

AGENDA REQUEST

FOR: COUNCIL MEETING OF JANUARY 7, 2014

FROM:

ALDERMAN ADELLA GRAY

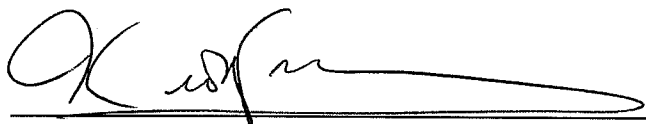
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO AMEND RESOLUTION NO. 144-13 TO APPROVE A SECOND AMENDED AGREEMENT WITH THE HUGHMOUNT DEVELOPERS

APPROVED FOR AGENDA:

Alderman Adella Gray

Date



City Attorney Kit Williams
(as to form)

December 26, 2013

Date

RESOLUTION NO. _____

A RESOLUTION TO AMEND RESOLUTION NO. 144-13 WHICH HAD APPROVED AN AMENDED AGREEMENT WITH THE HUGHMOUNT DEVELOPERS TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM IN ORDER TO APPROVE A SECOND AMENDED AGREEMENT

WHEREAS, on September 4, 2012, the Fayetteville City Council approved Resolution No. 183-12 which allowed the Hughmount Village Developers access to the City Sewerage System if they fulfilled the terms of the Contract To Allow Access To City Sewerage System; and

WHEREAS, the Contract To Allow Access To The City Sewerage System required: "All street frontage, density, lot area requirements, etc. (be the same) as if their property was zoned Residential Single Family, four units per acre;" and

WHEREAS, the Washington County Conditional Use Permit granted to Hughmount Village was incompatible with RSF-4 zoning; and

WHEREAS, the streets, drainage, sidewalks, water and sewer mains need be built to satisfy both Fayetteville and Washington County standards and the streets and drainage structures need to be dedicated to Washington County all as approved by the Fayetteville Planning Commission; and

WHEREAS, the developer needs to remove the alleys from his plat in order to sell the affected house lots, and the Washington County Planning Board has approved this new plat entitled Project #2013-155.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 144-13 to cancel the existing Amended Contract To Allow Access To City of Fayetteville Sewerage System which was approved by Resolution NO. 144-13 on June 18, 2013, and replace it with the Second Amended Agreement To Allow Access To City Sewerage System and To Impose Development Requirements, attached as Exhibit A.

Section 2: The City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign this Agreement.

PASSED and APPROVED this 7th day of January, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

**SECOND AMENDMENT TO
AGREEMENT TO ALLOW ACCESS TO CITY SEWERAGE SYSTEM
AND TO IMPOSE DEVELOPMENT REQUIREMENTS**

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, on September 4, 2012, the City Council of the City of Fayetteville passed Resolution NO. 183-12 permitting such access, but the terms of the Contract were incompatible with the Conditional Use Permit issued for this development by Washington County so that an Amended Agreement was needed and approved by Resolution NO. 144-13 on June 18, 2013; and

WHEREAS, the Developer now needs to remove the alleys from his development to be able to sell his lots and so slightly redesigned his plat which was approved by the Washington County Planning Board which granted a new Conditional Use for Project #2013-155, and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

- (1) All street frontage, density, lot area requirements, etc. as granted by the Conditional Use Permit approved by the Washington County Planning Board for Project #2013-155.
- (2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.
- (3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.
- (4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, and water, sewer, police, and fire impact fees.
- (5) To satisfy normal parkland dedication requirements, the City of Fayetteville Parks Board approved the dedication of 3.169 acres of land within Common Property 9 at their September 10, 2012 meeting. The exact limits of the park land dedication will be located west of the tree preservation area and will be determined at the Final Plat after drainage

and utility improvements are constructed. In addition, the Developer shall dedicate a trail easement sufficient to connect from the crosswalk at Common Property 8 at Cotton Willow Drive to the southern border of the property to meet a possible trail extension from the south from the Clabber Creek Trail. This trail and parkland shall remain the developer's or Property Owners Association's duty to maintain in good condition (which duty shall be in an irrevocable restrictive covenant in each property's deed until and unless this entire parcel has been annexed into the City of Fayetteville).

- (6) Construct all infrastructure (except alleys which are no longer required to be constructed in Project #2013-155): streets, drainage, sidewalks, water and sewer mains to City of Fayetteville and Washington County standards as previously approved by the Fayetteville Planning Commission on March 25, 2013 (PPL 13-4304) and by the Washington County Planning Board on May 2, 2013 (Proj.#2013-024) and recently amended by the Washington County Planning Board to Project #2013-155. Water and sewer infrastructure is to be dedicated to the City of Fayetteville, street and drainage infrastructure is to be dedicated to Washington County.

HUGHMOUNT VILLAGE OWNERS/DEVELOPERS, in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development, do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development. **In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.**

**HUGHMOUNT VILLAGE
DEVELOPERS/OWNERS**

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Phil Phillips

By: _____
Lionel Jordan, Mayor

Title: _____

Attest: _____
Sondra E. Smith, City Clerk

Date Signed: _____

Date Signed: _____

Williams, Kit

From: Kim Hesse <kjh@eda-pa.com>
Sent: Thursday, December 26, 2013 11:08 AM
To: Williams, Kit; Fulcher, Jesse; adellag@cox.net
Cc: phil@aadvan.com; 'Steve Hesse '
Subject: RE: Amendment to Resolution 183-12

I hope you all had a very enjoyable holiday. I read through the resolution and exhibit A and all looks good to me.

Thanks

Kim J. Hesse, RLA



134 West Emma Ave.
Springdale, AR 72764
479-756-1266 office

www.eda-pa.com

From: Williams, Kit [mailto:kwilliams@fayetteville-ar.gov]
Sent: Monday, December 23, 2013 6:37 PM
To: Kim Hesse; Fulcher, Jesse; adellag@cox.net
Cc: phil@aadvan.com; 'Steve Hesse '
Subject: RE: Amendment to Resolution 183-12

Kim, Adella, and Jesse,

Attached for your review and approval are a draft of the Second Amended Agreement with Hughmount Village and a Resolution to approve it.

Jesse, will the Planning Commission need to review and approve the plat again since the alleys were removed or can this be approved administratively?

Merry Christmas to all,
Kit

From: Kim Hesse [mailto:kjh@eda-pa.com]
Sent: Friday, December 20, 2013 3:50 PM
To: Fulcher, Jesse; Williams, Kit; adellag@cox.net
Cc: phil@aadvan.com; 'Steve Hesse '
Subject: RE: Amendment to Resolution 183-12

Thanks Jessie, Kit removed that statement in the first amendment and simply stated "All street frontage, density, lot area requirements, etc. as granted by the Conditional Use Permit approved by the Washington County Planning Board, Project 2011-103". So that will need to be revised to Project 2013-155. The agreement does specify the exact park land dedication which would change slightly due to the reduction in lots. No other changes that I can think of but I will review the agreement one more time to be sure.

Thanks again
Kim

From: Fulcher, Jesse [mailto:jfulcher@fayetteville-ar.gov]
Sent: Friday, December 20, 2013 3:18 PM
To: Kim Hesse; Williams, Kit; adellag@cox.net
Cc: phil@aadvan.com; Steve Hesse
Subject: RE: Amendment to Resolution 183-12

Kim

To clarify, is an amendment to the bulk and area requirements required as well. I believe the original resolution referred to the RSF-4 zoning criteria? Any other changes?

Jesse

From: Kim Hesse [mailto:kjh@eda-pa.com]
Sent: Friday, December 20, 2013 1:56 PM
To: Williams, Kit; adellag@cox.net
Cc: Fulcher, Jesse; phil@aadvan.com; Steve Hesse
Subject: Amendment to Resolution 183-12

Kit – Hughmount Village LLC requested a revision to their Conditional Use Permit through the County to remove alleys proposed within the development. That change reduces the number of lots by 4 from 132 to 128 lots. The revised CUP was approved by the Planning Board and Quorum Court this month. This change will affect the agreement that is a part of Resolution #183-12. The Resolution includes language tying the agreement to the original Washington County CUP #2011-103 which will need to be revised to include the revised Washington County CUP #2013-155. Phil has contacted Alderman Gray to sponsor the agenda request. Sorry to request yet another amendment. If I can assist in preparing anything for the council, please feel free to contact me.

Thanks

Kim J. Hesse, RLA



134 West Emma Ave.
Springdale, AR 72764
479-756-1266 office

www.eda-pa.com

RESOLUTION NO. 144-13

A RESOLUTION TO AMEND RESOLUTION NO. 183-12 WHICH APPROVED A CONTRACT TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM IN ORDER TO APPROVE AN AMENDED AGREEMENT

WHEREAS, on September 4, 2012, the Fayetteville City Council approved Resolution No. 183-12 which allowed the Hughmount Village Developers access to the City Sewerage System if they fulfilled the terms of the Contract To Allow Access To City Sewerage System; and

WHEREAS, the Contract To Allow Access To The City Sewerage System required: "All street frontage, density, lot area requirements, etc. (be the same) as if their property was zoned Residential Single Family, four units per acre;" and

WHEREAS, the Washington County Conditional Use Permit granted to Hughmount Village was incompatible with RSF-4 zoning; and

WHEREAS, the streets, drainage, sidewalks, water and sewer mains need be built to satisfy both Fayetteville and Washington County standards and the streets and drainage structures need to be dedicated to Washington County all as approved by the Fayetteville Planning Commission.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 183-12 to cancel the existing Contract To Allow Access To City of Fayetteville Sewerage System signed on September 7, 2012 and replace it with the Agreement To Allow Access To City Sewerage System and To Impose Development Requirements, attached as Exhibit A.

Section 2: The City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign this Agreement.

PASSED and APPROVED this 18th day of June 2013.

APPROVED:

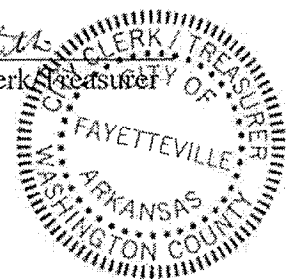
ATTEST:

By:


LIOMELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk



RESOLUTION NO. 183-12

A RESOLUTION TO APPROVE THE CONTRACT WITH HUGHMOUNT VILLAGE DEVELOPERS TO ALLOW THE EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO THE PROPOSED HUGHMOUNT VILLAGE DEVELOPMENT

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council," and;

WHEREAS, the City Council does not wish to grant the owners/developers of Hughmount Village which is slightly outside the city limits any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, only if the owners/developers of Hughmount Village will contractually agree to develop its property pursuant to all development criteria required of persons who develop within the City of Fayetteville {including preliminary and final plat process, approval and payment of appropriate fees, building permit fees, all impact fees (fire, police, water, sewer, parkland), tree preservation requirements, drainage requirements, infrastructure improvement and dedication to the City of Fayetteville, etc.} will the City permit the owners/developers of Hughmount Village to utilize the City of Fayetteville sewerage system and its wastewater collection and treatment facilities; and

WHEREAS, because by signing the contract (attached as Exhibit A) the owners/developers of Hughmount Village have agreed to all such terms stated above, the City Council approves the extension of city sewerage system to Hughmount Village by allowing its developers to construct the necessary sewer mains from the appropriate city sewer main to its property and approves the Contract.

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

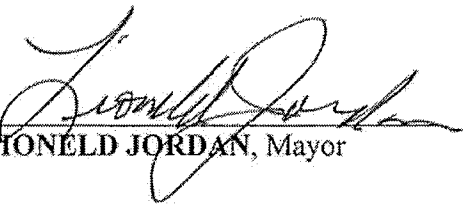
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Contract to Allow Access to the City of Fayetteville Sewerage System, authorizes Mayor Jordan to sign such contract, and agrees to allow the developers of Hughmount Village access to the City's sewerage system and wastewater treatment facilities pursuant to the Contract. Attached as Exhibit B is the legal description for Hughmount Village Development for which access to the City's wastewater treatment facilities is being granted.

PASSED and APPROVED this 4th day of September, 2012.

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Resolution No. 183-12

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer

