)	\$4.88
Compiled by CBRE					
CONCLUDED LAND VALUE - AFTER THE TAKING					
\$ PSF		Subject SF		Total	
\$4.65	x	599,386	=	\$2,784,927	
\$5.04	x	599,386	=	\$3,022,498	
Indicated Value:				\$2,900,000	
				(Rounded \$ PSF)	\$4.84
Compiled by CBRE					
DRAKE ST PROPERTY JUST COMPENSATION					
Fair Market Value before the taking				\$3,000,000	
Fair Market Value after the taking				\$2,900,000	
Indicated Just Compensation:				\$100,000	
Compiled by CBRE					

1155 Properties, LLC

Note that the same set of data which was used in the analysis of the overall tract will also be utilized in the analysis of those parcels vested in the name of 1155 Properties, LLC. As such a detailed discussion is not necessary. The adjustments are also similar with the exception of size. The following table summarizes the comparable data used in the valuation of those parcels vested in the name of 1155 Properties, LLC.

1155 PROPERTIES - SUMMARY OF COMPARABLE LAND SALES								
No.	Property Location	Transaction Type	Date	Proposed Use	Actual Sale Price	Adjusted Sale Price ¹	Size (SF)	Price Per SF
1	NW/C W Monroe Ave & N Goad Springs Rd, Lowell, AR		Sep-15	Harp's Food Store	\$2,622,720	\$2,622,720	780,160	\$3.36
2	Oliver Dr & S Promenade Blvd, Bentonville, AR	Sale	Mar-15	Office Park	\$8,300,000	\$8,300,000	3,483,493	\$2.38
3	5555 W Sunset Ave, Springdale, AR	Sale	Feb-15	Commercial	\$12,407,885	\$12,407,885	3,071,058	\$4.04
4	N Shiloh Dr & Foxglove Dr, Fayetteville, AR	Sale	Oct-13	Auto Dealership	\$2,268,000	\$2,268,000	494,842	\$4.58
5	2455 W Wedington Dr, Fayetteville, AR	Available/ Listing	Jun-16	Mixed-use commercial	\$28,225,000	\$28,225,000	4,704,480	\$6.00
6	1502 S Mills Pl, Rogers, AR	Available/ Listing	Jun-16	Mixed-use Commerical	\$37,700,000	\$37,700,000	8,371,796	\$4.50
Subject	1155 Properties, LLC	---	---		---	---	925,214	---

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)
Compiled by CBRE

SUMMARY OF ADJUSTMENTS

Based on our comparative analysis, the following chart summarizes the adjustments warranted to each comparable.

1155 PROPERTIES LAND SALES ADJUSTMENT GRID - BEFORE THE TAKING						
Comparable Number	1	2	3	4	5	6
Transaction Type	Sale	Sale	Sale	Sale	Available/Listing	Available/Listing
Transaction Date	Sep-15	Mar-15	Feb-15	Oct-13	Jun-16	Jun-16
Proposed Use	Harp's Food Store	Office Park	Commercial	Auto Dealership	Mixed-use commercial	Mixed-use Commercial
Actual Sale Price	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000
Adjusted Sale Price ¹	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000
Size (Acres)	17.91	79.97	70.50	11.36	108.00	192.19
Size (SF)	780,160	3,483,493	3,071,058	494,842	4,704,480	8,371,796
Price Per SF	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50
Price (\$ PSF)	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50
Property Rights Conveyed	0%	0%	0%	0%	0%	0%
Financing Terms ¹	0%	0%	0%	0%	0%	0%
Conditions of Sale	0%	50%	0%	0%	-30%	-10%
Market Conditions (Time)	0%	0%	0%	10%	0%	0%
Subtotal	\$3.36	\$3.57	\$4.04	\$5.04	\$4.20	\$4.05
Size	0%	15%	15%	0%	15%	20%
Shape	0%	0%	0%	0%	0%	0%
Corner	0%	0%	0%	0%	0%	0%
Frontage	0%	0%	0%	0%	0%	0%
Topography	0%	25%	0%	0%	0%	0%
Location	50%	0%	0%	0%	0%	0%
Zoning/Density	0%	0%	0%	0%	0%	0%
Utilities	0%	0%	0%	0%	0%	0%
Highest & Best Use	0%	0%	0%	0%	0%	0%
Total Other Adjustments	50%	40%	15%	0%	15%	20%
Value Indication for Subject	\$5.04	\$5.00	\$4.65	\$5.04	\$4.83	\$4.86
<i>Absolute Adjustment</i>	50%	90%	15%	10%	45%	30%

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)

Compiled by CBRE

CONCLUSION

The following table presents the valuation conclusion:

CONCLUDED LAND VALUE - BEFORE THE TAKING					
\$ PSF		Subject SF		Total	
\$4.65	x	925,214	=	\$4,298,826	
\$5.04	x	925,214	=	\$4,665,542	
Indicated Value:				\$4,600,000	
				(Rounded \$ PSF)	\$4.97
Compiled by CBRE					
CONCLUDED LAND VALUE - AFTER THE TAKING					
\$ PSF		Subject SF		Total	
\$4.65	x	901,692	=	\$4,189,534	
\$5.04	x	901,692	=	\$4,546,927	
Indicated Value:				\$4,500,000	
				(Rounded \$ PSF)	\$4.99
Compiled by CBRE					
1155 PROPERTIES JUST COMPENSATION					
Fair Market Value before the taking				\$4,600,000	
Fair Market Value after the taking				\$4,500,000	
Indicated Just Compensation:				\$100,000	
Compiled by CBRE					

RPM1 Properties, LLC

Note that the same set of data which was used in the analysis of the overall tract will also be utilized in the analysis of those parcels vested in the name of RPM1 Properties, LLC. As such a detailed discussion is not necessary. The adjustments are also similar with the exception of size. The following table summarizes the comparable data used in the valuation of those parcels vested in the name of RPM1 Properties, LLC.

RPM1 PROPERTIES - SUMMARY OF COMPARABLE LAND SALES								
No.	Property Location	Transaction Type	Date	Proposed Use	Actual Sale Price	Adjusted Sale Price ¹	Size (SF)	Price Per SF
1	NW/C W Monroe Ave & N Goad Springs Rd, Lowell, AR		Sep-15	Harp's Food Store	\$2,622,720	\$2,622,720	780,160	\$3.36
2	Oliver Dr & S Promenade Blvd, Bentonville, AR	Sale	Mar-15	Office Park	\$8,300,000	\$8,300,000	3,483,493	\$2.38
3	5555 W Sunset Ave, Springdale, AR	Sale	Feb-15	Commercial	\$12,407,885	\$12,407,885	3,071,058	\$4.04
4	N Shiloh Dr & Foxglove Dr, Fayetteville, AR	Sale	Oct-13	Auto Dealership	\$2,268,000	\$2,268,000	494,842	\$4.58
5	2455 W Wedington Dr, Fayetteville, AR	Available/ Listing	Jun-16	Mixed-use commercial	\$28,225,000	\$28,225,000	4,704,480	\$6.00
6	1502 S Mills Pl, Rogers, AR	Available/ Listing	Jun-16	Mixed-use Commerical	\$37,700,000	\$37,700,000	8,371,796	\$4.50
Subject RPM1 Properties, LLC		---	---		---	---	2,504,264	---
¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)								
Compiled by CBRE								

SUMMARY OF ADJUSTMENTS

Based on our comparative analysis, the following chart summarizes the adjustments warranted to each comparable.

RPM1 PROPERTIES LAND SALES ADJUSTMENT GRID - BEFORE THE TAKING							
Comparable Number	1	2	3	4	5	6	Subject
Transaction Type	Sale	Sale	Sale	Sale	Available/Listing	Available/Listing	---
Transaction Date	Sep-15	Mar-15	Feb-15	Oct-13	Jun-16	Jun-16	---
Proposed Use	Harp's Food Store	Office Park	Commercial	Auto Dealership	Mixed-use commercial	Mixed-use Commercial	---
Actual Sale Price	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000	---
Adjusted Sale Price ¹	\$2,622,720	\$8,300,000	\$12,407,885	\$2,268,000	\$28,225,000	\$37,700,000	---
Size (Acres)	17.91	79.97	70.50	11.36	108.00	192.19	57.49
Size (SF)	780,160	3,483,493	3,071,058	494,842	4,704,480	8,371,796	2,504,264
Price Per SF	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50	---
Price (\$ PSF)	\$3.36	\$2.38	\$4.04	\$4.58	\$6.00	\$4.50	
Property Rights Conveyed	0%	0%	0%	0%	0%	0%	
Financing Terms ¹	0%	0%	0%	0%	0%	0%	
Conditions of Sale	0%	50%	0%	0%	-30%	-10%	
Market Conditions (Time)	0%	0%	0%	10%	0%	0%	
Subtotal	\$3.36	\$3.57	\$4.04	\$5.04	\$4.20	\$4.05	
Size	-5%	0%	0%	-5%	10%	15%	
Shape	0%	0%	0%	0%	0%	0%	
Corner	0%	0%	0%	0%	0%	0%	
Frontage	0%	0%	0%	0%	0%	0%	
Topography	0%	25%	0%	0%	0%	0%	
Location	50%	0%	0%	0%	0%	0%	
Zoning/Density	0%	0%	0%	0%	0%	0%	
Utilities	0%	0%	0%	0%	0%	0%	
Highest & Best Use	0%	0%	0%	0%	0%	0%	
Total Other Adjustments	45%	25%	0%	-5%	10%	15%	
Value Indication for Subject	\$4.87	\$4.47	\$4.04	\$4.79	\$4.62	\$4.66	
<i>Absolute Adjustment</i>	55%	75%	0%	15%	40%	25%	

¹ Adjusted sale price for cash equivalency and/or development costs (where applicable)

Compiled by CBRE

CONCLUSION

The following table presents the valuation conclusion:

CONCLUDED LAND VALUE - BEFORE THE TAKING				
\$ PSF		Subject SF		Total
\$4.04	x	2,504,264	=	\$10,117,888
\$4.87	x	2,504,264	=	\$12,207,217
Indicated Value:				\$12,000,000
(Rounded \$ PSF)				\$4.79
Compiled by CBRE				
CONCLUDED LAND VALUE - AFTER THE TAKING				
\$ PSF		Subject SF		Total
\$4.04	x	2,434,133	=	\$9,834,538
\$4.87	x	2,434,133	=	\$11,865,355
Indicated Value:				\$11,700,000
(Rounded \$ PSF)				\$4.81
Compiled by CBRE				
RPM1 PROPERTIES JUST COMPENSATION				
Fair Market Value before the taking				\$12,000,000
Fair Market Value after the taking				\$11,700,000
Indicated Just Compensation:				\$300,000
Compiled by CBRE				

Reconciliation of Just Compensation

In the sales comparison approach, the subject is compared to similar properties that have been sold recently or for which listing prices or offers are known. The sales used in this analysis are considered comparable to the subject, and the required adjustments were based on reasonable and well-supported rationale. In addition, market participants are currently analyzing purchase prices on other properties as they relate to available substitutes in the market. Therefore, the sales comparison approach is considered to provide a reliable value indication.

As was previously discussed, in the State of Arkansas the measure of Just Compensation is the difference between the Fair Market Value of the property before the taking and the Fair Market Value of the property after the taking. This is a simple subtraction. If the property is enhanced after the taking, it is possible that the owner would receive no Just Compensation. This has not occurred here as the appraisal analysis has found that the Fair Market Value of the property after the taking is less than the Fair Market Value of the property before the taking. The following depicts the derivation of the Just Compensation due the owner for the imposition of the Partial Taking:

OVERALL JUST COMPENSATION	
Fair Market Value before the taking	\$17,400,000
Fair Market Value after the taking	\$16,900,000
Indicated Just Compensation:	\$500,000
Compiled by CBRE	
JUST COMPENSATION BY ENTITY	
Drake St Property, LLC	\$100,000
1155 Properties, LLC	\$100,000
RPM1 Properties, LLC	\$300,000
Compiled by CBRE	

Based on the foregoing, the just compensation due the owner for the imposition of the partial taking has been concluded as follows:

JUST COMPENSATION CONCLUSION			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
Just Compensation - Drake St Property, LLC	Fee Simple Estate	May 4, 2016	\$100,000
Just Compensation - 1155 Properties, LLC	Fee Simple Estate	May 4, 2016	\$100,000
Just Compensation - RPM1 Properties, LLC	Fee Simple Estate	May 4, 2016	\$300,000
Compiled by CBRE			

Assumptions and Limiting Conditions

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to title that would adversely affect marketability or value. CBRE, Inc. is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. CBRE, Inc., however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject's title should be sought from a qualified title company that issues or insures title to real property.
2. Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, state, and federal building codes and ordinances. CBRE, Inc. professionals are not engineers and are not competent to judge matters of an engineering nature. CBRE, Inc. has not retained independent structural, mechanical, electrical, or civil engineers in connection with this appraisal and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of CBRE, Inc. by ownership or management; CBRE, Inc. inspected less than 100% of the entire interior and exterior portions of the improvements; and CBRE, Inc. was not furnished any engineering studies by the owners or by the party requesting this appraisal. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this appraisal. Accordingly, if negative findings are reported by engineering consultants, CBRE, Inc. reserves the right to amend the appraisal conclusions reported herein.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. CBRE, Inc. has no knowledge of the existence of such materials on or in the property. CBRE, Inc., however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the appraisal.

4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to CBRE, Inc. This report may be subject to amendment upon re-inspection of the subject subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.
5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the appraisal report. Unless otherwise specifically noted in the appraisal report, CBRE, Inc. has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, Assessor's Parcel Numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact

on the conclusions reported. Thus, CBRE, Inc. reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify CBRE, Inc. of any questions or errors.

6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the American Dollar on that date. This appraisal is based on market conditions existing as of the date of this appraisal. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the appraisal. However, CBRE, Inc. will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
7. CBRE, Inc. assumes no private deed restrictions, limiting the use of the subject in any way.
8. Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposits or subsurface rights of value involved in this appraisal, whether they are gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this appraisal report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
9. CBRE, Inc. is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. CBRE, Inc. does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of CBRE, Inc.
12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of CBRE, Inc. to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
14. This study may not be duplicated in whole or in part without the specific written consent of CBRE, Inc. nor may this report or copies hereof be transmitted to third parties without said consent, which consent CBRE, Inc. reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this appraisal was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of CBRE, Inc. which consent CBRE, Inc. reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security", as such terms are defined and used in the Securities Act of 1933, as amended. Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. CBRE, Inc. shall have no accountability or responsibility to any such third party.
15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.

16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or appraisal and are invalid if so used.
17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.
18. No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to CBRE, Inc. unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. CBRE, Inc. assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.
19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor CBRE, Inc. assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate appraisal/consulting profession if so desired.
20. CBRE, Inc. assumes that the subject analyzed herein will be under prudent and competent management and ownership; neither inefficient nor super-efficient.
21. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
23. The Americans with Disabilities Act (ADA) became effective January 26, 1992. Notwithstanding any discussion of possible readily achievable barrier removal construction items in this report, CBRE, Inc. has not made a specific compliance survey and analysis of this property to determine whether it is in conformance with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the ADA. If so, this fact could have a negative effect on the value estimated herein. Since CBRE, Inc. has no specific information relating to this issue, nor is CBRE, Inc. qualified to make such an assessment, the effect of any possible non-compliance with the requirements of the ADA was not considered in estimating the value of the subject.
24. Client shall not indemnify Appraiser or hold Appraiser harmless unless and only to the extent that the Client misrepresents, distorts, or provides incomplete or inaccurate appraisal results to others, which acts of the Client approximately result in damage to Appraiser. Notwithstanding the foregoing, Appraiser shall have no obligation under this Section with respect to any loss that is caused solely by the active negligence or willful misconduct of a Client and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Appraiser. Client shall indemnify and hold Appraiser harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the appraisal report to any third party. In the event of any litigation between the parties, the prevailing party to such litigation shall be entitled to recover, from the other, reasonable attorney fees and costs.

ADDENDA

Addendum A

LAND SALE DATA SHEETS

Property Name	17.91 Acres
Address	NW/C W Monroe Ave & N Goad Springs Rd Lowell, AR 72745
County	Benton
Govt./Tax ID	12-00229-010, 12-00229-011
Land Area Net	17.910 ac/ 780,160 sf
Land Area Gross	17.910 ac/ 780,160 sf
Site Development Status	Platted
Utilities	All to Site
Maximum FAR	N/A
Min Land Bldg Ratio	N/A
Shape	Rectangular
Topography	Generally Level
Flood Zone Class	N/A
Flood Panel No./ Date	N/A
Zoning	C
Entitlement Status	N/A



Transaction Details

Type	Sale	Primary Verification	Purchase Contract
Interest Transferred	Fee Simple	Transaction Date	09/08/2015
Condition of Sale	None	Recording Date	09/08/2015
Recorded Buyer	Harp's Food Stores Inc.	Sale Price	\$2,622,720
Buyer Type	Corporation	Financing	Cash to Seller
Recorded Seller	REO Holdngs II LLC / Arkansas Real Estate and Development	Cash Equivalent	\$2,622,720
Marketing Time	N/A	Capital Adjustment	\$0
Listing Broker	N/A	Adjusted Price	\$2,622,720
Doc #	2015/50538-50531	Adjusted Price / ac and / sf	\$146,439 / \$3.36
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A

Comments

This is the multi-parcel sale of 17.91 acres of vacant land located at the northwest corner of W. Monroe Avenue and N. Goad Springs Road about a half mile west of Interstate Highway 49 in Lowell, Arkansas. The site is rectangular in shape, zoned for commercial use, with generally level topography and all utilities available. The property sold in September 2015 for \$2,622,720 or \$146,438 per acre.

Property Name	Oliver & Promenade - Land Sale
Address	Oliver Dr & S Promenade Blvd Bentonville, AR 72758
County	Benton
Govt./Tax ID	02-01671-001; 02-22379-000; 02-22380-000; 02-22381-000; 02-22382-000; 02-22380-000;
Land Area Net	79.970 ac/ 3,483,493 sf
Land Area Gross	79.970 ac/ 3,483,493 sf
Site Development Status	Semi-Finished
Utilities	All on site
Maximum FAR	N/A
Min Land Bldg Ratio	N/A
Shape	Irregular
Topography	Rolling
Flood Zone Class	N/A
Flood Panel No./ Date	N/A
Zoning	A-1, C-2, C-3, R-O
Entitlement Status	Fully Entitled/Planning Permissions



Transaction Details

Type	Sale	Primary Verification	Seller Representative
Interest Transferred	Fee Simple	Transaction Date	03/06/2015
Condition of Sale	Arm's-Length	Recording Date	03/06/2015
Recorded Buyer	EF Capital AR, LLC	Sale Price	\$8,300,000
Buyer Type	Private Investor	Financing	Cash to Seller
Recorded Seller	Oliver Haynes, LLC	Cash Equivalent	\$8,300,000
Marketing Time	7 Month(s)	Capital Adjustment	\$0
Listing Broker	Mac Tatman;409.443.8002	Adjusted Price	\$8,300,000
Doc #	2015-10265	Adjusted Price / ac and / sf	\$103,789 / \$2.38
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A

Comments

The property is located along Promenade Boulevard north of the Home Depot and south of the Walnut corridor. This property consists of seven completed commercial / office park lots plus a tract of unimproved land. The office park lots are part of the Farms development. The site is bisected by Promenade Boulevard and the lots are on the east side of this street. There are additional lots on the north side of this property which are also part of the same development. To date, no development has occurred in this subdivision. This was a lender driven transaction. The property was nearing foreclosure. The purchaser was a 1031 Exchange investor. A portion of the undeveloped land will, in the future, be dedicated to the construction of an east-west street and bridge over I-49 connecting the Metro Park development to this side of I-49. Because of the lack of demand to this point, the fact that the eastern part of this property was platted and included subdivision improvements was not a primary motivation to this sale. Rather, it was the combination of a large tract of land within an area with proven commercial demand and growth. It is anticipated by the buyer that changes to the subdivision layout and improvements will be needed.

Property Name Sam's W Sunset - 70 Acres
 Address 5555 W Sunset Ave
 Springdale, AR 72762

 County Washington
 Govt./Tax ID 815-36511-000; 815-36512-000
 Land Area Net 70.502 ac/ 3,071,058 sf
 Land Area Gross 70.502 ac/ 3,071,058 sf
 Site Development Status Raw
 Utilities Available
 Maximum FAR N/A
 Min Land Bldg Ratio N/A
 Shape Irregular
 Topography N/A
 Flood Zone Class N/A
 Flood Panel No./ Date N/A
 Zoning C-5; Thoroughfare Commercial
 Entitlement Status N/A



Transaction Details

Type	Sale	Primary Verification	Deed, Reliable 3rd Party (Brian Shaw)
Interest Transferred	Fee Simple	Transaction Date	02/27/2015
Condition of Sale	Arm's-Length	Recording Date	02/27/2015
Recorded Buyer	Sam's Real Estate Business Trust	Sale Price	\$12,407,885
Buyer Type	N/A	Financing	Cash to Seller
Recorded Seller	Shaw Holdings Limited Partnership	Cash Equivalent	\$12,407,885
Marketing Time	N/A	Capital Adjustment	\$0
Listing Broker	N/A	Adjusted Price	\$12,407,885
Doc #	2015-00005318	Adjusted Price / ac and / sf	\$175,994 / \$4.04
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A

Comments

Legal Description: SW Quarter of Section 4, Township 17 North, Range 30 West, 5th Principal Meridian, Washington County, Arkansas

Property Name	Crain Hyundai of Fayetteville
Address	N Shiloh Dr & Foxglove Dr Fayetteville, AR 72704
County	Washington
Govt./Tax ID	765-25757-000+
Land Area Net	11.360 ac/ 494,842 sf
Land Area Gross	11.360 ac/ 494,842 sf
Site Development Status	N/A
Utilities	Typical City
Maximum FAR	N/A
Min Land Bldg Ratio	N/A
Shape	Irregular
Topography	Generally Level
Flood Zone Class	N/A
Flood Panel No./ Date	N/A
Zoning	CPZD
Entitlement Status	N/A



Transaction Details

Type	Sale	Primary Verification	Loopnet, Public Record
Interest Transferred	N/A	Transaction Date	10/01/2013
Condition of Sale	None	Recording Date	10/01/2013
Recorded Buyer	Crain Investments LP	Sale Price	\$2,268,000
Buyer Type	End User	Financing	Cash to Seller
Recorded Seller	Springwoods Investments, LLC	Cash Equivalent	\$2,268,000
Marketing Time	N/A	Capital Adjustment	\$0
Listing Broker	Marshall Saviers - Sage Partners	Adjusted Price	\$2,268,000
Doc #	2013-33539 & 2013-33548	Adjusted Price / ac and / sf	\$199,648 / \$4.58
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A
Buyer's Primary Analysis	N/A	Occupancy at Sale	N/A
Static Analysis Method	N/A	Underwritten Occupancy	Static Analysis-N/A
Source	Static Analysis-N/A	Potential Gross Income	Static Analysis-N/A
NOI / sf	Static Analysis-N/A	Vacancy/Collection Loss	Static Analysis-N/A
IRR	N/A	Effective Gross Income	Static Analysis-N/A
OER	Static Analysis-N/A	Expenses	Static Analysis-N/A
Expenses /sf	Static Analysis-N/A	Net Operating Income	Static Analysis-N/A
Cap Rate	Static Analysis-N/A		

Comments

Crain Investments purchased this group of parcels in October 2013 for a reported price of \$2,268,000. The assemblage is made up of seven lots (Lots 13-19) that are part of the Springwoods commercial subdivision that occupies the area along I-540 just south of Highway 112. Crain Investments currently owns 7 franchised dealerships in Arkansas and recently purchased the Hyundai stores in both Springdale and Bentonville and also the former Steve Smith Buick GMC in Springdale. Crain plans to relocate the Springdale Hyundai store to this +11-acre parcel. Reportedly the dealership will have an approximately 6-acre footprint and will also have room for an inventory of about 500 vehicles. A representative of Crain Investments said the move is prompted by the site's high visibility and close proximity to similar businesses, such as the Fayetteville Autopark and Adventure Subaru. They intend to have the site operational by December 2014.

Property Name	Marinoni Land
Address	2455 W Wedington Dr Fayetteville, AR 72701
County	Washington
Govt./Tax ID	765-13736-000, 765-13732-000, 765-13737-000
Land Area Net	108.000 ac/ 4,704,480 sf
Land Area Gross	108.000 ac/ 4,704,480 sf
Site Development Status	Raw
Utilities	All public
Maximum FAR	N/A
Min Land Bldg Ratio	N/A
Shape	Irregular
Topography	Rolling
Flood Zone Class	Zone X (Unshaded)
Flood Panel No./ Date	05143C0205F/ May 2008
Zoning	RSF-4
Entitlement Status	N/A



Transaction Details

Type	Sale	Primary Verification	Broker, MLS# 694000
Interest Transferred	Fee Simple	Transaction Date	06/23/2016
Condition of Sale	None	Recording Date	N/A
Recorded Buyer	N/A	Sale Price	\$28,225,000
Buyer Type	N/A	Financing	N/A
Recorded Seller	Paul Marinoni	Cash Equivalent	\$28,225,000
Marketing Time	32 Month(s)	Capital Adjustment	\$0
Listing Broker	Ramsay Ball	Adjusted Price	\$28,225,000
Doc #	N/A	Adjusted Price / ac and / sf	\$261,343 / \$6.00
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A

Comments

Property Name	Mills Land
Address	1502 S Mills Pl Rogers, AR 72758
County	Benton
Govt./Tax ID	02-14350-001, 02-14350-115, 02-14352-000, 02-14350-100, 02-14351-000+
Land Area Net	192.190 ac/ 8,371,796 sf
Land Area Gross	192.190 ac/ 8,371,796 sf
Site Development Status	Raw
Utilities	All Public
Maximum FAR	N/A
Min Land Bldg Ratio	N/A
Shape	Irregular
Topography	Rolling
Flood Zone Class	Zone X (Unshaded)
Flood Panel No./ Date	05007C0270K/ Jun 2012
Zoning	A-1, Agricultural
Entitlement Status	N/A



Transaction Details

Type	Sale	Primary Verification	Broker, MLS# 1007480, Public Records
Interest Transferred	Fee Simple	Transaction Date	06/23/2016
Condition of Sale	None	Recording Date	N/A
Recorded Buyer	N/A	Sale Price	\$37,700,000
Buyer Type	N/A	Financing	N/A
Recorded Seller	Mills Farm	Cash Equivalent	\$37,700,000
Marketing Time	5 Month(s)	Capital Adjustment	\$0
Listing Broker	Pat Morrison	Adjusted Price	\$37,700,000
Doc #	N/A	Adjusted Price / ac and / sf	\$196,160 / \$4.50
		Adjusted Price/ FAR	N/A
		Adjusted Price/ Unit	N/A

Comments

This property has been offered for sale off and on for the past several years. But this most recent listing has only been on the market for about 5 months. Some residences and agricultural related improvements that are of no contributory value.

Addendum B

LEGAL DESCRIPTION

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Drake ST Property, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00021050

Part of the East half of the Northeast Quarter of Section 33 and a part of the West half of the Northwest Quarter of Section 34, all in Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: beginning at an existing rebar on the North right of way of Arkansas HWY #180 which is S89°56'45"E 209.48' and N00°02'53"W 36.49' from the Southwest corner of the Northwest Quarter of said Section 34 and running thence along said right of way the following: N89°48'32"W 382.99', N61°20'32"W 118.80', N39°12'43"W 10.05', thence leaving said right of way North 1252.08' to the Southern right of way of Interstate 540, thence along said Southern right of way N65°33'03"E 111.21', thence continuing along said right of way N66°45'20"E 425.61', thence leaving said right of way S00°02'53"E 1532.12' to the point of beginning, containing 16.05 acres, more or less.

Subject to all easements and rights of way of record. LESS AND EXCEPT: Part of the East Half of the Northeast Quarter of Section 33 and part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of said Sections 33 and 34; thence North 02°27'51" East along the East Line of said Section 33 a distance of 1277.49 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414 for the POINT OF BEGINNING; thence North 78°02'42" West along said right of way line a distance of 198.48 feet to a point; thence South 79°36'29" West along said right of way line a distance of 89.73 feet to a point on the East line of Lot 6, Block 1, North Point Subdivision; thence North 02°30'44" East along said East line a distance of 65.79 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 68°04'33" East along said right of way line a distance of 91.70 feet to a point; thence North 69°21'14" East along said right of way line a distance of 444.60 feet to a point; thence South 02°27'41" West a distance of 276.86 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 88°37'16" West along said right of way line a distance of 209.73 feet to the POINT OF BEGINNING and containing 1.95 acres (84,765 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on Arkansas Highway Transportation Department plans for Job No. BB0414. Being more particularly described as follows: A part of the SE¼ of the NE¼ of Section 33, and a part of the SW¼ of the NW¼ of Section 34, all within Township 17 North, Range 30 West, and Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence N02°27'51"E a distance of 1247.42 feet along the West line of said SW¼ of the NW¼ of Section 34 to the POINT OF BEGINNING; thence S88°37'16"W a distance of 1.49 feet; thence N78°02'42"W a distance of 196.06 feet; thence S79°36'29"W a distance of 80.30 feet; thence S66°16'50"W a distance of 11.28 feet to the West property line as described in File 2013-00021050; thence N02°30'44"E a distance of 33.44 feet along said West property line to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way N79°36'29"E a distance of 89.73 feet; thence S78°02'42"E a distance of 198.48 feet; thence N88°37'16"E a distance of 209.73 feet to the East line of said property; thence along said East property line S02°27'41"W a distance of 30.16 feet; thence leaving said East property line N81°40'58"W a distance of 0.53 feet; thence S88°37'16"W a distance of 209.20 feet to the POINT OF BEGINNING, containing 14,952 square feet or 0.34 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2015.

Drake ST Property, LLC, an Arkansas limited liability company

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS }
COUNTY OF WASHINGTON } ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to-wit: _____, known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Drake ST Property, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2015.

MY COMMISSION EXPIRES:

Notary Public

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **1155 Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2004-00000965

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 620.80 feet East of the West line of said Section 34 and running thence North 1,695.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 446.90 feet; thence South 1,523.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 411.33 feet to the point of beginning, containing 15.19 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence S65°51'00"W along said existing Right-of-Way line 201.50 feet to the point of beginning; thence S01°05'00"E 106.20 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 171.80 feet to a point; thence S76°55'00"W along said Right-of-Way line a distance of 152.90 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass; thence N65°48'00"E 298.20 feet to the point of beginning, containing 0.33 acres, more or less. Subject to easements and rights of way of record, if any.

ALSO:

A part of Section 34, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point on the North Right-of-Way of State Highway No. 180, said point being 990.00 feet East of the West line of said Section 34 and running thence North 1,850.00 feet to the South Right-of-Way of US Highway No. 71 By-pass; thence S65°59'00"W along said Right-of-Way 401.14 feet; thence South 1,695.00 feet to the North Right-of-Way of State Highway No. 180; thence East along said Right-of-Way 369.20 feet to the point of beginning, containing 15.02 acres, more or less. LESS AND EXCEPT: A part of the NW¼ of the NW¼ of Section 34, T-17-N, R-30-W, Washington County, Arkansas, more particularly described as follows: Starting at the NW corner of the NW¼ of the NW¼ of Section 34; thence N88°34'00"E along the North line 964.00 feet to a point; thence S01°07'00"E 769.70 feet to a point on the Southeasterly existing Right-of-Way line of U.S. Highway No. 71 By-pass for the point of beginning; thence S01°07'00"E 264.70 feet to a point on the Southeasterly proposed Right-of-Way line of relocated U.S. Highway No. 71; thence S89°08'00"W along said proposed Right-of-Way line 368.40 feet to a point; thence N01°05'00"W 106.20 feet to a point on the Southeasterly Right of Way line of US Highway No. 71 By-Pass; thence N65°47'00"E along said Right-of-Way line 201.50 feet to a point; thence N65°51'00"E 198.80 feet to the point of beginning, containing 1.57 acres, more or less. Subject to easements and rights of way of record, if any.

LESS AND EXCEPT: Part of the West Half of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 and 34; thence North 02°27'51" East along the West line of Section 34 a distance of 1479.12 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 9447; thence North 69°21'14" East along said right of way line a distance of 227.50 feet to the POINT OF BEGINNING; thence continue North 69°21'14" East along said right of way line a distance of 79.97 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence North 80°30'22" East along said right of way line a distance of 152.85 feet to a point; thence South 87°16'41" East along said right of way line a distance of 540.24 feet to a point; thence South 02°29'38" West a distance of 503.64 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence North 87°06'30" West along said right of way line a distance of 77.97 feet to a point; thence North 66°50'23" West along said right of way line a distance of 302.08 feet to a point; thence North 77°47'17" West along said right of way line a distance of 257.10 feet to a point; thence North 81°40'58" West along said right of way line a distance of 149.89 feet to a point; thence North 02°27'41" East a distance of 276.86 feet to the POINT OF BEGINNING and containing 7.07 acres (308,105 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E 209.32 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°27'41"E 1261.87 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°27'41"E 30.16 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way S81°40'58"E 149.89 feet; thence S77°47'17"E 249.00 feet to the East line of said property; thence along said East property line S02°31'22"W 30.43 feet; thence leaving said East property line N77°47'17"W 253.10 feet; thence N81°40'58"W 145.80 feet to the POINT OF BEGINNING, containing 11,967 square feet or 0.27 acres, more or less.

ALSO:

A 30 foot easement South of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas: Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E a distance of 602.51 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2004-00000965; thence along said West property line N02°31'22"E 1205.05 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°31'22"E 30.43 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S77°47'17"E 8.10 feet, S66°50'23"E 302.08 feet, S87°06'30"E 77.97 feet to the East line of said property; thence along said East property line S02°29'38"W 30.00 feet; thence leaving said East property line N87°06'30"W 83.54 feet; thence N66°50'23"W 304.56 feet; thence N77°47'17"W 0.11 feet to the POINT OF BEGINNING, containing 11,646 square feet or 0.27 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2015.

1155 Properties, LLC, an Arkansas limited liability company

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

}
} ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **1155 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2015.

MY COMMISSION EXPIRES:

Notary Public

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **RPM1 Properties, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of roadway, drainage, sidewalks, and general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Deed Ref: 2013-00000127

Part of the Northwest Quarter (NW¼) of Section Thirty-four (34), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, described as follows, to-wit: Beginning at the Southeast corner of the said Northwest Quarter (NW¼) and running thence N00 Degrees 05'21"W 2565.78 feet to the South line of the Arkansas State Highway Commission Right of Way; thence along said Right of Way line S66 Degrees 33'41"W 145.31 feet, S45 Degrees 02'15"W 107.74 feet, S27 Degrees 28'44"W 517.93 feet, S43 Degrees 37'19"W 163.19 feet, S54 Degrees 22'38"W 256.17 feet, S79 Degrees 47'51"W 358.46 feet, S82 Degrees 53'50"W 364.0 feet, S89 Degrees 53'44"W 167.44 feet; thence leaving said Right of way line and running S00 Degrees 00'01"E 1588.21 feet; thence S89 Degrees 39'28"E 466.92 feet; thence N01 Degree 30'39"E 431.40 feet; thence N87 Degrees 37'53"E 383.01 feet; thence S01 Degree 58'26"E 450.30 feet; thence S89 Degrees 47'21"E 778.31 feet to the point of beginning, and being subject to easements and rights of way of record. LESS AND EXCEPT: Part of the Northwest Quarter of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Commencing at a Half Inch Rebar found at the Quarter Corner of Sections 33 & 34; thence South 87°24'17" East along the South line of the Northwest Quarter of Section 34 a distance of 1317.66 feet to a point being used as the Center West Sixteenth Corner of said Section 34; thence North 02°25'01" East along the East line of the Southwest Quarter of the said Northwest Quarter a distance of 1,177.62 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 880414 and the POINT OF BEGINNING; thence South 79°28'03" West along said right of way line a distance of 223.05 feet to a point; thence North 87°06'30" West along said right of way line a distance of 127.05 feet to a point; thence North 02°29'38" East a distance of 503.64 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job 1534 Section 1; thence South 87°16'41" East along said right of way line a distance of 167.50 feet to a point; thence North 85°21'44" East along said right of way line a distance of 364.01 feet to a point; thence North 82°17'31" East along said right of way line a distance of 359.03 feet to a point; thence North 57°00'34" East along said right of way line a distance of 255.98 feet to a point; thence North 45°59'17" East along said right of way line a distance of 163.48 feet to a point; thence North 29°53'39" East along said right of way line a distance of 518.56 feet to a point; thence North 47°36'56" East along said right of way line a distance of 107.70 feet to a point; thence North 69°00'43" East along said right of way line a distance of 71.89 feet to a point on the Southern Right of Way of Interstate 49 as established by AHTD Job BB0414; thence South 43°06'54" West along said right of way line a distance of 146.83 feet to a point; thence South 34°35'25" West along said right of way line a distance of 160.58 feet to a point; thence South 27°04'56" West along said right of way line a distance of 219.23 feet to a point; thence South 33°46'36" West along said right of way line a distance of 214.85 feet to a point; thence South 39°02'57" West along said right of way line a distance of 211.18 feet to a point; thence South 49°44'01" West along said right of way line a distance of 140.32 feet to a point; thence South 55°05'30" West along said right of way line a distance of 138.50 feet to a point; thence South 51°32'44" West along said right of way line a distance of 273.79 feet to a point; thence South 43°18'52" West along said right of way line a distance of 123.92 feet to a point; thence South 53°49'31" West along said right of way line a distance of 170.40 feet to a point; thence South 72°16'47" West along said right of way line a distance of 102.47 feet to the POINT OF BEGINNING and containing 9.21 acres (401,067 sq. ft.) more or less as shown on AHTD plans referenced as Job BB0414.

PERMANENT EASEMENT DESCRIPTION:

A 30 foot easement South and East of and adjacent to the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414, Being more particularly described as follows: A part of the SW¼ of the NW¼ and SE¼ of the NW¼ and NE¼ of the NW¼ of Section 34, Township 17 North, Range 30 West, Washington County, Arkansas. Commencing at the Southwest corner of the NW¼ of said Section 34; thence S87°24'17"E a distance of 971.73 feet along the South line of said SW¼ of the NW¼ to the West property line as described in File 2013-00000127; thence along said West property line N02°29'38"E 1097.61 feet to the POINT OF BEGINNING; thence continuing along said West property line N02°29'38"E 30.00 feet to a point on the Easterly right-of-way for Interstate 49 as shown on AHTD plans for Job No. BB0414; thence along said Easterly right-of-way the following courses: S87°06'30"E 127.05 feet,

N79°28'03"E 223.05 feet, N72°16'47"E 102.47 feet, N53°49'31"E 170.40 feet, N43°18'52"E 123.92 feet, N51°32'44"E 273.79 feet, N55°05'30"E 138.50 feet, N49°44'01"E 140.32 feet, N39°02'57"E 211.18 feet, N33°46'36"E 214.85 feet, N27°04'56"E 219.23 feet, N34°35'25"E 160.58 feet, N43°06'54"E 89.59 feet to a point on the South line of an existing 25 foot Water & Sewer easement described in Book 1045 Page 115; thence along said South line of an existing 25 foot Water & Sewer easement N69°01'00"E 68.68 feet; thence leaving said South line of an existing 25 foot Water & Sewer easement S43°06'54"W 149.13 feet; thence S34°35'25"W 156.37 feet; thence S27°04'56"W 219.02 feet; thence S33°46'36"W 217.99 feet; thence S39°02'57"W 215.37 feet; thence S49°44'01"W 144.53 feet; thence S55°05'30"W 138.98 feet; thence S51°32'44"W 114.91 feet; thence S45°15'53"W 45.70 feet; thence S51°32'44"W 110.00 feet; thence S43°18'52"W 124.62 feet; thence S53°49'31"W 179.30 feet; thence S72°16'47"W 110.04 feet; thence S86°17'59"W 41.70 feet; thence S79°28'03"W 187.69 feet; thence N87°06'30"W 130.37 feet to the POINT OF BEGINNING, containing 69,995 square feet or 1.61 acres, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees no to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2015.

RPM1 Properties, LLC, an Arkansas limited liability company

BY: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

} ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to-wit: _____, known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **RPM1 Properties, LLC, an Arkansas limited liability company**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

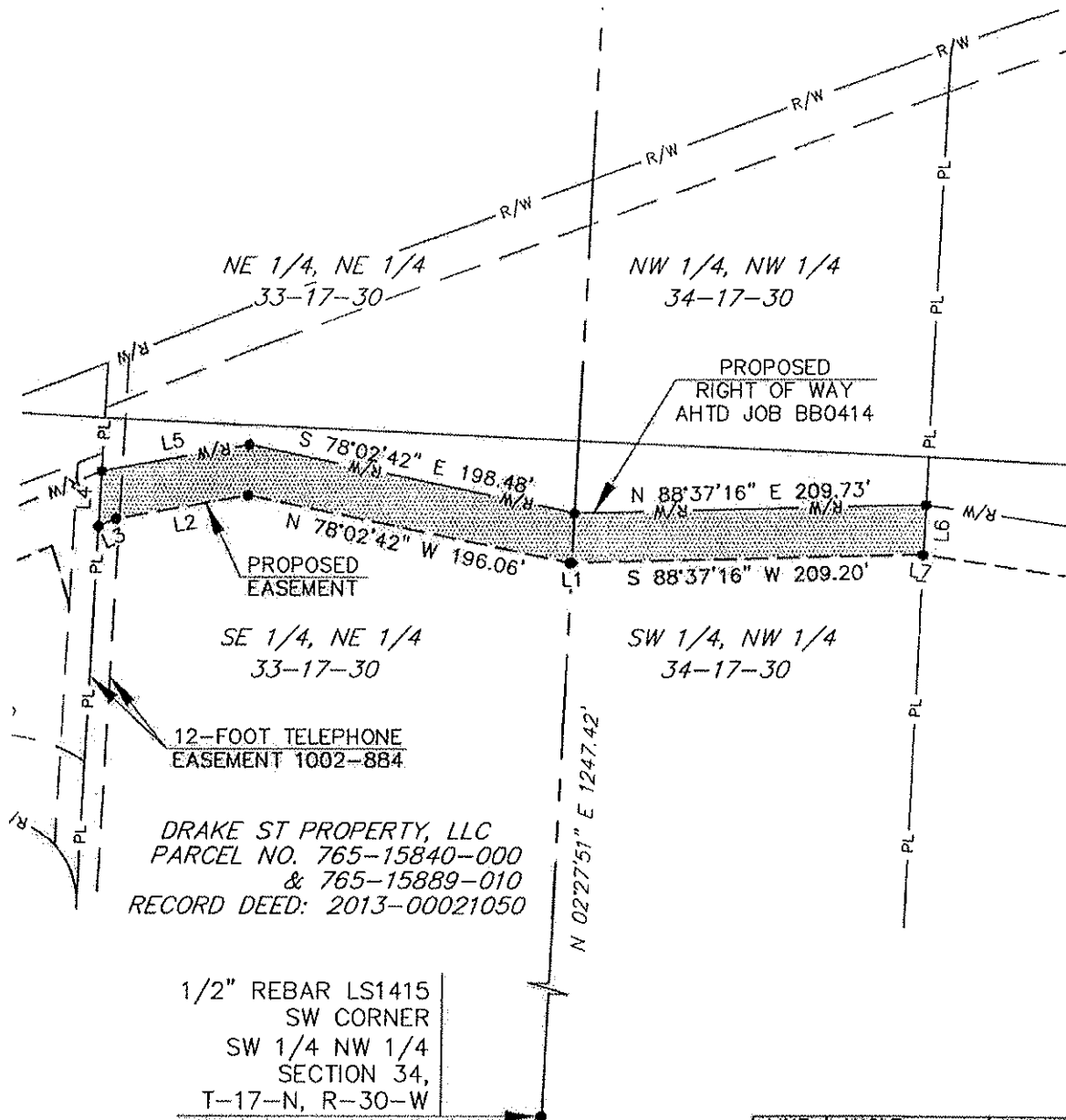
WITNESS my hand and seal on this _____ day of _____, 2015.

MY COMMISSION EXPIRES:

Notary Public

Addendum C

SUBJECT PROPERTY INFORMATION



AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	14,952	0.34

LINE	ANGLE	DISTANCE
L1	S 88°37'16" W	1.49'
L2	S 79°36'29" W	80.30'
L3	S 66°16'50" W	11.28'
L4	N 02°30'44" E	33.44'
L5	N 79°36'29" E	89.73'
L6	S 02°27'41" W	30.16'
L7	N 81°40'58" W	0.53'

LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
		EXISTING EASEMENT LINE
		PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS — GRID
ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.



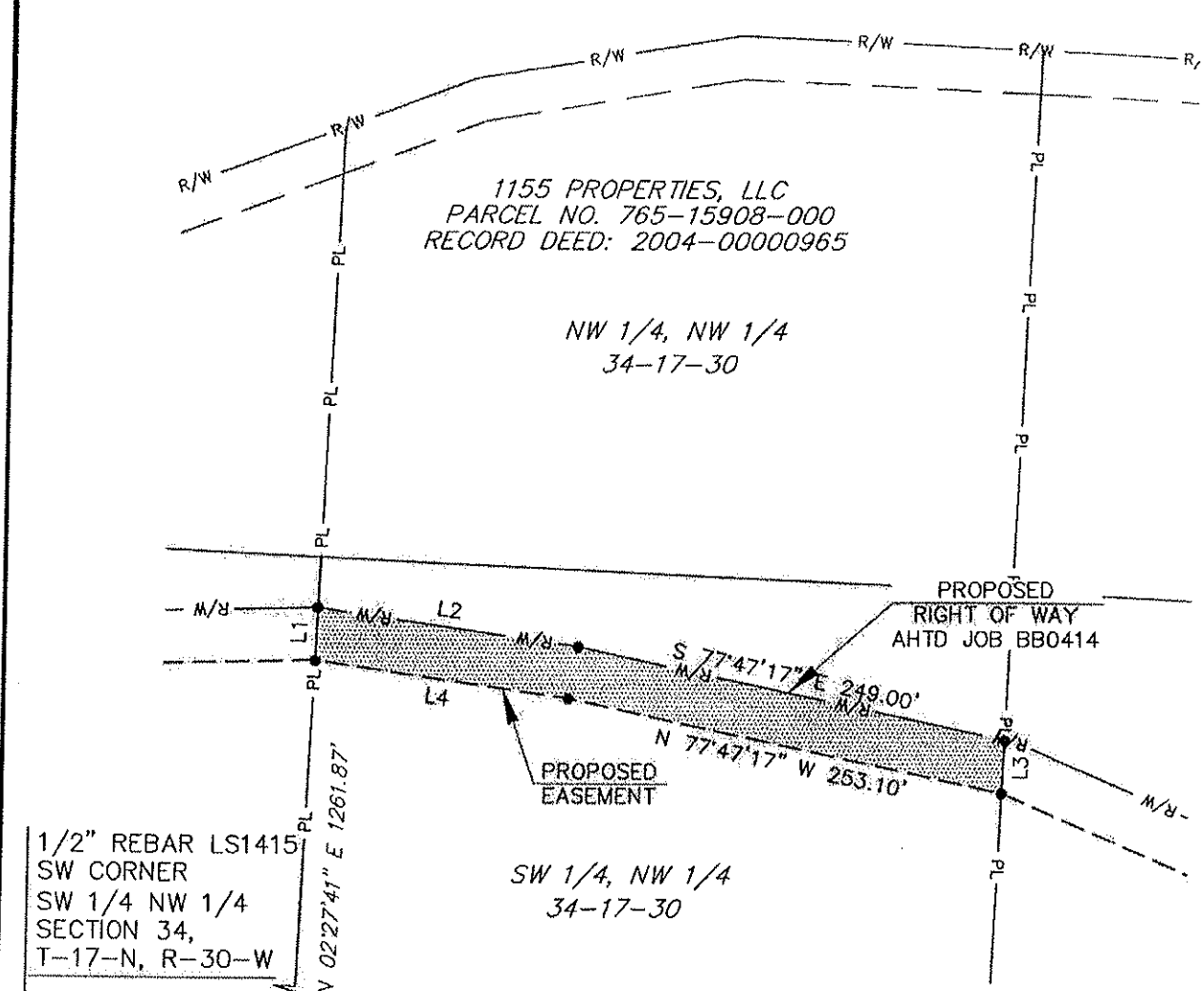
2049 EAST JOYCE BOULEVARD
SUITE 400
FAYETTEVILLE, ARKANSAS 72704
479 527-9100

CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS
AHTD NO. BB0414
WATER & SEWER RELOCATIONS



JOB NO.
14048160
"EXHIBIT A"

DATE
APRIL 14, 2015
TRACT
5



AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	11,967	0.27

LINE	ANGLE	DISTANCE
L1	N 02°27'41" E	30.16'
L2	S 81°40'58" E	149.89'
L3	S 02°31'22" W	30.43'
L4	N 81°40'58" W	145.80'

LEGEND

- PL — PL — EXISTING PROPERTY LINE
- R/W — EXISTING RIGHT OF WAY LINE
- R/W — PROPOSED RIGHT OF WAY LINE
- - - - - EXISTING EASEMENT LINE
- - - - - PROPOSED EASEMENT LINE



GRAPHIC SCALE



THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
ARKANSAS NORTH ZONE

 2049 EAST JOYCE BOULEVARD SUITE 400 FAYETTEVILLE, ARKANSAS 72704 479 527-9100	CITY OF FAYETTEVILLE FAYETTEVILLE, ARKANSAS AHTD NO. BB0414 WATER & SEWER RELOCATIONS	JOB NO. 14048160 "EXHIBIT A"	DATE APRIL 14, 2015 TRACT 6
			

1155 PROPERTIES, LLC
 PARCEL NO. 765-15889-000
 RECORD DEED: 2004-00000965

NW 1/4, NW 1/4
 34-17-30

SW 1/4, NW 1/4
 34-17-30

1/2" REBAR LS1415
 SW CORNER
 SW 1/4 NW 1/4
 SECTION 34,
 T-17-N, R-30-W

S 87°24'17" E
 602.51'

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED EASEMENT	11,646	0.27

PROPOSED
 RIGHT OF WAY
 AHTD JOB BB0414

PROPOSED
 EASEMENT

LINE	ANGLE	DISTANCE
L1	N 02°31'22" E	30.43'
L2	S 77°47'17" E	8.10'
L3	S 87°06'30" E	77.97'
L4	S 02°29'38" W	30.00'
L5	N 87°06'30" W	83.54'
L6	N 77°47'17" W	0.11'

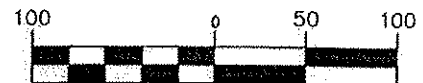
LEGEND

PL	PL	EXISTING PROPERTY LINE
R/W	R/W	EXISTING RIGHT OF WAY LINE
R/W	R/W	PROPOSED RIGHT OF WAY LINE
---	---	EXISTING EASEMENT LINE
---	---	PROPOSED EASEMENT LINE

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

BEARINGS - GRID
 ARKANSAS NORTH ZONE

GRAPHIC SCALE



(IN FEET)
 1 inch = 100 ft.



2049 EAST JOYCE BOULEVARD
 SUITE 400
 FAYETTEVILLE, ARKANSAS 72704
 479 527-9100

CITY OF FAYETTEVILLE
 FAYETTEVILLE, ARKANSAS
 AHTD NO. BB0414
 WATER & SEWER RELOCATIONS



JOB NO.
 14048160

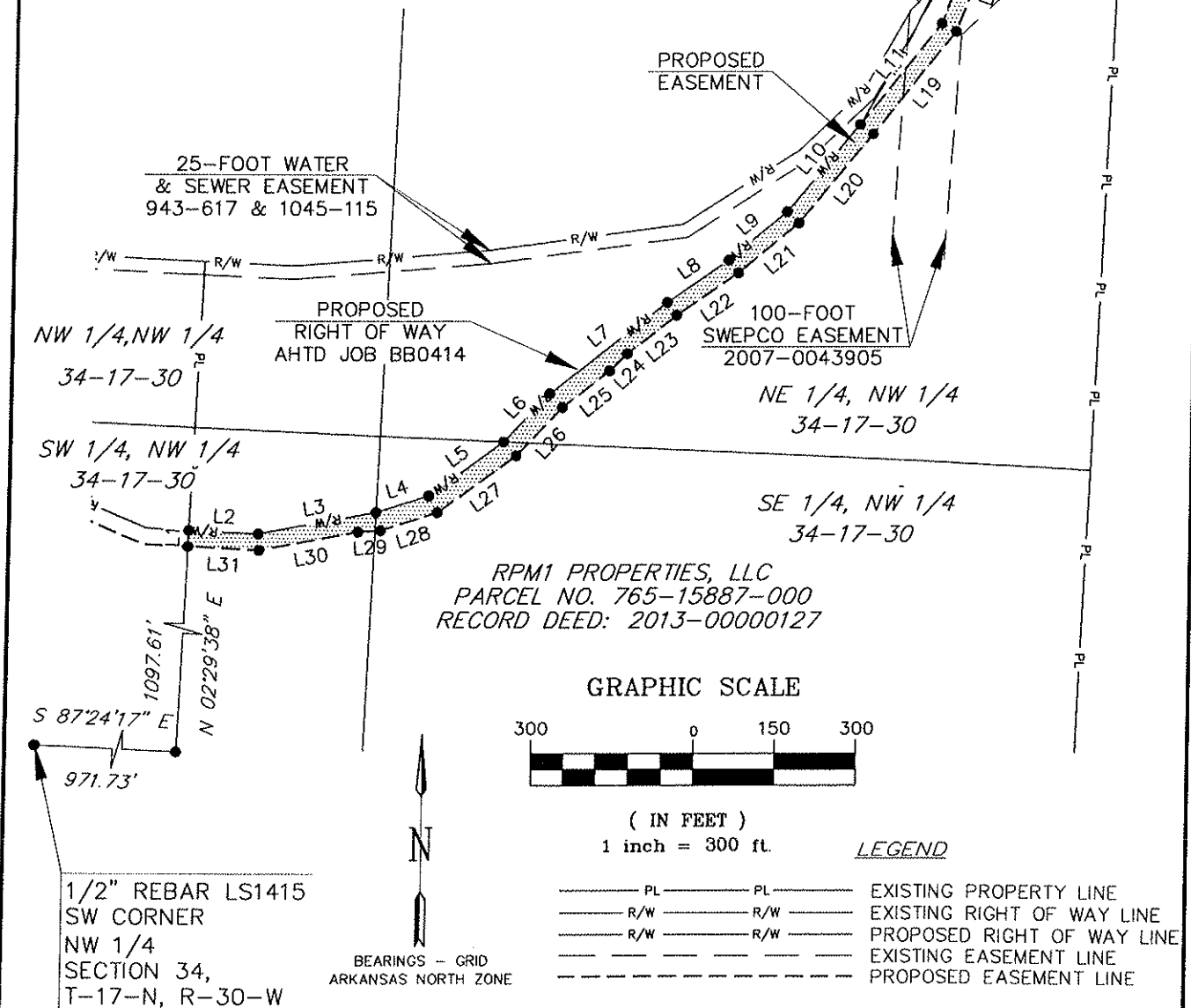
DATE
 APRIL 14, 2015

"EXHIBIT A"

TRACT 7

LINE	ANGLE	DISTANCE
L1	N 02°29'38" E	30.00'
L2	S 87°06'30" E	127.05'
L3	N 79°28'03" E	223.05'
L4	N 72°16'47" E	102.47'
L5	N 53°49'31" E	170.40'
L6	N 43°18'52" E	123.92'
L7	N 51°32'44" E	273.79'
L8	N 55°05'30" E	138.50'
L9	N 49°44'01" E	140.32'
L10	N 39°02'57" E	211.18'
L11	N 38°31'42" E	243.33'
L12	N 20°15'19" E	195.51'
L13	N 34°35'25" E	160.58'
L14	N 43°06'54" E	89.59'
L15	N 69°01'00" E	68.68'
L16	S 43°06'54" W	149.13'

LINE	ANGLE	DISTANCE
L17	S 34°35'25" W	154.57'
L18	S 20°15'19" W	196.57'
L19	S 38°31'32" W	247.05'
L20	S 39°02'57" W	215.37'
L21	S 49°44'01" W	144.53'
L22	S 55°05'30" W	138.98'
L23	S 51°32'44" W	114.91'
L24	S 45°15'53" W	45.70'
L25	S 51°32'44" W	110.00'
L26	S 43°18'52" W	124.62'
L27	S 53°49'31" W	179.30'
L28	S 72°16'47" W	110.04'
L29	S 86°17'59" W	41.70'
L30	S 79°28'03" W	187.69'
L31	N 87°06'30" W	130.37'



THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.



2049 EAST JOYCE BOULEVARD
SUITE 400
FAYETTEVILLE, ARKANSAS 72704
479 527-9100

CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS
AHTD NO. BB0414
WATER & SEWER RELOCATIONS



JOB NO.
14048160
"EXHIBIT A"

DATE
NOV. 30, 2015
TRACT
8R

Addendum D

**PRÉCIS METRO REPORT - MOODY'S ANALYTICS,
INC.**

ECONOMIC DRIVERS



EMPLOYMENT GROWTH RANK

2015-2017
61
1st quintile

2015-2020
61
1st quintile

Best=1, Worst=408

RELATIVE COSTS

LIVING
92%

BUSINESS
89%

U.S.=100%

VITALITY

RELATIVE
133%

RANK
15

U.S.=100%

Best=1, Worst=401

BUSINESS CYCLE STATUS



STRENGTHS & WEAKNESSES

STRENGTHS

- » Headquarters of several industry leaders.
- » Home to large research university.
- » Support to private research firms from Arkansas Research and Technology Park.
- » Strong in-migration and favorable age structure.

WEAKNESSES

- » Above-average employment volatility.
- » Less broad-based job creation compared with the national average.

FORECAST RISKS

SHORT TERM



LONG TERM


RISK EXPOSURE
2016-2021

163

3rd quintile
Highest=1
Lowest=401

UPSIDE

- » Chicken exports rise, providing extra income for local producers.
- » Out-of-area firms boost hiring of white-collar staff to take advantage of low business costs and a comparatively well-educated workforce.
- » Strong population growth generates more healthcare jobs than expected.

DOWNSIDE

- » Grain prices rebound, compressing margins at food processors and restraining hiring.

MOODY'S RATING

NR

COUNTY
AS OF AUG 03, 2010

ANALYSIS

Recent Performance. The Fayetteville-Springdale-Rogers economy is expanding rapidly and is easily outperforming the rest of the Natural State and nation. Payroll employment is already 16% above its prerecession peak, and job growth since the turn of the decade has consistently exceeded that in other Arkansas metro areas. Private services are on fire; the only parts of the economy not adding jobs are manufacturing and transportation. Population-dependent industries are shouldering the load, but office-using industries are growing at an above-average rate. With the jobless rate closing in on a low 3%, there should be upward pressure on wages. Average hourly earnings have struggled to grow, however, because job creation has been greatest in low-wage industries. Still, with so many new jobs, total incomes are growing at an above-average rate. House prices have rebounded back to their late-2007 levels, and greater real estate wealth is a positive for spending as credit quality improves.

Food manufacturing. Food processors will expand and lead a turnaround effort in manufacturing. In particular, local chicken processors will expand as growing national poultry demand increases the need for additional productive capacity. U.S. households are consuming more chicken than beef these days because of beef's higher cost. U.S. per capita chicken consumption hit an all-time high of 90.1 pounds in 2015, according to the National Chicken Council. Tyson Foods and Ozark Mountain Poultry are constructing new chicken processing facilities to keep up with rising demand. Feed costs have also declined for local chicken processors over the past several years, boosting profits and encouraging investment in property, plant and equipment.

Foreign chicken demand will also be a source of long-term growth. In particular, China's rapidly growing middle class will be targeted by local producers. Southeast Asian countries will provide producers with additional opportunities.

Health services. Healthcare will provide further fuel to the expanding northwest Arkansas economy. Industry job growth will exceed the state and national averages over the medium term because of superior demographic gains. Population growth in FAY is nearly three times the national average, and multiple healthcare providers are responding to surging demand by expanding their facilities. Washington Regional Medical Center is constructing a new medical plaza that will open in early 2017 that will provide urgent and specialty healthcare. Arkansas Children's Hospital System is building a new \$184 million hospital in Springdale that will be complete in early 2018. In addition to capital investments in healthcare, the recent veto by the governor of a bill that would have ended the Arkansas Medicaid expansion takes a downside risk to the near-term healthcare outlook off the table.

Advantages. FAY will also retain key competitive advantages that will enable it to outperform the rest of Arkansas over the long term. First, population growth will be much stronger than in the rest of the state thanks to outsize natural increases as well as robust in-migration as younger, more educated workers are attracted to FAY's better-paying jobs. Jobs in high-wage industries account for one-fifth of employment, almost twice the share statewide.

The Fayetteville-Springdale-Rogers economy will perform better than average this year thanks to gains in food processing, healthcare and other services, but job growth will be slower than 2015's breakneck pace. Longer term, growth will outpace that of the state and nation. Consumer-related industries and housing will perform better than average because of its strong demographics.

Brent Campbell
March 2016

1-866-275-3266
help@economy.com

2010	2011	2012	2013	2014	2015	INDICATORS	2016	2017	2018	2019	2020	2021
18.1	18.3	18.9	19.7	20.5	21.1	Gross metro product (C09\$ bil)	22.2	23.3	24.3	25.0	25.6	26.4
4.2	1.2	3.0	4.5	4.0	2.7	% change	5.1	5.4	3.9	3.0	2.6	3.0
200.2	204.2	209.5	214.8	224.4	235.5	Total employment (ths)	243.4	248.1	252.5	256.1	258.2	260.3
0.4	2.0	2.6	2.5	4.5	5.0	% change	3.4	1.9	1.8	1.4	0.8	0.8
6.7	6.4	5.8	5.5	4.5	4.0	Unemployment rate (%)	3.7	3.8	4.0	4.1	4.2	4.3
3.3	14.1	15.9	2.1	4.9	5.2	Personal income growth (%)	2.8	4.3	5.3	3.9	3.4	3.8
44.8	45.3	46.2	47.9	50.1	51.5	Median household income (\$ ths)	51.7	52.8	54.2	55.2	55.8	56.5
465.7	474.2	483.1	492.2	501.7	511.9	Population (ths)	522.4	533.0	543.8	556.8	570.5	584.6
2.3	1.8	1.9	1.9	1.9	2.0	% change	2.0	2.0	2.0	2.4	2.5	2.5
6.6	4.7	5.1	5.4	5.6	6.3	Net migration (ths)	6.6	6.7	7.0	9.1	9.9	10.2
1,081	1,289	1,906	2,391	2,639	3,313	Single-family permits (#)	3,099	3,441	3,627	3,587	3,553	3,747
140	48	160	133	965	991	Multifamily permits (#)	1,667	1,512	1,664	1,665	1,770	1,903
152.1	145.1	146.2	152.6	159.2	166.0	FHFA house price (1995Q1=100)	171.9	176.8	180.7	185.2	191.0	197.7

ECONOMIC HEALTH CHECK

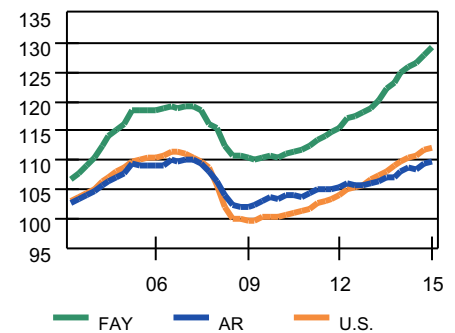
3-MO MA

	Sep 15	Oct 15	Nov 15	Dec 15	Jan 16	Feb 16
Employment, change, ths	1.1	1.2	1.3	1.2	0.7	0.5
Unemployment rate, %	3.9	3.8	3.8	3.7	3.5	3.3
Labor force participation rate, %	63.4	63.5	63.7	63.9	64.7	65.7
Employment-to-population ratio, %	60.9	61.1	61.3	61.5	62.5	63.6
Average weekly hours, #	34.7	34.8	34.8	34.7	34.8	34.7
Industrial production, 2007=100	104.5	104.4	104.0	103.5	103.6	103.3
Residential permits, single-family, #	3,320	3,240	3,363	3,348	3,565	3,828
Residential permits, multifamily, #	2,019	1,789	1,011	1,016	487	669
Better than prior 3-mo MA Unchanged from prior 3-mo MA Worse than prior 3-mo MA						

Sources: BLS, Census Bureau, Moody's Analytics

BUSINESS CYCLE INDEX

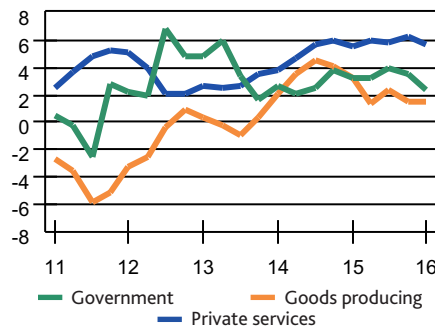
JAN 2002=100



Source: Moody's Analytics

CURRENT EMPLOYMENT TRENDS

% CHANGE YR AGO



Sources: BLS, Moody's Analytics

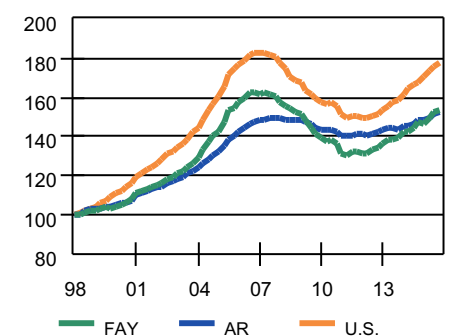
% CHANGE YR AGO, 3-MO MA

	Jun 15	Oct 15	Feb 16
Total	4.8	5.2	4.7
Construction	9.8	13.1	9.1
Manufacturing	-1.1	-1.1	-3.6
Trade	9.1	7.2	6.2
Trans/Utilities	6.1	6.3	5.3
Information	5.2	9.4	4.8
Financial Activities	2.5	2.7	2.3
Prof & Business Svcs.	5.1	5.0	5.7
Edu & Health Svcs.	4.2	5.3	4.8
Leisure & Hospitality	5.5	8.4	11.7
Other Services	6.9	5.1	1.6
Government	3.2	3.9	2.9

Sources: BLS, Moody's Analytics

HOUSE PRICE

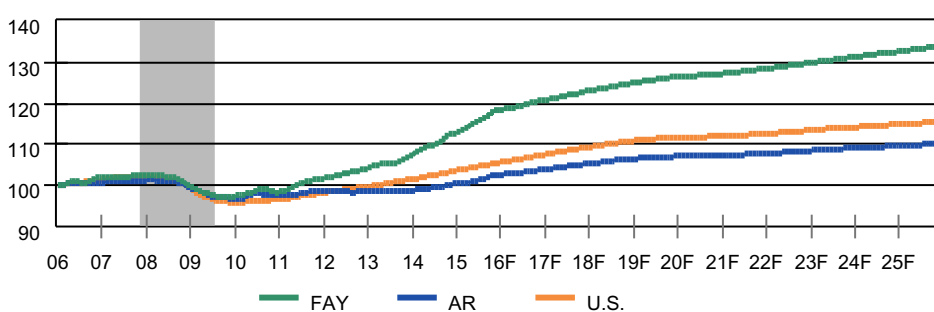
1998Q1=100, NSA



Sources: FHFA, Moody's Analytics

RELATIVE EMPLOYMENT PERFORMANCE

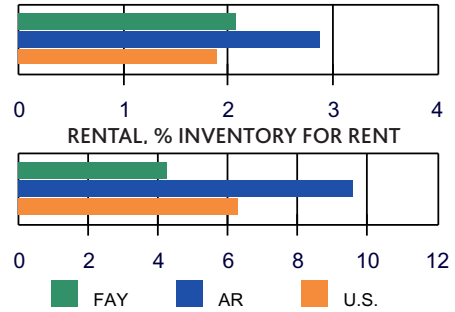
JAN 2006=100



Sources: BLS, Moody's Analytics

VACANCY RATES

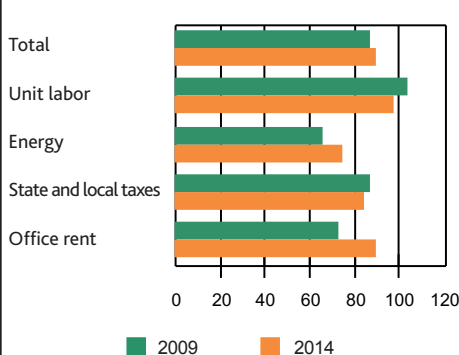
HOMEOWNER, % HOUSES FOR SALE



Sources: Census Bureau, ACS, Moody's Analytics, 2014

BUSINESS COSTS

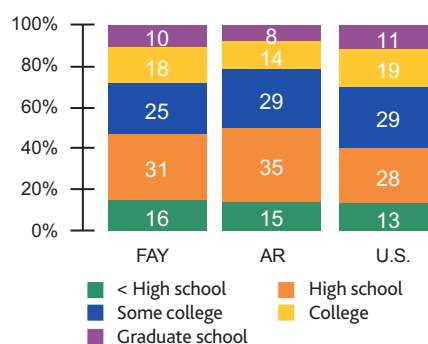
U.S.=100



Source: Moody's Analytics

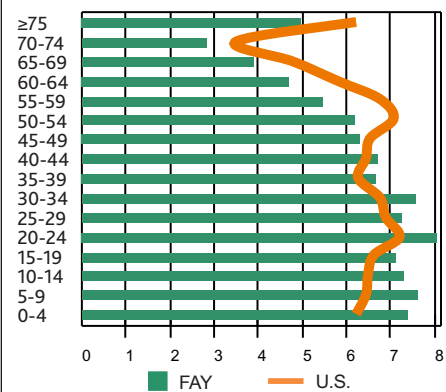
EDUCATIONAL ATTAINMENT

% OF ADULTS 25 AND OLDER



Sources: Census Bureau, Moody's Analytics, 2014

POPULATION BY AGE, %



Sources: Census Bureau, Moody's Analytics, 2014

EMPLOYMENT & INDUSTRY

TOP EMPLOYERS

Wal-Mart Stores Inc.	25,400
University of Arkansas	6,750
J.B. Hunt Transport Services Inc.	2,593
Washington Regional Medical Center	2,200
Tyson Foods Inc.	4,300
Northwest Medical Center	1,600
Twin Rivers Group	1,600
Mercy Health System of NWA	1,400
Pinnacle Healthcare	1,100
Cargill Corp.	1,000
Northwest Arkansas Community College	975
Arvest Bank and Trust	968
Rockline Industries	930
Crossland Construction	870
Danaher Tool Group	800
Pinnacle Foods, International	718
Rogers Tool Works	700
Ozark Mountain Poultry	650
Kawneer Co.	600
Glad Manufacturing	590

Sources: Fayetteville Economic Development Council, August 2008, Rogers Chamber of Commerce, 2014, Springdale Chamber of Commerce, June 2009

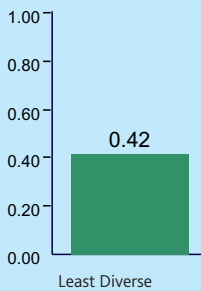
PUBLIC

Federal	2,586
State	12,369
Local	18,064

2015

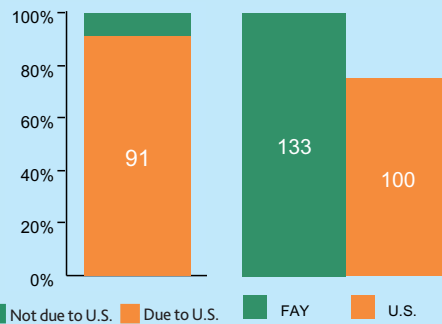
INDUSTRIAL DIVERSITY

Most Diverse (U.S.)



EMPLOYMENT VOLATILITY

Due to U.S. fluctuations Relative to U.S.



■ Not due to U.S. ■ Due to U.S. ■ FAY ■ U.S.

MIGRATION FLOWS

INTO FAYETTEVILLE AR

Number of Migrants

Springfield MO	1,287
Little Rock AR	873
Fort Smith AR	679
Joplin MO	637
Dallas TX	428
Tulsa OK	303
Chicago IL	287
Los Angeles CA	235
Kansas City MO	230
Phoenix AZ	186
Total in-migration	19,658

FROM FAYETTEVILLE AR

Little Rock AR	819
Joplin MO	565
Fort Smith AR	540
Dallas TX	491
Tulsa OK	365
Houston TX	245
Los Angeles CA	210
Oklahoma City OK	209
Kansas City MO	192
Springfield MO	185
Total out-migration	16,397

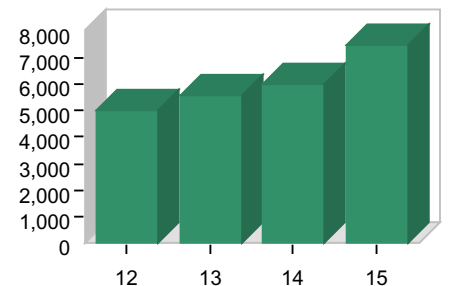
Net migration 3,261

COMPARATIVE EMPLOYMENT AND INCOME

Sector	% of Total Employment			Average Annual Earnings		
	FAY	AR	U.S.	FAY	AR	U.S.
Mining	0.0%	0.5%	0.5%	\$28,985	\$57,004	\$108,705
Construction	4.0%	4.1%	4.5%	\$43,763	\$45,702	\$61,655
Manufacturing	11.5%	12.8%	8.7%	\$50,164	\$56,307	\$78,447
Durable	29.3%	49.3%	63.0%	nd	\$58,215	\$80,476
Nondurable	70.7%	50.7%	37.0%	nd	\$54,384	\$75,052
Transportation/Utilities	6.9%	5.3%	3.8%	nd	\$60,925	\$65,427
Wholesale Trade	5.0%	3.9%	4.1%	\$103,978	\$72,975	\$83,751
Retail Trade	11.0%	11.6%	11.0%	\$30,397	\$30,020	\$33,494
Information	0.9%	1.1%	1.9%	\$49,420	\$60,425	\$108,937
Financial Activities	2.9%	4.1%	5.7%	\$36,455	\$36,075	\$54,020
Prof. and Bus. Services	19.9%	11.5%	13.9%	nd	\$51,573	\$65,204
Educ. and Health Services	10.9%	14.5%	15.5%	\$47,291	\$44,955	\$52,501
Leisure and Hosp. Services	10.0%	9.2%	10.7%	nd	\$18,298	\$26,128
Other Services	3.0%	3.6%	4.0%	\$29,542	\$30,188	\$35,611
Government	14.0%	17.6%	15.5%	\$54,567	\$53,822	\$73,862

Sources: Percent of total employment — BLS, Moody's Analytics, 2015, Average annual earnings — BEA, Moody's Analytics, 2014

NET MIGRATION,

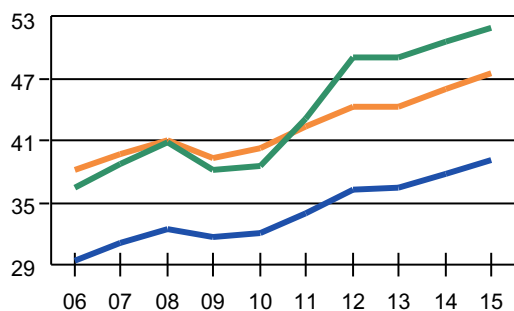


	2012	2013	2014	2015
Domestic	3,738	4,099	4,346	5,769
Foreign	1,321	1,467	1,702	1,705
Total	5,059	5,566	6,048	7,474

Sources: IRS (top), 2011, Census Bureau, Moody's Analytics

PER CAPITA INCOME

\$ THS



2015 FAY \$52,084 AR \$39,107 U.S. \$47,669

Sources: BEA, Moody's Analytics

HIGH-TECH EMPLOYMENT

	Ths	% of total
FAY	4.8	2.0
U.S.	6,767.6	4.8

HOUSING-RELATED EMPLOYMENT

	Ths	% of total
FAY	19.1	8.1
U.S.	13,151.2	9.3

Source: Moody's Analytics, 2015

LEADING INDUSTRIES BY WAGE TIER

NAICS Industry	Location Quotient	Employees (ths)
5511 Management of companies & enterprises	7.0	25.1
6211 Offices of physicians	1.0	4.1
4251 Wholesale elect. mrkts, agents & brokers	2.7	3.9
GVF Federal Government	0.6	2.6
GVL Local Government	0.8	17.9
4841 General freight trucking	6.0	9.7
6221 General medical and surgical hospitals	0.7	5.0
2382 Building equipment contractors	1.1	3.3
7225 Restaurants and other eating places	1.0	16.7
GVS State Government	1.4	12.0
3116 Animal slaughtering and processing	12.2	9.6
FR Farms	1.6	6.6

Source: Moody's Analytics, 2015

About Moody's Analytics

Moody's Analytics helps capital markets and credit risk management professionals worldwide respond to an evolving marketplace with confidence. With its team of economists, the company offers unique tools and best practices for measuring and managing risk through expertise and experience in credit analysis, economic research, and financial risk management. By offering leading-edge software and advisory services, as well as the proprietary credit research produced by Moody's Investors Service, Moody's Analytics integrates and customizes its offerings to address specific business challenges.

Concise and timely economic research by Moody's Analytics supports firms and policymakers in strategic planning, product and sales forecasting, credit risk and sensitivity management, and investment research. Our economic research publications provide in-depth analysis of the global economy, including the U.S. and all of its state and metropolitan areas, all European countries and their subnational areas, Asia, and the Americas. We track and forecast economic growth and cover specialized topics such as labor markets, housing, consumer spending and credit, output and income, mortgage activity, demographics, central bank behavior, and prices. We also provide real-time monitoring of macroeconomic indicators and analysis on timely topics such as monetary policy and sovereign risk. Our clients include multinational corporations, governments at all levels, central banks, financial regulators, retailers, mutual funds, financial institutions, utilities, residential and commercial real estate firms, insurance companies, and professional investors.

Moody's Analytics added the economic forecasting firm Economy.com to its portfolio in 2005. This unit is based in West Chester PA, a suburb of Philadelphia, with offices in London, Prague and Sydney. More information is available at www.economy.com.

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Addendum E

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From: Cosby, Stephen @ Fayetteville
Sent: Wednesday, April 13, 2016 9:14 AM
To: Ramsey, Kristi @ Fayetteville; Ford, Jeff @ Fayetteville
Subject: FW: Condemnation Appraisal Bid

This is coming in and I'll want Jeff's team to handle it. There will be a PO later today. One report, three tracts. One property/one event should be sufficient.

Stephen Cosby, MAI, MRICS
Executive Vice President | Managing Director
CBRE | Valuation & Advisory Services
438 E Millsap Ste 204 | Fayetteville, AR 72703
Primary/Fayetteville: T +1 479 4427401 x. 3 | F +1 479 4427806
425 W Capitol Ste 780 | Little Rock, AR 72201
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steve.cosby@cbre.com | www.cbre.com | [Profile](#)

[Click here to meet the South Central VAS team and view our capabilities](#)

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From: Jones, Holly [<mailto:hjones@fayetteville-ar.gov>]
Sent: Tuesday, April 12, 2016 2:45 PM
To: Cosby, Stephen @ Fayetteville <Steve.Cosby@cbre.com>
Subject: RE: Condemnation Appraisal Bid

Steve,
Congratulations on your winning bid. I'll forward you all the Assessment Records, Deeds, proposed easements and their exhibits tomorrow and I'll be requesting a PO for you as well.

Looking forward to working with you all again,

Holly Jones
Land Agent, Engineering Division
City of Fayetteville, Arkansas
479-444-3414

From: Cosby, Stephen @ Fayetteville [<mailto:Steve.Cosby@cbre.com>]
Sent: Wednesday, March 30, 2016 2:24 PM
To: Jones, Holly <hjones@fayetteville-ar.gov>
Subject: RE: Condemnation Appraisal Bid

Thank you Holly – the requested fee would be \$3,800 on a four week turnaround time.

Court time is billed at the rate of \$400 per hour. I generally only bill for formal meetings, depositions, and actual court time. I would presume no travel expenses would be incurred given the court will probably be here in Fayetteville. Out of the area travel or other unusual expenses will be billed.

Thanks for the opportunity!

Stephen Cosby, MAI, MRICS
Executive Vice President | Managing Director
CBRE | Valuation & Advisory Services
438 E Millsap Ste 204 | Fayetteville, AR 72703
Primary/Fayetteville: T +1 479 4427401 x. 3 | F +1 479 4427806
425 W Capitol Ste 780 | Little Rock, AR 72201
Little Rock: T + 1 501 3702955 | F +1 501 2742853
steve.cosby@cbre.com | www.cbre.com | [Profile](#)

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From: Jones, Holly [<mailto:hjones@fayetteville-ar.gov>]
Sent: Wednesday, March 30, 2016 2:03 PM
To: Cosby, Stephen @ Fayetteville <Steve.Cosby@cbre.com>
Subject: Condemnation Appraisal Bid

Good Afternoon,

The City has been requested to relocate utilities in association with the Arkansas State Highway and Transportation Department's widening and improvement project (AR BB0414) in the I-49 and Highway 112 interchange area.

Offers have been presented to all our property owners affected by this project and it appears that one property owner will be a condemnation. I will need a before and after appraisal of the easement areas as shown on the attached exhibits for 4 tracts of land in 3 different LLCs, represented by one gentleman.

Drake ST Property, LLC	765-15840-000 & 765-15889-010
1155 Properties, LLC	765-15908-000 & 765-15889-000
RPM1 Properties, LLC	765-15887-000

With this bid please consider possible court appearance. I will need a price for the appraisals and your completion time in writing please. The winner of the bid will receive the remaining ownership information at the time of the award. Please let me know if you have any questions.

Holly Jones
Land Agent, Engineering Division
City of Fayetteville, Arkansas
479-444-3414

Addendum F

QUALIFICATIONS

PROFESSIONAL PROFILE



TANNER RAY

Appraiser

Valuation and Advisory Services

T. +1-(479) 442-7401 Ext. 227

F. +1-(479) 442-7806

tanner.ray@cbre.com

www.cbre.com/tanner.ray

CLIENTS REPRESENTED

- Arvest Bank
- Bancorp South
- Bank of the Ozarks
- Bank of Oklahoma
- Benefit Bank
- Chambers Bank
- Centennial Bank
- First Security Bank
- Iberia Bank
- Liberty Bank of Arkansas
- Signature Bank
- Regions Financial
- Today's Bank
- US Bank

Tanner Ray is an appraiser in the Valuation & Advisory Services Group's Northwest Arkansas Office in the South Central Region of CBRE. His primary geographical focus is Arkansas and eastern Oklahoma.

His experience extends across both commercial and residential properties with specialization in residential subdivision development. He has additional experience regarding a variety of properties including suburban office developments, retail centers, and garden apartment complexes. Mr. Ray is a Practicing Affiliate of the Appraisal Institute.

Prior to joining CBRE in 2011, Mr. Ray was a residential appraiser with Cowden Appraisal & Consulting firm, a regional appraisal services company based in Fayetteville, AR.

CREDENTIALS

Professional Affiliations/ /Certifications

- Practicing Affiliate of the Appraisal Institute I.D. No. 571576
- Certified Residential Appraiser Arkansas – No. CR2952

EDUCATION

- University of Arkansas, Fayetteville, Arkansas, Bachelor of Science & Business Administration; Finance Major with an emphasis in Real Estate
- Appraisal Institute Courses
 - General Appraiser Site Valuation & Cost Approach
 - General Appraiser Sales Comparison Approach
 - General Appraiser Income Approach / Part 1
 - General Appraiser Income Approach / Part 2
 - General Appraiser Market Analysis and Highest & Best Use
 - General Appraiser Report Writing and Case Studies
 - Subdivision Valuation



ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD

This is to certify that
James Tanner Ray

License #: CR 2952

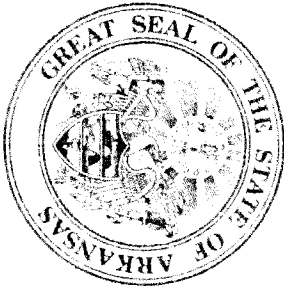
has complied with the requirements of Arkansas Code Section
§17-14-201 et seq., and is the holder of a valid certificate.
This card is for identification purposes only.

6/30/2017

Expiration Date

Peter W. Buford
Chairman

STATE OF ARKANSAS



APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

JAMES TANNER RAY

On this date was certified as a

STATE CERTIFIED RESIDENTIAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all the requirements of Arkansas Code Annotated, Section § 17-14-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

JUNE 30, 2010

Date Issued

CR32952

Certificate Number

L. B. Buford
Chairman, AAL & CB

PROFESSIONAL PROFILE



JEFF FORD, MAI

Vice President

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CLIENTS REPRESENTED

- Arbor Commercial Mortgage
- Arvest Bank
- BancorpSouth
- Bank of America Merrill Lynch
- Bank of Oklahoma
- Bank of the Ozarks
- Benefit Bank
- Centennial Bank
- Chambers Bank
- CWCcapital
- Dougherty Mortgage LLC
- Fannie Mae
- First Security Bank
- Freddie Mac
- Grandbridge Real Estate Capital
- Great Southern Bank
- HFF
- Iberia Bank
- LNR Partners LLC
- M&T Bank / M&T Realty Capital Corp.
- Regions Financial
- Signature Bank
- US Bank

JEFF FORD, MAI – MULTI-HOUSING SPECIALIST

Jeff Ford is Vice President in the Valuation & Advisory Services Group's Northwest Arkansas office in the South Central Region. His geographical focus includes Arkansas, eastern Oklahoma, and southern Missouri. He has also completed appraisal assignments in Texas and Kansas.

Mr. Ford specializes in multi-housing residential properties, both existing and proposed. He has experience with a variety of multi-family properties including garden-style apartments, mid-/high-rise apartments, rent-controlled projects, and mixed-use apartment/commercial properties. His additional experience includes a wide variety of property types such as residential subdivisions, retail, office, industrial, and other special purpose-type properties. His clients include financial institutions, developers, individual and corporate property owners, and attorneys.

CREDENTIALS

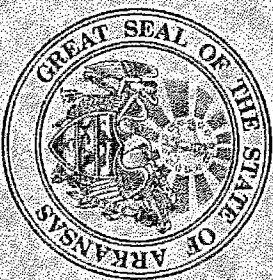
Professional Affiliations/Accreditations/Certifications

- Appraisal Institute, Designated Member (MAI)
- Certified General Real Estate Appraiser
 - Arkansas – CG2798
 - Oklahoma – 12857CGA
 - Missouri – 2011031612

EDUCATION

- University of Arkansas, Fayetteville, AR – Bachelor of Science in Business Administration – Marketing Management and Real Estate Finance
- Appraisal Institute Courses

STATE OF ARKANSAS



APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

JEFFREY F. FORD

On this date was certified as a

STATE CERTIFIED GENERAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all the requirements of Arkansas Code Annotated, Section § 17-51-101 et seq, and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

Date Issued DECEMBER 15, 2008

Donna L. Bauer
Chairman, AAL & CB

Certificate Number CG2798



**ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD**
This is to certify that
Jeffrey Ford

License #: CG 2798

has complied with the requirements of Arkansas Code Section §17-14-201 et seq., and is the holder of a valid certificate. This card is for identification purposes only.

6/30/2017

Expiration Date

Chairman

Peter W. Ruffner

PROFESSIONAL PROFILE



STEPHEN COSBY, MAI, MRICS

Executive Vice President and
Managing Director
Valuation and Advisory Services

T. +1 479 4427401 ext. 3

F. +1 479 4427806

steve.cosby@cbre.com

www.cbre.com/Steve.Cosby

REPRESENTATIVE CLIENTS

- Arvest Bank
- AR Capital Corp.
- AR Federal Credit Union
- BancorpSouth
- Bank of Oklahoma
- Bank of the Ozarks
- Barclays
- Berkadia
- BoAML
- CalPERS
- Centennial Bank
- Chambers Bank
- Fannie Mae
- First Community Bank
- First Horizon
- First Security Bank
- First Western Bank
- Grandbridge Real Estate Capital
- Great Southern Bank
- iBERIABANK
- Inland REIT
- M&T
- Regions Financial
- Relyance Bank
- SBA
- Signature Bank
- Simmons First Bank
- UBS

Stephen Cosby, MAI, MRICS, is an Executive Vice President and Managing Director overseeing the Northwest Arkansas and Little Rock offices of the South Central Region of CBRE. He has over 30 years of professional experience in real estate appraisal and consulting. He has completed real estate appraisals, feasibility studies, rent analyses, litigation and market studies of commercial and residential properties in over a dozen states. Mr. Cosby holds the MAI and MRICS designations and was one of the first appraisers in Arkansas to be certified as a Certified General Real Estate Appraiser. Mr. Cosby is an approved Appraisal Institute Instructor.

Mr. Cosby's experience extends across commercial and residential real estate appraisals and consulting as well as small business valuation and personal property appraisals. Prior to joining CBRE in 2006, Mr. Cosby was President of Cosby & Associates, Inc., a regional appraisal firm headquartered in Fayetteville, Arkansas. His geographic focus with CBRE is on all of Arkansas, eastern Oklahoma including Tulsa, southwestern Missouri including Joplin, Springfield, and Branson, and southeastern Kansas. He has experience in over a dozen additional states as well.

Mr. Cosby is co-leader of the CBRE Self-Storage Valuation Group and is also a leader of the Hospitality & Gaming Group. But, his practice covers a wide variety of property types including hospitals (general, critical access, surgical, LTACH), senior housing, high-rise office, residential subdivisions, golf courses, and condominium projects. Over the course of his career, Mr. Cosby has analyzed such diverse properties as timeshare condominiums, malls, amusement parks, and live performance venues. He also has expertise in equipment valuation and is found on the Appraisal Institute SBA Going Concern Registry.

CREDENTIALS

Professional Affiliations/Accreditations/Certifications

- Appraisal Institute, Designated Member (MAI), Certificate No. 11769; Appraisal Institute approved instructor
- Royal Institute of Chartered Surveyors, Designated Member (MRICS), Member No. 5682805
- Certified General Real Estate Appraiser
 - Arkansas—No. CG0197
 - Missouri—No. 2002005745
 - Kansas—No. G-2280
 - Tennessee—No. CG 4989
 - Texas—No. TX-1338559-G
 - Oklahoma—No. 11350CGA
 - Louisiana—No. G2907
 - Mississippi—No. GA-1119

EDUCATION

- University of Arkansas, Fayetteville, Arkansas, Bachelor of Business Administration; Finance



ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD
This is to certify that
Stephen Cosby

License #: CG 0197

has complied with the requirements of
Arkansas Code Section §17-14-201 et seq.; and
is the holder of a valid certificate.
This card is for identification purposes only.

Peter W. Putnam
Chairman

6/30/2017

Expiration Date



STATE OF ARKANSAS

APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

STEPHEN COSBY

On this date was certified as a

STATE CERTIFIED GENERAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all the requirements of Arkansas Code Annotated, Section § 17-51-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

DECEMBER 12, 1991

Date Issued

CG0197

Certificate Number

[Signature]
Chairman, AAL & CB

CASE HISTORY
Drake ST Property LLC
AR BB0414 Utility Relocation

7-31-15	Neal Pendergraft contacted the city after AHTD had contacted him regarding this project. He set up a meeting with Jim B. and Holly J. to discuss future water/sewer improvements at W/S
12-2-15	HJ met with Mr. Pendergraft at his office along with a rep from AHTD. Hand delivered offer packet with easements to NP at that meeting. He indicated he would likely be getting his own appraisal. \$19,625.00 (14,952 sf) (Based on AHTD appraisal of \$5.25/sf)
1-7-16	Reminder Letter mailed
1-11-16	Email from NP to HJ indicating he'd received my reminder but that he'd not yet settled with AHTD and didn't wish to negotiate with me until that had happened.
2-18-16	HJ emailed him to see if there had been any leeway in their discussions, he emailed back that he would be out of town until the 23 rd but would call.
2-23-16	NP indicated that his appraisal work was moving slow via email.
3-8-16	HJ email NP to check timeline of appraisal work. No response received.
4-13-16	Appraisal bidder chosen for these tracts.
8/5/16	Emailed NP to discuss final negotiations before construction bids, he emailed me John Everett's contact information.
8-5 thru 19-16	Mr. Everett and HJ seemed to be on different schedules playing phone tag. Finally on 8/19 the easements were discussed and the offered value of 25% of AHTD appraisal. He asked if we were prepared to make an offer based on our appraisal and I confirmed we were. He asked for a copy of that appraisal and the entire file was emailed to him on 8/19/16.
9/8/16	Notification Letter emailed to both JE and NP with final appraised value offer and date of 9/20/16 Council meeting for resolution as well as a copy mailed to NPs office address. \$100,000.00 new appraised value

CASE HISTORY
1155 Properties, LLC
AR BB0414 Utility Relocation

7-31-15	Neal Pendergraft contacted the city after AHTD had contacted him regarding this project. He set up a meeting with Jim B. and Holly J. to discuss future water/sewer improvements at W/S
12-2-15	HJ met with Mr. Pendergraft at his office along with a rep from AHTD. Hand delivered offer packet with easements to NP at that meeting. He indicated he would likely be getting his own appraisal. \$26,565.00 (23613 sf) (Based on AHTD appraisal of \$4.50/sf)
1-7-16	Reminder Letter mailed
1-11-16	Email from NP to HJ indicating he'd received my reminder but that he'd not yet settled with AHTD and didn't wish to negotiate with me until that had happened.
2-18-16	HJ emailed him to see if there had been any leeway in their discussions, he emailed back that he would be out of town until the 23 rd but would call.
2-23-16	NP indicated that his appraisal work was moving slow via email.
3-8-16	HJ email NP to check timeline of appraisal work. No response received.
4-13-16	Appraisal bidder chosen for these tracts.
8/5/16	Emailed NP to discuss final negotiations before construction bids, he emailed me John Everett's contact information.
8-5 thru 19-16	Mr. Everett and HJ seemed to be on different schedules playing phone tag. Finally on 8/19 the easements were discussed and the offered value of 25% of AHTD appraisal. He asked if we were prepared to make an offer based on our appraisal and I confirmed we were. He asked for a copy of that appraisal and the entire file was emailed to him on 8/19/16.
9/8/16	Notification Letter emailed to both JE and NP with final appraised value offer and date of 9/20/16 Council meeting for resolution as well as a copy mailed to NPs office address. \$100,000.00 new appraised value

CASE HISTORY
RPM1 Properties, LLC
AR BB0414 Utility Relocation

7-31-15	Neal Pendergraft contacted the city after AHTD had contacted him regarding this project. He set up a meeting with Jim B. and Holly J. to discuss future water/sewer improvements at W/S
12-2-15	HJ met with Mr. Pendergraft at his office along with a rep from AHTD. Hand delivered offer packet with easements to NP at that meeting. He indicated he would likely be getting his own appraisal. \$48,300.00 (70,139 sf) (Based on AHTD appraisal of \$120,000/acre)
1-7-16	Reminder Letter mailed
1-11-16	Email from NP to HJ indicating he'd received my reminder but that he'd not yet settled with AHTD and didn't wish to negotiate with me until that had happened.
2-18-16	HJ emailed him to see if there had been any leeway in their discussions, he emailed back that he would be out of town until the 23 rd but would call.
2-23-16	NP indicated that his appraisal work was moving slow via email.
3-8-16	HJ email NP to check timeline of appraisal work. No response received.
4-13-16	Appraisal bidder chosen for these tracts.
8/5/16	Emailed NP to discuss final negotiations before construction bids, he emailed me John Everett's contact information.
8-5 thru 19-16	Mr. Everett and HJ seemed to be on different schedules playing phone tag. Finally on 8/19 the easements were discussed and the offered value of 25% of AHTD appraisal. He asked if we were prepared to make an offer based on our appraisal and I confirmed we were. He asked for a copy of that appraisal and the entire file was emailed to him on 8/19/16.
9/8/16	Notification Letter emailed to both JE and NP with final appraised value offer and date of 9/20/16 Council meeting for resolution as well as a copy mailed to NPs office address. \$300,000.00 new appraised value

CASE HISTORY
Nelms, LLLP
AR BB0414 Utility Relocation

12-14-15	Easement Packet Mailed \$2,190.00 (2,156sf) (Based on AHTD appraisal of \$175,000/acre)
1-14-16	Met on site with Jim B and Chris Buntin of Garver Engineering
3-1-16	Reminder email sent to DN
3-30-16	DN emails to request compensation for fence affected by construction and let us know that Penske would like contractor to work after hours and on weekends
4-14-16	HJ met with Shay @ Modern Fence for bid for removing fence panels, placing temporary fencing during construction and replacing panels at the end of construction. (\$3500)
4-25-16	DN called to let me know he was meeting with planning to discuss shifting the pre-owned improvements south to "get out of our way". That end of our construction is within an existing easement at the edge of the parking lot associated with the pre-owned property. The shift was approved by planning and Mr. Nelms came to HJ office with his Engineer Vernon Williams to discuss the cost savings to the City by not having to work within their parking lot. They decided it would behoove us to pass the AHTD re-imbursement on to DN.
5-20-16	DN emailed a quote from Commerce Construction for the cost to saw-cut a 200x20' area and the amount of asphalt to repair said 200x20' area from Tomlinson in the amount of \$23,000.00 and asked us to pay that forward as part of their settlement. HJ sent that to JB and TN.
6-20-16	Offer mailed to DN (copy emailed 6/28/16) for \$2190 plus \$3500 for fence replacement \$5690.00
9-7-16	HJ emailed DN to let him know that appraisal had been ordered, bids had been completed, contractors had been selected and dates for Resolutions set. He would be receiving his Notification letter later this week. If he'd like to present a valid counter offer, we'd review it or he was welcome to accept the offers as presented.
9/8/16	Notification Letter emailed to DN and mailed to his Henbest Drive address (Adventure Subaru). The letter will state that an appraisal for condemnation has been ordered and let him know the date of Council.

Budget Year	Division	Adjustment Number
2016	WATER SEWER (720)	
	/Org2	
	Requestor: Cheryl Partain	

A BA is needed within the Water/Sewer Relocations-Bond Projects for the I-49 Interchange/Hwy 112 Relocates project for possession by condemnation of easements on portions of properties necessary for this construction project. The water/sewer relocations are required for the construction of the new highway interchange by the Arkansas Hwy and Transportation Dept. This water/sewer relocation project is 87.06% reimbursable from the Arkansas Highway and Transportation Department.

[illegible]



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0413

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 1

LIBRARY IMPROVEMENT BONDS:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, in compliance with the provisions of Amendment 30 to the Constitution of the State of Arkansas, as amended by Amendment 72 to the Constitution of the State of Arkansas (as amended, "Amendment 30"), and the Local Government Library Bond Act of 1993, codified as Arkansas Code Annotated (1998 Repl. & 2016 Supp.) Sections 14-142-201 *et seq.* (as from time to time amended, the "Act"), petitions were delivered to the City requesting the submission of questions to the qualified electors of the City on the levying of certain *ad valorem* taxes and the issuance of bonds secured thereby to finance the costs of acquiring, constructing and equipping various capital improvements to the Fayetteville Public Library, including, but not limited to, new buildings, parking decks, additions, annexes and other expansions and renovations (collectively, the "Project"); and

WHEREAS, in compliance with the provisions of Amendment 30 and the Act and pursuant to the provisions of Ordinance No. 5876 of the City, adopted and approved on May 17, 2016 (the "Election Ordinance"), there was submitted to the qualified electors of the City a question regarding the levy of one and two-tenths (1.2) mill city tax on real and personal property within the City (the "Tax") to be pledged to an issue or issues of capital improvement bonds not to exceed \$26,500,000 in aggregate principal amount for the purpose of financing the Project; and

WHEREAS, at a special election held August 9, 2016, a majority of the qualified electors of the City voting on the question approved the levy of the Tax and the issuance of the capital improvement bonds; and

WHEREAS, as authorized under the provisions of Amendment 30 and the Act and as approved by the qualified electors of the City, the City has now determined to issue and sell its Library Improvement Bonds in aggregate principal amount not to exceed \$26,500,000 (the "Bonds"), in order to provide for

the funding of the Project; and

WHEREAS, the City has made arrangements for the sale of the Bonds to Stephens Inc., Fayetteville, Arkansas (the “Underwriter”), pursuant to the terms of a Bond Purchase Agreement between the City and the Underwriter (the “Bond Purchase Agreement”) in substantially the form presented to and before this meeting;

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

Section 1. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 30 and the Act, there is hereby authorized the issuance of bonds of the City to be designated as “Library Improvement Bonds” (the “Bonds”). The Bonds shall be issued in one or more series in aggregate principal amount not to exceed Twenty-Six Million Five Hundred Thousand Dollars (\$26,500,000) and shall mature not later than December 1, 2047, in the principal amounts and bearing interest at the rates specified in the Bond Purchase Agreement.

The average yield on the Bonds as a whole shall not exceed 5.00% per annum. The proceeds of the Bonds will be utilized to finance the costs of the Project, to establish a debt service reserve for the Bonds or to purchase a surety bond or debt service reserve insurance policy for reserve purposes, if deemed economically beneficial, to pay a premium for bond insurance, if deemed economically beneficial, and to pay printing, underwriting, legal and other expenses incidental to the issuance of the Bonds. The Bonds shall be issued in the form and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity, and shall contain such other terms, covenants and conditions, all as set forth in the Trust Indenture submitted to this meeting.

The Mayor is hereby authorized and directed to execute and deliver the Bonds in one or more series, each series to be in substantially the form thereof contained in the Trust Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Bonds to be accepted and authenticated by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Kutak Rock LLP, Little Rock, Arkansas (“Bond Counsel”), in order to complete the Bonds in substantially the form contained in the Trust Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Bonds, their execution to constitute conclusive evidence of such approval.

Section 2. In order to pay the principal of and interest on the Bonds as they mature or are called for redemption prior to maturity, there are hereby pledged all of the receipts of the one and two-tenths (1.2) mill city tax on real and personal property within the City (the “Tax”) approved by the electors of the City. The levy and collection of the Tax shall commence as provided under the laws of the State of Arkansas and shall continue until such time as the Bonds are no longer outstanding or sufficient funds are on deposit with the Trustee to redeem the Bonds in full. The City covenants and agrees that all receipts from the Tax will be deposited and will be used solely as provided in the Trust Indenture (as defined below).

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed,

authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture (the "Trust Indenture"), by and between the City and Simmons Bank, Pine Bluff, Arkansas, as trustee (the "Trustee"), and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the pledge of the Tax receipts and the terms of the Bonds. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Trust Indenture in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Trust Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Trust Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Bonds. The Preliminary Official Statement is hereby "deemed final" by the City within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. In order to prescribe the terms and conditions upon which the Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and between the City and the Underwriter, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. In order to provide for continuing disclosure of certain financial and operating information with respect to the Tax in compliance with the provisions of Rule 15c2-12 of the U. S. Securities and

Exchange Commission, the Mayor is hereby authorized and directed to execute a Continuing Disclosure Agreement to be dated as of the date of its execution (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Trustee. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. In order to secure lower interest rates on the Bonds, the Underwriter has proposed that the City consider funding a debt service reserve be funded in conjunction with the issuance of the Bonds. Alternatively, the Underwriter has proposed that the City consider the purchase of a surety bond or a debt service reserve insurance policy with a portion of the proceeds of the Bonds. If deemed economically advantageous by the Mayor, upon the advice of the Underwriter, the Mayor is hereby authorized to execute an insurance commitment and to do any and all things necessary to accomplish the delivery of a surety bond or a debt service reserve insurance policy with respect to the Bonds.

Section 8. In order to secure lower interest rates on the Bonds, the Underwriter has proposed that the City consider the purchase of a policy of bond insurance with a portion of the proceeds of the Bonds, which policy would guarantee the payment of the principal of and interest on the Bonds when due. If deemed economically advantageous by the Mayor, upon the advice of the Underwriter, the Mayor is hereby authorized to execute an insurance commitment and to do any and all things necessary to accomplish the delivery of a bond insurance policy with respect to the Bonds.

Section 9. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Bonds and to effect the execution and delivery of the Trust Indenture, the Bond Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and a Tax Regulatory Agreement relating to the tax exemption of interest on the Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 10. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

Section 11. The adoption of this Ordinance is intended as the City's "official intent" to make reimbursement from the proceeds of the Bonds for preliminary costs of the Project and related expenses advanced by or on behalf of the City.

Section 12. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not

affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 13. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

City of Fayetteville Staff Review Form

2016-0413

Legistar File ID

9/20/2016

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

Paul A. Becker

9/2/2016

Chief Financial Officer /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a Bond Ordinance Authorizing the Issuance and Sale of the City's Public Library Improvement Bonds for the Purpose of Financing a Portion of the Cost of Capital Improvements to the Fayetteville Public Library.

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? No

Budget Adjustment

Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
FROM: Paul A. Becker, Chief Financial Officer
DATE: September 2, 2016

SUBJECT: Approval of a Bond Ordinance Authorizing the Issuance and Sale of the City's Public Library Improvement Bonds for the Purpose of Financing a Portion of the Cost of Capital Improvements to the Fayetteville Public Library.

RECOMMENDATION:

The Staff recommends approval of issuance and sale of the Fayetteville Public Library Improvement Bonds.

BACKGROUND:

At the request of citizen petitions delivered to the City, the City Council passed Ordinance Number 5876 which authorized a ballot question to be submitted to the voter regarding the approval of a levy in the amount of 1.2 mill of property taxes to provide for the principal and interest payments of a bond issue for the purposes of financing a portion of the cost of capital improvements at the Fayetteville Public Library.

At the special election held on August 9, 2016, that question was approved by the voter. The City and City Public Library is now requesting a move forward with the funding plan for these important capital improvements.

This Ordinance will authorize the actual issuance of these bonds to provide funds for the project described above. It is anticipated that the actual issuance of these bonds will be in 2017. This ordinance will authorize the City administration and Fayetteville Public Library to begin the financial planning and to prepare financial documents for this upcoming bond issue and subsequent improvement project.

BUDGET/STAFF IMPACT:

A special property tax as authorized by the voters will provide for the repayment of these bonds.

Attachments:

None.



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0398

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 2

2016 MILLAGE LEVY:

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2016 FIXING THE RATE THEREOF AT 2.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 2.5 MILLS FOR FAYETTEVILLE PUBLIC LIBRARY OPERATIONS, AND 1.2 MILLS FOR THE FAYETTEVILLE PUBLIC LIBRARY EXPANSION; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1. That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2016 to be collected in 2017 for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

<u>Purpose</u>	<u>Levy</u>
General Fund - Operations	2.3 mills
Fayetteville Public Library - Operations	2.5 mills
Fayetteville Public Library - Capital Expansion	1.2 mills
Policemen's Pension and Relief Fund	0.4 mills
Firemen's Pension and Relief Fund	0.4 mills
TOTAL	6.8 mills

Section 2. That the real and personal property tax so levied and the rates provided therefor are hereby certified to the County Clerk of Washington County, Arkansas, to be placed in the tax book and collected in the same manner that the county and school district taxes are collected.

Section 3. The City Clerk is hereby authorized and directed to file certified copies of this Ordinance in the Office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

City of Fayetteville Staff Review Form

2016-0398

Legistar File ID

9/20/2016

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

Paul A. Becker

8/30/2016

Chief Financial Officer /
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

City Council is requested to adopt real and personal property tax rates for 2016 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, the Fayetteville Public Library and the City's General Fund. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property. The rate for the Fayetteville Public Library is 3.7 mil for real property and 3.7 mil for personal property. The rate requested for the City's General Fund is 2.3 mils for real property and 2.3 mils for personal property.

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 # 5802

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor and City Council
THRU: Don Marr, Chief of Staff
FROM: Paul A. Becker, Chief Financial Officer
DATE: August 30, 2016
SUBJECT: 2016 Millage Levy

RECOMMENDATION:

City staff recommends that City Council approve the millage levy ordinance approving the 0.4 mils for the Policemen's Pension and Relief Fund, 0.4 mils for the Firemen's Pension and Relief Fund, 3.7 mils for the Fayetteville Public Library, and 2.3 mils for 2016 General Fund operations. This is a 2.7 mil increase from last year due to the referendum of approval for the increase millage for the library.

BACKGROUND:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2016.

As of July 28, 2016 the total assessed value of real and personal property located within the city limits of Fayetteville is approximately \$1.456 billion. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real property assessments is approximately 9.6% as of now. This will likely decrease as the Washington County Board of Equalization has not finished making changes.

DISCUSSION:

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils for personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils for personal property as was approved by referendum.

A millage levy ordinance must be approved for the operation of the Fayetteville Public Library. One was approved by the voters on October 1, 2002 and was for 1.0 mil for real property and 1.0 mil for personal property. On August 9, 2016 the citizens of Fayetteville voted to increase the millage for the library. The referendum approved was for an

increase of 1.5 mils for operations for a total of 2.5 mils for operations. Additionally, 1.2 mils was approved by the voters for the bond debt service for the library expansion. Total millage for 2016 will be 3.7 mils for the Fayetteville Public Library. The 1.20 mils will be removed when the bonds are retired.

Finally, City staff is requesting that City Council approve a millage levy ordinance for General Fund operations in the amount of 2.3 mils for both real and personal property.

The 2016 proposed property tax revenue amount based on the 2.3 mil levy is estimated to bring in \$3,303,000 in General Fund revenue. Below is a proposed calendar of meetings during the months of September and October to discuss the millage levy.

Tuesday, September 13	Agenda Session
Tuesday, September 20	City Council Meeting
Tuesday, September 27	Agenda Session
Tuesday, October 4	City Council Meeting
Tuesday, October 11	Agenda Session
Tuesday, October 18	City Council Meeting

BUDGET/STAFF IMPACT:

The 0.4 mils Police and 0.4 mils Fire is needed to fund the Pension plans for both. The 2.5 mils is used to fund the operation and the 1.2 mils will be used for the bond debt service for the Fayetteville Public Library. The 2.3 mils will be used to fund General Fund operations.

Conclusion:

The millage levy must be at Washington County in time to be included in their consolidated levy ordinance which will be approved at the November 17, Quorum Court meeting. The deadline for receipt of the City's levy by the County is October 31. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2016.

The administration is requesting the following millage amounts:

- 2.3 mils for General Fund Operations
- 2.5 mils for the Fayetteville Public Library Operations
- 1.2 mils for the Fayetteville Public Library Expansion
- 0.4 mils for the Police Pension Fund
- 0.4 mils for the Fire Pension Fund

If you have any questions concerning this agenda request please contact me at 575-8330.

Memo

To: Mayor Jordan and Fayetteville City Council

From: David Johnson, Executive Director



Date: August 25, 2016

Re: 2016 Millage Levy

Background:

Fayetteville Public Library is authorized, by public vote, to collect a combined 3.7 mils for operations & maintenance of the library and to provide debt service on a bond issue that will be issued to fund an expansion.

Request:

Fayetteville Public Library requests that Fayetteville City Council levy library millages in the following manner:

- Operations & Maintenance library millage – 2.5 mils
- Library bond debt service millage – 1.2 mils



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0406

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 3

RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5521 FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTHEAST OF SOUTH STREET AND SOUTH COLLEGE AVENUE FROM NC, NEIGHBORHOOD CONSERVATION TO RSF-18, RESIDENTIAL SINGLE FAMILY, 18 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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from NC, Neighborhood Conservation to RSF-18, Residential Single Family, 18 Units Per Acre.

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

2016-0406

Legistar File ID

9/20/2016

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

Jeremy Pate

9/2/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 16-5521: Rezone (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS, 524): Submitted by THE INFILL GROUP for properties SE OF SOUTH ST. & S. COLLEGE AVE. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.67 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE.

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 SEPTEMBER 20, 2016

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: September 2, 2016

SUBJECT: **RZN 16-5521: Rezone (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS, 524):** Submitted by THE INFILL GROUP for properties SE OF SOUTH ST. & S. COLLEGE AVE. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.67 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to rezone the subject properties to RSF-18, Residential Single-family, 18 Units Per Acre, as requested by the applicant and as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject properties include approximately 0.67 acres located on the south side of East South Street, between College and Washington Avenues. These four properties are zoned NC, Neighborhood Conservation, comprising Lot 2 Block 1 of Combs Addition and Lots 1, 2, and 3 of Elam's Subdivision. There are currently four single-family dwellings on site, served by gravel drives off of either South Street or Washington Avenue.

In July of 2008 the subject properties, along with approximately 300 acres of the wider Walker Park Neighborhood, were rezoned in accordance with the Walker Park Neighborhood Master Plan (WPNMP). The owners of the subject properties at the time requested to be zoned DG, Downtown General, rather than NC. Despite Planning Commission recommendation for approval of the request the City Council chose to stand by the Walker Park public charrette process and zoned the four properties NC.

In March of 2009 the owners applied to rezone the same four properties to DG. Following staff feedback, the request was modified to only include a request to rezone the ¼ acre on the southeast corner of College and South from NC to DG. This request was narrowly forwarded (5-4) by the Planning Commission but decidedly denied by the City Council (1-7). Paralleling this rezoning request was a lawsuit brought against the City of Fayetteville by the property owner. Following a Motion of Summary Judgement by the City Attorney the plaintiff's representative elected to pend the case, which has since been dismissed due to inaction.

Request: The request is to rezone the subject properties from NC, Neighborhood Conservation to RSF-18, Residential Single-family, 18 Units Per Acre.

Land Use Compatibility: Land use in the area of the subject properties is largely single-family in character, with some businesses located on South College and the intersection of Mill Avenue and Huntsville Road. Reflecting its age, the neighborhood has a myriad of lot sizes and shapes with single-family housing that is similarly varied. Considering this, a rezoning to RSF-18 will be both compatible and consistent with the existing development patterns. The requirements associated with the proposed zoning district encourage structures be built near the street in the same way that the neighborhood's current housing stock exists while at the same time allowing for a variety of densities.

Land Use Plan Analysis: The proposed rezoning is generally consistent with both City Plan 2030, the Walker Park Neighborhood Master Plan, and the site's Future Land Use Map designation as a part of a Complete Neighborhood Plan area. The RSF-18 zoning district allows for efficient development of single-family detached housing in greater density than the existing NC zoning, which can more readily facilitate infill development, create greater housing opportunities, and facilitate the creation of a traditional town form. As it relates to the Walker Park Neighborhood Master Plan, the proposed zoning will preserve the single-family character of this block, while also providing a transition to the potentially more dense development that is permitted in Downtown General zoning districts on the north side of South Street.

DISCUSSION:

Prior to the August 22, 2016 Planning Commission meeting the applicant requested that the subject properties be rezoned from NC, Neighborhood Conservation to DG, Downtown General. Following conversations with residents and staff, at the August 22nd meeting the applicant amended the request to rezone the properties to RSF-18, Residential Single-Family, 18 Units per Acre. At the August 22, 2016 Planning Commission the rezone request was forwarded with a recommendation for RSF-18 on the subject properties. A motion by Commissioner Hoffman to forward the proposal to the City Council with a recommendation for approval was made with a vote of 7-0-1, with Commissioner Quinlan abstaining.

During the course of the Planning Commission's discussion, the applicant and Commissioners expressed the need for a zoning district that more readily facilitates the development of "missing middle" housing. This includes a wide variety of structures, ranging from duplexes and triplexes to townhouses and courtyard apartments.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

**16-5521
EXHIBIT 'A'**

RZN 16-5521

FAYETTEVILLE RENTALS

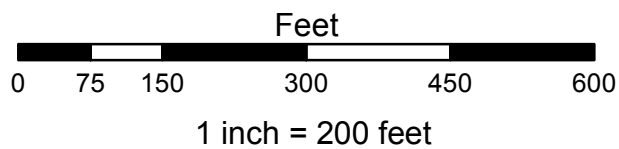


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Hillside-Hilltop Overlay District
- Building Footprint



- RMF-24
- Residential-Office
- Downtown Core
- Main Street Center
- Downtown General
- Neighborhood Conservation
- P-1

16-5521
EXHIBIT 'B'

LEGAL DESCRIPTION:

LOT 2, BLOCK 1 OF COMBS ADDITION, CITY OF
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS
SHOWN IN PLAT BOOK 40, PAGE 230 OF THE
WASHINGTON COUNTY RECORDS.

LEGAL DESCRIPTION:

LOTS 1, 2 AND 3 OF ELAM'S SUBDIVISION, CITY OF
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS
SHOWN IN PLAT BOOK 4A, PAGE 91 OF THE
WASHINGTON COUNTY RECORDS.

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant ☒ Representative

Applicant (person making request):

Name: Morgan Hooker

Fayetteville Rentals LLC

Address: _____

E-mail: _____

Phone: _____

() 479 601 3085

() _____

Fax: _____

() _____

Representative (engineer, surveyor, realtor, etc.):

Name: Matthew Petty

Infill Group

Address: 100 West Center Street

Suite 202

Fayetteville, AR 72701

E-mail: matthew@infillgroup.com

Phone: _____

() 479 595 8703

() _____

Fax: _____

() _____

Site Address / Location: Parcels on south side of South Street between College and Washington
Avenues.

Current Zoning District: NC

Requested Zoning District: DG

Assessor's Parcel Number(s) for subject property: 765-04029-000, 765-05042-002, 765-05042-001, and
765-05042-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

Morgan Hooker, Matt Jeter

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): Matthew Petty

Date: June 27, 2016

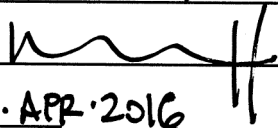
Signature: 

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

Property Owners of Record (attach additional info if necessary):

Name (printed): MORGAN HOOKER

Address: _____

Signature: 

Phone: _____

Date: 14 APR 2016

() 479 601 3085

Name (printed): _____

Address: _____

Signature: _____

Phone: _____

Date: _____

() _____

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
 - \$325.00 application fee
 - \$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: August 22, 2016 Updated with Planning Commission Results

SUBJECT: **RZN 16-5521: Rezone (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS, 524):** Submitted by THE INFILL GROUP for properties SE OF SOUTH ST. & S. COLLEGE AVE. The properties zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.67 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends denial of **RZN 16-5521** based upon the findings herein.

BACKGROUND:

The subject properties include approximately 0.67 acres located on the south side of East South Street, between College and Washington Avenues. These four properties are zoned NC, Neighborhood Conservation, comprising Lot 2 Block 1 of Combs Addition and Lots 1, 2, and 3 of Elam's Subdivision. There are currently four single-family dwellings on site, served by gravel drives off of either South Street or Washington Avenue.

In July of 2008 the subject properties, along with approximately 300 acres of the wider Walker Park Neighborhood, were rezoned in accordance with the Walker Park Neighborhood Master Plan (WPNMP). The owners of the subject properties at the time requested to be zoned DG, Downtown General, rather than NC. Despite Planning Commission recommendation for approval of the request the City Council chose to stand by the Walker Park public charrette process and zoned the four properties NC.

In March of 2009 the owners applied to rezone the same four properties to DG. Following staff feedback, the request was modified to only include a request to rezone the ¼ acre on the southeast corner of College and South from NC to DG. This request was narrowly forwarded (5-4) by the Planning Commission but decidedly denied by the City Council (1-7). Paralleling this rezoning request was a lawsuit brought against the City of Fayetteville by the property owner. Following a Motion of Summary Judgement by the City Attorney the plaintiff's representative elected to pend the case, which has since been dismissed due to inaction.

Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Residential Single-family	DG, Downtown General
South	Residential Single-family	NC, Neighborhood Conservation
East	Residential Single-family	NC, Neighborhood Conservation
West	Residential Single-family	DG, Downtown General NC, Neighborhood Conservation

Request: The request is to rezone the subject properties from NC, Neighborhood Conservation to DG, Downtown General. *Applicant amended their request to rezone the property from NC, Neighborhood Conservation to RSF-18, Residential Single-Family, 18 Units Per Acre*

Public Comment: Staff has received significant public comment against this zoning request. Concerns largely centered around a perceived disregard for the Walker Park Neighborhood Plan, the frustration at having to confront another attempt to zone the property as Downtown General, and fears that any development under the proposed rezoning will compromise the revitalization that has occurred to this point.

INFRASTRUCTURE:

Streets: The subject parcels have access to College Avenue, East South Street, and Washington Avenue. College Avenue is fully improved with curb/gutter, sidewalk, and storm drainage. East South Street and Washington Avenue are completely unimproved along the subject parcels' frontage. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to these parcels. There is an existing 6" water main in the South Street right of way available for services.

Sewer: Sanitary Sewer is not available to the entire site. There is an existing 6" sewer line in Washington Avenue which terminates at a manhole in the southeast corner of the easternmost subject parcel. There is also an existing 8" sewer main in the College Avenue right-of-way.

Drainage: Any additional improvements or requirements for drainage will be determined at time of development. No portions of these properties are identified as FEMA regulated floodplains or floodways. No portions of these parcels lies within the Hillside-Hilltop Overlay District. However, GIS indicates that slopes greater than 15% may exist on some portions of these parcels. At time of development, a residential grading permit (similar to HHOD requirements) may be required. Further investigation would be required.

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 Map* designates the properties as part of a **Complete Neighborhood Plan** Area associated with the Walker Park Neighborhood Plan.

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: In staff's opinion, merits can be identified in either recommending approval or recommending denial of the rezoning of the subject property from the current NC, Neighborhood Conservation to the proposed DG, Downtown General.

Land Use Compatibility: Due to the wide variety of uses allowed in the proposed DG zoning district, it is difficult to uniformly assert its compatibility with the surrounding land uses. On the one hand, a rezoning to DG will allow for residential development that is generally comparable to other housing in the area along with low-intensity commercial that can serve the neighborhood. Small-scale restaurants and shopping locations coupled with low- to medium-intensity residential have the potential to meet local housing and shopping needs. In regards to both commercial and residential uses, the limited area of the properties' size can act as its own constraint on the intensity of the property.

On the other hand, the Walker Park Neighborhood Master Plan and its associated rezoning are explicit in the desire to protect the single-family core that makes up a large portion of the land use in the area, noting the affordability and steady pace of rehabilitations and remodeling projects occurring. A rezoning to DG comes with no density requirements, no side setbacks, and a higher building height maximum. Coupled with multi-family dwellings being a permitted use in the DG zoning district, this has the potential to dramatically change the character of this block and possibly a wider portion of Walker Park. That said, even with the development constraints created by the properties' area, any land use other than single-family detached housing has the potential to create incompatibility with both the existing adjacent Walker Park housing, and the Walker Park Neighborhood Master Plan itself.

Land Use Plan Analysis: When considered together, Fayetteville's overarching City Plan 2030 and the more localized Walker Park Neighborhood Master Plan appear to be at odds regarding the rezoning request for the subject properties. While City Plan 2030 calls for infill development and expanding housing opportunities, the zoning approved by City Council with the support of many Walker Park residents seeks to preserve the existing single-family housing stock while clearly designating areas desired for commercial development. Although one document does not trump the other, specific neighborhood plans are often given deference due to the more fine-grain and intimate process that sees the creation of detailed goals and a vision that advocate for the interests of a smaller subset of residents for their immediate surroundings.

That said, in many ways the rezoning of these properties to DG can create a logical extension and transition of those areas zoned similarly to the north, northwest, and northeast. The requested rezoning creates the potential for a

local commercial node on College Avenue and South Street that connects to the existing businesses on Mill Avenue. Alternatively, or perhaps complimentarily, a rezoning to DG permits infill redevelopment of the properties to more intensive residential uses.

Unfortunately, the same points that support the current rezoning request also create a conflict with one of the indisputable purposes of the Walker Park Neighborhood Master Plan: the conservation of the existing neighborhood. The public charrette process for the Walker Park Neighborhood Master Plan saw significant public input from hundreds of residents who advocated to rezone the entirety of this area to foster diverse housing and density in some areas while preserving established single-neighborhood families in others.

While it is undoubtedly expedient for justifying this rezoning to note the properties zoned Downtown General to the northwest, north, and northeast of this property, it is important to also acknowledge two points to the contrary. Firstly, and as mentioned, these properties have been considered twice for rezoning to Downtown General. Both times the neighbors expressed vocal opposition to what was perceived as the forfeiture of principles upon which the Walker Park Neighborhood Master Plan was founded. Both times this opposition found support from the City Council which voted to deny the proposed rezoning. Although it is important to realize that area-wide rezonings such as that associated with the Walker Park Neighborhood Master Plan are subject to reevaluation, it is equally critical to maintain consideration for the vision of residents, particularly when enshrined in adopted policy.

Secondly, the decision to forward this rezoning can potentially trigger further encroachment in to this area of established neighborhoods. Certainly every rezoning request is to be considered independently of those that preceded it, but every rezoning request also considers the compatibility of adjacent zoning and land use. If these properties are rezoned and redeveloped to a pattern more commonly found in areas zoned DG, this may itself become justification for further impinging on the established single-family housing of Walker Park.

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

Finding: Based on the applicants' submittal, the rezoning is justified and needed to allow redevelopment of the property for single-family and 'missing middle' housing. Although there is not one accepted definition of missing middle housing, it is generally accepted to encompass everything from duplexes and triplexes to multi-story townhouses and courtyard apartments. The existing NC zoning district only permits single-family dwellings by right, and two-family dwellings by conditional use.

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

Finding: Rezoning the property to Downtown General, with its lack of density requirements, has the potential to increase traffic in this area as the site develops. Given the size of the development however, any increase in vehicular trips in the area will not appreciably 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: The overall size of the property will limit the density of future development, thereby also limiting undesirable increases on the burden of schools or City services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION:

Planning staff recommends denial of **RZN 16-5521**, finding that the proposed zone allows development that is incompatible with the principles set forth in the Walker Park Neighborhood Master Plan, as evidenced by the significant amount of past and current neighborhood opposition, along with two decisions to deny the request for higher density zoning by the City Council.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>August 22, 2016</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <i>Hoffman</i>	Second: <i>Autry</i>	Vote: <i>7-0-1 (Quinlan Abstained)</i>	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date:	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:
None

At the 8/22 Planning Commission meeting the applicant amended their request to rezone the property from NC, Neighborhood Conservation to RSF-18, Residential Single-Family, 18 Units Per Acre rather than DG, Downtown General.

Attachments:

- Unified Development Code §161.26 (DG zoning)
- Unified Development Code §161.27 (NC zoning)
- Request Letter
- Letter from the Public
- Walker Park Neighborhood Illustrative Map
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.26 - Downtown General

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development
Unit 45	Small scale production

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet
---------------------------	---------

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	56 feet
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(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, § 1(Exh. A), 10-6-15)

161.27 - Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two (2) family dwellings
Unit 10	Three (3) family dwellings
Unit 12	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cottage Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single Family	40 feet
Two Family	80 feet
Three Family	90 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet

Rear, from center line of an alley	12 feet
------------------------------------	---------

(F) *Building Height Regulations.*

Building Height Maximum	45 feet
-------------------------	---------

(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, § 1(Exh. A), 10-6-15)

Written description of rezoning request

Prepared 6/27/2016 for parcel: 765-04029-000, 765-05042-002, 765-05042-001, and 765-05042-000.

a) Current ownership information and any proposed or pending property sales.

The current owner Fayetteville Rentals LLC and there are no pending sales.

b) Reason (need) for requesting the zoning change.

The owner is planning to develop single-family and missing middle housing types.

c) Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The proposed rezoning is consistent with surrounding properties. In terms of land use, the surrounding properties are single family detached units. In terms of traffic, South College Avenue has excess capacity. In terms of appearance and signage, the design standards of DG will ensure that any new development is contextually sensitive to the existing neighborhood character.

d) Availability of water and sewer (state size of lines).

The site is served by a 6" water line in the South Street ROW and an 8" sewer line in the College Avenue ROW. The owner understand a sewer line extension may be deemed necessary at the time of development review.

e) The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

The proposed zoning is consistent with City Plan 2030 and the Walker Park Neighborhood Master Plan. Given the surrounding land uses, DG allows for appropriate infill and advances Fayetteville's goal to grow a livable transportation network. The geometry of the parcels prohibits the most intense forms of development allowed under DG.

f) Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed rezoning is needed to allow for a financially feasible number of single-family detached and low-intensity missing middle dwelling units to be developed on the site. It is justified by the proximity to a major transportation corridor (71B) and Downtown Fayetteville.

g) Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

The proposed rezoning will not create a traffic danger or appreciably increase congestion.

h) Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

While the proposed rezoning will alter the population density, it will not undesirably increase the load on public services. A moderate increase in density also increases the operating and/or maintenance efficiencies of public services: it allows more children to be bussed per mile and more residents to be served per linear foot of water or sewer line.

- i) **Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.**

NC zoning does not allow missing middle housing types, such as dignified 4- or 6-plexes to be developed.

RZN 16-5521
Letter from the Public

August 4, 2016

Planning Commission
City of Fayetteville
Fayetteville, Arkansas 72701

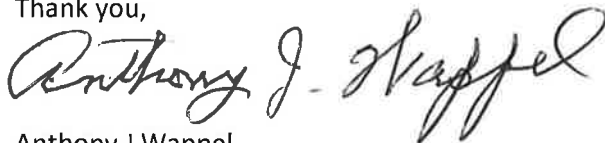
This letter is in response to the proposed re-zoning of the corner of South & College (RZN16-5521).

I am opposed to this rezoning.

Please consider the following information when making your decision:

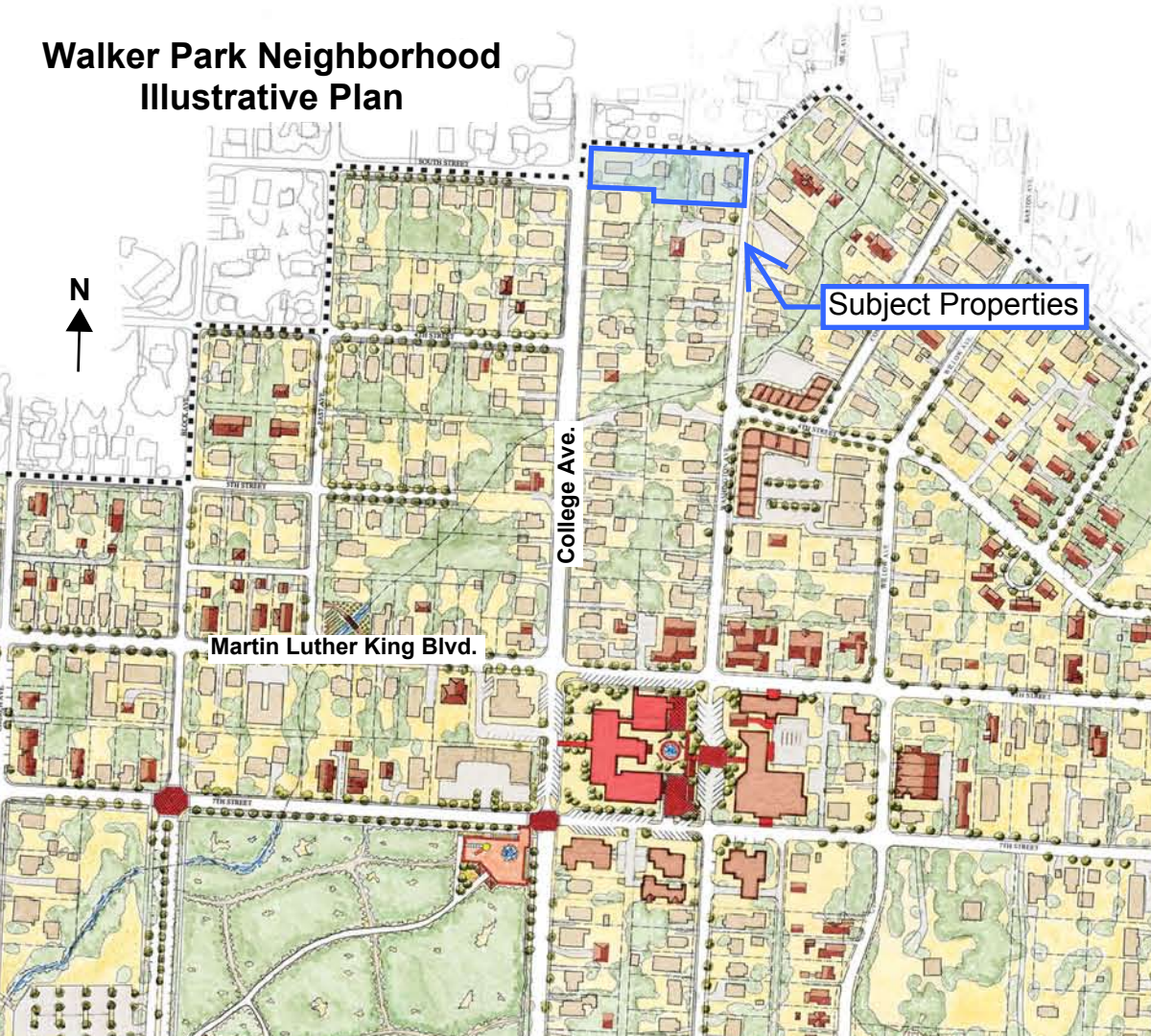
1. Many of the residents of this neighborhood, including myself, moved here when this part of town was not very nice and have invested many years of sweat equity improving our properties and making the neighborhood as attractive as it is now. Their goal, including my own, was to help restore and preserve the "diamond in the rough" neighborhood as a community of single family residences. I believe the stability offered by the Neighborhood Conservation zone, as opposed to the former RMF 24 zone, has helped our neighborhood transform itself into one of Fayetteville's more desirable neighborhoods in which to live and raise a family.
2. In 2007 and 2008 hundreds of residents participated in the Walker Park Master Plan charrettes. We understood South Street would be the boundary line between Downtown General and Neighborhood Conservation zones. The majority of us living on South Street have been generally ok with this, even knowing that someday the north side of our street could radically change. However, we want to hold the line at South Street and are not ok with creeping commercialization that Downtown General zoning would allow further south. It would be a shame to destroy the charm of the rest of the neighborhood by allowing single family residences to be replaced with apartment complexes or commercial businesses that Downtown General zoning would allow.
3. When an attempt to re-zone this property was made in 2009, neighbors obtained 282 signatures of people opposed to the rezoning and the City Council agreed with us to keep the Neighborhood Conservation Zone.
4. Please support Fayetteville's Master Plan and the residents who helped make it possible and leave the Neighborhood Conservation zones as they are.

Thank you,

A handwritten signature in black ink that reads "Anthony J. Wappel". The signature is written in a cursive, flowing style.

Anthony J Wappel
11 East South Street

Walker Park Neighborhood Illustrative Plan



Subject Properties

College Ave.

Martin Luther King Blvd.

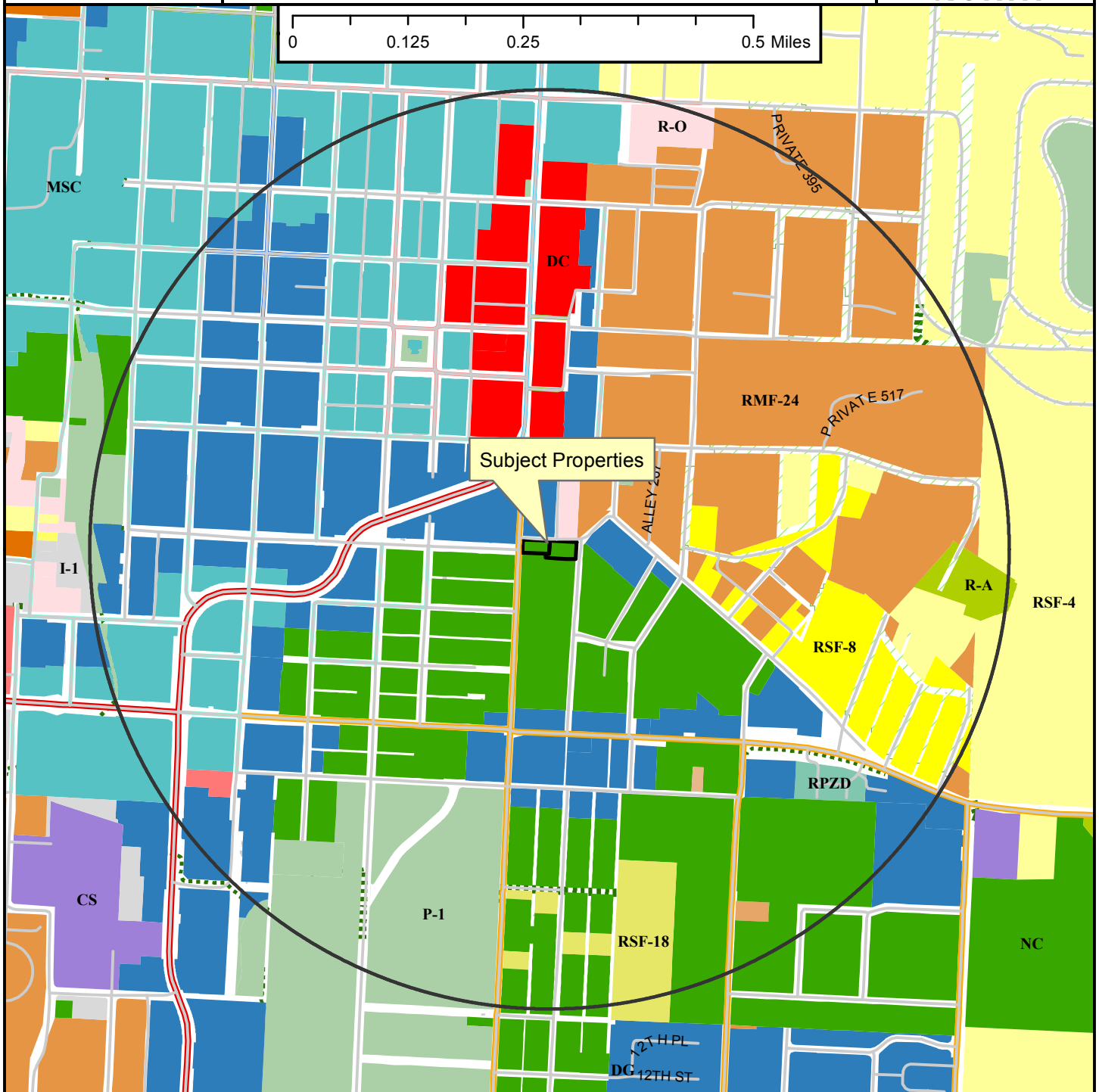
RZN 16-5521

One Mile View

FAYETTEVILLE RENTALS

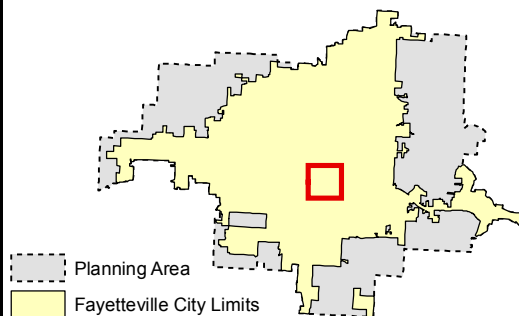


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Hillside-Hilltop Overlay District
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



Zoning

RESIDENTIAL SINGLE-FAMILY

- Residential-Agricultural
- RSF-5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY

- RT-12 Residential Two and Three-family
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION

E-1

COMMERCIAL

- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS

- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential
- INSTITUTIONAL
- P-1

RZN 16-5521

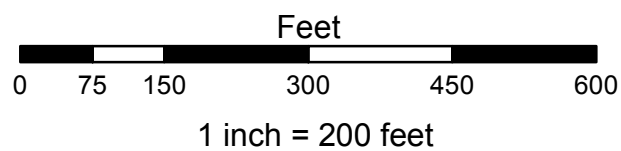
Close Up View

FAYETTEVILLE RENTALS



Legend

- Planning Area
- Fayetteville City Limits
- Hillside-Hilltop Overlay District
- Building Footprint



- RMF-24
- Residential-Office
- Downtown Core
- Main Street Center
- Downtown General
- Neighborhood Conservation
- P-1

RZN 16-5521

Current Land Use

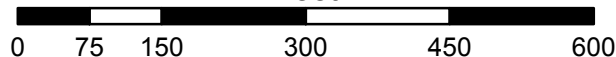
FAYETTEVILLE RENTALS



Legend

- Street
- RZN16-5521
- Planning Area
- Fayetteville City Limits

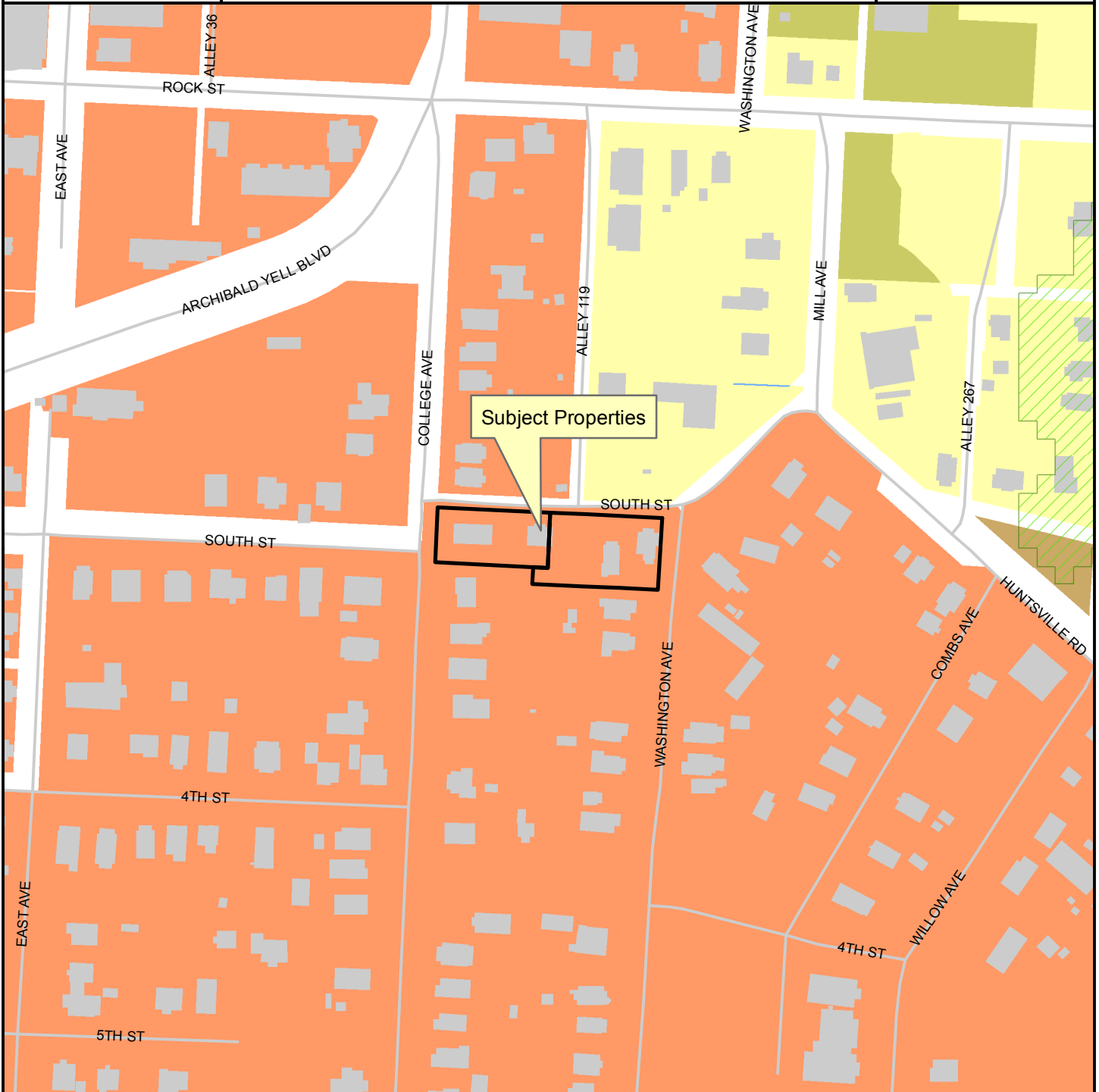
Feet



RZN 16-5521

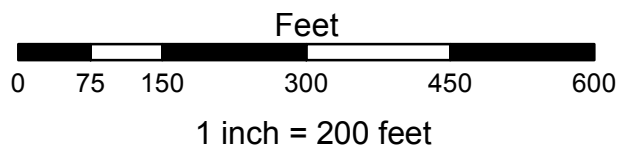
Future Land Use

FAYETTEVILLE RENTALS



Legend

- Planning Area
- Fayetteville City Limits
- Hillside-Hilltop Overlay District
- Building Footprint



FUTURE LAND USE 2030

- Residential Neighborhood Area
- City Neighborhood Area
- Complete Neighborhood Plan
- Civic and Private Open Space/Parks
- Civic Institutional



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0397

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 4

RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5535 FOR APPROXIMATELY 14.20 ACRES LOCATED AT THE EAST END OF BORICK DRIVE FROM I-2, GENERAL INDUSTRIAL AND R-A, RESIDENTIAL AGRICULTURAL TO P-1, INSTITUTIONAL

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 property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from I-2, General Industrial and R-A, Residential Agricultural to P-1, Institutional.

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

2016-0397

Legistar File ID

9/20/2016

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

Jeremy Pate

9/2/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 16-5535: Rezone (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER, 683): Submitted by CITY STAFF for property at the EAST END OF BORICK DR. The property is zoned I-2, GENERAL INDUSTRIAL & R-A, RESIDENTIAL AGRICULTURAL and contains approximately 14.20 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

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 SEPTEMBER 20, 2016

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: September 2, 2016

SUBJECT: **RZN 16-5535: Rezone (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER, 683):** Submitted by CITY STAFF for property at the EAST END OF BORICK DR. The property is zoned I-2, GENERAL INDUSTRIAL & R-A, RESIDENTIAL AGRICULTURAL and contains approximately 14.20 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

RECOMMENDATION:

The City Planning staff recommend approval of an ordinance to rezone the subject City-owned property to P-1, Institutional, as requested by the applicant and as shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property includes approximately 14.20 acres at the east end of East Borick Drive. The property is largely clear, but with significant amounts of vegetation along its property lines. Although annexed in to the City along with several hundred acres to the north and west in 1971, this property has remained undeveloped. The zoning on the property is split along a north-south axis, with about a third of the western portion zoned I-2, General Industrial, and the remainder zoned R-A, Residential Agriculture.

Request: The property is owned by the City of Fayetteville and the request is to rezone the subject property from I-2, General Industrial and R-A, Residential to P-1, Institutional. The Fire Department has received a grant and intends to construct a firefighter training facility on the site.

Land Use Compatibility: The uses allowed by right under the P-1 zoning district are generally compatible with all neighboring land uses. Most government facilities do not have significant impacts on adjacent properties, and those that do would be appropriate for the subject property, particularly given its peripheral location within the City. The only potential conflict in land uses is with the public parkland to the north and east.

As it currently stands however, Combs Park is minimally developed. Although the 2002 Parks and Recreation 10 Year Master Plan recommends the park's use for a large model airplane landing strip and a possible greenway trail along the White River, neither has come to fruition. Furthermore, 72 acres of Combs park, including the portion that is adjacent to the subject

property, has been identified as an area to be maintained at a lower service level. That said, the proposed rezoning will likely have little to no effect on activities in Combs Park.

Land Use Plan Analysis: City Plan 2030 designates the subject property as Industrial Area. Although the proposed rezoning does not facilitate industrial development, a P-1 district allows the City to utilize the property for activities that are more appropriate in, and compatible with, an industrial district as opposed to most other areas of the City.

DISCUSSION:

On August 22, 2016 the Planning Commission forwarded the applicant's request for a rezoning to P-1, Institutional. A motion by Commissioner Hoffman to forward the proposal to the City Council with a recommendation for approval was made with a vote of 8-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

**16-5535
EXHIBIT 'A'**

RZN 16-5535

FIRE TRAINING CTR.

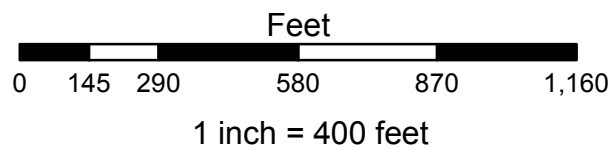


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- I-2 General Industrial
- P-1

16-5535
EXHIBIT 'B'

Legal Description

Lot 18 of Fayetteville Industrial Park Final Replat to the City of Fayetteville, Arkansas, less and excepted that portion described in Deed 2002-180216 as filed with the circuit Clerk of Washington County, AR, containing 14.2 acres, more or less.

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant ☒ Representative

Applicant (person making request):

Name: City of Fayetteville, Arkansas

Address: 113 W. Mountain Street
Fayetteville AR 72701

E-mail:

Phone:
(479) 575-8330

()

Fax:
(479) 575-8257

Representative (engineer, surveyor, realtor, etc.):

Name: Chief Harley Hunt
City of Fayetteville Fire Department

Address: 303 W. Center Street
Fayetteville AR 72701

E-mail: hhunt@fayetteville-ar.gov

Phone:
(479) 718-7639

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Fax:
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Site Address / Location: East end of East Borick Drive

Current Zoning District: I-2 / R-A

Requested Zoning District: P-1

Assessor's Parcel Number(s) for subject property: 765-19956-000

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

City of Fayetteville, Arkansas

City of Fayetteville, Arkansas Fire Department

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): Chief Harley Hunt

Date:

Signature:

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

Property Owners of Record (attach additional info if necessary):

Name (printed): Mayor Lioneld Jordan

Address: 113 W. Mountain Street

Fayetteville AR 72701

Signature:

Phone:

Date:

(479) 575-8330

Name (printed):

Address:

Signature:

Phone:

Date:

()

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: August 22, 2016 *Updated with Planning Commission Results*

SUBJECT: **RZN 16-5535: Rezone (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER, 683):** Submitted by CITY STAFF for property at the EAST END OF BORICK DR. The property is zoned I-2, GENERAL INDUSTRIAL & R-A, RESIDENTIAL AGRICULTURAL and contains approximately 14.20 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

RECOMMENDATION:

Staff recommends forwarding **RZN 16-5535** to the City Council with a recommendation for approval based upon the findings herein.

BACKGROUND:

The subject property includes approximately 14.20 acres at the east end of East Borick Drive. The property is largely clear, but with significant amounts of vegetation along its property lines. Although annexed in to the City along with several hundred acres to the north and west in 1971, this property has remained undeveloped. The zoning on the property is split along a north-south axis, with about a third of the western portion zoned I-2, General Industrial, and the remainder zoned R-A, Residential Agriculture. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Combs Park (Minimally Developed)	P-1, Institutional
South	Undeveloped/Agriculture	Ag/SF Res 1 unit/ac. (Washington County)
East	Combs Park (Minimally Developed)	P-1, Institutional
West	Superior Industries Wheel Manufacturer	I-2, General Industrial

Request: The request is to rezone the subject property from I-2, General Industrial and R-A, Residential to P-1, Institutional.

Public Comment: Staff has received no public comment.

INFRASTRUCTURE:

Streets: The subject parcel has a 50-foot strip of land connecting it to East Borick Drive, an improved street with sidewalk, curb, and gutter.

- Water:** Public water is available to the site. An 8-inch water main runs along Borick Drive.
- Sewer:** Public sewer is available to the site. A sewer manhole stubs out to this parcel at the east end of the Borick Drive right of way.
- Drainage:** Any additional improvements or requirements for drainage would be determined at time of development. Portions of this parcel lie within the FEMA designated 100-yr floodplain and floodway. Any developments will be required to obtain Floodplain Development Permits through the city engineering office. No protected streams are present on this parcel. No portions of this parcel lie within the HHOD.
- 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 Map* designates the property as an **Industrial Area**.

Industrial Areas are those areas with buildings that by their intrinsic function, disposition or configuration, cannot conform to one of the other designated areas and/or its production process requires the area to be separated from other uses.

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: In staff's opinion, a rezoning of the subject property from the current split-zoned status to the proposed P-1, Institutional designation is compatible with surrounding uses and with City Plan 2030.

Land Use Compatibility: The uses allowed by right under the P-1 zoning district are generally compatible with all neighboring land uses. Most government facilities do not have significant impacts on adjacent properties, and those that do would be appropriate for the subject property, particularly given its peripheral location within the City. The only potential conflict in land uses is with the public parkland to the north and east.

As it currently stands however, Combs Park is minimally developed. Although the 2002 Parks and Recreation 10 Year Master Plan recommends the park's use for a large model airplane landing strip and a possible greenway trail along the White River, neither has come to fruition. Furthermore, 72 acres of Combs park, including the portion that is adjacent to the subject property, has been identified as an area to be maintained at a lower service level. That said, the proposed rezoning will likely have little to no effect on activities in Combs Park.

Land Use Plan Analysis: City Plan 2030 designates the subject property as Industrial Area. Although the proposed rezoning does not facilitate industrial

development, a P-1 district allows the City to utilize the property for activities that are more appropriate in, and compatible with, an industrial district as opposed to most other areas of the City.

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

Finding: The proposed rezoning is justified at this time, as it will allow development of the property in such a way as to facilitate and improve future City services.

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

Finding: Rezoning the property will not likely increase traffic danger or congestion in this location due to the limited planned use. East Borick Drive is improved with curb, gutter, and sidewalk, and although off-site improvements will likely be unnecessary, they 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: As proposed, the property will not be consistently utilized, and certainly not for habitation. As such, the proposed rezoning will not increase density. The planned use for the property will increase the demands on the local public water mains, but not in an undesirable manner.

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

RECOMMENDATION:

Planning staff recommends forwarding **RZN 16-5535** to City Council with a recommendation for approval based on the findings discussed throughout this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>August 22, 2016</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <i>Hoffman</i>	Second: <i>Hoskins</i>	Vote: 8-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date:	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code §161.30 (P-1 zoning)
- Request Letter
- Combs Park Map
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.30 - District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	30 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	20 feet
Side, when contiguous to a residential district	25 feet
Rear	25 feet
Rear, from center line of public alley	10 feet

(F) *Height Regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, § 1(Exh. A), 10-6-15)



RZN 16-5535
Request Letter



August 1, 2015

Request to change zoning for Fire Training Facility (P-1 institutional)

To: Fayetteville City Planning Commission and City Council,

The City of Fayetteville, Arkansas owns 14.2 acres at the east end of Borick Drive in Fayetteville (Parcel Number 765-19956-000). This property was offered to the Fayetteville Fire Department in 2014 for future use as a Fire Training Facility. Currently the property has two zoning designations: I-2, General Industrial and R-A, Residential Agriculture. These two designations divide the property almost equally along a north-south axis. Neither zoning designation can facilitate the use of the property as is needed by the City. The intent is to rezone the property to P-1, Institutional, to facilitate the development of the aforementioned Fire Training Facility.

The proposed P-1 zoning district will be compatible with the surrounding land uses and zoning districts. Superior Wheel Manufacturing is located to the west and is zoned I-2. To the north and east is the City-owned Combs Park property, which is zoned P-1, Institutional. To the south of the subject property is agricultural land located outside of Fayetteville city limits in Washington County.

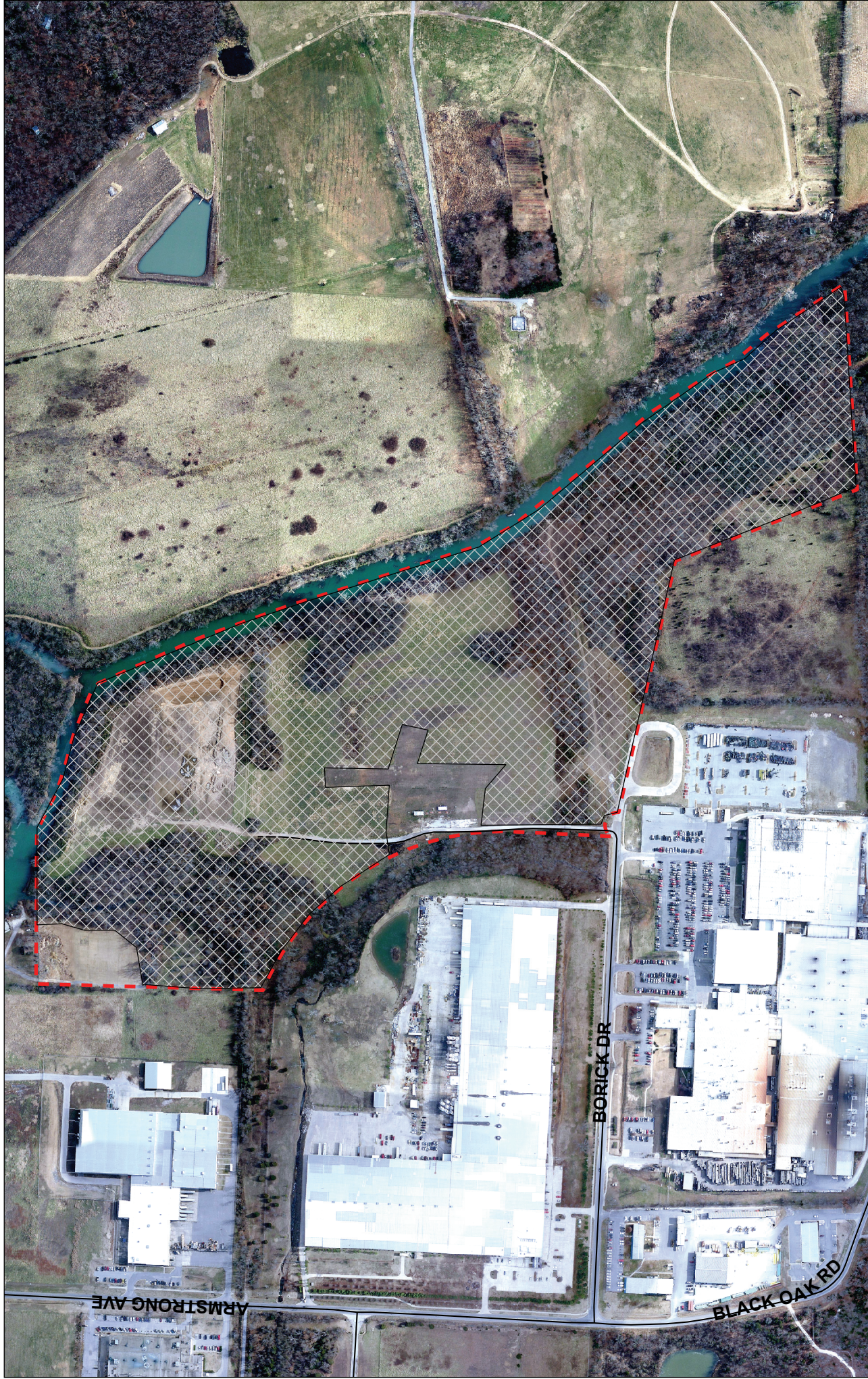
City engineers have determined that the property has access to a 12-inch water line and an 8-inch sanitary sewer connection, both of which are available at the intersection of South and East Borick Drives.

City of Fayetteville Planners have advised us to seek this zoning change because it fits with the development goals of the Fire Department and the City of Fayetteville. The proposed project associated with this re-zone is only for Fire Department use, and therefore will not create increased vehicle or pedestrian traffic, nor will it lead to population growth or negative strains on public services. If anything, rezoning this property for its intended use by the City of Fayetteville Fire Department will improve the quality of public service and safety, benefitting the general welfare of City residents at large.

Thank you for your consideration of this re-zone application.

Regards,

Harley Hunt
Assistant Fire Chief
City of Fayetteville, AR



Combs Park
2300 E. Borick Dr.
85.26 Acres

--- Park Boundary
**Portion of the park that is
maintained at a lower service level
equals approximately 72 acres.**



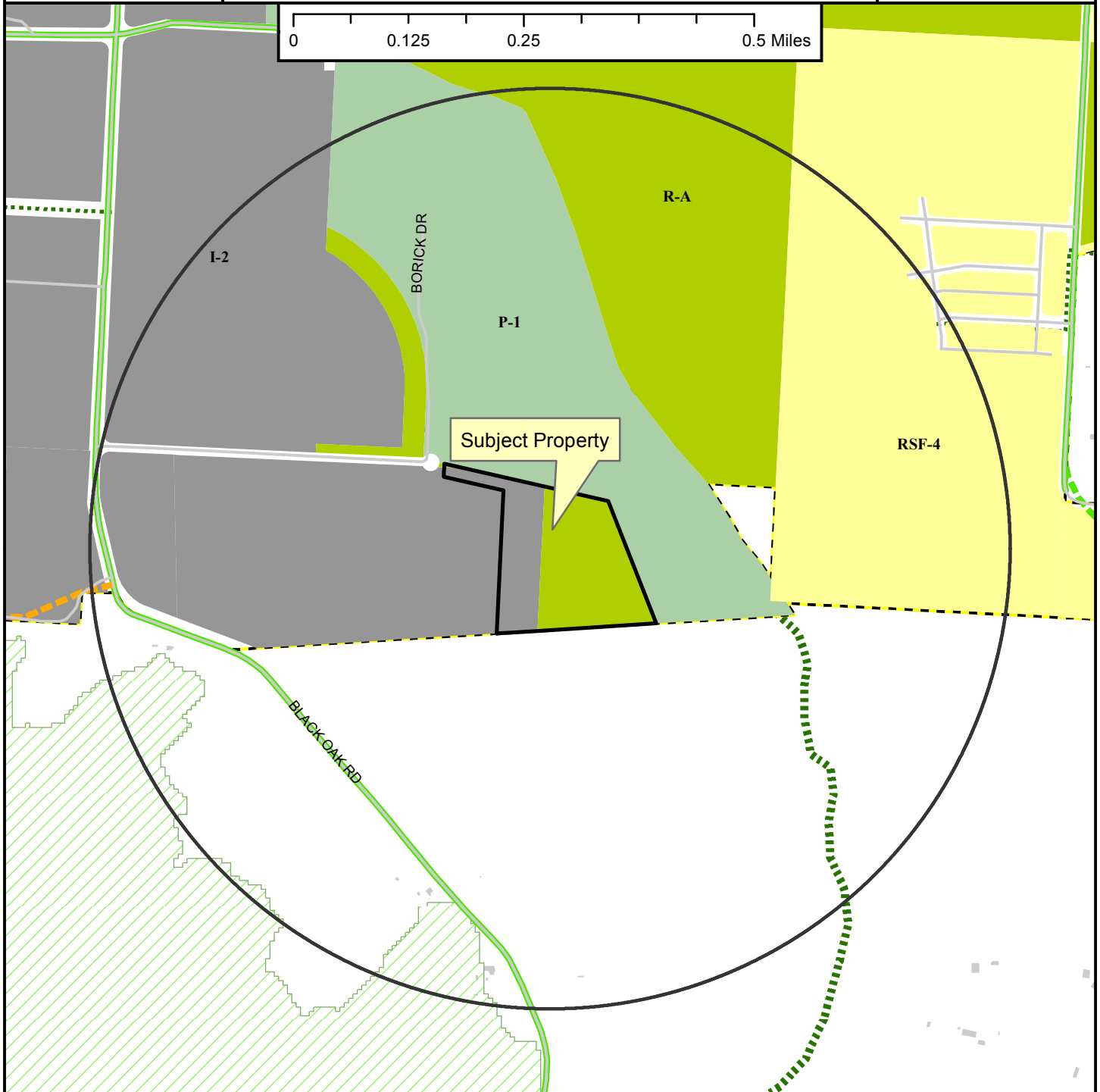
RZN 16-5535

One Mile View

FIRE TRAINING CTR.

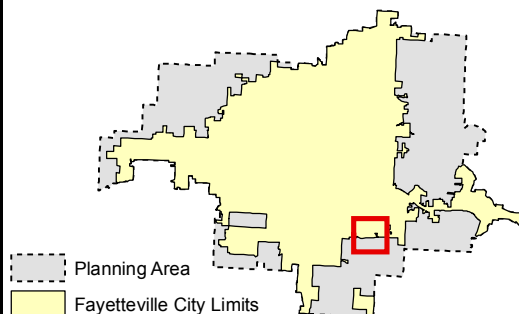


0 0.125 0.25 0.5 Miles



Legend

- Planning Area
- Fayetteville City Limits
- Hillside-Hilltop Overlay District
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - RT-12 Residential Two and Three-family
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
 - RESIDENTIAL MULTI-FAMILY**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
 - COMMERCIAL**
 - Residential-Office
 - C-1
 - C-2
 - C-3
 - FORM BASED DISTRICTS**
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1

RZN 16-5535

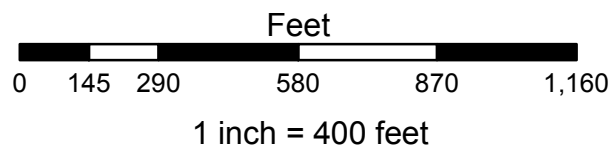
Close Up View

FIRE TRAINING CTR.



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- Residential-Agricultural
- RSF-4
- I-2 General Industrial
- P-1

RZN 16-5535

Current Land Use

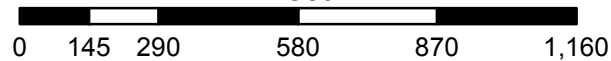
FIRE TRAINING CTR.



Legend

- Streams
- Street
- Shared Use Paved Trail
- Trail (Proposed)
- RZN16-5535
- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail

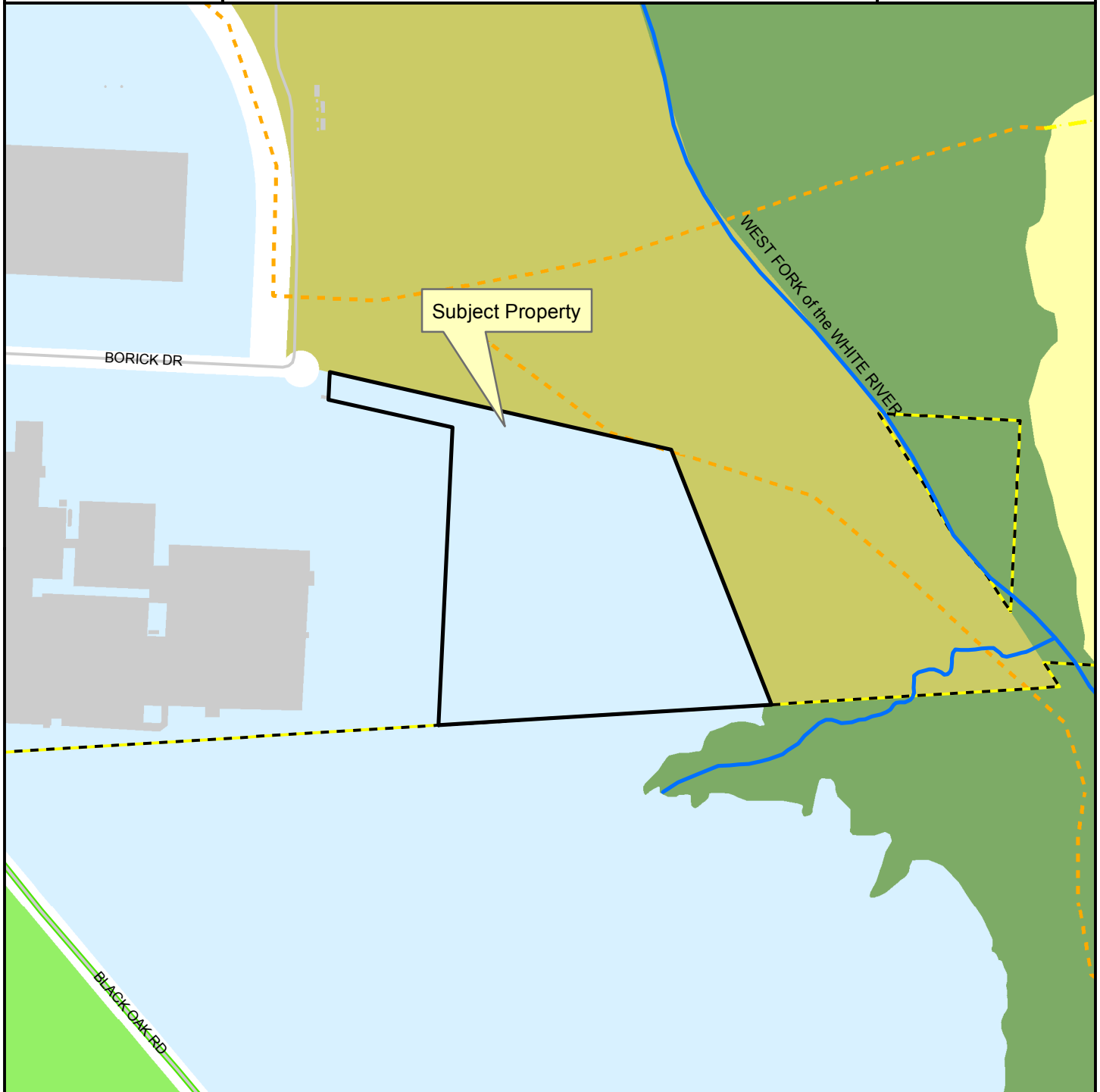
Feet



RZN 16-5535

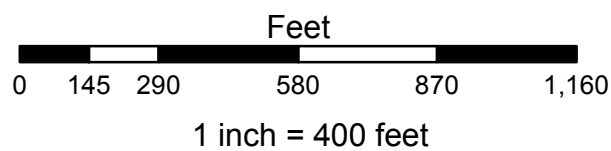
Future Land Use

FIRE TRAINING CTR.



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Rural Area
- Residential Neighborhood Area
- Industrial
- Civic and Private Open Space/Parks



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0392

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 5

VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):

AN ORDINANCE TO APPROVE VAC 16-5536 SUBMITTED BY MIKE BAUMANN FOR PROPERTY LOCATED AT THE SOUTH END OF MARKS MILL LANE TO VACATE PORTIONS OF A UTILITY, DRAINAGE AND ACCESS EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portions of a utility, drainage and access easement are not required for corporate purposes.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby vacates portions of a utility, drainage and access easement as described in Exhibit B attached to the Planning Department's memo.

Section 2. A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3. This vacation approval is subject to the following conditions:

1. The vacation is limited to retain the east 38 feet of the west 46 feet of the easement area as utility easement for the existing sanitary sewer (as requested by the City Water/Sewer Department).
2. Any costs associated with relocation of or damage to utilities and new easement dedication shall be at the owner/developer's expense.

City of Fayetteville Staff Review Form

2016-0392

Legistar File ID

9/20/2016

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

Jeremy Pate

9/2/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC 16-5536: Vacation (S. END OF MARKS MILL LN./SUMMIT PLACE S/D, 329): Submitted by MIKE BAUMANN for properties located at the SOUTH END OF MARKS MILL LN. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contain approximately 0.09 acres. The request is to vacate portions of a utility, drainage, and access easement.

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 SEPTEMBER 20, 2016

TO: Mayor and City Council

FROM: Andrew Garner, City Planning Director

DATE: September 2, 2016

SUBJECT: **VAC 16-5536: Vacation (S. END OF MARKS MILL LN./SUMMIT PLACE S/D, 329):** Submitted by MIKE BAUMANN for properties located at the SOUTH END OF MARKS MILL LN. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contain approximately 0.09 acres. The request is to vacate portions of a utility, drainage, and access easement.

RECOMMENDATION:

City Planning Division staff and the Planning Commission recommend approval of **VAC 16-5536** subject to the following conditions:

Conditions of Approval:

1. The vacation is limited to retain the east 38 feet of the west 46 feet of the easement area as utility easement for the existing sanitary sewer (as requested by the City Water/Sewer Department).
2. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

BACKGROUND:

The Summit Place Subdivision is located on the south side of Township Road approximately 400 feet east of College Avenue. The subject property is a utility/drainage/access easement in the rear yards of six lots in the southwest portion of the Summit Place Subdivision.

Proposal: The applicant proposes vacation of a portion of the utility/drainage/access easement as depicted in Exhibit 'A' and described in Exhibit 'B' to allow for required tree mitigation planting in these areas.

DISCUSSION:

On August 22, 2016 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 8-0-0 as a consent agenda item.

BUDGET/STAFF IMPACT:

N/A

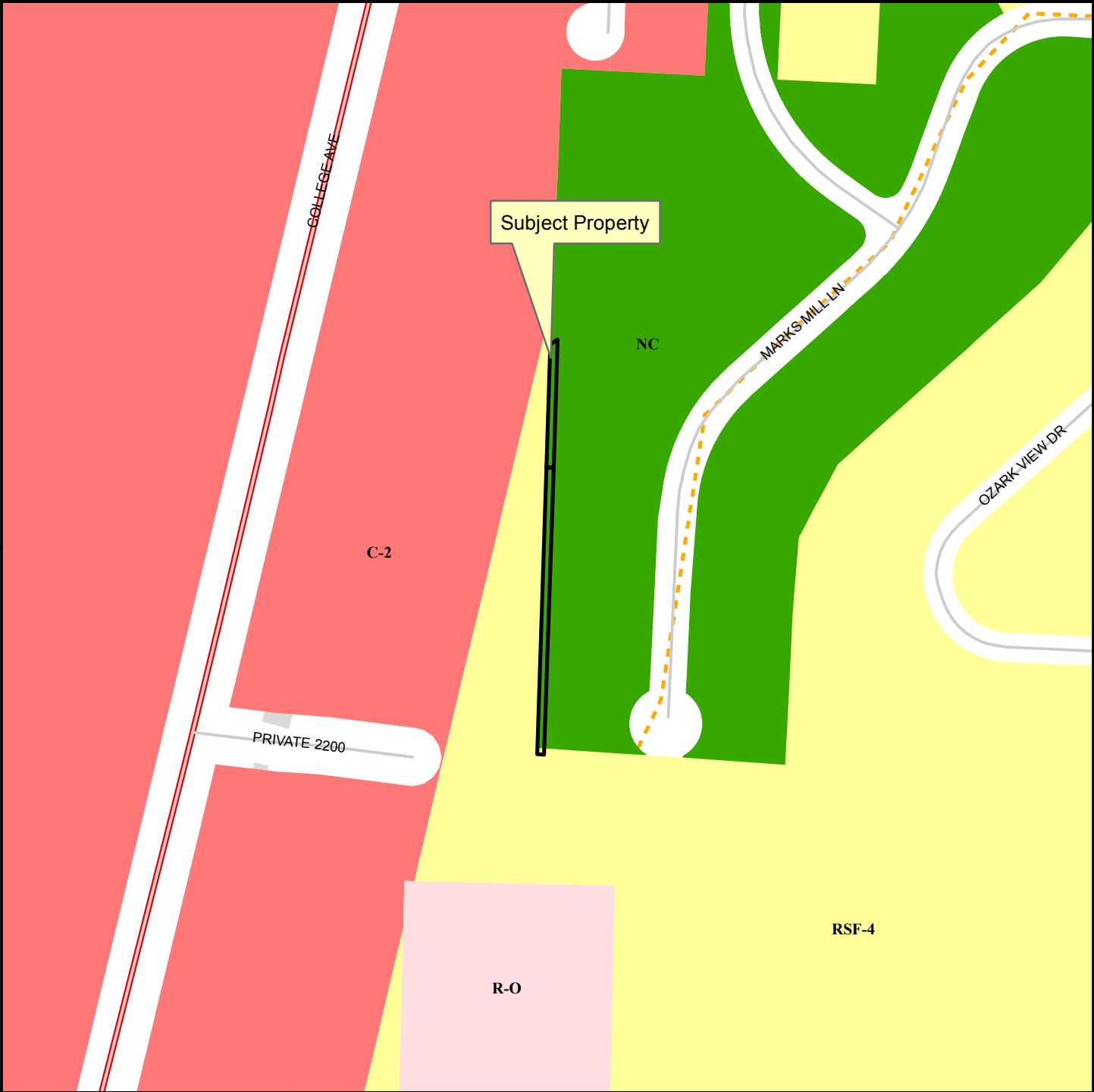
Attachments:

- Exhibit A
- Exhibit B
- Application
- Planning Commission Staff Report

VAC 16-5536

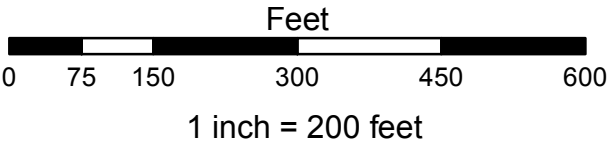
SUMMIT PLACE SD

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



- RSF-4
- Residential-Office
- C-2
- Neighborhood Conservation

16-5536
EXHIBIT 'B'

LEGAL DESCRIPTION: EASEMENT VACATION – SUMMIT PLACE SUBDIVISION - ROTH

A PART OF THE FRACTIONAL EAST ONE-HALF (E-1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 3 (THREE), TOWNSHIP 16 (SIXTEEN) NORTH, RANGE 30 (THIRTY) WEST OF THE FIFTH PRINCIPAL MERIDIAN, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, ALSO BEING PART OF SUMMIT PLACE SUBDIVISION, AS FILED FOR RECORD IN PLAT BOOK 23A, BOOK 321 OF THE WASHINGTON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE FRACTIONAL EAST ONE-HALF (E-1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 3 (THREE); THENCE N02°37'38"E A DISTANCE OF 15.78 FEET; THENCE ALONG THE SOUTH LINE OF SAID SUMMIT PLACE SUBDIVISION, THE FOLLOWING THREE CALLS: N87°02'18"W A DISTANCE OF 726.14 FEET; THENCE S03°28'21"W A DISTANCE OF 9.31 FEET; THENCE N86°31'39"W A DISTANCE OF 433.84 FEET TO THE SOUTHWEST CORNER OF SAID SUMMIT PLACE SUBDIVISION AND THE **POINT OF BEGINNING**; THENCE LEAVING SAID SOUTH LINE AND ALONG THE WEST LINE OF SAID SUMMIT PLACE SUBDIVISION N01°52'25"E A DISTANCE OF 395.18 FEET TO A POINT; THENCE S79°47'01"E A DISTANCE OF 10.11 FEET TO A POINT; THENCE ON A LINE WHICH IS TEN FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID SUMMIT PLACE SUBDIVISION, S01°52'25"W A DISTANCE OF 393.99 FEET TO THE SOUTH LINE OF SAID SUMMIT PLACE SUBDIVISION; THENCE ALONG SAID SOUTH LINE N86°31'39"W A DISTANCE OF 10.00 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.09 ACRES (3,946 SQUARE FEET) MORE OR LESS.

LEGAL DESCRIPTION: EASEMENT VACATION – SUMMIT PLACE SUBDIVISION - HENSON

A PART OF THE FRACTIONAL EAST ONE-HALF (E1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 3 (THREE), TOWNSHIP 16 (SIXTEEN) NORTH, RANGE 30 (THIRTY) WEST OF THE FIFTH PRINCIPAL MERIDIAN, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, ALSO BEING PART OF SUMMIT PLACE SUBDIVISION, AS FILED FOR RECORD IN PLAT BOOK 23A, BOOK 321 OF THE WASHINGTON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE FRACTIONAL EAST ONE-HALF (E-1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 3; THENCE N02°37'38"E A DISTANCE OF 15.78 FEET; THENCE ALONG THE SOUTH LINE OF SAID SUMMIT PLACE SUBDIVISION, AS FILED FOR RECORD IN PLAT BOOK 24A, PAGE 321 OF THE WASHINGTON COUNTY RECORDS, THE FOLLOWING THREE CALLS: N87°02'18"W A DISTANCE OF 726.14 FEET; THENCE S03°28'21"W A DISTANCE OF 9.31 FEET; THENCE N86°31'39"W A DISTANCE OF 433.84 FEET TO THE SOUTHWEST CORNER OF SAID SUMMIT PLACE SUBDIVISION; THENCE LEAVING SAID SOUTH LINE AND ALONG THE WEST LINE OF SAID SUMMIT PLACE SUBDIVISION N01°52'25"E A DISTANCE OF 395.18 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID WEST LINE N01°52'25"E A DISTANCE OF 168.72 FEET TO A POINT; THENCE N57°37'56"E A DISTANCE OF 11.93 FEET TO A POINT; THENCE S59°30'40"E A DISTANCE OF 0.16 FEET TO A POINT; THENCE ON A LINE WHICH IS TEN FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID SUMMIT PLACE SUBDIVISION, S01°52'25"W A DISTANCE OF 176.82 FEET TO A POINT; THENCE N79°47'01"W A DISTANCE OF 10.11 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.04 ACRES (1,729 SQUARE FEET) MORE OR LESS.

CITY OF FAYETTEVILLE, ARKANSAS

Right-of-Way, Easement or Alley VACATION

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Project Number:

Public Hearing Date:

5536

FEE: \$200.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

329

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant Representative

Applicant (person making request):

Representative (engineer, surveyor, realtor, etc.):

Name: MIKE BADMANN

Name: _____

BADMANN & CROSNO Construction

Address: PO BOX 4072

Address: _____

FAYETTEVILLE AR 72702

Phone: (479) 499-4616

Phone: ()

Email: BADMANN@BADMANN CROSNO.COM

Email: _____

Fax: ()

Fax: ()

Site Address / Location: REPEAT of Summit Place LOT 82-91, 93, 94, 96-98,
113-116, 120 & 121: Also Easement at Western side of lots
146-141 on Mark's Mill Lane

Legal description of area to be vacated (attach separate sheet if necessary):

Phase see ATTACHED PLAT & REPEATS

Current Zoning District: NC

165-29338-000

Assessors Parcel Number(s) for subject property:

See Legal Description on PLAT

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

Fayetteville Overlook Too LLC
217 N. East Avenue Ste 2
Fayetteville AR 72701

Elite Equity Group of Arkansas, LLC
PO Box 239
Bentonville, AR 72701

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): MIKE BAYMON

Date: 6-20-16

Signature: [Signature]

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Owners (attach additional info if necessary):

1. Name (printed): Randy Roth

Address: 6072 SW Regional Airport Blvd
Bentonville AR 72712

Signature: [Signature]

Phone: (479) 250-0524

Date: 6-20-16

2. Name (printed): Ralph Simon III

Address: 217 N. East Ave Ste 2
Fayetteville, AR 72701

Signature: [Signature]

Phone: (405) 613-6123

Date: 6-20-16

Vacation Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$200.00 application fee
\$5.00 public notification sign fee
- (2) Metes and bounds legal description of the area to be vacated, not the entire property (this may be included on the survey plat).
- (3) Survey of the site depicting the perimeter property lines and area within the property to be vacated.
- (4) CD containing a copy of the legal description in MS Word and PDF copies of the signed application and all other items submitted with this project.
- (5) A surveyor should stake the area on the site to be vacated for utility company review on their site visit.
- (6) A letter addressed to the Planning Commission and City Council describing the scope, nature, and intent of the request.
- (7) Abstractor's Certificate of Ownership stating names of all owners of property adjacent to the street right-of-way, alley, or easement to be vacated (this document is obtained from a title company).
- (8) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

FROM: Andrew Garner, City Planning Director

MEETING DATE: August 22, 2016 (*Updated with Planning Commission results*)

SUBJECT: **VAC 16-5536: Vacation (S. END OF MARKS MILL LN./SUMMIT PLACE S/D, 329):** Submitted by MIKE BAUMANN for properties located at the SOUTH END OF MARKS MILL LN. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contain approximately 0.09 acres. The request is to vacate portions of a utility, drainage, and access easement.

RECOMMENDATION:

Staff recommends forwarding **VAC 16-5536** to City Council with a recommendation for approval with conditions.

BACKGROUND:

The Summit Place Subdivision is located on the south side of Township Road approximately 400 feet east of College Avenue. The subject property is a utility/drainage/access easement in the rear yards of six lots in the southwest portion of the Summit Place Subdivision. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction	Land Use	Zoning
North, South, East	Single family lots (Summit Place)	NC
South	Mountain Ranch Residential Subdivision	RSF-4
East	Forest Hills mixed commercial	C-PZD (Forest Hills)
West	Mixed commercial along College Avenue	RSF-4; C-2

Proposal: The applicant proposes vacation of a portion of the utility/drainage/access easement to allow for required tree mitigation planting in these areas.

DISCUSSION:

Vacation Approval: The applicant has submitted the required vacation forms to the City utility departments and applicable franchise utilities, with the following responses:

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections

AEP/SWEPCO	No objections
Source Gas	No objections
AT&T	No objections
Ozarks Electric	No objections
SWEPCO	No objections
<u>City of Fayetteville</u>	<u>Response</u>
Solid Waste	No objections
Transportation	No objections provided the east 38 feet of the west 46 feet of the easement area be retained (no vacated) as utility easement for the existing sanitary sewer
Water/Sewer	No objections

Public Comment:

No public comment has been received.

RECOMMENDATION: Staff recommends forwarding **VAC 16-5536** to the City Council with a recommendation for approval subject to the following conditions:

Conditions of Approval:

1. The vacation is limited to retain the east 38 feet of the west 46 feet of the easement area as utility easement for the existing sanitary sewer (as requested by the City Water/Sewer Department).
2. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

Planning Commission Action: ☒ Approved ☐ Forwarded ☐ Denied

Meeting Date: August 22, 2016

Motion: Autry

Second: Selby

Vote: 8-0-0

BUDGET/STAFF IMPACT:

None.

Attachments:

- Request Letter
- Petition to Vacate
- Utility Approvals
- Easement Vacation Exhibit
- One Mile Map
- Close Up Map



Baumann & Crosno Construction

PO BOX 4072

Fayetteville, AR 72702

Petition to Vacate and Alley,
June 20th 2016

On behalf of the property owners of Summit Place we formally request the vacation a portion no less than the length of each lot and no less than 8' in width of the 46' utility easement along the Western Side of lots 148, 147, 146, 145, 144, 143, 142, and 141. The utility, drainage easement, and access easement on these lots will be utilized to plan and reforest the lots to meet the design criteria set forth in the Hillside Hilltop Overlay District, which these lots fall in. Upon review of locates called in during May of 2016 and observed in June of 2016, the only utility present is the sewer line. We formally request that a portion of the easement be vacated so as to plan three or more hardwood trees per the Urban Forrester's request on each of the affected lots.

Respectfully,

A blue ink signature of Mike Baumann, consisting of a stylized 'B' followed by a horizontal line.

Mike Baumann

Petitioning Representative

479-799-4616



UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-21-15

UTILITY COMPANY: Cox Communication - Chad Hodge

APPLICANT NAME: MIKE BAOMANN APPLICANT PHONE: 479-799-4616

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address Western side of 147, 148, 146, 145, 144, 143, 142
141:

☐ (ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above, and no comments.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☒ No objections provided the following conditions are met:

Any damage to or relocation of our existing facilities will be at the owners/developers expense.


Signature of Utility Company Representative

Construction & Planning Manager
Title

UTILITY APPROVAL FORM

FOR RICHMOND, WISCONSIN, UTILITIES
UTILITY PLANNING & EVALUATION

DATE: 6-21-15

UTILITY COMPANY: Source Gas Scott Stokes

APPLICANT NAME: MIKE BAOMANN PHONE: 479-799-4616

REQUESTED: 1/2" (1/2" applications must check all that apply)

☒ 1/2" Gas

☒ 1/2" Gas, 1/2" Water, 1/2" Sewer, 1/2" Storm, 1/2" Electric, 1/2" Cable, 1/2" Fiber Optic

One (1) inch (1")

Location description of the location to be vacated (the following table is required whether the location is described as follows)

General location (Address): Hutson side of 147, 148, 146, 145, 144, 143, 142
141

☐ ATTACH legal description and graphic representation of what is being vacated (S.C.R. 15.01)

UTILITY COMPANY COMMENTS

☒ No objections to the vacations described above, and to all items.

No objections to the vacations described above, provided following described easements are retained:
Easement location, dimensions, and purpose below:

No objections provided the following conditions are met:

Mike Little
Signature of Utility Company Representative

Supervisor Gas Operations
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE 6-21-15

UTILITY COMPANY: AT&T: Jeff Hamilton

APPLICANT NAME MIKE BAOMANN

APPLICANT PHONE 479-799-4616

REQUESTED VACATION (applicant must check all that apply):

☒

Utility Easement

☒

Right-of-way for alley or streets and all utility easements located within the vacated right-of-way

Alley

☐

Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location Address Western side of 147, 148, 146, 145, 144, 143, 142
141:

☒

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

Please call w ANY QUESTIONS

UTILITY COMPANY COMMENTS

No objections to the vacation(s) described above, and no comments.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☒

No objections provided the following conditions are met:

If any AT&T facilities are damaged or are required to be relocated will be
the responsibility of the owner/ developer.

JEFF HAMILTON

Digitally signed by JEFF HAMILTON
DN: cn=JEFF HAMILTON, o=AT&T, ou=CONSTRUCTION/
ENGINEERING, email=jh5430@att.com, c=US
Date: 2016.06.21 13:55:59 -05'00'

Signature of Utility Company Representative

MGR OSP PIng & Engrg Design

Title

Enclosure 2/15
Page 3

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE 6-21-15

UTILITY COMPANY Ozark Electric : Wes Mahaffey or Mike Phillips

APPLICANT NAME MIKE BAOMANN APPLICANT PHONE 479-799-4616

REQUESTED VACATION (applicant must check all that apply)

- ☒ Utility Easement
☒ Right-of-way (or alley or streets and/or) utility easements located within the vacated right-of-way
alley
Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location Address Westen side of 147, 148, 146, 145, 144, 143, 142
141:

☐ ATTACH legal description and graphic representation of what is being vacated-SURVEY

UTILITY COMPANY COMMENTS

- ☒ No objections to the vacation(s) described above, and no comments.
No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:

Wesley Mahaffey

Signature of Utility Company Representative

Staking Tech. III

Title

Revised 10/2014
Page 2

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6.21.15

UTILITY COMPANY: SWEPSCO JOHN LE

APPLICANT NAME: MIKE BAOMANN

APPLICANT PHONE: 479-799-4616

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address Western side of 147, 148, 146, 145, 144, 143, 142
141:

☐ (ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above, and no comments.
☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:

Ronald R. Bertman
Signature of Utility Company Representative

Engineer
Title

December 2014
Page 5

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE 6-21-15

UTILITY COMPANY: SOLID WASTE: City of Fayetteville

APPLICANT NAME: MIKE BAUMANN

APPLICANT PHONE: 479-799-4616

REQUESTED VACATION *(applicant must check all that apply)*

☒ Right-of-way

☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way

☐ Alley

☐ Utility easement

I have been notified of the permit to vacate the following (easement, right-of-way), described as follows:

General location Address Watson side of 147, 148, 146, 145, 144, 143, 142
141:

☐ ATTACH legal description and graphic representation of what is being vacated (SURVEY)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above, and no comments.

No objections to the vacation(s) described above, provided following described easements are retained:
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:



Utility Company Representative

Commercial Services Rep

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, UTILITY, AND
UTILITY EASEMENT VACATIONS

DATE: 6.21.15

UTILITY COMPANY: Transportation: City of Fayetteville

APPLICANT NAME: MIKE BAUMANN PHONE: 479-799-4616

REQUIRED VACATIONS (applicant must check all that apply)

☒ Easement

☒ Right-of-way (the city is interested in the right-of-way within the defined right-of-way)

☐ Easement

☐ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location - address: Western side of 147, 148, 146, 145, 144, 143, 142
141:

ATTACH legal description and graphic representation of what is being vacated (SURVEY)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above, and no comments.

☐ No objections to the vacation(s) described above, provided following described easements are retained (state the location, dimensions, and purpose below):

☐ No objections, provided the following conditions are met:

Jack Smith
Signature of Utility Company Representative

Asst. Transportation Manager
Title

Revised 2/14/15

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE 6-21-15

UTILITY COMPANY Water & Sewer: City of Fayetteville

APPLICANT MIKE BAOMAN

APPLICANT PHONE 479-799-4616

REQUESTED VACATION (applicant must check all that apply)

☒

Utility Easement

☒

Right-of-way (for alleys, streets and all utility easements located within the vacated right-of-way)

Alley

Streightened way

I have been notified of the petition to vacate the following (utility easement, right-of-way) described as follows:

General location / Address Western side of 147, 148, 146, 145, 144, 143, 142
141

☐ (ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS

No objections to the vacation(s) described above, and no comments.

☒

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

RETAIN THE EAST 30 FEET OF THE WEST 46
FEET FOR UTILITY EASEMENT FOR EXISTING SANITARY SEWER

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

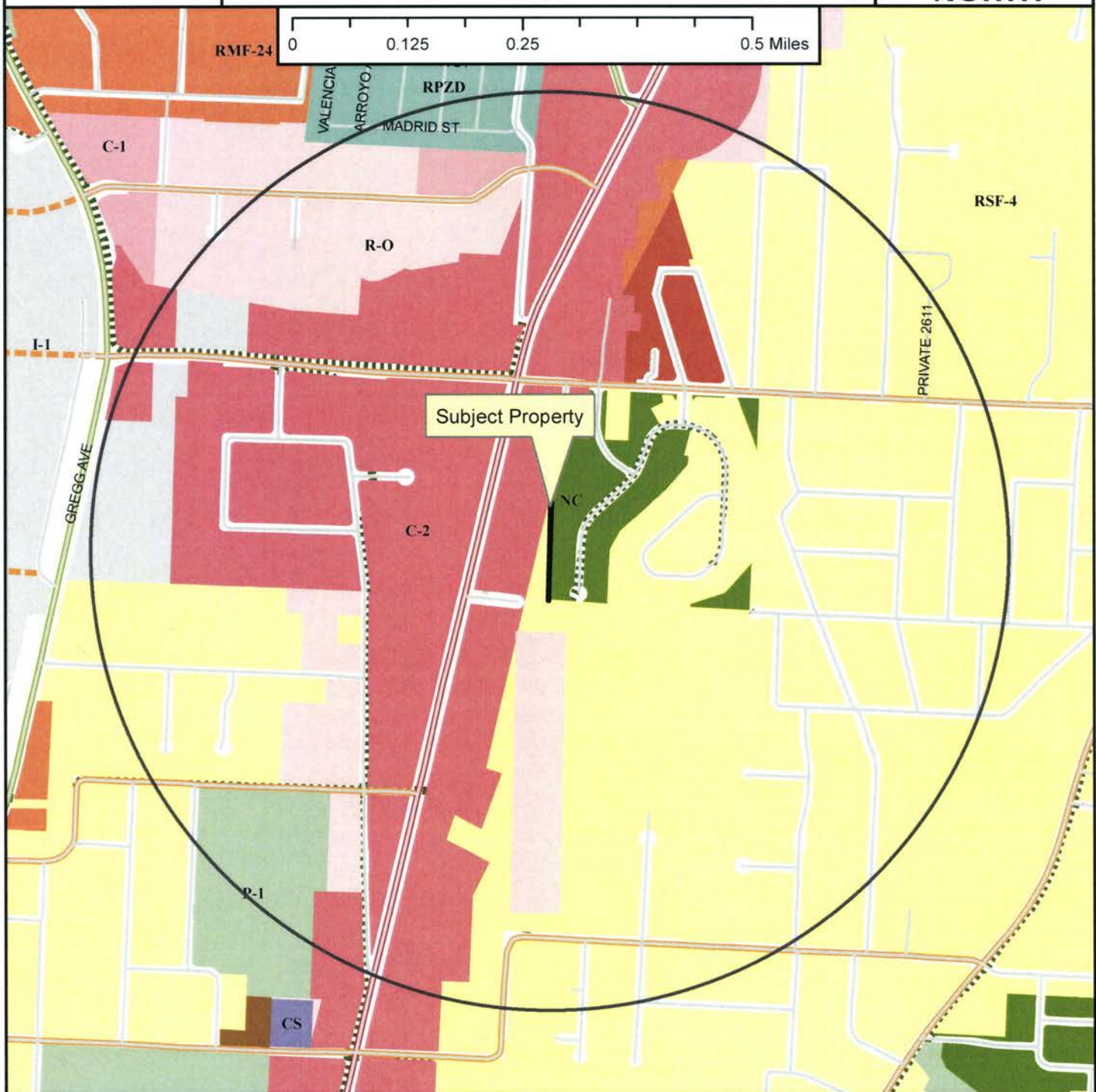
07/06/2016
Title

Enclosure (if any)
Page 1

VAC 16-5536

One Mile View

SUMMIT PLACE SD



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- | | |
|--|---|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> RSF-5 Residential-Agricultural RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RT-12 Residential Two and Three-family RMF-6 RMF-12 RMF-18 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial I-2 General Industrial | <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> Residential-Office C-1 C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential <p>INSTITUTIONAL</p> <ul style="list-style-type: none"> P-1 |
|--|---|

Planning Commission

August 22, 2016

Agenda Item 3

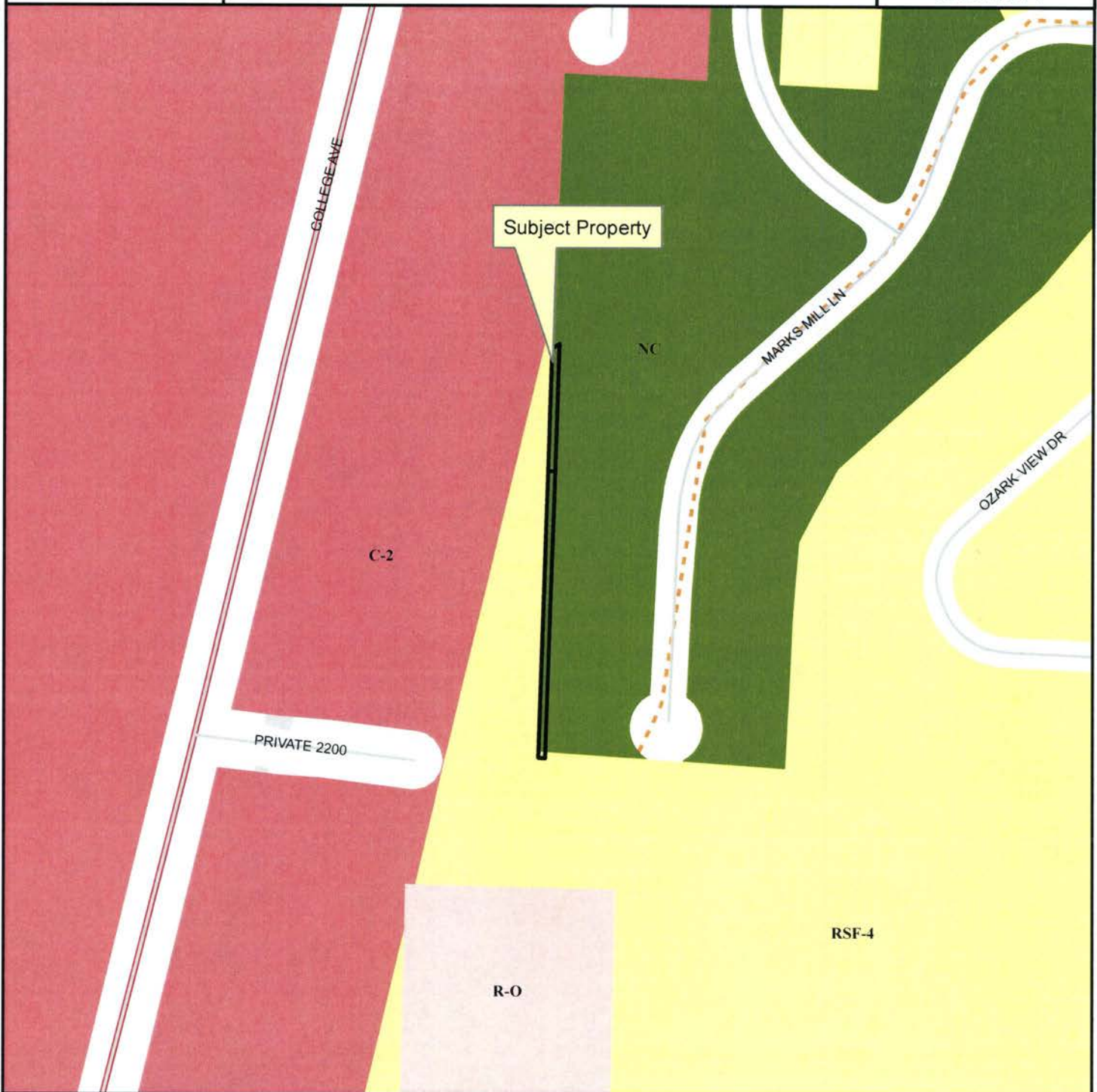
16-5536 Summit Place SD

Page 14 of 15

VAC 16-5536

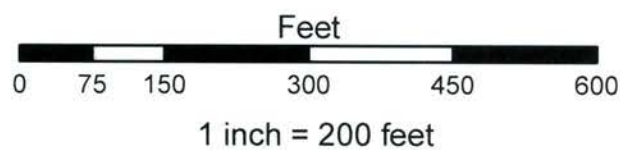
Close Up View

SUMMIT PLACE SD



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint



- RSF-4
- Residential-Office
- C-2
- Neighborhood Conservation



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0401

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 6

ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):

AN ORDINANCE TO AMEND THE SPRINGWOODS COMMERCIAL PLANNED ZONING DISTRICT TO ALLOW SINGLE FAMILY DWELLINGS AS A USE BY RIGHT ON TRACTS 2, 3, AND 4 OF LOT 2

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 ordains that the portion of the Springwoods Commercial Planned Zoning District as shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo is amended to allow single family dwellings on Tracts 2, 3 and 4 of Lot 2 and to add the requirements included in Exhibit C to the Planning Department's Agenda Memo to those tracts. All other terms, conditions of approval, and statements of commitments remain unchanged and effective.

City of Fayetteville Staff Review Form

2016-0401

Legistar File ID

9/20/2016

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

Jeremy Pate

9/2/2016

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

ADM 16-5538: Administrative Item (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION, 286): Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for properties at 2180 W. MOORE LN. The properties are zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT and contain approximately 12.50 acres. The request is to amend the SPRINGWOODS C-PZD, COMMERCIAL PLANNED ZONING DISTRICT to allow single family dwellings as a use by right on the subject property.

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 SEPTEMBER 20, 2016

TO: Mayor, Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

DATE: September 2, 2016

SUBJECT: **ADM 16-5538: Administrative Item (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION, 286):** Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for properties at 2180 W. MOORE LN. The properties are zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT and contain approximately 12.50 acres. The request is to amend the SPRINGWOODS C-PZD, COMMERCIAL PLANNED ZONING DISTRICT to allow single family dwellings as a use by right on the subject property.

RECOMMENDATION:

The City Planning staff and Planning Commission recommend approval of an ordinance to amend the Springwoods C-PZD for Tracts 2, 3, and 4 of Lot 2 to allow single-family dwellings and add the requirements included in the attachments as an addition to those uses currently permitted. The proposed amendments are depicted in Exhibits 'A', 'B', and 'C' (attached).

BACKGROUND:

The Springwoods Commercial Planned Zoning District contains approximately 289 acres and is roughly bordered by Deane Solomon Road to the west, Truckers Drive to the north, Foxglove and Shiloh Drives to the east and Moore Lane to the south. In 2003 the City Council rezoned the property to C-PZD 03-08.00. A total of 165 acres of the property was proposed to be developed in mixed-use residential and commercial uses, with the remaining 124 acres to be set aside permanently for greenspace.

Since 2003 the development in the C-PZD has been largely residential in nature, with two large lot, single-family subdivisions and one multi-family subdivision being developed along Deane Solomon Road. Commercial development has been limited to a car dealership and surgery center along Shiloh Drive, and two mental and behavioral health facilities on Truckers Drive.

The properties that are the subject of this amendment are currently undeveloped and represent approximately half of Lot 2 of the Springwoods C-PZD. The remainder of Lot 2, with street frontage on Deane Solomon Road, is a mixed subdivision of 2- and 4-family dwelling units. As approved in 2003, the only permitted uses for Lot 2 are Multi-family Dwellings and Dance Halls (Use Units 26 and 29 respectively).

Request: The request is to amend the current Springwoods Commercial Planned Zoning District requirements for Tracts 2, 3, and 4 of Lot 2 to allow Single-family Dwellings and add the requirements included in the attachments as an addition to those uses currently permitted.

Public Comment: Staff has received no public comment.

DISCUSSION:

The proposal for single-family and multi-family use on this property can be compatible with the surrounding mix of multi-family, greenbelt, and non-residential use. It is also consistent with the City Plan 2030 designation as a City Neighborhood Area. The proposed lot width and area minimums create the potential for a diversity of detached housing types that can potentially relate to both the medium-density housing to the west and the commercial land to the east. Compatibility is not defined as identical adjacent land uses, but rather in terms of whether the uses can exist in harmony. Given the setting of Springwoods that has a variety of uses in close proximity staff feels the proposal can be compatible and recommends in favor.

On August 22, 2016 the Planning Commission forwarded the applicant's request to amend the Springwoods C-PZD with a recommendation for approval. A motion by Commissioner Selby to forward the proposal to the City Council with a recommendation for approval was made with a vote of 8-0-0.

BUDGET/STAFF IMPACT:

N/A

Attachments:

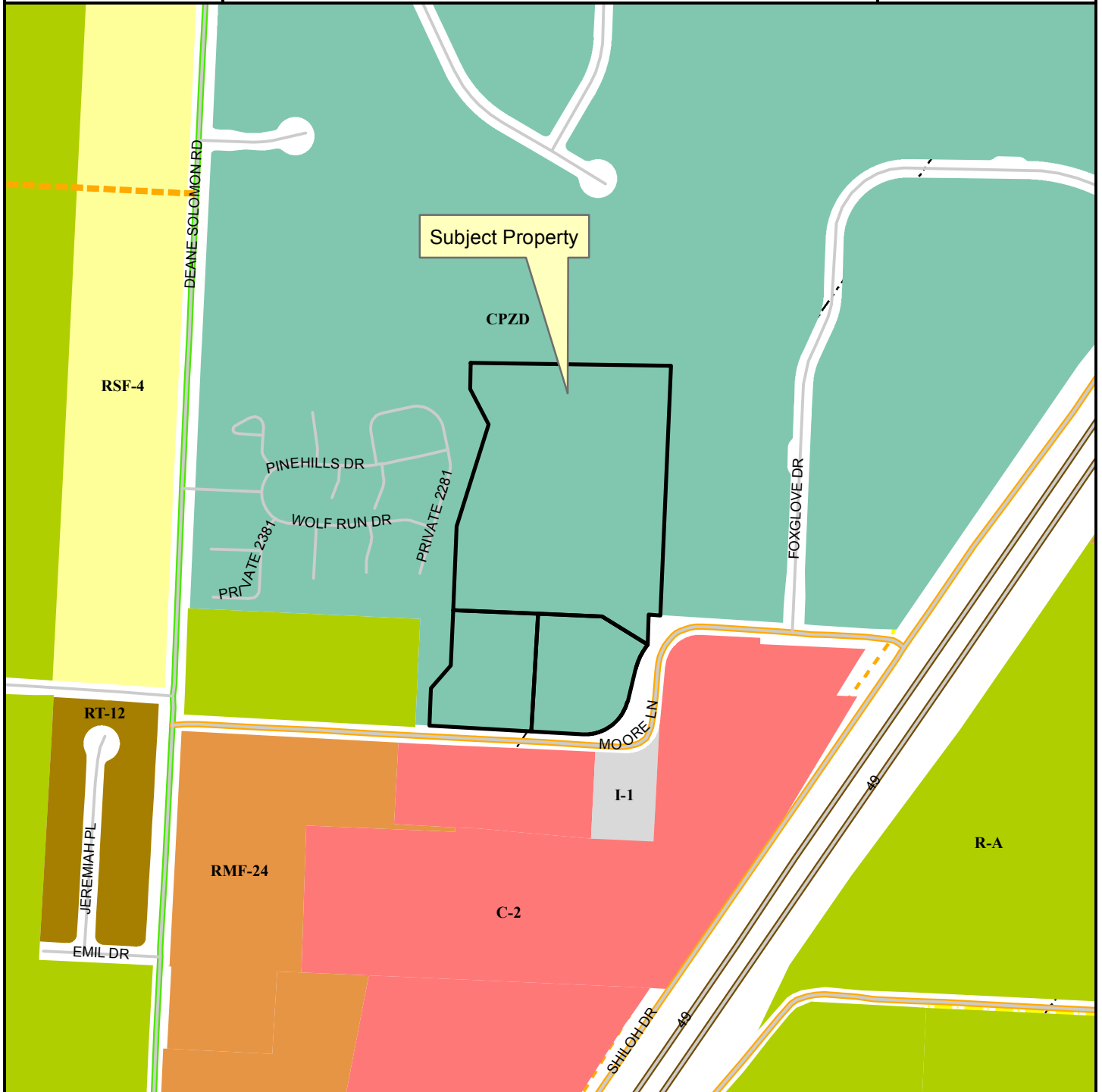
- Exhibit A
- Exhibit B
- Application
- Proposed Zoning Requirement Addition Amendment
- Planning Commission Staff Report

RZN 16-5538

PINES AT SPRINGWOODS

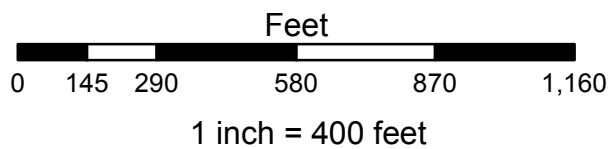


Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Building Footprint



- Residential-Agricultural
- RSF-4
- RT-12 Residential Two and Three-family
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Commercial, Industrial, Residential

16-5538
EXHIBIT 'B'

LEGAL DESCRIPTION – Special Warranty Deed, File 2016-00011803:

A part of the SW1/4 of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas and being described as follows: Commencing at the NW corner of the NW1/4 of the NW1/4 of said Section 33; thence S 02°28'26" W 1816.10 feet, thence S 02°30'44" W 1806.69 feet, thence S 89°13'36" E 1100.72 feet to the P.O.B., thence S 89°13'36" E 550.76 feet, thence S 02°26'52" W 687.50 feet, thence along the right of way of Moore Lane N 86°23'03" W 32.63 feet, thence S 01°24'08" W 82.66 feet, thence N 58°12'42" W 147.33 feet, thence N 87°35'59" W 410.00 feet, thence N 02°24'01" E 230.46 feet, thence N 17°31 '09" E 293.79 feet, thence N 27°26'59" W 110.53 feet, thence N 00°46'24" E 71.60 feet to the P.O.B., containing 8.72 acres, more or less.

AND

A part of the SW1/4 of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas and being described as follows: Commencing at the NW corner of the NW1/4 of the NW1/4 of said Section 33; thence S 02°28'26" W 1816.10 feet, thence S 02°30'44" W 1806.69 feet, thence S 89°13'36" E 1100.72 feet, thence S 00°46'24" W 71.60 feet, thence S 27°26'59" E 110.53 feet, thence S 17°31'09" W 293.79 feet, thence S 02°24'01" W 230.46 feet to the P.O.B., thence S 87°35'59" E 233.16 feet, thence S 03°11'35" W 324.09 feet, thence along the right of way of Moore Lane N 86°48'25" W 280.57 feet, thence leaving said right of way N 02°24'01" E 103.47 feet, thence N 40°53'34" E 83.33 feet, thence N 02°24'01" E 151.49 feet to the P.O.B., containing 1.87 acres, more or less.

AND

A part of the SW1/4 of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas and being described as follows: Commencing at the NW corner of the NW1/4 of the NW1/4 of said Section 33; thence S 02°28'26" W 1816.10 feet, thence S 02°30'44" W 1806.69 feet, thence S 89°13'36" E 1100.72 feet, thence S 00°46'24" W 71.60 feet, thence S 27°26'59" E 110.53 feet, thence S 17°31 '09" W 293.79 feet, thence S 02°24'01" W 230.46 feet, thence S 87°35'59" E 233.16 feet to the P.O.B., thence S 87°35'59" E 176.84 feet, thence S 58°12'42" E 147.35 feet, thence along the right of way of Moore Lane along a curve to the left 75.35 feet, said curve having a radius of 179.50 feet and chord bearing and distance of S 26°06'38" W 74.80 feet, thence S 14°05'07" W 91.04 feet, thence along a curve to the right 166.37 feet, said curve having a radius of 120.50 feet and a chord bearing an distance of S 53°38'21" W 153.47 feet, thence N 86°48'25" W 141.52 feet, thence leaving said right of way N 03°11'35" E 324.09 feet to the P.O.B., containing 1.91 acres, more or less.

Subject to recorded instruments, covenants, rights of way, and easements, if any.
Subject to all prior mineral reservations and oil and gas leases, if any.

16-5538
EXHIBIT 'C'

Proposed Zoning Requirement Addition Amendment for Lot 2 of Springwoods C-PZD

(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.*

Units per acre	8 or less
----------------	-----------

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	25 feet
Two-family	25 feet

(2) *Lot Area Minimum.*

Single-family	2,500 square feet
Two (2) family	2,500 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	2,500 square feet
Two (2) family	2,500 square feet

(E) *Setback Requirements.*

Front	Side Single & Two (2) Family	Rear Single Family
15 feet	5 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	50 feet above finished grade
-------------------------	------------------------------

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

CITY OF FAYETTEVILLE, ARKANSAS

REZONING

FOR STAFF USE ONLY

Date Application Submitted:

Date Accepted as Complete:

Case / Appeal Number:

Public Hearing Date:

FEE: \$325.00

Sign Fee: \$5.00

S-T-R:

PP#:

Zone:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant ☒ Representative

Applicant (person making request):

Name: RLP Investments

Address: 1111 N. Walton Blvd
Bentonville, AR 72712

E-mail: rplomley2@cox.net

Phone: (479) 530-2337

()

Fax: (479) 715-6075

Representative (engineer, surveyor, realtor, etc.):

Name: Morrison-Shipley Engineers, Inc
Patrick Foy

Address: 2407 SE Cottonwood St
Bentonville, AR 72712

E-mail: pfay@morrisonshipley.com

Phone: (479) 273-2209

()

Fax: (479) 273-2553

Site Address / Location: North side of W. Moore Ln; directly East
of The Pines at Springwoods.

Current Zoning District: C-PZD

Requested Zoning District: C-PZD Amended

Assessor's Parcel Number(s) for subject property: 765-26552-001, 765-26552-002
765-26552-003

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

Fowler Foods Incorporated, RLP Investments

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): Patrick Foy Date: 7/13/16
Signature: Patrick Foy

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Property Owners of Record (attach additional info if necessary):

Name (printed): Russ Plumley Address: _____
Signature: [Signature] _____
Date: 7-13-16 Phone: _____
()

Name (printed): _____ Address: _____
Signature: _____
Date: _____ Phone: _____
()

Rezoning Checklist:

Attach the following items to this application:

- (1) Payment in full of applicable fees for processing the application:
\$325.00 application fee
\$5.00 public notification sign fee
- (2) A legal description of the property to be rezoned. A survey may be required if the property description can not accurately be platted or if it is described by referring to other deeds.
- (3) CD containing a copy of the legal description in MS Word and all required submittal items should be also included on the CD in PDF format.
- (4) A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map.

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Jonathan Curth, Senior Planner

MEETING DATE: August 22, 2016 Updated with Planning Commission Results

SUBJECT: **ADM 16-5538: Administrative Item (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION, 286):** Submitted by MORRISON-SHIPLEY ENGINEERS, INC. for properties at 2180 W. MOORE LN. The properties are zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT and contain approximately 12.50 acres. The request is to amend the SPRINGWOODS C-PZD, COMMERCIAL PLANNED ZONING DISTRICT to allow single family dwellings as a use by right on the subject property.

RECOMMENDATION:

Staff recommends forwarding **ADM 16-5538** to the City Council with a recommendation for approval.

BACKGROUND:

The Springwoods Commercial Planned Zoning District contains approximately 289 acres and is roughly bordered by Deane Solomon Road to the west, Truckers Drive to the north, Foxglove and Shiloh Drives to the east and Moore Lane to the south. In 2003 the City Council rezoned the property to C-PZD 03-08.00. A total of 165 acres of the property was proposed to be developed in mixed-use residential and commercial uses, with the remaining 124 acres to be set aside permanently for greenspace.

Since 2003 most of the development in the C-PZD has been largely residential in nature, with two large lot, single-family subdivisions and one multi-family subdivision being developed along Deane Solomon Road. Commercial development has been limited to a car dealership and surgery center along Shiloh Drive, and two mental and behavioral health facilities on Truckers Drive.

The properties that are the subject of this amendment are currently undeveloped and represent approximately half of Lot 2 of the Springwoods C-PZD. The remainder of Lot 2, with street frontage on Deane Solomon Road, is a mixed subdivision of 2- and 4-family dwelling units. As approved in 2003, the only permitted uses for Lot 2 are Multi-family Dwellings and Dance Halls (Use Units 26 and 29 respectively). 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	C-PZD, Commercial Planned Zoning District
South	Storage Yard	C-2, Neighborhood Commercial
East	Undeveloped; Storage Yard, Offices	C-PZD, Commercial Planned Zoning District C-2, Neighborhood Commercial
West	Pines at Springwoods Multi-family housing	C-PZD, Commercial Planned Zoning District

Approval Schedule:

- On October 21st, 2003 the City Council approved C-PZD 03-8.00 (Springwoods). The approval granted zoning and land use approval for development of 289 acres of residential dwellings, commercial buildings, and greenspace.
- On December 01, 2005 the Subdivision Committee approved the final plat for the Prairie View subdivision for 36 single-family dwellings (FPL 05-1831).
- On June 15, 2006 the Subdivision Committee approved the final plat for the Meadow View commercial subdivision with 22 development lots proposed
- On August 14, 2006 the Planning Commission approved the Creek Meadow subdivision for 47 single-family dwellings (FPL 06-2154).
- On October 24, 2011 the Planning Commission approved Phase I of the Pines at Springwoods multi-family subdivision to include seven quadplexes and two duplexes.

Request: The request is to amend the current Springwoods Commercial Planned Zoning District requirements for Tracts 2, 3, and 4 of Lot 2 to allow Single-family Dwellings and add the requirements included in the attachments as an addition to those uses currently permitted.

Public Comment: Staff has received no public comment.

FINDINGS:

Staff finds that the proposal to utilize this portion of the site for single family dwellings in a suburban pattern is somewhat inconsistent with City Plan 2030 and the Springwoods C-PZD master plan. City Plan 2030 designates this area as City Neighborhood Area which lends itself to a more intense and dense development pattern than proposed. The C-PZD zoning on undeveloped lots to the east of this site is for commercial and office use. The intent of Springwoods was to have multi-family residential use directly adjacent to commercial providing a transition to single family neighborhoods further to the west and north.

Despite this apparent contradiction, the proposal for single family use on this property can be compatible with the surrounding mix of multi-family, greenbelt, and non-residential use. The proposed lot width and area minimums create the potential for a diversity of detached housing types that can potentially relate to both the medium-density housing to the west and the commercial land to the east. Compatibility is not defined as identical adjacent land uses, but rather in terms of whether the uses can exist in harmony. Given the setting of Springwoods that has a variety of uses in close proximity staff feels the proposal can be compatible and recommends in favor.

RECOMMENDATION: Staff recommends forwarding **ADM 16-5538** to City Council with a recommendation for approval with the following conditions:

1. All conditions of approval from the previously approved C-PZD 03-08.00 Springwoods shall apply;
2. Approval of this C-PZD modification does not grant approval of the development details for the project. The proposed housing will be required to be reviewed for compliance with all Unified Development Code requirements as part of the standard development review process; and
3. The attached zoning requirements will be in addition to all previous zoning regulations on the subject property.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>August 22, 2016</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <i>Selby</i>	Second: <i>Autry</i>	Vote: <i>8-0-0</i>	
CITY COUNCIL ACTION:		Required	<u>YES</u>
Date:	☐ Approved	☐ Denied	

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed PZD Amendment
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

ADM 16-5538
Proposed PZD Zoning Amendment
for Tracts 2, 3, and 4 of Lot 2 of the Pines at Springwood C-PZD

(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.

Units per acre	8 or less
----------------	-----------

(D) Bulk and Area Regulations.

(1) Lot Width Minimum.

Single-family	25 feet
Two-family	25 feet

(2) Lot Area Minimum.

Single-family	2,500 square feet
Two (2) family	2,500 square feet

(3) Land Area Per Dwelling Unit.

Single-family	2,500 square feet
Two (2) family	2,500 square feet

(E) Setback Requirements.

Front	Side Single & Two (2) Family	Rear Single Family
15 feet	5 feet	5 feet

(F) *Building Height Regulations.*

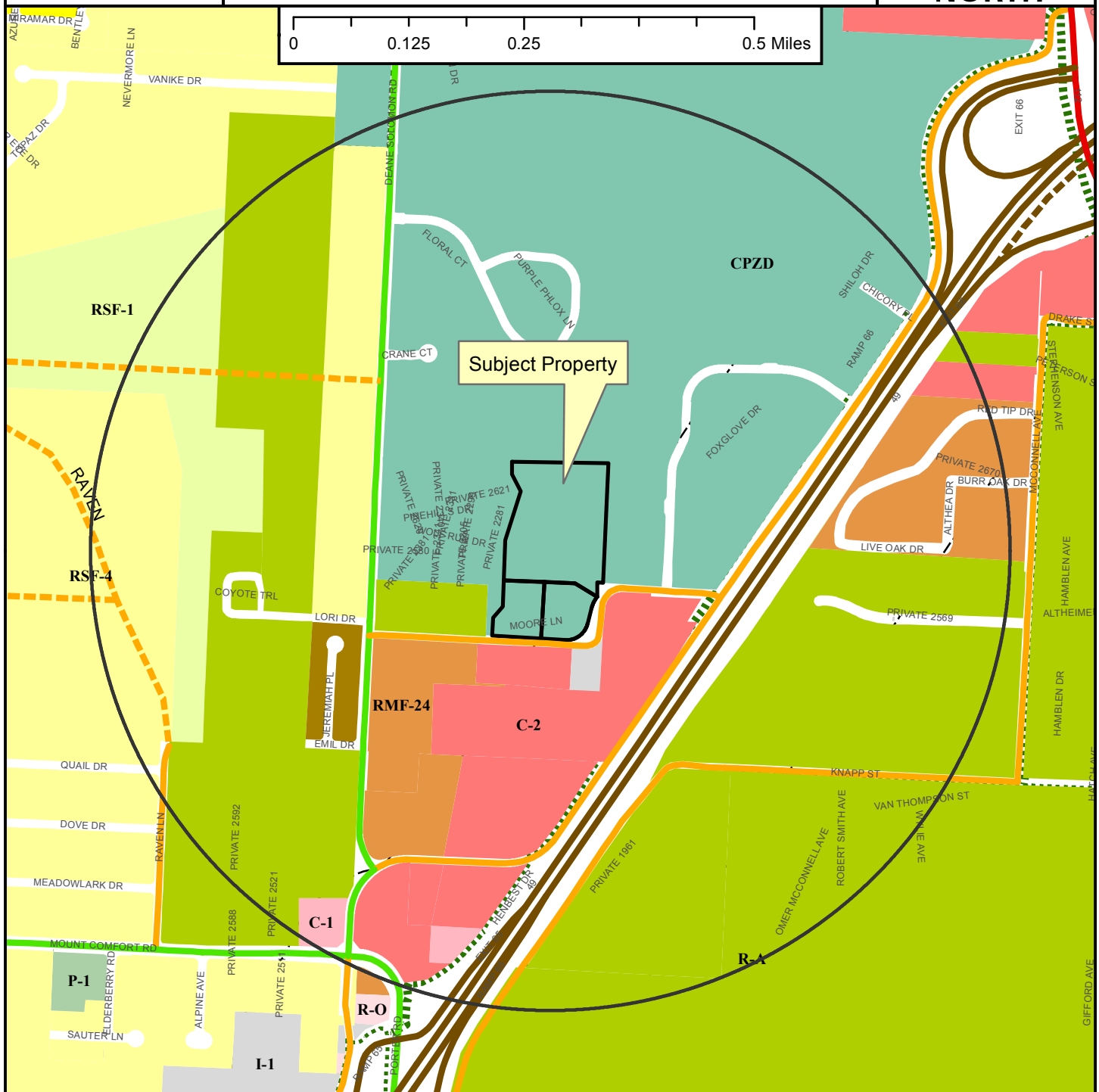
Building Height Maximum	50 feet above finished grade
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(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

RZN 16-5538

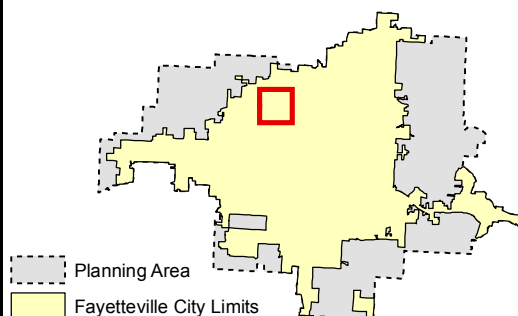
One Mile View

PINES AT SPRINGWOODS



Legend

-  Planning Area
-  Fayetteville City Limits
-  Shared Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Building Footprint



- Zoning**

 - RESIDENTIAL SINGLE-FAMILY**
 - Residential-Agricultural
 - RSF-.5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RT-12 Residential Two and Three-family
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial

EXTRACTION

 - E-1

COMMERCIAL

 - Residential-Office
 - C-1
 - C-2
 - C-3

FORM BASED DISTRICTS

 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation

PLANNED ZONING DISTRICTS

 - Commercial, Industrial, Residential

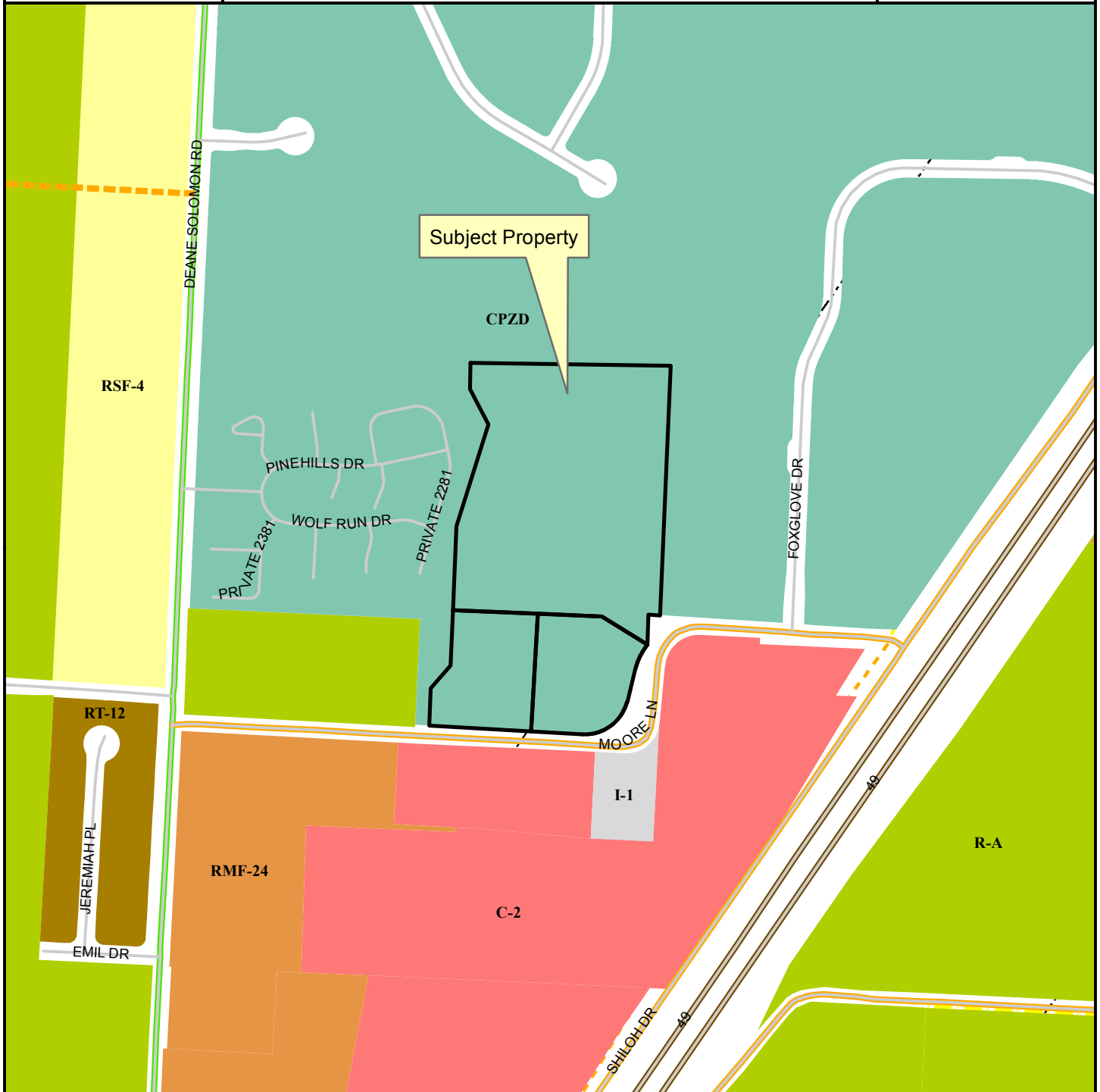
INSTITUTIONAL

 - P-1

RZN 16-5538

Close Up View

PINES AT SPRINGWOODS



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Building Footprint

Feet

0 145 290 580 870 1,160

1 inch = 400 feet

- Residential-Agricultural
- RSF-4
- RT-12 Residential Two and Three-family
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Commercial, Industrial, Residential

RZN 16-5538

Current Land Use

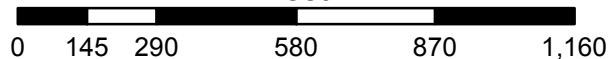
PINES AT SPRINGWOODS



Legend

- Street
-  RZN16-5538
-  Planning Area
-  Fayetteville City Limits

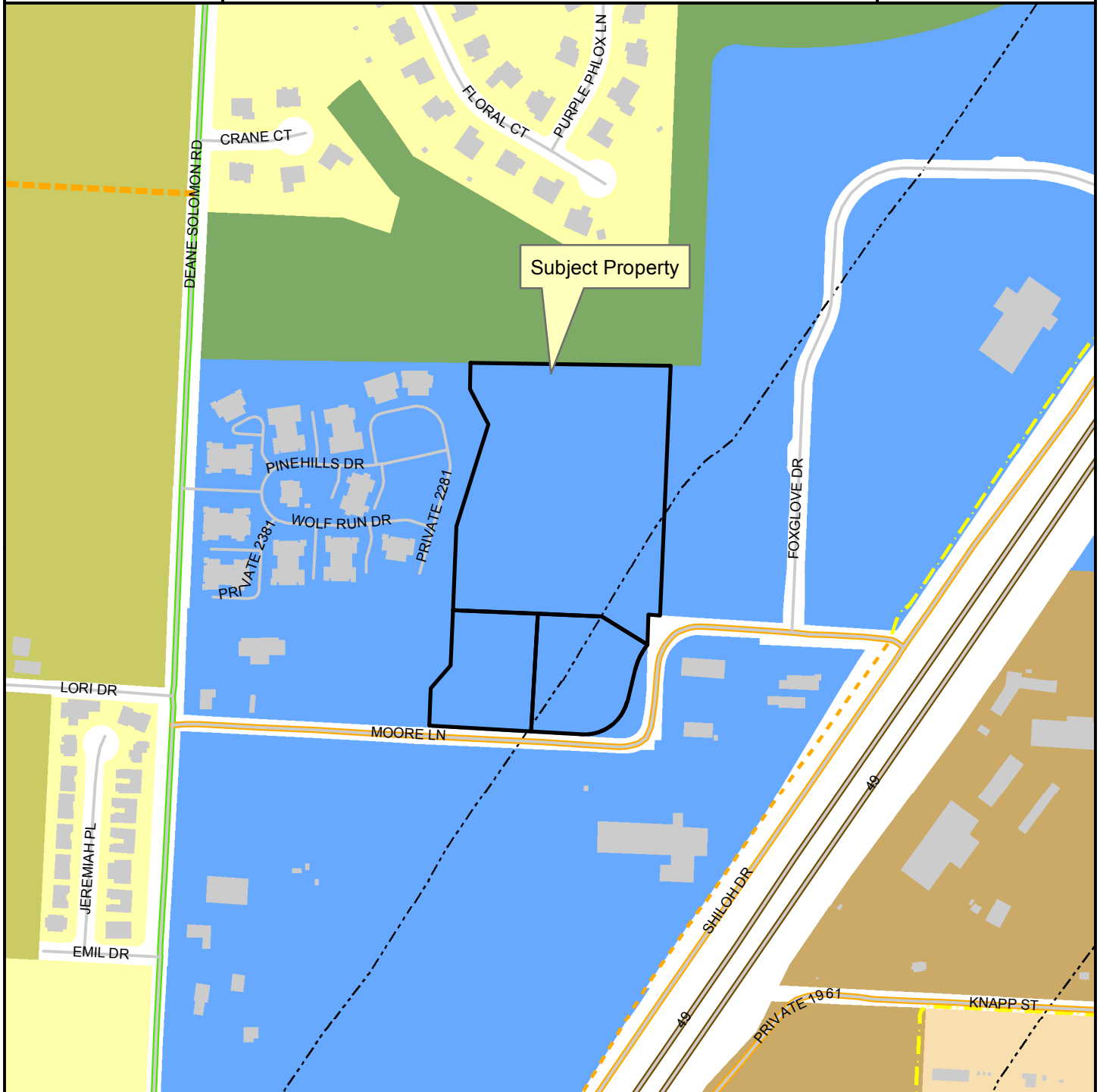
Feet



RZN 16-5538

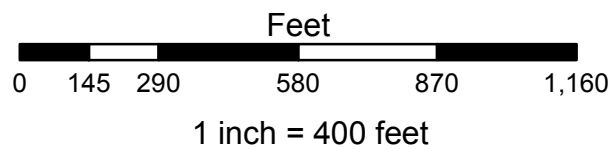
Future Land Use

PINES AT SPRINGWOODS



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Building Footprint



FUTURE LAND USE 2030

- Natural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0415

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: D. 7

ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-SHARE AGREEMENT:

A RESOLUTION TO APPROVE A COST-SHARE AGREEMENT WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION TO ADD A PEDESTRIAN AND BICYCLE SHARED USE PATH TO THE WEDINGTON DRIVE BRIDGE OVER INTERSTATE 49 WITH THE CITY'S PORTION OF THE COST NOT TO EXCEED \$415,000.00

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a cost-share agreement, a copy of which is attached to this Resolution, with the Arkansas State Highway and Transportation Commission to add a pedestrian and bicycle shared use path to the Wedington Drive bridge over Interstate 49 with the City's portion of the cost not to exceed \$415,000.00.

City of Fayetteville Staff Review Form

2016-0415

Legistar File ID

9/20/2016

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

Chris Brown

9/2/2016

Engineering /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a Resolution to Cost Share with the Arkansas State Highway and Transportation Department to Add a Pedestrian and Bicycle Sidepath to the Wedington Drive Bridge Over Interstate 49

Budget Impact:

4520.800.9556.5809		Sales Tax Construction Project		
Account Number		Fund		
06035.1		Transportation Bond Street Improvements		
Project Number		Project Title		
Budgeted Item?	Yes	Current Budget	\$	9,015,225.00
		Funds Obligated	\$	2,832,530.00
		Current Balance	\$	6,182,695.00
		Item Cost	\$	415,000.00
Does item have a cost?	Yes	Budget Adjustment		
Budget Adjustment Attached?	NA	Remaining Budget	\$	5,767,695.00

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF SEPTEMBER 20, 2016

TO: Mayor and City Council

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

FROM: Chris Brown, City Engineer

DATE: September 2, 2016

SUBJECT: **Approval of a Resolution to Cost Share with the Arkansas State Highway and Transportation Department to Add a Pedestrian and Bicycle Sidepath on the Wedington Drive Bridge Over Interstate 49**

RECOMMENDATION:

Staff recommends approval of a resolution allocating up to \$415,000 to fulfill the AHTD's request for the City's share of the proposed bicycle and pedestrian sidepath on the Wedington Drive Bridge to be constructed as part of the Wedington Drive/I-49 Interchange Improvement Project.

BACKGROUND:

Improvements to the Wedington Drive Interchange are planned by the Arkansas Highway and Transportation Department as part of their overall plan to improve operations and traffic flow along I-49. The project includes a double loop ramp for eastbound Wedington Drive traffic entering I-49, along with widening Wedington Drive across the bridge and west to Salem Drive.

The loop ramp design, while providing much improved vehicular traffic flow, creates challenges for bicycle and pedestrian accommodations. The original design provided by the AHTD included bike lanes in each direction, and a sidewalk on the north side. The City provided comments on the bike lane design, and recommended that the bike lane width be reallocated to the north side of the road way to create a shared use path, that would create a much safer and more comfortable pedestrian and bicycle accommodation without any additional cost.

After further discussion with the AHTD, and upon their recommendation, the City Council approved a change to the City's Active Transportation Plan and Master Street Plan to change the standards across interchanges and on major arterials to a sidepath. Subsequently, the AHTD revised their plans to include a sidepath on this project, in accordance with our master plans.

DISCUSSION:

In March of this year, the Mayor received a letter requesting payment in the amount of \$415,000, representing the cost of the additional width for the sidepath versus the standard with for only vehicular lanes and a 6.5 foot sidewalk. Since that time, staff has been negotiating with the AHTD, and have reiterated the City's position that reallocation of the space provided in the original cross section would provide adequate pedestrian and bicycle accommodations. However, the AHTD's bicycle and pedestrian accommodation policy states that sidepaths are primarily for recreation purposes, and they are steadfast in their request for payment from the City. In order to ensure that this critical connection for pedestrians and bicyclist is included in the project, staff requests approval of this request from the AHTD.

BUDGET/STAFF IMPACT:

Funds are available in the Transportation Bond Program for this item. Funds available in the Transportation Bond Program are limited, and adding this project to the Bond Program would impact other projects.

As has been discussed previously with the Transportation Committee, multiple projects, including Old Wire Road, additional phases of Ruppel Road, Van Asche Drive, and Zion Road Improvements, have been added to the Bond Program over the years. This has been made possible through a combination of using contingency funds built into the program, reduced construction costs during recessionary times, and leveraging of bond funds to apply for federal aid funding. Of these added projects, most have either been completed, or are in various stages of final design or construction. However, Zion Road Improvements is currently underfunded due to recent increases project costs as construction costs rise; adding the Wedington Drive Project to the program will exacerbate this funding issue.

Finally, the sidepath is eligible for funding under the Transportation Alternatives Program, an 80/20 federal aid program administered by the AHTD through an application process. There will likely be 2 rounds of applications before this payment is due, so it is possible that TAP funding could be secured to cover at least 80% of this payment.

Attachments:

City/AHTD Correspondence
Project Allocation Spreadsheet

**TRANSPORTATION BOND PROGRAM
REMAINING PROJECT ALLOCATION RECOMMENDATIONS**

Project Name	Current Bond Program Budget	Est. Total Cost To Bond Program	Addtl. Funding Needed	Remaining Bond Funds*	Remaining Items/Notes
Hwy 112 (Maple St.) Garland-Razorback	--	\$750,000	\$750,000	\$5,922,464	Fed. Aid Project/\$1.5 M shared with UA Signal, trees, lighting Lighting Additional Phases of Construction West Side Construction Projects TBD/\$300K in CIP/\$200K Bond Federal Aid Project Federal Aid Project/Const. Cost Unknown
Rupple Road (MLK to Persimmon)	\$8,291,000	\$8,921,000	\$630,000	\$5,172,464	
Van Asche Dr. (Garland to Gregg)	\$5,243,269	\$5,418,269	\$175,000	\$4,542,464	
Old Wire Road (Mission to 265)	\$3,291,123	\$4,280,000	\$988,877	\$4,367,464	
College Ave (Maple to North)	\$1,013,040	\$2,013,040	\$1,000,000	\$3,378,587	
Intersection & Pedestrian Impts.	\$296,931	\$200,000	\$200,000	\$3,378,587	
Rupple Road (at Mt. Comfort)	\$207,782	\$1,247,782	\$1,040,000	\$2,378,587	
Sain Street Extension	\$160,165			\$2,178,587	
Wedington Drive AHTD Cost Share		\$415,000	\$415,000	\$1,138,587	
Zion Road (Vantage to 265)	\$519,844	\$4,679,844	\$4,160,000	\$723,587	
				-\$3,436,413	

*This column reflects remaining bond funds after funding the project on each row. After funding Wedington Drive, and all the projects in rows above, \$723, 587 will remain for use on Zion Road or other projects.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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



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

March 22, 2016

RECEIVED

MAR 24 2016

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

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

Dear Mayor Jordan:

It is our understanding from previous communications that you are requesting modification to the proposed design of AHTD Project BB0411 on Highway 16 to include a shared-use-path along the south side of the Highway 16 Bridge over I-49. Based on your comments, the addition of the shared-use-path can be accommodated.

The additional width needed to accommodate the shared-use-path is depicted on the enclosures. In order for this shared-use-path to be included in the project, the City would need to fund the additional cost associated with the shared-use-path, which has been estimated to be \$415,000.

If the City is acceptable to this offer, we ask that a response be provided where the design for the project can continue.

If we can be of further assistance, please let us know.

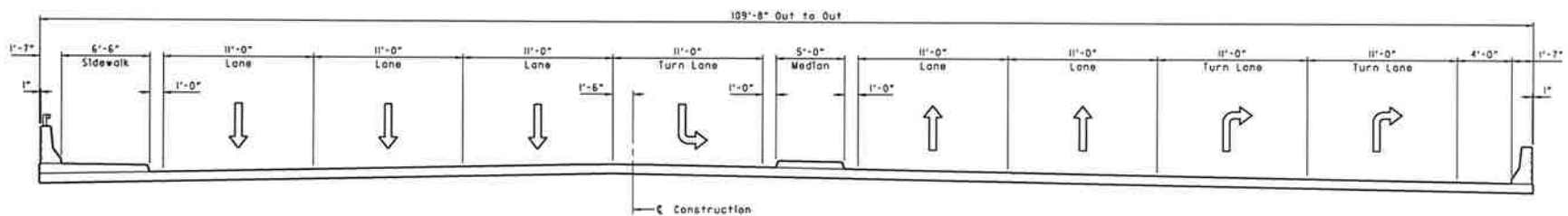
Sincerely,

Michael D. Fugett, P.E.
Assistant Chief Engineer - Design

Enclosures

c: Director
Deputy Director and Chief Operating Officer
Deputy Director and Chief Engineer
Assistant Chief Engineer - Planning
Engineer of Roadway Design

DATE REVISED	DATE FILMED	DATE REVISED	DATE FILMED	FILE NO. REV. NO.	FILE NO.	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
				8	ARL			
				JOB NO.		BBO-111		
STAGE CONSTRUCTION								



BRIDGE SECTION WITH TYPICAL 6'-6" SIDEWALK

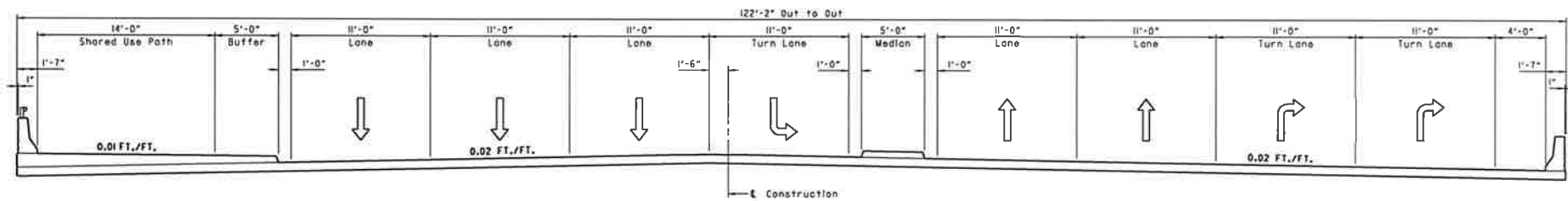
SHEET OF
 DETAILS OF STAGE CONSTRUCTION
 BRIDGE OVER I-49
 HWY. 16/112 SPUR INTCHNG. IMPVTS. (S)
 WASHINGTON COUNTY
 ROUTE 1-49 SEC. 29
 ARKANSAS STATE HIGHWAY COMMISSION
 LITTLE ROCK, ARK.

PRELIMINARY
 SUBJECT TO REVISION

BRIDGE ENGINEER

DRAWN BY: _____ DATE: _____ FILENAME: _____
 CHECKED BY: _____ DATE: _____ SCALE: 1/4" = 1'-0"
 DESIGNED BY: _____ DATE: _____
 BRIDGE NO. _____ DRAWING NO. _____

DATE REVISED	DATE FILMED	DATE REVISED	DATE FILMED	FED. ROAD DIST. NO.	STATE	FED. AID PROG. NO.	SHEET NO.	TOTAL SHEETS
				S	ARK.			
				JOB NO.		BB048		
STAGE CONSTRUCTION								



BRIDGE SECTION WITH 14'-0" SHARED USE PATH AND 5'-0" BUFFER

SHEET OF
 DETAILS OF STAGE CONSTRUCTION
 BRIDGE OVER I-49
 HWY. I6/I12 SPUR INTCHNG. IMPVTS. (S)
 WASHINGTON COUNTY
 ROUTE I-49 SEC. 29
 ARKANSAS STATE HIGHWAY COMMISSION
 LITTLE ROCK, ARK.

DRAWN BY: _____ DATE: _____ FILENAME: _____
 CHECKED BY: _____ DATE: _____ SCALE: 1/2" = 1'-0"
 DESIGNED BY: _____ DATE: _____
 BRIDGE NO. _____ DRAWING NO. _____

PRELIMINARY
 SUBJECT TO REVISION
 BRIDGE ENGINEER



OFFICE OF THE MAYOR
LIONELD JORDAN

April 22, 2016

Mr. Michael D. Fugett, P.E.
Assistant Chief Engineer-Design
Arkansas Highway and Transportation Department
PO Box 2261
Little Rock, AR 72203-2261

Re: AHTD Job BB0411-Wedington Drive Interchange

Dear Mr. Fugett:

I have received your letter dated March 22nd, and have asked my staff to review the information provided. Upon review, we offer the following:

- Original conceptual drawings presented to the City in late 2013, and to the public in early 2014, included sidewalks on one or both sides of the highway, and bike lanes in both directions. The total bridge width in these drawings was 117 feet.
- In April of 2014, I sent a letter to the Department requesting the bike lanes be reallocated to a side path on the north side of the roadway, with the intent to maintain the same 117 feet of total bridge width.
- In February of 2015, after City staff met with you and other Department representatives (including the Director of the Department) regarding the cross section of Highway 16, the City Council approved revisions to the Fayetteville Alternative Transportation and Trails Plan and to the City's Master Street Plan to clarify that the on-street linkages identified in the FATT Plan were intended to be side paths, and to provide a Master Street Plan cross section including the side path, to be used at freeways and expressways on arterial streets. This Council action was based on clear Department guidance that the City's Master Street Plan cross sections would be used to develop cross sections for construction, and that if the City's adopted plan was amended, the shared path concept could be accommodated.
- 30% complete plans received in December include a 118 foot wide bridge option, with a 12 foot wide protected shared use path, an almost identical width to the original 117 foot wide conceptual design.

The point of recreating the history of this discussion around the bridge cross section and how the pedestrian cyclist traffic can be more safely accommodated is to reiterate that that we believe the City's standards and adopted plans specify the construction of a side path in this situation, at the guidance and direction of the Department, and do not consider it the City's responsibility to pay for any of the cost of this side path. As we have stated in the past, reallocation of the bridge width presented at conceptual and 30% level designs to provide for

Mr. Michael D. Fugett, P.E.
Arkansas Highway and Transportation Department
Page 2

the side path instead of bike lanes would provide a safer and more usable facility for all users at little or no additional cost. It appears that the 118 foot bridge width in the 30% plans accomplishes this goal, and the City requests that the Department proceed with that cross section, which is attached for your reference.

As I have said in the past, provision of bicycle and pedestrian access across I-49 is a major goal of the City of Fayetteville, and is imperative to the safety of the cycling and pedestrian community. The current lack of adequate bicycle and pedestrian connections across the interstate is a significant safety issue, and is one that simply must be addressed with this project. I hope that we can find a solution that addresses this safety concern without costing either the City or the Department any additional money.

Please contact us if you have any questions.

Sincerely,

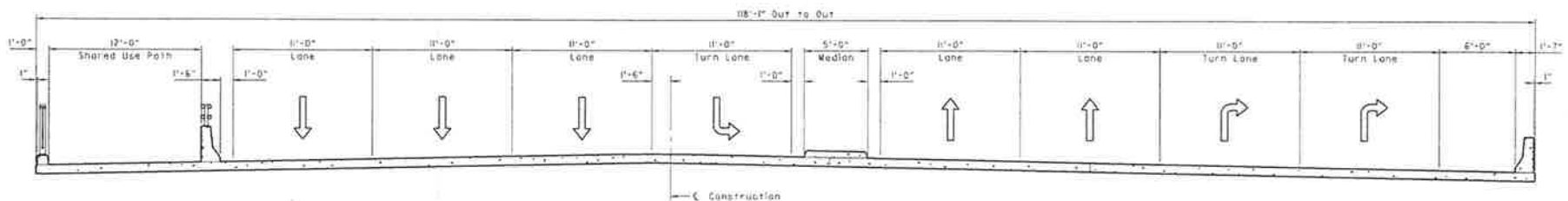


Lioneld Jordan
Mayor

Attachment

cc: Chris Brown, Fayetteville City Engineer

DATE REVISED	DATE FILMED	DATE REVISED	DATE FILMED	FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
				E	ARZ.			
				JOB NO.		BB04-II		
① STAGE CONSTRUCTION								



AHTD Minimum Bridge Section

SHEET OF
 DETAILS OF STAGE CONSTRUCTION
 BRIDGE OVER I-49
 HWY. 16/112 SPUR INTCHNG. IMPVTS. (S)
 WASHINGTON COUNTY
 ROUTE 1-49 SEC. 29
 ARKANSAS STATE HIGHWAY COMMISSION
 LITTLE ROCK, ARK.

PRELIMINARY
 SUBJECT TO REVISION
 BRIDGE ENGINEER

DRAWN BY: _____ DATE: _____ FILENAME: _____
 CHECKED BY: _____ DATE: _____ SCALE: 1/4" = 1'-0"
 DESIGNED BY: _____ DATE: _____
 BRIDGE NO. _____ DRAWING NO. _____

ARKANSAS STATE HIGHWAY COMMISSION



DICK TRAMMEL
CHAIRMAN
ROGERS

THOMAS B. SCHUECK
VICE CHAIRMAN
LITTLE ROCK

ROBERT S. MOORE, JR.
ARKANSAS CITY

FRANK D. SCOTT, JR.
LITTLE ROCK

DALTON A. FARMER, JR.
JONESBORO

SCOTT E. BENNETT, P.E.
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 • VOICE/TTY 711 • FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM • WWW.IDRIVEARKANSAS.COM

June 21, 2016

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

RECEIVED
JUN 23 2016
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Dear Mayor Jordan:

This is to acknowledge receipt of your recent correspondence regarding **Highway 16/112 Spur Interchange Improvements (Job BB0411)** on Interstate 49 in Fayetteville.

As you are aware, the Department's policy is to provide bike lanes when a proposed highway project is on a route that has been designated as a bicycle route by a locally adopted bicycle plan or master street plan and the Department concurs with the designation. As defined by the American Association of State Highway and Transportation Officials (AASHTO), a bike lane is "a portion of a roadway which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists". Bike lanes are located adjacent to motor vehicle travel lanes for the purpose of providing an alternative mode of transportation to move people to and from their destinations. A shared-use path is not considered a mode of transportation but rather a recreational enhancement that increases the quality of life for local residents, as well as attracting tourism that benefits the local economy. If requested, we will gladly partner with local agencies when possible to enhance a facility's recreational features, provided adequate funding is provided to offset the additional cost. The Department must focus its limited resources to keep the State Highway System in a state of good repair, enhance safety, and increase mobility for road users.

The original design of **Porter Road - Highway 112/71B (Widening & Interchange Improvements) (Job BB0414)** included bike lanes since the route was included in the Fayetteville Alternative Transportation and Trails Plan (FATT Plan). This design also included sidewalks, which are added to all bridges for safety. The City requested that the Department substitute the planned bike lanes and sidewalks along the Highway 112 Bridge with a shared-use path. This request was based on the City's desire to revise your FATT Plan to eliminate some or all on-street bike lanes as a mode of transportation and to identify the location of future shared-use paths that would enhance the recreational trail system in the region. Because the net increase to the width of the bridge was minimal, the Department made a "one-time exception" to our policy. We agreed to partner with the City to change the design of **Job BB0414** without requiring total reimbursement for this recreational enhancement.

Page 2

Concerning **Job BB0411**, please refer to the enclosed Attachments A and B. Consistent with our policy as described above, the Highway 16 Bridge is currently being designed as an approximately 110-foot wide structure that will include a 6.5-foot sidewalk. The Highway 16 Bridge is not identified for bike lanes in the FATT Plan. It is identified for a shared-use path, which is considered a recreational enhancement. If the bridge is modified to include a shared-use path, the width of the structure will increase to approximately 122 feet. It is estimated that the additional width of 12 feet will add \$415,000 to the cost of the structure, which will be the responsibility of the City. Please understand that if the City was substituting bike lanes for a shared-use path, as was the case with **Job BB0414**, the City would still be responsible for the additional cost since it would be considered a recreational enhancement, which the Department does not fund. Again, a one-time exception was made in the case of **Job BB0414**.

You have stated that it is our responsibility to build the Highway 16 structure to a higher design standard to include a shared-use path in order to meet the city street design criteria established in 2015 by the City of Fayetteville's City Council. The following points are offered to address your statement concerning the Department's design standard responsibility and practice:

- The Department's policy is to accommodate a City's Master Bike/Pedestrian Plan when designing improvements to the State Highway System and to provide bike lanes and/or sidewalks as a mode of transportation (not recreation) as appropriate. However, the Department is not required to accommodate higher design standards adopted by cities for the overall city street system, including recreational enhancements, which may include some State Highways. The Department has the authority by State law to set appropriate design standards for the State Highway System. The Department is not legally required to comply with local ordinances except where compliance is required by specific State statute.
- In general, state highway projects are designed using State, Federal Highway Administration (FHWA) and American Association of State Highway and Transportation Officials (AASHTO) design standards. The nation's State highway departments, working through AASHTO, develop design standards through a series of committees and task forces. FHWA contributes to the development of the design standards through membership on these working units, sponsoring and participating in research efforts, and many other initiatives.

The Department is not bound to any local jurisdiction's adopted design standards that are contrary to these aforementioned standards. With limited tax dollars available to meet all the needs of Arkansas' State Highway System, it is important that the Department adopt reasonable and appropriate standards that are applied fairly. If a local jurisdiction desires a higher more elaborate design standard than is proposed, the additional cost is their responsibility.

The Honorable Lioneld Jordan
July 21, 2016

Page 3

The Department's practice as the agency responsible for the construction and maintenance of the State Highway System is to set consistent and appropriate design standards to enhance the safety and mobility of the road user, while at the same time maximizing the return on taxpayer dollars. The Department is willing to deviate from those standards for local purposes provided (1) any new design meets or exceeds the necessary safety and engineering requirements; and (2) any additional cost is borne by the party seeking the deviation. Because the City of Fayetteville's design standards are in excess of the Department's standards for Highway 16, all requested improvements exceeding those standards will need to be funded by the City. I also understand that my staff encouraged the City staff to apply for a "Transportation Alternatives Program (TAP) Grant" to secure funding for this improvement; however, this funding source was not pursued.

In closing, it is hoped that we have adequately answered your comments and you now understand our practice concerning design standards. Cities have jurisdiction over city streets. The Department has jurisdiction over state highways. As you can imagine, cities across the State could adopt a variety of very expensive design standards. This may be acceptable for city street projects, but when applied to state highways, it should be viewed as an additional cost investment to a city's infrastructure that should be borne by the city.

As previously stated in our letter of March 22, 2016 and again mentioned above, the additional width needed to accommodate the shared-use path is depicted on the enclosures. In order for this shared-use path to be included in the project, the City would need to fund the additional cost of \$415,000. We ask that a response be provided in a timely manner so that the design for the project can continue.

If you have any questions, or need further clarification, please contact Mike Fugett, Assistant Chief Engineer for Design, at 501-569-2301. Thank you for your interest in Arkansas' transportation system.

Sincerely,

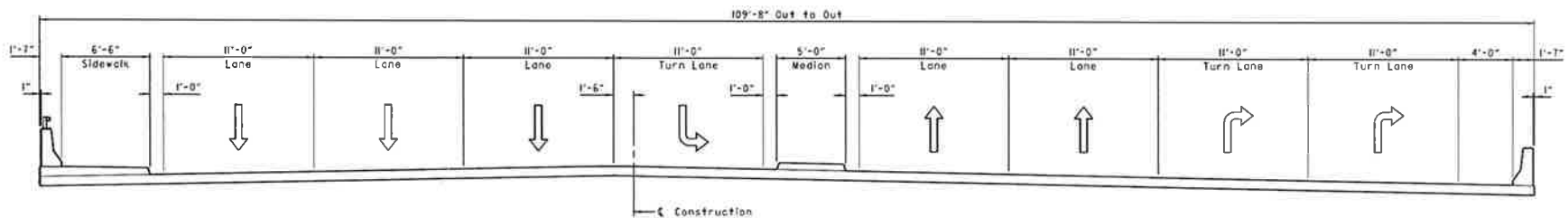

for Scott E. Bennett, P.E.
Director of Highways
and Transportation

Enclosures

c: Deputy Director and Chief Operating Officer
Deputy Director and Chief Engineer
Assistant Chief Engineers
Roadway Design
Transportation Planning and Policy
District 4
Job BB0411 "B" File
Job BB0414 "B" File

DATE REVISED	DATE FILMED	DATE REVISED	DATE FILMED	FILE NO. REV. NO.	STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
				5	ARK.			
				JOB NO.		BB04B		
① STAGE CONSTRUCTION								

Attachment A



BRIDGE SECTION WITH TYPICAL 6'-6" SIDEWALK

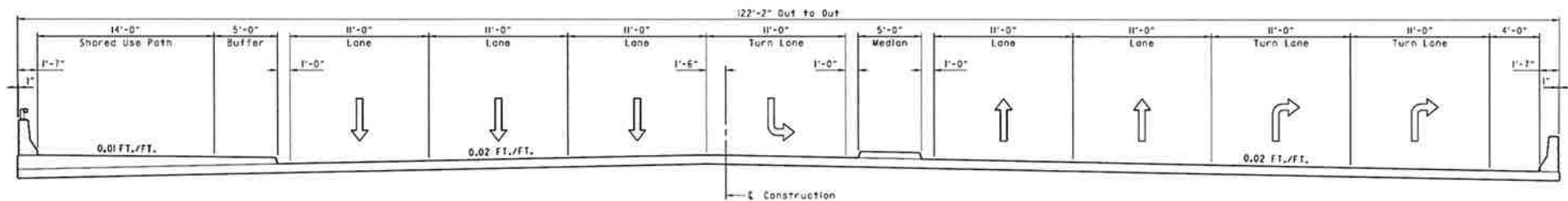
SHEET OF
 DETAILS OF STAGE CONSTRUCTION
 BRIDGE OVER I-49
 HWY. 16/112 SPUR INTCHNG. IMPVTS. (S)
 WASHINGTON COUNTY
 ROUTE 1-49 SEC. 29
 ARKANSAS STATE HIGHWAY COMMISSION
 LITTLE ROCK, ARK.

DRAWN BY: _____ DATE: _____ FILENAME: _____
 CHECKED BY: _____ DATE: _____ SCALE: 1/2" = 1'-0"
 DESIGNED BY: _____ DATE: _____
 BRIDGE NO. _____ DRAWING NO. _____

PRELIMINARY
 SUBJECT TO REVISION
 BRIDGE ENGINEER

DATE REVISED	DATE FILMED	DATE REVISED	DATE FILMED	FILE NO. SYL. NO.	DATE FILMED	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
				6	APC			
				JOB NO.		BB048		
① STAGE CONSTRUCTION								

Attachment B



BRIDGE SECTION WITH 14'-0" SHARED USE PATH AND 5'-0" BUFFER

SHEET OF
 DETAILS OF STAGE CONSTRUCTION
 BRIDGE OVER I-49
 HWY. 16/112 SPUR INTCHNG. IMPVTS. (S)
 WASHINGTON COUNTY
 ROUTE 1-49 SEC. 29
 ARKANSAS STATE HIGHWAY COMMISSION
 LITTLE ROCK, ARK.

PRELIMINARY
 SUBJECT TO REVISION

DRAWN BY: _____ DATE: _____ FILENAME: _____
 CHECKED BY: _____ DATE: _____ SCALE: 1/2" = 1'-0"
 DESIGNED BY: _____ DATE: _____
 BRIDGE NO. _____ DRAWING NO. _____

BRIDGE ENGINEER



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0420

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: D. 8

BID NO. 16-49 GOODWIN & GOODWIN, INC.:

A RESOLUTION TO AWARD BID NO. 16-49 AND AUTHORIZE A CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$3,286,735.00 FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$328,673.50, 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 awards Bid No. 16-49 and authorizes a contract with Goodwin & Goodwin, Inc. in the amount of \$3,286,735.00 for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Porter Road-Highway 112/71B Widening and Interchange Improvements, and further approves a project contingency in the amount of \$328,673.50.

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.

City of Fayetteville Staff Review Form

2016-0420

Legistar File ID

9/20/2016

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Tim Nyander

9/7/2016

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a Resolution awarding Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations to Goodwin & Goodwin Inc., in the amount of \$3,286,735.00; approval of a project contingency of 10% in the amount of \$328,673.50 for a total of \$3,615,408.50; and approval of a budget adjustment. 87.06% is reimbursable from the AHTD. AHTD cost is \$3,147,574.64 and City cost is \$467,833.86.

Budget Impact:

5400.720.5700-5815.00

Water/Sewer

Account Number

Fund

11011.1501

Water/Sewer Relocations-Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 1,532,344.00

Funds Obligated \$ 615,459.84

Current Balance \$ 916,884.16

Does item have a cost? Yes

Item Cost \$ 3,615,408.50

Budget Adjustment Attached? Yes

Budget Adjustment \$ 3,147,575.00

Remaining Budget \$ 449,050.66

V20140710

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments:

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff
Tim Nyander, Utilities Director
Water & Sewer Committee

FROM: Jim Beavers, P.E.

DATE: September 6, 2016

SUBJECT: Approval of a Resolution awarding Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations to Goodwin & Goodwin Inc., in the amount of \$3,286,735.00; approval of a project contingency of 10% in the amount of \$328,673.50 for a total cost of \$3,615,408.50; and approval of a budget adjustment. 87.06% is reimbursable from the AHTD. AHTD cost is \$3,147,574.64 and City cost is \$467,833.86.

RECOMMENDATION:

Staff recommends approval of a Resolution awarding Construction Contract, BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations to Goodwin & Goodwin Inc., in the amount of \$3,286,735.00; approval of a project contingency of 10% in the amount of \$328,673.50; and approval of a budget adjustment.

BACKGROUND:

The water and sanitary sewer relocations are required for the construction of the new highway interchange by the Arkansas Highway and Transportation Department, Project AHTD Job BB0414 (PORTER RD. – HWY. 112/71B WIDENING & INTCHNG. IMPVTS. (S). Please refer to the attached drawing, drawing, BB0414_2014.09.25.

DISCUSSION:

The City of Fayetteville, Arkansas publicly opened bids received on August 10, 2016 for BID 16-49, Construction, Porter RD – HWY 112/71B Widening and Interchange Water and Sewer Relocations, AHTD Job BB0414, Garver Project No. 14048160 (aka WS Improvements Hwy 112 Interchange).

Goodwin & Goodwin Inc. was the only bidder with the bid of \$3,286,735.00.

Goodwin & Goodwin Inc.'s bid was sent to AHTD for review. AHTD and the Engineering of Record (Garver) have concurred/recommended award of Bid 16-49 to Goodwin & Goodwin Inc.

BUDGET/STAFF IMPACT:

The water and sewer relocation project is 87.06% reimbursable from AHTD.

Budgeted funds for the City's portion are available in 11011 W/S Relocations for Street Bond Projects.

Attachments:

Staff Review Form

Budget Adjustment

Drawing, BB0414_2014.09.25.

Bid Tab

Proposed Agreement with Goodwin & Goodwin Inc.

Letter of Recommendation from Garver



City of Fayetteville, AR
Purchasing Division
Date: 8/10/2016, 2:00 PM
Bid 16-49, Construction - WS Improvements,
Hwy 112 71B Interchange
****OFFICIAL BID TABULATION****

				Goodwin and Goodwin, Inc.	
ITEM	DESCRIPTION	Unit	Est Qty.		
1	Erosion Control	LS	1	\$35,000.00	\$35,000.00
2	Traffic Control	LS	1	\$30,000.00	\$30,000.00
3	Mobilization (Maximum of 5% of Total Bid	LS	1	\$100,000.00	\$100,000.00
4	Trench & Excavation Safety Systems	LS	1	\$200,000.00	\$200,000.00
5	Construction Staking	LS	1	\$30,000.00	\$30,000.00
6	Bonds and Insurance	LF	1	\$100,000.00	\$100,000.00
7	Site Restoration	LF	1	\$75,000.00	\$75,000.00
8	Material and Acceptance Testing	SY	1	\$15,000.00	\$15,000.00
9	Abandon Existing Water and Sewer Facilities	ST	1	\$60,000.00	\$60,000.00
10	Site Photos and Audio/Video Recordingsd	EA	1	\$4,000.00	\$4,000.00
11	Dewatering	LS	1	\$35,000.00	\$35,000.00
12	Water Mitigation Dam	EA	12	\$800.00	\$9,600.00
13	12" PVC C900 DR14 Water Line	LF	720	\$65.00	\$46,800.00
14	8" PVC C900 DR14 Water Line	LF	1660	\$45.00	\$74,700.00
15	2" and Smaller Polyethylene Water Service Line C901 DR9	LF	210	\$20.00	\$4,200.00
16	Water Meter Setting	EA	6	\$1,400.00	\$8,400.00
17	18" DI 350 PSI Gravity Sewer with Protecto 401	EA	1940	\$485.00	\$940,900.00
18	18" PVC Pipe Stiffness 115 Gravity Sewer	EA	1750	\$260.00	\$455,000.00
19	12" DI 350 psi Gravity Sewer with Protecto 401	LS	560	\$260.00	\$145,600.00
20	12" PVC SDR 26 Gravity Sewer	SY	800	\$160.00	\$128,000.00
21	8" PVC SDR 26 Gravity Sewer	EA	70	\$120.00	\$8,400.00
22	4" PVC SCH 40 Sewer Service Line	CY	500	\$25.00	\$12,500.00
23	12" x 12" Tapping sleeve and valve	CY	1	\$7,800.00	\$7,800.00
24	8" x 8" Tapping sleeve and valve	CY	5	\$6,000.00	\$30,000.00

25	Cut and cap existing 12" Water Line	CY	2	\$3,000.00	\$6,000.00
26	Cut and cap existing 8" water line	SY	12	\$2,000.00	\$24,000.00
27	Fire Hydrant assembly	SY	2	\$5,500.00	\$11,000.00
28	12" Gate Valve	CY	4	\$4,500.00	\$18,000.00
29	8" Gate Valve	LF	7	\$3,000.00	\$21,000.00
30	Water Line Ductile Iron Fittings AWWA C153 with Interior and Exterior Fusion Bonded Epoxy	LF	3800	\$14.00	\$53,200.00
31	5' ID Manhole, 0' to 6' depth	LF	21	\$5,000.00	\$105,000.00
32	5' ID Manhole, Additional Depth > 6' Depth	LF	260	\$300.00	\$78,000.00
33	4' ID Manhole, 0' to 6' Depth	LF	12	\$4,000.00	\$48,000.00
34	4' ID Manhole, Additional Depth > 6' Depth	LF	100	\$200.00	\$20,000.00
35	24" Bored Steel Encasement (0.375" thickness)	LF	380	\$475.00	\$180,500.00
36	24" Open Cut Steel Encasement (0.375" Thickness)	LF	120	\$200.00	\$24,000.00
37	16" Bored Steel Encasement (0.250" Thickness)	LF	320	\$325.00	\$104,000.00
38	16" Open Cut Steel Encasement (0.250" Thickness)	LF	120	\$150.00	\$18,000.00
39	8" Open Cut Steel Encasement (0.250" Thickness) for 4" Sewer Force Main	EA	21	\$125.00	\$2,625.00
40	Undercut and Granular Backfill	EA	500	\$35.00	\$17,500.00
41	Rock Excavation	EA	1000	\$0.01	\$10.00
TOTAL BASE BID				\$3,286,735.00	

* Highlighting Notes Corrected Calculation

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


A. Rennie,
PURCHASING MANAGER


WITNESS

8.11.2016
Date

DOCUMENT 00500 – AGREEMENT

BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: PORTER RD – HWY 112/71B WIDENING AND
INTERCHANGE WATER AND SEWER RELOCATIONS

THIS AGREEMENT is dated as of the _____ day of _____ in the year 20__ by and
between The City of Fayetteville, Arkansas and Goodwin & Goodwin P.C. (hereinafter called
Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to approximately 3,000 linear feet water line (up to 12 inch) and facilities including bored steel encasement and approximately 5,000 linear feet of gravity sewer (mostly 18 inch) and facilities including bored steel encasement. The Contract includes work in AHTD Right-of-way, City of Fayetteville Right-of-way, and in General Utility Easements.

Refer to Section 00400-Bid Form for quantities:

ARTICLE 2 - ENGINEER

2.01 The Contract Documents have been prepared by Garver, LLC. Garver, LLC assumes all duties and responsibilities, and has the rights and authority assigned to City of Fayetteville Utility and/or Engineering Division in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

DOCUMENT 00500 – AGREEMENT (continued)

3.02 **DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:**

- A. The Work will be Substantially Completed within 120 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 150 calendar days after the date when the Contract Times commence to run.

3.03 **LIQUIDATED DAMAGES:**

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay The City of Fayetteville Seven Hundred Fifty Dollars (\$750.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Seven Hundred Fifty Dollars (\$750.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal (BID FORM) which is hereto

DOCUMENT 00500 – AGREEMENT (continued)

attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

4.02 As provided in the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.

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

ARTICLE 5 - PAYMENT PROCEDURES

5.01 **SUBMITTAL AND PROCESSING OF PAYMENTS:**

A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 **PROGRESS PAYMENTS, RETAINAGE:**

A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

I. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such

DOCUMENT 00500 – AGREEMENT (continued)

amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

- a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and
- b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.

2. Upon Substantial Completion, The City of Fayetteville shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

- 6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
 - D. Contractor has carefully studied all:
 - (1) Reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) Reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
 - E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of

DOCUMENT 00500 – AGREEMENT (continued)

- the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 **CONTENTS:**

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the

DOCUMENT 00500 – AGREEMENT (continued)

following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:

1. This Agreement.
2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.
 - c. Documentation submitted by Contractor prior to Notice of Award.
3. Performance, Payment, and other Bonds.
4. General Conditions.
5. Supplementary Conditions.
6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
7. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

City of Fayetteville
Fayetteville, AR
AHTD No. BB0414
Water and Sewer Relocations – Porter Rd HWY
112/71B Widening and Intchg.
8. Addenda numbers 1
9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.03 SUCCESSORS AND ASSIGNS:

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

DOCUMENT 00500 – AGREEMENT (continued)

8.05 **FREEDOM OF INFORMATION ACT:**

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

8.06 **LIENS:**

- A. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§18-44-501 through 508) prohibits the filing of any mechanics' of materialmen's liens in relation to this public construction project. Arkansas law requires and the contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment or labor or material on the bond. The contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor and Engineer. Two counterparts each has been delivered to The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor or identified by Engineer on their behalf.

DOCUMENT 00500 – AGREEMENT (continued)

This Agreement will be effective on _____, 20__, which is the
Effective Date of the Agreement.

CONTRACTOR: Goodwin & Goodwin, Inc. CITY OF FAYETTEVILLE _____

By: Bryan Goodwin

By: Lioneld Jordan

Title: President

Title: Mayor

(SEAL)

(SEAL)

Attest 

Attest _____

DOCUMENT 00500 – AGREEMENT (continued)

Address for giving notices

3503 Free Ferry Road

Ft Smith, AR 72903

License No. 0016960417

Agent for Service of process

HANK HANCOCK CPA

Address for giving notices

113 W. Mountain St.

Fayetteville, AR 72701

(attach evidence of authority to
sign and resolution or other documents
authorizing execution of Agreement)

(If Contractor is a corporation,
attach evidence of authority to

sign.)

Approved As to Form:

By: _____

Attorney For: _____

END OF DOCUMENT 00500





www.GarverUSA.com

August 31, 2016

Jim Beavers, P.E.
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: Porter Rd – HWY 112/71B Widening and
Interchange Water and Sewer Relocations
AHTD Job No. BB0414
City of Fayetteville Bid 16-49
Recommendation of Award

Dear Mr. Beavers:

Although there were several plan holders, only one bid was received by Goodwin & Goodwin, Inc. for the referenced project at the City of Fayetteville on August 10, 2016. The bid has been checked for accuracy and for compliance with the contract documents. A detailed tabulation of the bid received is enclosed with this letter. As shown on the bid tabulation, the unit price bid for rock excavation was \$0.01 per cubic yard. Enclosed is an acknowledgment that the price bid is correct and any overage will be assessed at the same price.

The bid price of \$3,286,735.00 was approximately 37 percent higher than Garver's Opinion of Probable Construction Cost. According to plan holders, they did not bid because of the project complexity and workload on current and future projects. Based upon qualifications and past performance with Garver and the City, Goodwin & Goodwin is qualified to perform the work. The Arkansas Highway and Transportation Department (AHTD) is reimbursing the City approximately 87% of all costs. Garver requested authorization to proceed (not re-bidding) with AHTD, and on August 31, 2016 AHTD authorized proceeding with awarding the project to Goodwin & Goodwin.

We recommend that the construction contract for the referenced project be awarded to Goodwin and Goodwin, Inc. of Fort Smith, Arkansas.

Please call me if you have any questions.

Sincerely,

GARVER, LLC

Chris Buntin, P.E.
Project Manager

Attachments: Bid Tabulation and Rock Excavation Bid Price Letter Dated August 23, 2016
L:\2014\14048160 - Fayetteville AHTD Job BB0414\Bidding\Recommendation of Award\Beavers 2016-08-31 Recommendation of Award.docm



City of Fayetteville, AR
Purchasing Division
Date: 8/10/2016, 2:00 PM
Bid 16-49, Construction - WS Improvements,
Hwy 112 71B Interchange
****OFFICIAL BID TABULATION****

				Goodwin and Goodwin, Inc.	
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2	Traffic Control	LS	1	\$30,000.00	\$30,000.00
3	Mobilization (Maximum of 5% of Total Bid	LS	1	\$100,000.00	\$100,000.00
4	Trench & Excavation Safety Systems	LS	1	\$200,000.00	\$200,000.00
5	Construction Staking	LS	1	\$30,000.00	\$30,000.00
6	Bonds and Insurance	LF	1	\$100,000.00	\$100,000.00
7	Site Restoration	LF	1	\$75,000.00	\$75,000.00
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21	8" PVC SDR 26 Gravity Sewer	EA	70	\$120.00	\$8,400.00
22	4" PVC SCH 40 Sewer Service Line	CY	500	\$25.00	\$12,500.00
23	12" x 12" Tapping sleeve and valve	CY	1	\$7,800.00	\$7,800.00
24	8" x 8" Tapping sleeve and valve	CY	5	\$6,000.00	\$30,000.00

25	Cut and cap existing 12" Water Line	CY	2	\$3,000.00	\$6,000.00
26	Cut and cap existing 8" water line	SY	12	\$2,000.00	\$24,000.00
27	Fire Hydrant assembly	SY	2	\$5,500.00	\$11,000.00
28	12" Gate Valve	CY	4	\$4,500.00	\$18,000.00
29	8" Gate Valve	LF	7	\$3,000.00	\$21,000.00
30	Water Line Ductile Iron Fittings AWWA C153 with Interior and Exterior Fusion Bonded Epoxy	LF	3800	\$14.00	\$53,200.00
31	5' ID Manhole, 0' to 6' depth	LF	21	\$5,000.00	\$105,000.00
32	5' ID Manhole, Additional Depth > 6' Depth	LF	260	\$300.00	\$78,000.00
33	4' ID Manhole, 0' to 6' Depth	LF	12	\$4,000.00	\$48,000.00
34	4' ID Manhole, Additional Depth > 6' Depth	LF	100	\$200.00	\$20,000.00
35	24" Bored Steel Encasement (0.375" thickness)	LF	380	\$475.00	\$180,500.00
36	24" Open Cut Steel Encasement (0.375" Thickness)	LF	120	\$200.00	\$24,000.00
37	16" Bored Steel Encasement (0.250" Thickness)	LF	320	\$325.00	\$104,000.00
38	16" Open Cut Steel Encasement (0.250" Thickness)	LF	120	\$150.00	\$18,000.00
39	8" Open Cut Steel Encasement (0.250" Thickness) for 4" Sewer Force Main	EA	21	\$125.00	\$2,625.00
40	Undercut and Granular Backfill	EA	500	\$35.00	\$17,500.00
41	Rock Excavation	EA	1000	\$0.01	\$10.00
TOTAL BASE BID				\$3,286,735.00	

* Highlighting Notes Corrected Calculation

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


A. Rennie,
PURCHASING MANAGER


WITNESS

8.11.2016
Date



2049 E. Joyce Blvd.
Suite 400
Fayetteville, AR 72703

TEL 479.527.9100
FAX 479.527.9101

www.GarverUSA.com

August 23, 2017

Mr. Bryan Goodwin
Goodwin & Goodwin, Inc.
3503 Free Ferry Road
Fort Smith, AR 72903

Re: Rock Excavation Bid Price
Bid 16-49, Water & Sewer Improvements
Hwy 112/71B Interchange

Dear Mr. Goodwin:

In the bid for the above-referenced project, your company bid a unit price of \$0.01 per cubic yard of rock excavation. This letter will confirm to the City of Fayetteville that you plan to charge \$0.01 per cubic yard, regardless of how many cubic yards of rock excavation are required for the project.

Please sign the statement below and return this letter to Garver.

Please call me if you have any questions.

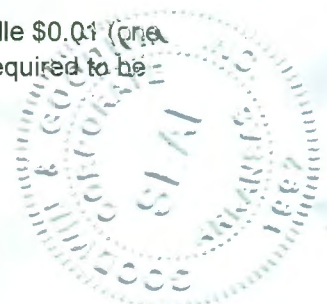
Sincerely,

GARVER

Chris Buntin, P.E.
Project Manager

I, Brian Goodwin, certify that Goodwin & Goodwin, Inc. will charge the City of Fayetteville \$0.01 (one cent) per cubic yard of rock excavation, regardless of the total quantity of rock that is required to be removed.

Bryan Goodwin, President
Goodwin & Goodwin, Inc.



Budget Year	Division	Adjustment Number
2016	WATER SEWER (720)	
	/Org2	
	Requestor: Cheryl Partain	

A BA is needed within the Water/Sewer Relocations-Bond Projects for the I-49 Interchange/Hwy 112 Relocates project for the construction cost of relocating the water/sewer lines for the Highway 112/71B widening and interchange project. The water/sewer relocations are required for the construction of the new highway interchange by the Arkansas Hwy and Transportation Dept. This water/sewer relocation project is 87.06% reimbursable from the Arkansas Highway and Transportation Department.

[illegible]



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0421

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Resolution

Agenda Number: D. 9

GARVER, LLC AMENDMENT NO. 2:

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$196,800.00 TO ADD CONSTRUCTION PHASE SERVICES FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, 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 Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,800.00 to add construction phase services for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Porter Road-Highway 112/71B Widening and Interchange Improvements.

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.

City of Fayetteville Staff Review Form

2016-0421

Legistar File ID

9/20/2016

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

Tim Nyander

9/7/2016

Utilities Director /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of Engineering Services Contract Amendment 2 with Garver to provide Construction Phases Services including construction observation associated with Construction Bid 16-49, and approval of a budget adjustment.

Amendment No. 2 is \$196,800.00. The proposed Amendment will increase the engineering contract from \$112,036.25 to \$308,836.25. 87.06% is reimbursable from the AHTD. AHTD cost is \$171,334.00 and City cost is \$25 466 00

Budget Impact:

5400.720.5700-5314.00

Water/Sewer

Account Number

Fund

11011.1501

Water/Sewer Relocations-Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 4,679,919.00

Funds Obligated \$ 4,230,868.34

Current Balance \$ 449,050.66

Does item have a cost? Yes

Item Cost \$ 196,800.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 171,334.00

Remaining Budget \$ 423,584.66

V20140710

Previous Ordinance or Resolution # 43-15

Original Contract Number: 2354

Approval Date:

Comments:

MEETING OF SEPTEMBER 20, 2016

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff
Tim Nyander, Utilities Director
Water & Sewer Committee

FROM: Jim Beavers, P.E.

DATE: September 6, 2016

SUBJECT: Approval of an Engineering Services Contract Amendment 2 with Garver to provide Construction Phases Services associated with Construction Bid 16-49, and approval of a budget adjustment. Amendment 2 is \$196,800.00. 87.06% is reimbursable from the AHTD. AHTD cost is \$171,334.00 and City cost is \$25,466.00.

RECOMMENDATION:

Staff recommends approval of Engineering Services Contract Amendment 2 with Garver to provide Construction Phases Services including construction observation associated with Construction Bid 16-49, and approval of a budget adjustment.

Amendment 2 is \$196,800.00. The proposed Amendment will increase the engineering contract from \$112,036.25 to \$308,836.25.

BACKGROUND:

The water and sanitary sewer relocations are required for the construction of the new highway interchange by the Arkansas Highway and Transportation Department, Project AHTD Job BB0414 (PORTER RD. – HWY. 112/71B WIDENING & INTCHNG. IMPVTS. (S).

In February 2015, the City Council approved by Resolution no. 43-15 the engineering contract with Garver for design of the water/sewer relocations associated with AHTD project BB0414 – 1-49/Hwy 112. The design was substantially completed in June 2015.

Contract Amendment 1 with Garver to add Bidding Phase Services was approved by the City Council on December 15, 2015 in the amount of \$ 9,293.75.

Proposed Amendment 2 with Garver will provide professional services including submittal reviews, construction observation, documentation and project coordination.

DISCUSSION:

The proposed construction contract Bid 16-49 for the water and sewer relocations is also scheduled for the September 20, 2016 City Council Meeting. Proposed contract Amendment 2 with Garver which includes construction observation, is requested to be approved at this same meeting.

BUDGET/STAFF IMPACT:

The water and sewer relocation project is 87.06% reimbursable from AHTD.

Budgeted funds for the City's portion are available in 11011 W/S Relocations for Street Bond Projects.

Attachments:

Staff Review Form

Budget Adjustment

Proposed Amendment 2 to add Construction Phase Services

Fee sheet estimate for Proposed Amendment 2

Garver original contract

Garver previous Amendment 1 to add Bidding Phase Services



AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES
City of Fayetteville, Arkansas
Project No. 15048160

CONTRACT AMENDMENT NO. 2 – Revised 08/31/2016

This Contract Amendment No. 2, dated _____, 2016, shall amend the original contract and Amendment No. 1 between the CITY OF FAYETTEVILLE (Owner) and GARVER, LLC (GARVER), dated February 17, 2015 referred to in the following paragraphs as the original contract.

This Contract Amendment No. 2 adds professional services for the:

Porter Road-HWY 112/71B Widening and Interchange – AHTD Job BB0414

The original contract is hereby modified as follows:

APPENDIX A – SCOPE OF SERVICES

Section 2.8, Construction Phase Services of the original contract is hereby amended to omit the following:

~~Construction Phase Services are excluded and may be added by amendment as approved by the City of Fayetteville and Garver. In the event GARVER's Scope of Services under this agreement is not amended to include construction phase services, the City of Fayetteville assumes all responsibility for interpretation of the Construction Contract Documents and for construction observation and supervision and waives any claims against GARVER that may be in any way connected thereto.~~

~~In addition, the City of Fayetteville agrees, to the fullest extent permitted by law, to indemnify and hold GARVER harmless from any loss, claim or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Construction Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of GARVER.~~

Section 2.8, Construction Phase Services of the original contract is hereby amended to add the following:

During the construction phase of work, Garver will accomplish the following:

1. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting.
2. Attend weekly, up to 25, progress/coordination meetings at the project site with the Owner/Contractor.
3. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe



and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

4. Issue instructions to the Contractor on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.
5. Based upon information provided by the Owner and Contractor, review, up to six, the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and will make a recommendation to the Owner regarding payment. Garver's recommendation for payment shall not be a representation that Garver has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.
6. Based upon Owner's and Contractor's working drawings, prepare and furnish record drawings.
7. Provide full time construction observation of work and acceptance testing services during the 180-calendar-day construction contract performance time. The proposed fee is based on approximately 8 hours per day, 5 days per week, during the 180-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement or if the Owner wishes to increase the time or frequency of the observation, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.
8. Provide up to 16 hours of survey crew time for field checking quantities, contractor's layout, etc.
9. When authorized by the Owner, prepare change orders for changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the Owner will pay Garver an additional fee to be agreed upon by the Owner and Garver.
10. Participate in final project inspection, prepare punch list, review final project closing documents, and submit final pay request.

Construction observation services will be provided by Garver's Resident Project Representative, who will provide or accomplish the following:

- Consult with and advise the Owner during the construction period.
- Coordinate with the firm providing construction materials quality assurance testing under separate contract with the Owner.
- Maintain a file of test reports, certifications, shop drawings and submittals, and other appropriate information.
- Maintain a project diary which will contain information pertinent to each site visit.

The proposed fee for Construction Phase Services is based on a 180-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement, and the Owner wants Garver to continue the applicable Construction Phase Services, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.

In performing construction observation services, Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety



measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

Section 2.14, Project Deliverables of the original contract is hereby amended to add the following items to the end of the section.

4. Three sets of the construction documents to the Contractor and two sets to the Owner.
5. One full size copy of the record drawings and CD with record drawings in PDF and AutoCAD, and PDF of all reports, certifications, shop drawings and submittals, and other appropriate information.

Section 2.15, Extra Work of Amendment No. 1 to the original contract is hereby amended to revise item 13. Replace "Construction Services" with "Construction Services beyond items listed in Section 2.8".

Section 3.0, Payment of the original contract and Amendment No. 1 is hereby amended to revise the FEE AMOUNT for Construction Services and TOTAL FEE in the table. Replace "\$0 (may be added by amendment)" for Construction Services with "\$196,800.00". Replace "\$112,036.25" for TOTAL FEE with "308,836.25". In the paragraph following the table, replace "The total amount paid to GARVER under this agreement is estimated to be \$112,036.25." with "The total amount paid to GARVER under this agreement is estimated to be \$308,836.25."



This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Owner and GARVER have executed this Amendment effective as of the date last written below.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Mayor, Lioneld Jordan

ATTEST:

By: _____

City Clerk

GARVER, LLC

By: Scott Zotti Digitally signed by
Scott Zotti
Date: 2016.08.31
12:53:02-05'00'

Vice President, Scott Zotti

By: [Signature]

Project Manager

APPENDIX B

City of Fayetteville

Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414

CONSTRUCTION PHASE SERVICES - Revised 08/31/2016

WORK TASK DESCRIPTION	E-3	E-2	E-1	C-3	T-2	T-1	2-Man Crew (Survey)
	\$143.00	\$125.00	\$102.00	\$119.00	\$95.00	\$74.00	\$187.00
	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering							
Preconstruction Meeting	8			4			
Weekly (21) Progress Meetings with Contractor/City	50			42			
Monthly (6) Pay Requests	30						
Shop Drawings/Material Submittals	8	16					
Record Drawings and Documents	4				24		
Full Time Construction Observation (8 hrs/day, 5 days/week, 180 c-days)				1029			
Periodic Engineer Site Visits	50						
ADEQ STAA Coordination			2				
Survey Field checking Contractor							16
Prepare Field and Change Orders and AHTD Coordination	16	30					
Final Project Inspection and Punchlist	8			8			
Closeout Documents	8				8		
Project Management	48						
Allowance for extra work authorized by Owner	80			80			
Subtotal - Civil Engineering	310	46	2	1163	32	0	16
2. Structural Engineering							
Subtotal - Structural Engineering	0	0	0	0	0	0	0
3. Mechanical Engineering							
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0
4. Electrical Engineering							
Subtotal - Electrical Engineering	0	0	0	0	0	0	0

Hours	310	46	2	1163	32	0	16
Salary Costs	\$44,330.00	\$5,750.00	\$204.00	\$138,397.00	\$3,040.00	\$0.00	\$2,992.00

SUBTOTAL - SALARIES: \$194,713.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$1,218.15
Postage/Freight/Courier	\$75.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs (@ \$0.42/mile)	\$793.85

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$2,087.00

SUBTOTAL: \$196,800.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$196,800.00

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

THIS AGREEMENT is made as of February 17, 2015, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and GARVER, LLC (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

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

SECTION 2 - BASIC SERVICES OF ENGINEER

- 2.1 Perform professional services in connection with the Project as hereinafter stated.
 - 2.1.1 The Scope of Services to be furnished by ENGINEER during the Project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

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

- 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 3.1.3 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform his services under this Agreement.
- 3.1.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 3.1.6 The City Engineer is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 3.1.7 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for this Agreement shall be based upon on a Unit Price or Lump Sum basis as described in Appendix A.
- 5.2 Statements
 - 5.2.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with ENGINEER'S normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project.

Applications for payment shall be made in accordance with a format to be developed by ENGINEER and as approved by CITY OF FAYETTEVILLE. Applications for payment

shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the study and report for the Project.

5.3 Payments

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

5.4 Final Payment

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

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

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

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

- 6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

- 6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of ENGINEER.

6.3 Cost Opinions and Projections

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

6.4 Changes

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

6.5 Termination

- 6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
- 6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 6.5.1.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

- 6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 6.5.2.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - 6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
 - 6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.
- 6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.
- 6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, ENGINEER shall:
 - 6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
 - 6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.
- 6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.
- 6.6 Delays
 - 6.6.1 In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

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

6.8 Dispute Resolution

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

- 6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

6.8.3 Notice of Dispute

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

- 6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

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

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

6.10 Publications

- 6.10.1 Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE

may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

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

6.12 Ownership of Documents

- 6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.
- 6.12.2 Engineering documents, drawings, and specifications prepared by ENGINEER as part of the Services shall become the property of CITY OF FAYETTEVILLE when ENGINEER has been compensated for all Services rendered, provided, however, that ENGINEER shall have the unrestricted right to their use. ENGINEER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of ENGINEER.
- 6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.13 Notices

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

CITY OF FAYETTEVILLE's address:
125 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
2049 E. Joyce Blvd, Suite 400
Fayetteville, Arkansas 72703

6.14 Successor and Assigns

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

6.15 Controlling Law

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

6.16 Entire Agreement

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

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of ENGINEER

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

7.2 Remedies

- 7.2.1 Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising out of or relating to this Agreement or the breach thereof will be

decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

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

7.3.2 Records under Paragraph 7.3.1 above shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

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

7.3.3.1 Negotiated prime agreements:

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

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

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

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

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

7.4 Covenant Against Contingent Fees

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

7.5 Gratuities

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

7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER 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.

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

CITY OF FAYETTEVILLE, ARKANSAS

ENGINEER

By: 
Mayor, Lioneld Jordan

By: 
Vice President, Scott Zotti

ATTEST:
By: 
City Clerk

By: 
Project Manager



END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



APPENDIX A – SCOPE OF SERVICES - REVISED

2.1 General

Generally, the scope of services includes surveying, design, and preparation of property acquisition documents for improvements to relocate City of Fayetteville owned water and wastewater facilities to accommodate roadway improvements by others, Porter Road – Highway 112/71B Widening and Interchange Improvements (AHTD Job BB0414) in Fayetteville, Arkansas. The water and sanitary sewer relocations will be along Highway 112 from Drake Street to Truckers Drive and along the southern portion of the AHTD Improvements from McConnell Avenue to the Fulbright Expressway. Specifically, the gravity sewer relocations, up to 15 inch, include approximately 5,000 linear feet, and the water line relocations, up to 12 inch, include approximately 3,000 linear feet.

2.2 Surveys

2.2.1 Design Surveys

Garver will provide supplemental survey data for designing the project, and this survey will be tied to AHTD control. Garver will utilize previous survey data by others for AHTD Job BB0414, and assume the previous data is correct. Previous survey control points will be used for the supplemental survey and construction by others. Garver will not set any new survey control. In addition to topographic survey outside the limits previously surveyed, the supplemental survey will include sanitary sewer manhole rim and inverts, water facilities, and other utilities marked by utility owners. Work beyond 10 days for Design Surveys for a two man survey crew, at 10 hours per day, is Extra Work. The City of Fayetteville will reimburse Garver for ARKUPS (utility marking). Utility marking beyond \$2,500 is Extra Work.

2.2.2 Property Surveys

Garver will provide supplemental survey data for property surveys for preparing property acquisition documents. Work beyond 20 hours for Property Surveys for a two man survey crew is Extra Work. Garver will utilize previous record research, property deeds obtained by others for AHTD Job BB0414. Garver will subcontract with an abstractor to obtain existing easements, and Garver will show existing easements on construction drawings and property acquisition documents. The City of Fayetteville will reimburse Garver for record research. Record research beyond \$3,500 is Extra Work.

2.3 Coordination

Garver will furnish electronic plans and coordinate with all known utility owners potentially affected by the project. Garver will include the surveyed locations of the observable and marked utilities in the construction plans. Any special requirements by utility owners will be noted on the construction drawings. In addition to utilities, Garver will furnish final plans and coordinate approval with AHTD.

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



2.4 Environmental Services

GARVER will perform wetland delineation for the entire project outside the proposed AHTD right-of-way. GARVER will prepare a wetland report and submit to the US Army Corps of Engineers (USACE) requesting a jurisdictional determination if required. If USACE requires mitigation, a mitigation plan and approval is considered Extra Work outside this agreement. GARVER will also request authorization to proceed under a Nationwide 404 permit. If an individual 404 permit is required, it shall be considered Extra Work outside this agreement. For stream crossings, Garver will notify the Arkansas Department of Environmental Quality (ADEQ) during construction, and the CITY OF FAYETTEVILLE will pay all permitting fees for the Short Term Activity Authorization(s) (STAA) outside this agreement. GARVER will note stream crossings on construction drawings. GARVER will prepare and submit initial clearance letters from the US Fish and Wildlife Service (USFWS) and the State Historic Preservation Officer (SHPO). If USFWS or SHPO requires a cultural resource survey, an endangered species survey, or any other items, this shall be considered Extra Work outside this agreement. GARVER will prepare a Stormwater Pollution Prevention Plan (SWPPP). Surface disturbance will be limited to less than 5 acres. As such, submittal of the SWPPP and fee to ADEQ is considered Extra Work.

2.5 Detailed Design

During the detailed design phase of the project, Garver will conduct final designs to prepare construction plans and specifications, for one construction contract, including final construction details and quantities, special provisions, and opinion of probable construction cost with AHTD cost sharing. Garver will conduct a workshop with the City of Fayetteville to review the Detailed Design and make any needed changes based upon written comments provided by the City of Fayetteville. Garver will also make final field inspection with City of Fayetteville, make any needed plan changes as a result of the final field inspection and/or special easement acquisition considerations, and prepare the construction documents as required to advertise for bids.

2.6 Property Acquisition Documents

Garver will provide mapping as required for preparing easement acquisition documents for the City of Fayetteville's use in acquiring the property. Documentation will include an individual tract map with description of temporary and permanent acquisition for each property. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than 20 properties.

2.7 Bidding Services

Bidding Services are excluded and may be added by amendment as approved by the City of Fayetteville and Garver.

2.8 Construction Phase Services

Construction Phase Services are excluded and may be added by amendment as approved by the City of Fayetteville and Garver. In the event GARVER's Scope of Services under this agreement is not amended to include construction phase services, the City of Fayetteville assumes all responsibility for interpretation of the Construction Contract Documents and for construction observation and supervision and waives any claims against GARVER that may be in any way connected thereto.

In addition, the City of Fayetteville agrees, to the fullest extent permitted by law, to indemnify and hold GARVER harmless from any loss, claim or cost, including reasonable attorneys' fees and costs of



defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Construction Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of GARVER.

2.14 Project Deliverables

The following will be submitted to the City of Fayetteville, or others as indicated, by Garver:

1. Three full size copies of the Detailed Design plans, specifications, and opinion of probable construction cost with cost sharing to the City of Fayetteville.
2. Electronic copies of all correspondence to the City of Fayetteville.
3. Electronic files as requested by the City of Fayetteville and AHTD.

2.15 Extra Work

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

1. Redesign for the City of Fayetteville's convenience or due to changed conditions after previous alternate direction and/or approval.
2. Improvements to water and sewer facilities at locations beyond what is required to accommodate AHTD improvements.
3. Submittals or deliverables in addition to those listed herein.
4. Geotechnical services.
5. Design of any utilities relocation other than water and sewer.
6. Retaining walls or other significant structural design beyond that required for water and sanitary sewer relocations.
7. Construction materials testing.
8. Environmental Handling, including NEPA documentation and other environmental clearances beyond initial coordination letters from SHPO, USACE, and USFWS.
9. Wetland mitigation plans, cultural resource surveys, threatened, endangered, and candidate species surveys, and any other work related to environmentally or historically (culturally) significant items.
10. Preparation of AHTD Utility Permits.
11. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
12. Arkansas Department of Health coordination, approval, and review fee.
13. Bidding and Construction Services.
14. Services after construction, such as warranty follow-up, operations support, etc.

Extra Work will be as directed by the City of Fayetteville in writing for an additional fee as agreed upon by the City of Fayetteville and Garver.

2.16 Schedule

Garver shall begin work under this Agreement upon receipt of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Detailed Design	45 days from Notice to Proceed

3.0 Payment



For the work described herein the CITY OF FAYETTEVILLE, except for property record research and ARKUPS, will pay GARVER on an hourly rate basis. The CITY OF FAYETTEVILLE represents that funding sources are in place with the available funds necessary to pay GARVER.

If any payment due GARVER under this agreement is not received within 60 days from date of invoice, GARVER may elect to suspend services under this agreement without penalty or liquidated damages assessed from the CITY OF FAYETTEVILLE.

The table below presents a summary of the fee amounts and fee types for this contract.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
ARKUPS (Utility Marking)	\$2,500	Direct Cost + 10%
Record Research (Abstractor)	\$3,500	Direct Cost + 10%
Design and Property Surveys	\$29,860.50	Hourly Rate + Expenses
Environmental Services	\$9,093.75	
Detailed Design	\$44,588.25	
Property Acquisition Documents	\$13,200	
Bidding Services	\$0 (may be added by amendment)	
Construction Services	\$0 (may be added by amendment)	
TOTAL FEE	\$102,742.50	

Except for ARKUPS and Record Research, the CITY OF FAYETTEVILLE will pay GARVER, for time spent on the project, at the rates shown in Appendix B for each classification of GARVER's personnel (may include contract staff classified at GARVER's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. For ARKUPS and Record Research, the City of Fayetteville will reimburse Garver the actual amount invoiced to Garver plus a ten (10) percent administrative fee. The total amount paid to GARVER under this agreement is estimated to be \$102,742.50. The actual total fee may not exceed this estimate without authorization from the CITY OF FAYETTEVILLE. The rates shown in Appendix B will be increased 4% annually with the first increase effective on or about June 1, 2015. For any delays beyond Garver's control, any unused portion of the fee will be increased 4% annually with the first increase on June 1, 2016. Underruns in any phase may be used to offset overruns in another phase as long as the overall contract amount is not exceeded. For informational purposes, a breakdown of GARVER's estimated costs are included in Appendix B.

Expenses other than salary costs that are directly attributable to performance of our professional services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.
2. Direct cost for subcontract/subconsultant fees.
3. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.
4. The amount allowed by AHTD (\$0.42 per mile) for mileage.
5. \$20 per hour for GPS survey equipment use for Environmental Services only, excludes design and property surveys.

The CITY OF FAYETTEVILLE will pay GARVER on a monthly basis, based upon statements submitted by GARVER to the CITY OF FAYETTEVILLE for the scope of services described in this



agreement. Payments not received within 60 days of invoice date will be subject to a one percent monthly simple interest charge.

As directed by the CITY OF FAYETTEVILLE, some billable work may have been performed by GARVER prior to execution of this agreement. Payment for this work will be made in accordance with the fee arrangement established herein, as approved by the CITY OF FAYETTEVILLE.

Additional Services (Extra Work). For work not described or included herein but requested by the CITY OF FAYETTEVILLE in writing, the CITY OF FAYETTEVILLE will pay GARVER, for time spent on the project, at the rates shown in Appendix B for each classification of GARVER's personnel (may include contract staff classified at GARVER's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The rates shown in Appendix B will be increased 4% annually with the first increase effective on or about June 1, 2015.

4.0 Appendices

The following Appendices are attached to and made a part of this Agreement:

Appendix B – Hourly Rate Schedule and Estimated Costs

APPENDIX B

CITY OF FAYETTEVILLE

Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414

ESTIMATED FEE SUMMARY

Title I Services	Estimated Fees
<i>ARKUPS (Utility Marking)</i>	\$2,500.00
<i>Record Research</i>	\$3,500.00
Design and Property Surveys	\$29,860.50
Environmental Services	\$9,093.75
Detailed Design	\$44,588.25
Property Acquisition Documents	\$13,200.00
Total for Title I Services	\$102,742.50

APPENDIX B

CITY OF FAYETTEVILLE

Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414

DESIGN AND PROPERTY SURVEYS

WORK TASK DESCRIPTION	E-3	S-5	S-4	2-Man Crew (GPS Survey)	X-2	T-2
	\$132.00	\$141.00	\$107.00	\$192.00	\$73.00	\$87.00
	hr	hr	hr	hr	hr	hr
1. Surveys - Topographic						
Coordination for Surveys	4	8				
Topographic Surveys				100		
Data Processing and Drawing and Surface Updates			16			
Subtotal - Surveying	4	8	16	100	0	0
2. Surveys - Property						
Coordination for Surveys	1	4				
Property Surveys				20		
Data Processing			8			
Adding Existing Easements and Drawing Updates			16			
Subtotal - Surveying	1	4	24	20	0	0

Hours	5	12	40	120	0	0
Salary Costs	\$660.00	\$1,692.00	\$4,280.00	\$23,040.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$29,672.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$20.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$50.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs (@ \$0.42/mile)	\$118.50

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$188.50

SUBTOTAL: \$29,860.50

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$29,860.50

APPENDIX B**CITY OF FAYETTEVILLE****Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414****ENVIRONMENTAL SERVICES**

WORK TASK DESCRIPTION	E-5	E-4	E-3	P-1	T-2	X-2	X-1
	\$187.00	\$153.00	\$132.00	\$113.00	\$87.00	\$73.00	\$54.00
	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering							
Wetlands Delineation				6			
SHPO and USFW Clearance Letters				4			
USACE Nationwide and Wetland Report				12			
SWPPP				8			
Erosion Control Plans and Details				16	24		
Coordination with City			4				
QA/QC			8				
Subtotal - Civil Engineering	0	0	12	46	24	0	0
2. Structural Engineering							
Subtotal - Structural Engineering	0	0	0	0	0	0	0
3. Mechanical Engineering							
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0
4. Electrical Engineering							
Subtotal - Electrical Engineering	0	0	0	0	0	0	0
Hours	0	0	12	46	24	0	0
Salary Costs	\$0.00	\$0.00	\$1,584.00	\$5,198.00	\$2,088.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$8,870.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$60.00
Postage/Freight/Courier	\$25.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$120.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs (@ \$0.42/mile)	\$18.75

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$223.75

SUBTOTAL: \$9,093.75

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$9,093.75

APPENDIX B

CITY OF FAYETTEVILLE

Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414

DETAILED DESIGN

WORK TASK DESCRIPTION	E-3	E-2	E-1	T-2	C-3	T-1	S-4
	\$132.00	\$108.00	\$94.00	\$87.00	\$130.00	\$68.00	\$107.00
	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering							
Quality Control	4				8		
Owner/AHTD/Utility Coordination	24	16		8			
Drawings							
Cover	1						
General Notes and Survey Control	2		4				
Design and Water and Sewer Plan and Profiles (16 sheets)	32		80	100			
Construction Details	4		8	8			
Construction Quantities and Cost Sharing	2		8				
Specifications	12					8	
Project Management	40						
Owner Workshop	4						
Field Inspection	8						
Easement Considerations	2			8			
Owner and AHTD Comments	4		4	16			
Arkansas Department of Health	2			4			
Subtotal - Civil Engineering	141	16	104	144	8	8	0
2. Structural Engineering							
Subtotal - Structural Engineering	0	0	0	0	0	0	0
3. Mechanical Engineering							
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0
4. Electrical Engineering							
Subtotal - Electrical Engineering	0	0	0	0	0	0	0

Hours	141	16	104	144	8	8	0
Salary Costs	\$18,612.00	\$1,728.00	\$9,776.00	\$12,528.00	\$1,040.00	\$544.00	\$0.00

SUBTOTAL - SALARIES: \$44,228.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$300.00
Postage/Freight/Courier	\$25.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs (@ \$0.42/mile)	\$35.25

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$360.25

SUBTOTAL: \$44,588.25

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$44,588.25

APPENDIX B

CITY OF FAYETTEVILLE

Porter Rd-HWY 112/71B Widening and Interchange - AHTD Job BB0414

PROPERTY ACQUISITION DOCUMENTS

WORK TASK DESCRIPTION	E-3	S-5	S-4	T-2	X-2
	\$132.00	\$141.00	\$107.00	\$87.00	\$73.00
	hr	hr	hr	hr	hr
1. Acquisition Documents					
Easement Acquisition Documents		30	80		
Coordination with Owner	2				
Subtotal - Civil Engineering	2	30	80	0	0

Hours	2	30	80	0	0
Salary Costs	\$264.00	\$4,230.00	\$8,560.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$13,054.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$146.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Locator/Tracer/Thermal Imager Equipment	\$0.00
Travel Costs (@ \$0.42/mile)	\$0.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$146.00

SUBTOTAL: \$13,200.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$13,200.00



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

Resolution: 222-15

File Number: 2015-0532

GARVER, LLC AMENDMENT NO. 1:

A RESOLUTION TO APPROVE AMENDMENT NO. 1 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$9,293.75 TO ADD BIDDING PHASE SERVICES FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE

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

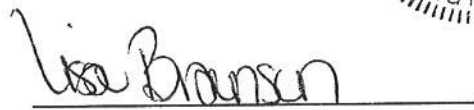
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the contract with Garver, LLC in the amount of \$9,293.75 to add bidding phase services for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange.

PASSED and APPROVED on 12/15/2015

Approved:


Lioneld Jordan, Mayor

Attest:


Lisa Branson, Deputy City Clerk





AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES
City of Fayetteville, Arkansas
Project No. 15048160

CONTRACT AMENDMENT NO. 1

This Contract Amendment No. 1, effective on the date last written below, shall amend the original contract between the CITY OF FAYETTEVILLE (Owner) and GARVER, LLC (GARVER), dated February 17, 2015 referred to in the following paragraphs as the original contract.

This Contract Amendment No. 1 adds professional services for the:

Porter Road-HWY 112/71B Widening and Interchange – AHTD Job BB0414

The original contract is hereby modified as follows:

APPENDIX A – SCOPE OF SERVICES

Section 2.7, Bidding Services of the original contract is hereby amended to omit "~~Bidding Services are excluded and may be added by amendment as approved by the City of Fayetteville and Garver.~~", and add the following:

During the bidding phase of the project, GARVER will:

1. Prepare and submit Advertisement for Bids to the CITY OF FAYETTEVILLE. The CITY OF FAYETTEVILLE will pay advertising costs outside of this contract. The CITY OF FAYETTEVILLE will dispense construction contract documents to prospective bidders.
2. Support the contract documents by preparing addenda as appropriate.
3. Participate in a pre-bid meeting.
4. Attend the bid opening.
5. Prepare bid tabulation.
6. Evaluate bids and recommend award.
7. Prepare construction contracts.

Section 2.15, Extra Work of the original contract is hereby amended to revise item 13. Replace "Bidding and Construction Services" with "Construction Services".

Section 3.0, Payment of the original contract is hereby amended to revise the FEE AMOUNT for Bidding Services and TOTAL FEE in the table. Replace "\$0 (may be added by amendment)" for Bidding Services with "\$9,293.75". Replace "\$102,742.50" for TOTAL FEE with "112,036.25". In the paragraph following the table, replace "The total amount paid to GARVER under this agreement is estimated to be \$102,742.50." with "The total amount paid to GARVER under this agreement is estimated to be \$112,036.25."



This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Owner and GARVER have executed this Amendment effective as of the date last written below.

CITY OF FAYETTEVILLE

GARVER, LLC

By: *Lionel Jordan*
Signature

By: *Steven M Jones*
Signature

Name: Lionel Jordan
Printed Name

Name: Steven M Jones
Printed Name

Title: Mayor

Title: Senior Vice President

Date: 12/15/2015

Date: 11/10/2015

Attest: *Lisa Barron*

Attest: *Chris Buntin*

Digitally signed
by Chris Buntin
Date:
2015.11.11
08:59:30-06'00'



Budget Year	Division	Adjustment Number
2016	WATER SEWER (720)	
	/Org2	
	Requestor: Cheryl Partain	

A BA is needed within the Water/Sewer Relocations-Bond Projects for the I-49 Interchange/Hwy 112 Relocates project for engineering services by Garver Engineers. This BA is to cover cost for the engineering services contract amendment 2 with Garver to provide construction phases services including construction observation for the I-49 Interchange project. This water/sewer relocation project is 87.06% reimbursable from the Arkansas Highway and Transportation Department.

RESOLUTION/ORDINANCE

v.20160722

Account Number	Expense	Revenue	Project	Sub	AT	Account Name
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[illegible]



City of Fayetteville, Arkansas

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

Text File

File Number: 2016-0338

Agenda Date: 9/20/2016

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Presentation

Agenda Number: E. 1

AGENDA SESSION PRESENTATION - 2017 GENERAL FUND BUDGET DISCUSSION

Agenda Session 9-13-16

D.8 & D.9 Consent

City of Fayetteville, Arkansas

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



Meeting Agenda - Tentative Agenda

Tuesday, September 13, 2016

4:30 PM

City Hall Room 326

City Council Agenda Session

*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*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

✓ 1. 2016-0119

NOMINATING COMMITTEE REPORT

Agenda Additions

A. Consent:

✓ A. 1 2015-0655

APPROVAL OF THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING MINUTES.

✓ A. 2 2016-0417

BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:

A RESOLUTION TO AWARD BID NO. 16-51 AND AUTHORIZE A CONTRACT WITH MULTI-CRAFT CONTRACTORS, INC. FOR PLUMBING SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.

✓ A. 3 2016-0418

BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:

A RESOLUTION TO AWARD BID NO. 16-52 AND AUTHORIZE A CONTRACT WITH ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS FOR HVAC SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

Attachments: BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS

A. 4 ✓ 2016-0416**WEX BANK:**

A RESOLUTION TO APPROVE A CONTRACT WITH WEX BANK, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, TO ENABLE THE CITY TO PARTICIPATE IN A FUEL CARD PROGRAM

Attachments: WEX BANK

A. 5 ✓ 2016-0399**2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:**

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF \$116,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT
BA 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT

A. 6 ✓ 2016-0414**FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:**

A RESOLUTION TO APPROVE A JOINT LEASE AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT FOR PORTIONS OF JEFFERSON ELEMENTARY SCHOOL, HOLCOMB ELEMENTARY SCHOOL AND LAKE FAYETTEVILLE

Attachments: FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT

A. 7 ✓ 2016-0410**GAMETIME C/O CUNNINGHAM RECREATION:**

A RESOLUTION TO APPROVE THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME C/O CUNNINGHAM RECREATION FOR THE ELLEN SMITH HEAD START CENTER LOCATED AT 2052 SOUTH GARLAND AVENUE IN THE AMOUNT OF \$32,061.63, INCLUDING THE COST OF INSTALLATION, PURSUANT TO A U.S. COMMUNITIES NATIONAL COOPERATIVE PURCHASING PROGRAM CONTRACT

Attachments: GAMETIME C/O CUNNINGHAM RECREATION

A.8 2016-0422**TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION:**

A RESOLUTION TO AUTHORIZE THE PURCHASE OF KITCHEN EQUIPMENT FOR THE FAYETTEVILLE SENIOR CENTER FROM TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION IN AN AMOUNT NOT TO EXCEED \$95,000.00, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, CONTINGENT UPON APPROVAL BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Attachments: TRIMARK STRATEGIC EQUIPMENT AND SUPPLY CORPORATION

B. Unfinished Business:**B.1** 2016-0328**RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES

(LEFT ON FIRST READING)

Attachments: RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE)
BILL OF ASSURANCE

At the July 19, 2016 City Council meeting this ordinance was left on the first reading. At the August 2, 2016 City Council Meeting this ordinance was left on the first reading and tabled indefinitely. At the September 6, 2016 City Council meeting this ordinance was left on the first reading and tabled to the September 20, 2016 City Council meeting.

~~B.2~~ 2016-0382

RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5500 FOR APPROXIMATELY 0.23 ACRES LOCATED AT 335 EAST 7TH STREET FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

(LEFT ON FIRST READING)

Attachments: RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL

At the September 6, 2016 City Council meeting this ordinance was left on the first reading.

C. Public Hearing:

~~C.1~~ 2016-0419

CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATIONS:

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY DRAKE ST PROPERTY, LLC, 1155 PROPERTIES, RPM1 PROPERTIES - FAYETTEVILLE, LLC A/K/A RPM1 PROPERTIES, LLC, AND NELMS, LLLP FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - INTERSTATE 49 AND HIGHWAY 112 INTERCHANGE, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCATION
BA CONDEMNATION AND POSSESSION FOR WATER AND SEWER RELOCAT

D. New Business:

~~D.1~~2016-0413**LIBRARY IMPROVEMENT BONDS:**

New
Ord.
Check
title

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

Attachments:LIBRARY IMPROVEMENT BONDS~~D.2~~2016-0398**2016 MILLAGE LEVY:**

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2016 FIXING THE RATE THEREOF AT 2.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 2.5 MILLS FOR FAYETTEVILLE PUBLIC LIBRARY OPERATIONS, AND 1.2 MILLS FOR THE FAYETTEVILLE PUBLIC LIBRARY EXPANSION; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

Attachments:2016 MILLAGE LEVY~~D.3~~2016-0406**RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5521 FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTHEAST OF SOUTH STREET AND SOUTH COLLEGE AVENUE FROM NC, NEIGHBORHOOD CONSERVATION TO RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE

Attachments:RZN 16-5521 (SE OF SOUTH ST. & COLLEGE AVE./FAYETTEVILLE RENTALS)

D. 4 2016-0397**RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5535 FOR APPROXIMATELY 14.20 ACRES LOCATED AT THE EAST END OF BORICK DRIVE FROM I-2, GENERAL INDUSTRIAL AND R-A, RESIDENTIAL AGRICULTURAL TO P-1, INSTITUTIONAL

Attachments: RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER)

D. 5 2016-0392**VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):**

AN ORDINANCE TO APPROVE VAC 16-5536 SUBMITTED BY MIKE BAUMANN FOR PROPERTY LOCATED AT THE SOUTH END OF MARKS MILL LANE TO VACATE PORTIONS OF A UTILITY, DRAINAGE AND ACCESS EASEMENT

Attachments: VAC 16-5536: (S. END OF MARKS MILL LN./SUMMIT PLACE S/D)

D. 6 2016-0401**ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):**

AN ORDINANCE TO AMEND THE SPRINGWOODS COMMERCIAL PLANNED ZONING DISTRICT TO ALLOW SINGLE FAMILY DWELLINGS AS A USE BY RIGHT ON TRACTS 2, 3, AND 4 OF LOT 2

Attachments: ADM 16-5538 (2180 W/ MOORE LN./SPRINGWOODS C-PZD MODIFICATION)

D. 7 2016-0415**ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-SHARE AGREEMENT:**

A RESOLUTION TO APPROVE A COST-SHARE AGREEMENT WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION TO ADD A PEDESTRIAN AND BICYCLE SHARED USE PATH TO THE WEDINGTON DRIVE BRIDGE OVER INTERSTATE 49 WITH THE CITY'S PORTION OF THE COST NOT TO EXCEED \$415,000.00

Attachments: ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-

Consent (D. 8)2016-0420**BID NO. 16-49 GOODWIN & GOODWIN, INC.:**

A RESOLUTION TO AWARD BID NO. 16-49 AND AUTHORIZE A CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$3,286,735.00 FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$328,673.50, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:BID NO. 16-49 GOODWIN & GOODWIN, INC.BA BID NO. 16-49 GOODWIN & GOODWIN, INC.Consent (D. 9)2016-0421**GARVER, LLC AMENDMENT NO. 2:**

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$196,800.00 TO ADD CONSTRUCTION PHASE SERVICES FOR THE WATER AND SEWER RELOCATIONS ASSOCIATED WITH ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT PROJECT BB0414 - PORTER ROAD-HIGHWAY 112/71B WIDENING AND INTERCHANGE IMPROVEMENTS, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments:GARVER, LLC AMENDMENT NO. 2BA GARVER, LLC AMENDMENT NO. 2**E. City Council Agenda Session Presentations:****E. 1** 2016-0338

AGENDA SESSION PRESENTATION - 2017 GENERAL FUND BUDGET DISCUSSION

F. City Council Tour:**G. Announcements:****H. 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 479-575-8330.

A copy of the complete City Council agenda is available at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, in compliance with the provisions of Amendment 30 to the Constitution of the State of Arkansas, as amended by Amendment 72 to the Constitution of the State of Arkansas (as amended, "Amendment 30"), and the Local Government Library Bond Act of 1993, codified as Arkansas Code Annotated (1998 Repl. & 2016 Supp.) Sections 14-142-201 *et seq.* (as from time to time amended, the "Act"), petitions were delivered to the City requesting the submission of questions to the qualified electors of the City on the levying of certain *ad valorem* taxes and the issuance of bonds secured thereby to finance a portion of the costs of acquiring, constructing and equipping various capital improvements to the Fayetteville Public Library, including, but not limited to, new buildings, parking decks, additions, annexes and other expansions and renovations (collectively, the "Project"); and

WHEREAS, in compliance with the provisions of Amendment 30 and the Act and pursuant to the provisions of Ordinance No. 5876 of the City, adopted and approved on May 17, 2016 (the "Election Ordinance"), there was submitted to the qualified electors of the City a question regarding the levy of one and two-tenths (1.2) mill city tax on real and personal property within the City (the "Tax") to be pledged to an issue or issues of capital improvement bonds not to exceed \$26,500,000 in aggregate principal amount for the purpose of financing the Project; and

WHEREAS, at a special election held August 9, 2016, a majority of the qualified electors of the City voting on the question approved the levy of the Tax and the issuance of the capital improvement bonds; and

WHEREAS, as authorized under the provisions of Amendment 30 and the Act and as approved by the qualified electors of the City, the City has now determined to issue and sell its Library Improvement Bonds in aggregate principal amount not to exceed \$26,500,000 (the "Bonds"), in order to provide for the funding of the Project; and

WHEREAS, the City has made arrangements for the sale of the Bonds to Stephens Inc., Fayetteville, Arkansas (the "Underwriter"), pursuant to the terms of a Bond Purchase Agreement between the City and the Underwriter (the "Bond Purchase Agreement") in substantially the form presented to and before this meeting;

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

Section 1. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 30 and the Act, there is hereby authorized the issuance of bonds of the City to be designated as "Library Improvement Bonds" (the "Bonds"). The Bonds shall be issued in one or more series in aggregate principal amount not to exceed Twenty-Six Million Five Hundred Thousand Dollars (\$26,500,000) and shall mature not later than December 1, 2047, in the principal amounts and bearing interest at the rates specified in the Bond Purchase Agreement. The average yield on the Bonds as a whole shall not exceed 5.00% per annum. The Bonds shall not be general obligations of the City, but shall be special obligations secured by and payable solely from proceeds of the Tax, the Special Tax Collections and other moneys, funds and amounts more specifically identified in the Trust Indenture (each as defined below).

The proceeds of the Bonds will be utilized to finance the costs of the Project, to establish a debt service reserve for the Bonds or to purchase a surety bond or debt service reserve insurance policy for reserve purposes, if deemed economically beneficial, to pay a premium for bond insurance, if deemed economically beneficial, and to pay printing, underwriting, legal and other expenses incidental to the issuance of the Bonds. The Mayor, City Clerk and the City's Chief Financial Officer are hereby authorized to take all action necessary to accomplish the acquisition, construction and equipping of the Project.

The Bonds shall be issued in the form and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity, and shall contain such other terms, covenants and conditions, all as set forth in the Trust Indenture submitted to this meeting.

The Mayor is hereby authorized and directed to execute and deliver the Bonds in one or more series, each series to be in substantially the form thereof contained in the Trust Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Bonds to be accepted and authenticated by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Kutak Rock LLP, Little Rock, Arkansas ("Bond Counsel"), in order to complete the Bonds in substantially the form contained in the Trust Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Bonds, their execution to constitute conclusive evidence of such approval.

Section 2. In order to pay the principal of and interest on the Bonds as they mature or are called for redemption prior to maturity, there are hereby pledged all of the receipts of the one and two-tenths (1.2) mill city tax on real and personal property within the City, together with all penalties and interest payable with respect thereto (the "Tax"), approved by the electors of the City, as well as the City's allocable portion of the one-half of one percent (0.5%) statewide sales and use tax implemented pursuant to Amendment 79 to the Constitution of the State of Arkansas ("Amendment 79") which is intended to offset any decreases in collections of the Tax resulting from the homestead exemption implemented pursuant to Amendment 79 (the "Special Tax

Collections”). The City Council covenants to levy the Tax in 2016 for collection in 2017, and to levy the Tax in subsequent years as provided under the laws of the State of Arkansas until such time as the Bonds are no longer outstanding or sufficient funds are on deposit with the Trustee to redeem the Bonds in full. The City covenants and agrees that all receipts from the Tax and the Special Tax Collections will be deposited and will be used solely as provided in the Trust Indenture (as defined below). In order to pay the principal of and interest on the Bonds as they mature or are called for redemption prior to maturity, together with fees and costs incidental thereto, there are hereby appropriated out of the proceeds of the Tax and the Special Tax Collections the sums necessary to pay the same.

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture (the “Trust Indenture”), by and between the City and Simmons Bank, Pine Bluff, Arkansas, as trustee (the “Trustee”), and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the pledge of the Tax receipts and the terms of the Bonds. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Trust Indenture in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Trust Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Trust Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Bonds. The Preliminary Official Statement is hereby “deemed final” by the City within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the “Official Statement,” and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes as shall be approved by such persons, the Mayor’s execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. In order to prescribe the terms and conditions upon which the Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and between the City and the Underwriter, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. In order to provide for continuing disclosure of certain financial and operating information with respect to the Tax in compliance with the provisions of Rule 15c2-12 of the U. S. Securities and Exchange Commission, the Mayor is hereby authorized and directed to execute a Continuing Disclosure Agreement to be dated as of the date of its execution (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Trustee. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. In order to secure lower interest rates on the Bonds, the Underwriter has proposed that the City consider funding a debt service reserve be funded in conjunction with the issuance of the Bonds. Alternatively, the Underwriter has proposed that the City consider the purchase of a surety bond or a debt service reserve insurance policy with a portion of the proceeds of the Bonds. If deemed economically advantageous by the Mayor, upon the advice of the Underwriter, the Mayor is hereby authorized to execute an insurance commitment and to do any and all things necessary to accomplish the delivery of a surety bond or a debt service reserve insurance policy with respect to the Bonds.

Section 8. In order to secure lower interest rates on the Bonds, the Underwriter has proposed that the City consider the purchase of a policy of bond insurance with a portion of the proceeds of the Bonds, which policy would guarantee the payment of the principal of and interest on the Bonds when due. If deemed economically advantageous by the Mayor, upon the advice of the Underwriter, the Mayor is hereby authorized to execute an insurance commitment and to do any

and all things necessary to accomplish the delivery of a bond insurance policy with respect to the Bonds.

Section 9. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Bonds and to effect the execution and delivery of the Trust Indenture, the Bond Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and a Tax Regulatory Agreement relating to the tax exemption of interest on the Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 10. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

Section 11. The adoption of this Ordinance is intended as the City's "official intent" to make reimbursement from the proceeds of the Bonds for preliminary costs of the Project and related expenses advanced by or on behalf of the City.

Section 12. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 13. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and APPROVED this 20th day of September, 2016.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Pre Agenda Meeting 9/7/16

City of Fayetteville, Arkansas

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



Meeting Agenda - Tentative Agenda

Tuesday, September 20, 2016 ✓

4:30 PM

City Hall Room 326

City Council Agenda Session

*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*

ELECTED OFFICIALS:

*Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith*

Call To Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions

City Council Meeting Presentations, Reports and Discussion Items:

✓ 2016-0119

NOMINATING COMMITTEE REPORT

Agenda Additions

A. Consent:

✓ A1 2015-0655

✓ APPROVAL OF THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING MINUTES.

✓ A12 2016-0417

BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.:

A RESOLUTION TO AWARD BID NO. 16-51 AND AUTHORIZE A CONTRACT WITH MULTI-CRAFT CONTRACTORS, INC. FOR PLUMBING SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

✓ Attachments: BID NO. 16-51 MULTI-CRAFT CONTRACTORS, INC.

✓ A13 2016-0418

BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS:

A RESOLUTION TO AWARD BID NO. 16-52 AND AUTHORIZE A CONTRACT WITH ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS FOR HVAC SERVICES ON AN ON-CALL BASIS FOR A PERIOD OF ONE YEAR WITH AN AUTOMATIC OPTION TO RENEW FOR FOUR ADDITIONAL YEARS

✓ Attachments: BID NO. 16-52 ARACREBS II, LLC D/B/A ELITE BUILDING SOLUTIONS

AV4 2016-0416**WEX BANK:**

A RESOLUTION TO APPROVE A CONTRACT WITH WEX BANK, PURSUANT TO A NATIONAL JOINT POWERS ALLIANCE COOPERATIVE PURCHASING AGREEMENT, TO ENABLE THE CITY TO PARTICIPATE IN A FUEL CARD PROGRAM

Attachments: WEX BANK

AV5 2016-0399**2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT:**

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF \$116,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

Attachments: 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT
BA 2016-2017 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT

AV6 2016-0414**FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT:**

A RESOLUTION TO APPROVE A JOINT LEASE AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT FOR PORTIONS OF JEFFERSON ELEMENTARY SCHOOL, HOLCOMB ELEMENTARY SCHOOL AND LAKE FAYETTEVILLE

Attachments: FAYETTEVILLE PUBLIC SCHOOLS JOINT LEASE AGREEMENT

A. 7 2016-0415**ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION
COST-SHARE AGREEMENT:**

A RESOLUTION TO APPROVE A COST-SHARE AGREEMENT WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION TO ADD A PEDESTRIAN AND BICYCLE SHARED USE PATH TO THE WEDINGTON DRIVE BRIDGE OVER INTERSTATE 49 WITH THE CITY'S PORTION OF THE COST NOT TO EXCEED \$415,000.00

Attachments: ARKANSAS STATE HIGHWAY AND TRANSPORTATION COMMISSION COST-

✓
AV8 2016-0410Attachments: Playground Install Agenda Packet✓
AV9 2016-0422MB
next to last
A. 10 2016-0420

A. 11 2016-0421

B. Unfinished Business:

BV1 2016-0328

RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5442 FOR APPROXIMATELY 99.10 ACRES LOCATED AT 2514 WEST LORI ROAD FROM R-A, RESIDENTIAL AGRICULTURAL; RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO NC, NEIGHBORHOOD CONSERVATION; R-A, RESIDENTIAL AGRICULTURAL AND NS, NEIGHBORHOOD SERVICES

(LEFT ON FIRST READING)Attachments: RZN 16-5442 (2514 W. LORI RD./RAZORBACK GOLF COURSE)

At the August 2, 2016 City Council Meeting this ordinance was tabled indefinitely. At the July 19, 2016 this ordinance was left on the first reading.

At the September 6, 2016 City Council meeting this ordinance was left on the first reading and tabled to the September 20, 2016 City Council meeting. At the August 2, 2016 City Council Meeting this ordinance was tabled indefinitely. At the July 19, 2016 this ordinance was left on the first reading.

B/2 2016-0382

RZN 16-5500 (335 E. 7TH ST./NIEDERMAN) APPEAL:

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5500 FOR APPROXIMATELY 0.23 ACRES LOCATED AT 335 EAST 7TH STREET FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

Attachments: 16-5500 RZN CC Appeal

At the September 6, 2016 City Council meeting this ordinance was left on the first reading.

C. Public Hearing:

C/1 2016-0419

D. New Business:

D/1 2016-0406

RZN 16-5521 (SE OF SOUTH ST. & S. COLLEGE AVE./FAYETTEVILLE RENTALS):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5521 FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTHEAST OF SOUTH STREET AND SOUTH COLLEGE AVENUE FROM NC, NEIGHBORHOOD CONSERVATION TO RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE

Attachments: RZN 16-5521 (SE OF SOUTH ST. & COLLEGE AVE./FAYETTEVILLE RENTALS)

D/2 2016-0397

RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 16-5535 FOR APPROXIMATELY 14.20 ACRES LOCATED AT THE EAST END OF BORICK DRIVE FROM I-2, GENERAL INDUSTRIAL AND R-A, RESIDENTIAL AGRICULTURAL TO P-1, INSTITUTIONAL

Attachments: RZN 16-5535 (EAST END OF BORICK DR./CITY FIRE TRAINING CENTER)

D.3 2016-0392

VAC 16-5536 (S. END OF MARKS MILL LN./SUMMIT PLACE S/D):

AN ORDINANCE TO APPROVE VAC 16-5536 SUBMITTED BY MIKE BAUMANN FOR PROPERTY LOCATED AT THE SOUTH END OF MARKS MILL LANE TO VACATE PORTIONS OF A UTILITY, DRAINAGE AND ACCESS EASEMENT

Attachments: VAC 16-5536: (S. END OF MARKS MILL LN./SUMMIT PLACE S/D)

D.4 2016-0401

ADM 16-5538 (2180 W. MOORE LN./SPRINGWOODS C-PZD MODIFICATION):

AN ORDINANCE TO AMEND THE SPRINGWOODS COMMERCIAL PLANNED ZONING DISTRICT TO ALLOW SINGLE FAMILY DWELLINGS AS A USE BY RIGHT ON TRACTS 2, 3, AND 4 OF LOT 2

Attachments: ADM 16-5538 (2180 W/ MOORE LN./SPRINGWOODS C-PZD MODIFICATION)

D.5 2016-0398

2016 MILLAGE LEVY:

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2016 FIXING THE RATE THEREOF AT 2.3 MILLS FOR GENERAL FUND OPERATIONS, 0.4 MILLS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILLS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 2.5 MILLS FOR FAYETTEVILLE PUBLIC LIBRARY OPERATIONS, AND 1.2 MILLS FOR THE FAYETTEVILLE PUBLIC LIBRARY EXPANSION; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

Attachments: 2016 MILLAGE LEVY

D. 6 2016-0413

LIBRARY IMPROVEMENT BONDS:

Un bold

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S PUBLIC LIBRARY IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS TO THE FAYETTEVILLE PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

Attachments:

Agenda Packet 2016-0413.pdf

E. City Council Agenda Session Presentations:

E. 1 2016-0338

F. City Council Tour:

G. Announcements:

H. 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 479-575-8330.

A copy of the complete City Council agenda is available at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.