FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
APRIL 20, 1999

A meeting of the Fayetteville City Council will be held on April 20, 1999 at 6:30 p.m. in Room 219 of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be considered:

A. CONSENT

1. **APPROVAL OF MINUTES:** Approval of the minutes from the April 6, 1999 City Council meeting.

2. **ARKANSAS AVENUE:** A resolution approving a budget adjustment and authorizing the Mayor to enter into a cost-sharing agreement with the University of Arkansas for the removal and replacement of the curbs and gutters located on the outside of each lane of Arkansas Avenue between Dickson and Maple Street.

3. **BID 99-47:** A resolution awarding bid number 99-47 to the selected bidder, who will be determined after the bid opening on April 19, 1999, for the installation of the ultraviolet disinfection system for the Paul R. Noland wastewater treatment facility.

4. **INSURANCE POLICY RENEWALS:** MOVED FROM NEW BUSINESS, ITEM C.5. A resolution to exercise option to renew Blue Cross/Blue Shield, U.S. Able Life, Accidental Death & Dismemberment, and Long Term Disability Group Policies for policy period May 1, 1999 through December 31, 1999. There is no increase in premium. Annualized total city contributions for calendar year 1999 will be approximately $184,606.

B. OLD BUSINESS

1. **HISTORIC DISTRICT COMMISSION:** An ordinance approving the amendment of Ordinance 3836 to provide for two additional members to the Historic District Commission for a total of nine members. Item was tabled on the first reading.

2. **LAND POSSESSION - RUPPLE ROAD:** An ordinance authorizing the City Attorney to seek court-ordered possession of 0.317 acre of land owned by Tony and Bobbye Hardin, located north of Mt. Comfort Road and west of Salem Road for the purpose of extending Rupple Road from Mt. Comfort Road to the proposed new middle school. Ordinance should also include specific temporary easements. Item was left on the first reading.

3. **CHIEF EXECUTIVE OFFICER:** An ordinance amending Chapter 10, General Provisions, of the Code of Fayetteville, to add Section 10.13, Chief Executive Officer, to define miscellaneous powers and duties of the mayor. Item was left on the first reading.

C. NEW BUSINESS

1. **STREET NAME CHANGE:** A resolution changing the name of Hall Avenue (Highway 112) to Garland to make Garland Avenue the continuous street name south from I-540 to W. Maple Street.

2. **CLIFFS BOULEVARD:** A resolution approving a budget adjustment, cost share and bid waiver in the amount of $300,129 for construction of Cliffs Boulevard Phase 2 and Happy Hollow extension south of Cliffs Boulevard with the developers of the Cliffs PUD.

3. **PLANNING COMMISSION APPEAL:** A request for an appeal of a Planning Commission requirement for the Cliff's Phase 2 Preliminary Plat.

4. **DISCUSSION OF ODOR-EMITTING BUSINESSES:** A discussion of the permitting process for odor-emitting businesses in Fayetteville, i.e. Bakery Feeds and Hanna's Potpourri.

5. **1999 WATER & SEWER REFUNDING BONDS:** An ordinance that provides for the issuance of Water & Sewer System Refunding Revenue Bonds, Series 1999 in the amount of $8,370,000. All costs associated with the issuance of the bonds will be paid from bond proceeds. The refunding bonds result in an approximate savings of $600,000 to the City.

6. **INSURANCE POLICY RENEWALS:** MOVED TO CONSENT AGENDA, ITEM A.4.

Only items presented by the City Council or City Staff may be discussed during the meeting. If you have an item you wish to discuss, please contact your alderman to have it presented at the next City Council Agenda Session. For further assistance, please contact Heather Woodruff, City Clerk at 575-8323.

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AGENDA SESSION

DATE: 4-13-99

COUNCIL DATE: April 20, 1999

ALDERMEN

✓ Robert Reynolds

✓ Ron Austin

✓ Cyrus Young

✓ Kyle Russle

✓ Trent Trumbo

✓ Bob Davis

✓ Kevin Santos

✓ Heather Daniels

STAFF

____ Charlie Venable

____ Kevin Crossen

____ Don Bunn

____ Nancy Hendricks

____ Alett Little

____ Steve Davis

____ Yolanda

____ Lana

ELECTED OFFICIALS

✓ Mayor Hanna

____ Jerry Rose

____ Heather Woodruff

PRESS

✓ NWAT Mike Rodman

✓ Morning News Charlie Ellison

✓ Dem-Gazette

____ KIX 104

HANDOUTS

Ozark newspapers

NOTES

Stephens Inc

Investment Bankers

Stephens Inc.

April 20, 1999

The Honorable Fred Hanna, Mayor
and City Council
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: $8,365,000 City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999

Dear Mayor Hanna and Council:

On behalf of Stephens Inc., I am pleased to advise you that we have agreed to underwrite the above referenced bond issue for the City of Fayetteville at an average interest rate of **4.206%.** This interest rate will result in a net cost savings to the City of **$626,243.79** by refunding the City's existing 1992 Water and Sewer Improvement and Refunding Revenue Bonds. Outlined below is a comparison of the City's existing bond issue and the results of this refunding.

Comparative Analysis

Issue	Maturity	Interest Rate	Total Principal & Interest Cost	Net Savings
Existing 1992	2012	5.984%	$12,281,300.00	N/A
Series 1999 Refunding	2012	4.206%	$11,252,316.21	**$626,243.79**

Following is a Summary Structure and Pricing Report that presents the key components of this transaction.

Mr. Gordon Wilbourn, with the Kutak Rock law firm, and I will be in attendance during the City's April 20, 1999 City Council Meeting to present the necessary bond ordinance to authorize this transaction and achieve the above described savings for the City.

If you have any questions concerning this financing, please feel free to contact me.

Sincerely,

Dennis Hunt

Dennis Hunt

DH/kg

cc: Mr. Kevin Crosson
Mr. Gordon Wilbourn

Investment Bankers
Executive Square • 21 West Mountain, Suite 300 • Fayetteville, Arkansas 72701
501-521-4708 Fax 501-521-6770

$8,365,000

City of Fayetteville, Arkansas
Water and Sewer System Refunding Revenue Bonds

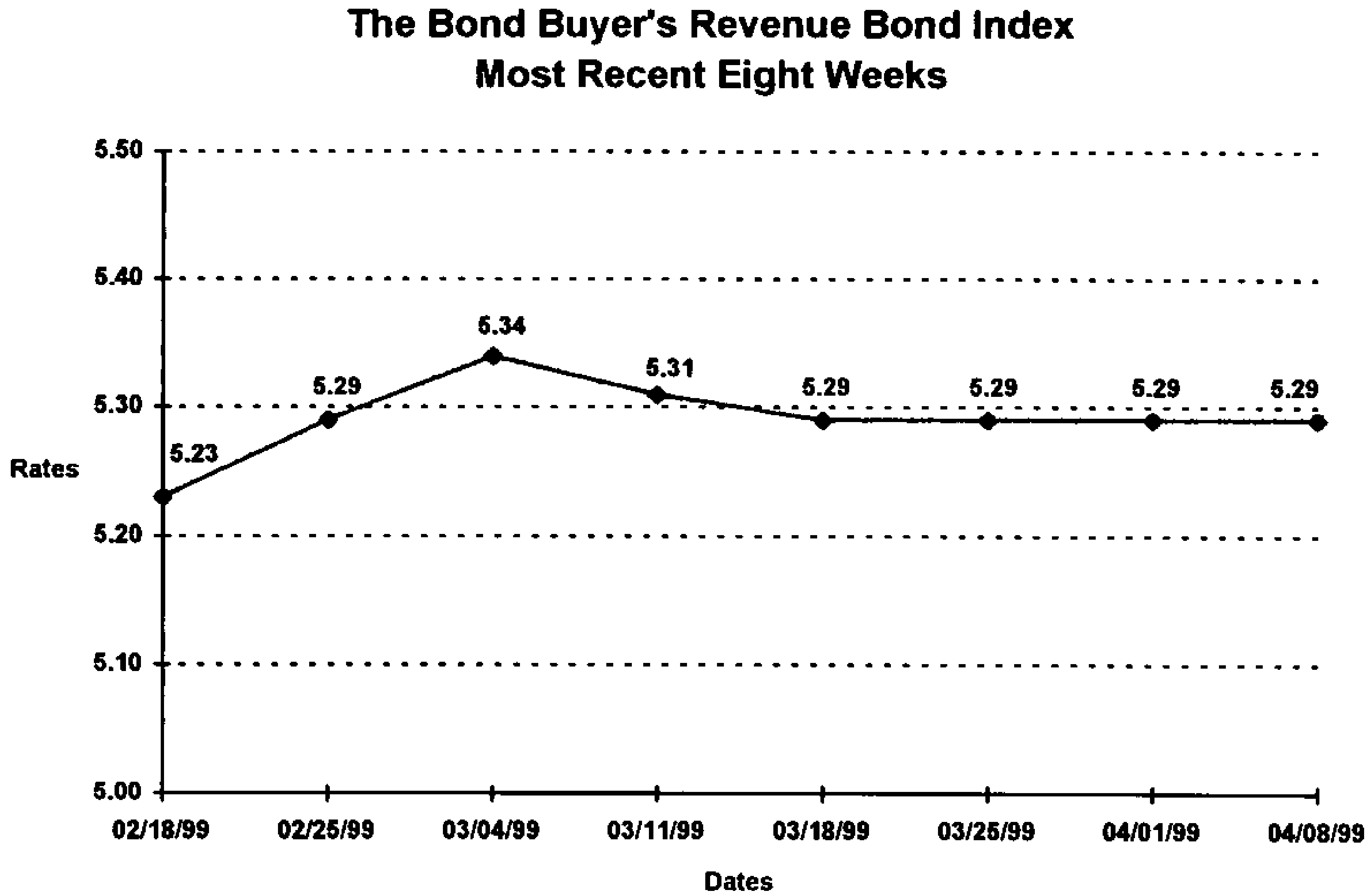
Series 1999

Summary
Structure and Pricing Report
April 20, 1999

Prepared by
Stephens Inc.

Purpose of Report. To present the pricing and structure for the City of Fayetteville's Water and Sewer System Refunding Revenue Bond issue and to detail all costs associated with this financing.

Trend of Interest Rates. Charted below is an eight week trend of the Bond Buyer's Index of 25 Revenue Bonds (REV DEX). This index is a weekly gauge of the tax-exempt revenue bond market and is comparable in many ways to the Dow Jones Industrial Average.



Based on the current tax-exempt market, Stephens has committed to purchase this issue with an average coupon of 4.206% for maturities in the years 1999-2012. Arkansas investors are the primary purchasers of these bonds.

Sources of Funds

Par Amount of Bonds	$8,365,000.00
Existing Funds on Hand	1,211,200.00
Accrued Interest	24,509.40
TOTAL	$9,600,709.40

Uses of Funds

Cost to Retire Bonds	$8,629,525.00
Debt Service Reserve	800,000.00
Cost of Issuance	70,000.00
Underwriter's Discount	75,285.00
Accrued Interest	24,509.40
Contingency	1,390.00
TOTAL	$9,600,709.40

Description of Financing's Components

Costs of Issuance. While these numbers are estimates, they should be close to the actual costs the System will incur. Funds remaining will be applied towards the issue's first interest and principal payment in August of 1999.

Bond Counsel (Includes Expenses)	$37,000.00
Trustee (Authentication)	1,500.00
Prepaid Escrow & Trustee Fee	6,404.00
Rating Expense: Standard & Poor's	9,000.00
Rating Expense: Moody's	10,900.00
Ordinance Publication	1,500.00
Official Statements	1,750.00
Clearing Costs (CUSIP, Ticket Charges, DTC, Day Loan)	1,222.00
Miscellaneous	724.00
Total Costs of Issuance	$70,000.00

Underwriter's Discount. In the amount of $9.00 per thousand ($75,285.00), this amount will be paid to Stephens Inc. for structuring and marketing the bond issue.

Cost to Retire Bonds. This figure is the amount due to call the Series 1992 issue on August 15, 1999 at 103%. This amount will be invested by the Trustee until the call date and investment earnings will be applied towards the first interest payment on the Series 1999 issue.

Call Provision. Optional beginning August 15, 2004 at par.

Debt Service Reserve. The Debt Service Reserve will be funded at $800,000.00. Earnings from the reserve fund will be used to pay debt service.

Refunding Analysis

The following information includes a Savings Report, Sources and Uses of Funds Statement, and Debt Service Schedule for the Series 1999 Bonds. Based on reducing the average coupon on the debt from 5.984% to 4.206%, the net interest cost savings is **$626,243.79**.

City of Fayetteville, AR
Series 1999 Refunding Issue

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Savings Report
==============

Date	Proposed Debt Service Principal	Coupon	Interest	Total	Prior Debt Service	Savings	Cumulative Savings
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	595,525.00	421,753.79	10,553.79
2/15/ 0			168,441.25				
8/15/ 0	450,000.00	3.600000	168,441.25	786,882.50	834,130.00	47,247.50	57,801.29
2/15/ 1			160,341.25				
8/15/ 1	465,000.00	3.650000	160,341.25	785,682.50	830,700.00	45,017.50	102,818.79
2/15/ 2			151,855.00				
8/15/ 2	485,000.00	3.650000	151,855.00	788,710.00	835,950.00	47,240.00	150,058.79
2/15/ 3			143,003.75				
8/15/ 3	500,000.00	3.750000	143,003.75	786,007.50	834,530.00	48,522.50	198,581.29
2/15/ 4			133,628.75				
8/15/ 4	525,000.00	3.900000	133,628.75	792,257.50	840,110.00	47,852.50	246,433.79
2/15/ 5			123,391.25				
8/15/ 5	545,000.00	3.950000	123,391.25	791,782.50	838,790.00	47,007.50	293,441.29
2/15/ 6			112,627.50				
8/15/ 6	565,000.00	4.000000	112,627.50	790,255.00	840,327.50	50,072.50	343,513.79
2/15/ 7			101,327.50				
8/15/ 7	590,000.00	4.050000	101,327.50	792,655.00	839,615.00	46,960.00	390,473.79
2/15/ 8			89,380.00				
8/15/ 8	615,000.00	4.150000	89,380.00	793,760.00	841,870.00	48,110.00	438,583.79
2/15/ 9			76,618.75				
8/15/ 9	640,000.00	4.200000	76,618.75	793,237.50	841,470.00	48,232.50	486,816.29
2/15/10			63,178.75				
8/15/10	665,000.00	4.250000	63,178.75	791,357.50	838,657.50	47,300.00	534,116.29
2/15/11			49,047.50				
8/15/11	695,000.00	4.350000	49,047.50	793,095.00	838,067.50	44,972.50	579,088.79
2/15/12			33,931.25				
8/15/12	1,525,000.00	4.450000	33,931.25	1,592,862.50	1,640,017.50	47,155.00	626,243.79
	8,365,000.00		2,911,906.61	11,276,906.61	12,289,760.00		626,243.79
ACCRUED			24,590.40	24,590.40			
	8,365,000.00		2,887,316.21	11,252,316.21	12,289,760.00		626,243.79

Dated 5/ 1/99 with Delivery of 5/27/99
Bond Years 69,236.556
Average Coupon 4.205736
Average Life 8.276934
N I C % 4.205736 % Using 100.0000000
T I C % 4.193000 % From Delivery Date
Arbitrage Yield 4.193000 %

N O T E : Cumulative Savings are Net of the Initial Transfer Amount of 411,200.00

N O T E : Savings on 8/15/99 Include Accrued Interest of 24,590.40

Net Present Value Savings at: 4.1930% Equals 477,771.07 or 5.7115% of Par of the Current Issue
or 5.8550% of Par of the Prior Issue

N O T E : Present Value Savings are Net of the Initial Transfer Amount of 411,200.00

Micro-Muni Debt Date: 04-14-1999 @ 13:13:54 Filename: FAY Key: NEW

City of Fayetteville, AR
Series 1999 Refunding Issue

Sources and Uses of Funds

Delivery Date: 5/27/99

Sources of Funds

Par Amount of Bonds..................	$8,365,000.00	
+Premium /-Discount..................	$0.00	
Bond Proceeds..		8,365,000.00
Accrued Interest...		24,590.40
Assumed DSR Balance......................................		800,000.00
Assumed Bond Fund Balance................................		411,200.00
		$9,600,790.40

Uses of Funds

Cost to Retire Bonds.....................................	8,629,525.00
Cost of Issuance...	70,000.00
Underwriter's Discount..................(0.900000%)...	75,285.00
Accrued Interest...	24,590.40
Debt Service Reserve.....................................	800,000.00
Contingency..	1,390.00
	$9,600,790.40

Micro-Muni Sizing Date: 04-14-1999 @ 13:14:27 Filename: FAY Key: NEW

City of Fayetteville, AR
Series 1999 Refunding Issue

Debt Service Schedule

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	198,361.61
2/15/ 0			168,441.25	168,441.25	
8/15/ 0	450,000.00	3.600000	168,441.25	618,441.25	786,882.50
2/15/ 1			160,341.25	160,341.25	
8/15/ 1	465,000.00	3.650000	160,341.25	625,341.25	785,682.50
2/15/ 2			151,855.00	151,855.00	
8/15/ 2	485,000.00	3.650000	151,855.00	636,855.00	788,710.00
2/15/ 3			143,003.75	143,003.75	
8/15/ 3	500,000.00	3.750000	143,003.75	643,003.75	786,007.50
2/15/ 4			133,628.75	133,628.75	
8/15/ 4	525,000.00	3.900000	133,628.75	658,628.75	792,257.50
2/15/ 5			123,391.25	123,391.25	
8/15/ 5	545,000.00	3.950000	123,391.25	668,391.25	791,782.50
2/15/ 6			112,627.50	112,627.50	
8/15/ 6	565,000.00	4.000000	112,627.50	677,627.50	790,255.00
2/15/ 7			101,327.50	101,327.50	
8/15/ 7	590,000.00	4.050000	101,327.50	691,327.50	792,655.00
2/15/ 8			89,380.00	89,380.00	
8/15/ 8	615,000.00	4.150000	89,380.00	704,380.00	793,760.00
2/15/ 9			76,618.75	76,618.75	
8/15/ 9	640,000.00	4.200000	76,618.75	716,618.75	793,237.50
2/15/10			63,178.75	63,178.75	
8/15/10	665,000.00	4.250000	63,178.75	728,178.75	791,357.50
2/15/11			49,047.50	49,047.50	
8/15/11	695,000.00	4.350000	49,047.50	744,047.50	793,095.00
2/15/12			33,931.25	33,931.25	
8/15/12	1,525,000.00	4.450000	33,931.25	1,558,931.25	1,592,862.50
	8,365,000.00		2,911,906.61	11,276,906.61	
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Micro-Muni Sizing Date: 04-13-1999 @ 16:25:50 Filename: FAY Key: NEW

MINUTES OF A MEETING
OF THE
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APRIL 6, 1999

A meeting of the Fayetteville City Council was held on April 6, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

ITEMS CONSIDERED	ACTION TAKEN	
Block Grant Agreement for Community Development	Approved	Res. 46-99
Bid 99-34	Approved	Res. 47-99
Washington School Gym	Approved	Res. 48-99
Bid 99-36	Approved	Res. 49-99
West Fork Master Meter Vault	Approved	Res. 50-99
Sycamore and Leverett utility relocation	Approved	Res. 51-99
Wilson Park Swimming Pool	Approved	Res. 52-99
VA 99-2	Passed	Ord. 4151
RZ 99-3	Passed	Ord. 4152
RZ 99-4	Passed	Ord. 4153
RZ 99-5	Passed	Ord. 4154
Bakery Feeds	Motion to pursue injunction.	
Historic District Commission	Tabled on the first reading.	
Library Expansion	Information item/no action	
Warrant Service Fees	Passed	Ord. 4155
Additional Police Staff	Approved	Res. 53-99
Land Possession-Rupple Road	Left on first reading	
Chief Executive Officer	Left on first reading	
U of A Fireworks	Passed	Ord. 4156
Republic Parking	Approved	Res. 54-99

MEMBERS PRESENT
Mayor Hanna
Aldermen:
- Robert Reynolds
- Ron Austin
- Bob Davis
- Trent Trumbo
- Heather Daniel
- Kevin Santos
- Cyrus Young
- Kyle Russell

City Attorney Jerry Rose
City Clerk Heather Woodruff
Staff, Press, and Audience

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL

A meeting of the Fayetteville City Council was held on April 6, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present: Mayor Fred Hanna, Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Kevin Crosson, Charles Venable, and Alett Little; Staff; Press and Audience.

NOMINATING COMMITTEE REPORT

Alderman Daniel moved to appoint:

Y2K Ad Hoc Committee Members: Heather Woodruff, Reba Patton, Major Jack Owens, Lana Clark, Bob and Donna Treat, Gordon Rowell, Ann Murphy, Michael Crow, Greg Thoma, Kate Conway, Kyle Russell, Katona Bayles, Michael Andrews, Mike Hocklander, Don Taylor, Lin Oliver, and Paula Ellington.
Juvenile Concerns: Mieka Hatcher.and reappointment Hamsa Newmark
Library Board: Reappointment Steven Singleton.
Planning Commission: Don Marr; Reappointments Loren Shackleford and Bob Estes.
Board of Adjustments: Michael Green
Civil Service Commission: Denny Tune
Environmental Concerns: Roxanna Willis
Historic District: David Lewis

Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

CONSENT AGENDA

BLOCK GRANT

A resolution approving the 1999 Community Development Block Grant agreement and funding approval.

RESOLUTION 46-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 99-34

A resolution awarding Bid 99-34 to Barton County Implement and Williams Ford Tractor for balers and mowing equipment for use at the Fayetteville Sludge Management Site.

RESOLUTION 47-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WASHINGTON SCHOOL GYM
A resolution approving a budget adjustment to fund the Washington Elementary School Gym joint project with the Fayetteville Public Schools in 1999.

RESOLUTION 48-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 99-36
A resolution awarding Bid 99-36 to Heckathorn Construction Company in the amount of $32,187.00 plus a project contingency of $1,600 and a budget adjustment for Wilson Park Castle Renovations Phase 3.

RESOLUTION 49-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WEST FORK MASTER METER VAULT
A resolution approving the contract for West Fork Master Meter Vault Reconstruction with Basic Construction Company, in the amount of $37,808.00 plus a contingency of $43,480.00

RESOLUTION 50-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SYCAMORE AND LEVERETT
A resolution approving the relocation contract in the amount of $20,500 with a contingency of $5,000 with Arkansas Western Gas to relocate approximately 300 lf of 6 inch high pressure gas line south of Sycamore and west of Leverett to allow the construction of the proposed improvements at the intersection of Sycamore and Leverett.

RESOLUTION 51-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WILSON PARK SWIMMING POOL
A resolution approving a budget adjustment and settlement offer with Wilks Construction Company for painting the Wilson Park swimming pool.

RESOLUTION 52-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Daniel moved to approve the consent agenda. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

PRESENTATION
Ms. Marilyn Johnson, Chamber of Commerce, presented a front bumper plate with "Fayetteville" and graphic of the old Fayetteville courthouse to all the aldermen from the Chamber of Commerce.

OLD BUSINESS

VA 99-2
Mayor Hanna introduced an ordinance approving vacation request VA 99-2, to vacate a 20 foot alley to the east of property located at 820 South College Avenue as submitted by Gary Kahanak and John Firmin of Build A Home. This item has been tabled on the first reading at the March 23, 1999 meeting.

Alderman Trumbo moved to suspend the rules. Alderman Austin seconded the motion. Upon roll call, the motion carried unanimously.

City Attorney Rose read the ordinance.

Alderman Trumbo stated the property had been overgrown and was run down. He stated this development would only enhance the existing and surrounding property. He noted the applicant was planning to construct affordable housing for the elderly on the site.

Alderman Reynolds stated he would like to see the city abandon the whole block.

Mayor Hanna explained the property owners would have to make the vacation request.

Alderman Young stated the people living there were not currently using the alley. He was concerned that they should maintain access to the alley. He thought the alley could be reopened if a different owner wanted to use the alley. He stated the property would still be considered a utility easement and could not be built over.

Ms. Little explained part of the alley would be reserved as a utility easement and there were also setbacks.

Alderman Daniel noted some of the city's new developments had alleys. She was not in favor of vacating the alley because they were handy for access. She thought it might be useful sometime in the future.

Alderman Trumbo replied this part of town had not had that kind of investment in years and the city needed to give the developers some incentive to invest in that area.

Alderman Austin moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call, the motion carried 7-1-0, Daniel voting nay.

City Attorney Rose read the ordinance for the third and final time.

Mayor Hanna called for the vote. Upon roll call, the ordinance passed by a vote of 7-1-0, Daniel voting nay.

ORDINANCE 4151 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-3, RZ 99-4, AND RZ 99-5
Mayor Hanna introduced three ordinances rezoning property located off Wedington Drive and Rupple Road. All three ordinances had been left on the second reading at the March 23, 1999 meeting.

RZ 99-3
An ordinance approving rezoning request RZ 99-3, submitted by Dave Jorgensen of Jorgensen and Associates on behalf of WHM Land Investments, Inc. for property located at Wedington Drive and Rupple Road. The request is to rezone the 2.37 acre property from A-1, Agricultural

to C-1, Neighborhood Commercial.

RZ 99-4
An ordinance approving rezoning request RZ 99-4 for property located at Wedington Drive and Rupple Road. The request is to rezone 4.09 acres from A-1, Agricultural to C-1, Neighborhood Commercial.

RZ 99-5
An ordinance approving rezoning request RZ 99-5 for property located at Wedington Drive and Rupple Road. The request is to rezone 21.91 aces from A-1, Agricultural to R-2, Medium Density Residential.

Alderman Young moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call, the motion carried unanimously.

City Attorney Rose read the ordinance for the third and final time.

Mr. Vernon McBride, adjacent property owner, requested the boundaries of the property to be defined. Mr. Jorgensen showed Mr. McBride the proposed request.

Alderman Daniel thought the area could use more neighborhood commercial in the area because of all the new development in the area.

Mayor Hanna called for the vote of RZ 99-3. Upon roll call, the ordinance passed unanimously.

ORDINANCE 4152 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Mayor Hanna called for the vote on RZ 99-4. Upon roll call, the ordinance passed unanimously.

ORDINANCE 4153 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Mayor Hanna called for the vote on RZ 99-5. Upon roll call, the ordinance passed unanimously.

ORDINANCE 4154 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BAKERY FEEDS

Mayor Hanna introduced discussion of legal alternatives for Bakery Feeds.

Attorney Rose stated he had presented his report to them at Agenda Session last week as well as the progress of the negotiations with Bakery Feeds for a possible settlement of this matter. He had received two documents since that presentation which he was distributing tonight. The first document was a laboratory report. Bakery Feeds had hired an independent laboratory to analyze various processes at their plant for aflatoxin. The report indicated that there were no apparent aflatoxin present. In addition, he had received from the Arkansas Department of Health a letter dated April 5, 1999, which said they were currently gathering information regarding Bakery Feeds and would be able to make statements in the next few weeks. He stated what he needed to know from the council was how they wanted him to proceed.

Mr. John Everett, Bakery Feed's attorney, stated it was his desire to settle the dispute. He questioned if the city was truly trying to settle. He also suggested that Bakery Feeds did fit into Use Unit 22. It was a right in their zone. Some people thought it was a legal use for where they were currently located. He had also discovered the city did not own all the land in the Industrial Park. There was the possibility for them to purchase land from others in the Industrial Park.

In response to questions from Aldermen, Mr. Rose explained the Planning Commission had felt they were a Use Unit 23, which was food and allied products. If the council wished to make their own decision on what use unit this business belonged in, it was within their rights.
In response to questions from Alderman Santos, Mr. Rose and Ms. Little stated a rendering plant would be considered a Use Unit 23 and would require a conditional use permit. It would also require I-2 zoning.

In response to questions from Aldermen, Mr. Rose stated the Health Department would have a report for them to consider, if they wished to delay their decisions. He needed some indication on how the council wanted him to proceed.

Alderman Santos thought they should identify which unit they belonged in.

Alderman Russell stated his main concern was whether or not they were in the proper zone and if they applied for the proper permits.

Ms. Little explained if they were an odor-producing facility; they would need a conditional use permit which could only be applied for if they were in an I-2 zoning district. There was a point in time where the ordinance had been passed. Those businesses which had been in existence prior to the ordinance would be considered grand fathered in.

In response to questions from Alderman Russell, Ms. Little stated the current facility would have been grand fathered in if they had been in the correct zoning district and had the right permits. The expansion of the operation would be subject to the new ordinance.

Alderman Reynolds thought that the facility belonged under Use Unit 23. He knew that they had rendered in the plant. This had been illegal. He was ready to challenge them in court.

Mayor Hanna stated the council had decided to do that. He asked if there was a motion to continue with negotiations, if not the decision had been made.

Alderman Trumbo reminded them that this was a legislative body and not a judicial body. He did not believe they were the proper authority to make a decision.

Alderman Russell stated they had to consider their chances of winning a lawsuit. If they felt they could win the lawsuit then they did not owe them any help in moving to the Industrial Park.

Alderman Austin asked if Bakery Feeds had indicated that they could clean up the existing conditions.

Mr. Rose discussed the remedies that Bakery Feeds had proposed, with which the neighbors had not agreed during the negotiations.

Mr. Everett stated the city and Bakery Feeds had started the negotiations in good faith.

Alderman Young asked if Bakery Feeds, while in the process of negotiations, was willing to upgrade their technology in the smoke stack if the problem was not solved.

Mr. Rose replied they had been willing to put in a wet scrubber. They had stated the catalytic scrubbers were too expensive. They had been willing to do the 100-foot tower and the wet scrubber, but they were not willing to put in a catalytic scrubber. He added this was the kind of detail that they could work out. He stated if the council was opposed to them being located in the South Industrial Park then there was no sense in him going forward with negotiations.

Alderman Davis asked if the city had contacted other cities where Bakery Feeds had constructed towers.

Mr. Rose stated they had not, but they had been provided a letter from one of the towns which stated they had not had any complaints since the tower had been constructed.

Alderman Trumbo stated the Planning Commission had denied their request for a conditional use based on their interpretations. He thought the courts needed to decide if they were operating in the correct zone.

Alderman Austin moved to cease negotiations with Bakery Feeds for a move to the industrial park. Alderman Santos seconded the motion. Upon roll call, the motion carried by a vote of 7-1-0, Trumbo voting nay.

Mayor Hanna stated they needed to clarify if they wanted Mr. Rose to continue negotiating or to continue with the lawsuit.

Alderman Russell moved to instruct Mr. Rose to proceed with the law suit, but not to preclude further negotiations. Alderman Reynolds seconded the motion.

Mayor Hanna stated he was going to say one thing before they voted. If Mr. Rose filed the lawsuit and there were no further negotiations and the city loses the lawsuit, Bakery Feeds could continue to operate where they were from now on without constructing the 100-foot stack or anything else.

Alderman Russell stated if there were any residents who did not want the city to proceed with the lawsuit and wanted them to continue with the negotiations then they needed to let them know.

Ms. Terry Easton, an area resident, thanked the council for hearing their concerns. She stated there were other avenues of relief, if the city lost their injunction based on zoning. The residents believed this company had acted in bad faith since they had opened their doors. They asked the council to go ahead and file the lawsuit.

Ms. Charlotte Sheldon, an area resident, stated she was upset about moving the plant to the south side of town. She was in favor of continuing with the lawsuit and to stop negotiations. She stated this company needed to be run out of town.

Mr. Lyle Dawn, an area resident, stated he was pleased the way they had voted. He expressed concern about all the land not being owned by the city in the Industrial Park.

Upon roll call, the motion carried unanimously.

MOTION MADE TO PURSUE AN INJUNCTION

NEW BUSINESS

HISTORIC DISTRICT COMMISSION
An ordinance approving the amendment of Ordinance 3836 to provide for two additional members to the Historic District Commission for a total of nine members.

Mayor Hanna stated the chairman of the commission, Orland Maxfield, had requested two additional persons.

Alderman Davis thought this would allow more people to be involved.

Alderman Daniel noted the attendance at the last Historic District Commission meeting. She expressed concern that there had not been a quorum present.

Alderman Trumbo moved to table the item. Alderman Daniel seconded the motion.

There was no one present from the Historic District Commission to discuss the item.

Alderman Santos suggested they add a membership requirement to maintain their membership on the committee.

Mayor Hanna noted on the Planning Commission there was an attendance policy. If you missed more than three consecutive meetings, you could be replaced.

Mr. Rose stated there was no general law. Each committee's ordinances were different. He thought the city could pass their own ordinance requiring attendance.

Mayor Hanna thought they would send it to the Ordinance Review Committee to address mandatory attendance of board and commission members.

Upon roll call, the motion to table the item carried unanimously.

LIBRARY EXPANSION

Mayor Hanna introduced a presentation and discussion of the site for the new Fayetteville Public Library expansion.

Alderman Austin questioned some of their calculations. He noticed they would be increasing the size of the library more than 300%. Fayetteville's population was projected to increase 170%. He asked them to justify such a large increase. He noted the number was what would drive the square footage of the building. He was pro-library, but he questioned their calculations.

Mr. Roberts stated the current population was approximately 55,000. Using the same measure for their projected population, the current library would be considered 30,000 square feet too small. The increase was not based on the current size of the library today, but on what size it should be today, if it had kept up with the growth in population.
He added the same rules should apply to a public library that applies to other public services. If they responded simply to convenience then they would erode the soul of the city. They needed to make some sacrifices to maintain the soul of the downtown.

Alderman Austin asked if they had seriously addressed the idea of a branch library now.

Mr. Roberts replied they had presented branch options. During the meetings they had decided to build a core collection and a central library.

Alderman Austin questioned if they were constructing the library based on the 2020 projections, and where was the need for a branch library in the future.

Mr. Roberts replied the 2020 projections had been the standard length of time used to calculate future needs. This method was becoming less and less reliable. They were being as conservative as they could. The question of convenience would bring the need for a branch library sooner. In mature cities people were beginning to move back into the core part of town which strengthened the need for a central library.

Mr. Roberts stated the branch library and the need for duplication of core services would strain the operation budget of the library.

Alderman Davis thought they might be going too far south to draw the public.

Mr. Singleton stated in other parts of the county where libraries had been sited in undesirable locations they had brought the neighborhoods up.

Alderman Daniel thought this would be a deterrent to urban sprawl and would fit in well with the efforts to revive the downtown.

Mr. Rose read the ordinance for the third and final time.

Mayor Hanna called for the vote. Upon roll call, the ordinance carried unanimously.

ORDINANCE 4155 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ADDITIONAL POLICE STAFF

A resolution approving an increase of the 1999 operating budget to add one police sergeant, one police officer, and one dispatcher.

Alderman Daniel asked if they planned to hire these right away because the money had not been accumulated yet.

Mr. Rick Hoyt stated they had planned to start collecting the fees in May. He added the police department has had several openings this year which they had not filled. Because of the hiring process, he thought the money would be there by the end of the year.

Mr. Crosson explained they had a budget adjustment which recognized the position would start in June. The budget adjustment would offset the cost.

Alderman Austin moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call, the motion carried unanimously.

RESOLUTION 53-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LAND POSSESSION - RUPPLE ROAD

An ordinance authorizing the City Attorney to seek court-ordered possession of .317 acres of land owned by Tony and Bobbye Hardin, located north of Mt. Comfort Road and west of Salem Road for the purpose of extending Rupple Road from Mt. Comfort Road to the proposed new middle school. Ordinance should also include specific temporary easements.

Mr. Rose read the ordinance for the first time.

Mr. Bobby Hardin, property owner, stated he did not understand the location of the street.

Mr. Venable stated the location of the street was part of the Master Street Plan and had been worked out to service the new school in the area. He stated Mr. Hardin had been present at the meeting when it had been determined the middle school would be located in the area.

CHIEF EXECUTIVE OFFICER
An ordinance amending Chapter 10, General Provisions of the code of Fayetteville, to add Section 10.13 , Chief Executive Officer, to define miscellaneous powers and duties of the Mayor.

Mr. Rose read the ordinance for the first time.

Alderman Austin asked if the ordinance was approved would the action give the mayor the authority to change an ordinance.

Mr. Rose replied no.

Alderman Austin asked if it would give the mayor the authority or the power to veto the council or committee action.

Mr. Rose stated that he had the power of veto by statute and he would continue to have that power.

Mayor Hanna stated the ordinance was to clarify some of the ordinances which had been about before the change of government. He stated they had been talking about the change for four years.

Alderman Daniels asked about the impact of the ordinance. She had received several calls on this with people voicing concerns. She thought the ordinance would be dealing with employment positions. The paper had given a specific example of the mayor being able to overrule an ordinance.

Mayor Hanna replied the ordinance would not allow him to overrule an ordinance. There were some things that were at the department director's discretion. This ordinance did not specifically state the mayor, but his designee. He felt the citizens should be able to come to an elected official when they felt that they were not getting the proper determination. He wanted to be able to answer people when they had complaints. He stated since the change of government they had tried to be citizen friendly and they wished to continue to do so.

Alderman Daniel questioned whom the duly appointed official would be.

Mayor Hanna replied it would normally be the department head.

Alderman Russell asked who would normally make the decisions given the example in the paper.

designation was set by state law. She questioned if the ordinance would change all the things in the UDO.

Mr. Rose replied they would be replaced.

Ms. Little stated the whole reason for the UDO was so the developer would know who to go to for those issues. She added that it simplified the process, so the developer would know where to get answers.

Mr. Rose stated he thought the developer would still know that. It did not change that, it was where the developer would go. He added if an individual was continually making decision that the mayor disagreed with.

Alderman Russell asked if the mayor under state law or under this ordinance would have the authority to overrule one of those decisions and make it have a binding affect without them firing the individual.

Mr. Rose replied it was not intended to. He could not if it was already in our ordinance that a specific person were to make the decision.

Alderman Russell asked if they were changing the ordinance to read the Mayor or his duly authorized representative.

Alderman Santos stated it gave them the option to go directly to the Mayor for a decision.

Alderman Daniel stated some of the people she had talked to had been in favor of this because they could go directly to the Mayor. She expressed concerns about some mayors taking advantage of this.

Mayor Hanna replied if the city elected someone who decided to do favors for the developer, they would be laying themselves open to a lawsuit or to be removed from office. He stated they did not have any problems currently. They had been discussing this for more than four years.

Alderman Santos stated the decision should be made by the professional staff member and thought the politician would be to susceptible.

Mr. Dan Coody, an area resident, stated this might be a solution waiting for a problem. He gave the example if he were a developer and he disagreed with planning director's decision, he could go to the mayor and have the decision overturned. The next developer who was not on good

U OF A FIREWORKS

An ordinance allowing the University of Arkansas to use fireworks for the opening of Baum Baseball Stadium.

Mr. Rose read the ordinance for the first time.

Alderman Daniel moved to suspend the rules and go to the second reading. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Austin moved to suspend the rules and go the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

Mayor Hanna called for the vote. Upon roll call the motion carried unanimously.

ORDINANCE 4156 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

REPUBLIC PARKING SYSTEMS

A resolution approving a lease modification with Republic Parking System at Drake Field; and to authorize the mayor and city clerk to execute said lease.

Mr. Rose explained the business had decreased at the airport to the point that it was almost non-existent and was not economical for Republic Parking to continue their operations.

Alderman Daniel moved to approve the resolution. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 54-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 9:30 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 13, 1999

AGENDA SESSION
APRIL 20, 1999

I. REPORT FROM OMI: A presentation of a refund check to the city.

II. CURBSIDE BIN RECYCLING: Status report

III. NEW ITEM: Petition for removal of Dickson Street Central Business Improvement District board members, filed by Lamar Pettus and Richard Shewmaker

IV. DISCUSSION: Permitting process of odor-emitting businesses in Fayetteville, i.e. Bakery Feeds and Hanna's Potpourri

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

OMI REPORT

DEPARTMENTAL CORRESPONDENCE

April 7, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director

Subject: Refund Check,
Wastewater Treatment Plant Operations
OMI

Our contract with OMI for the operation of the Noland Wastewater Treatment Plant calls for an estimated amount to be paid each year for operation of the facility. If the actual cost of operation of the plant is less than the amount paid, then the City receives a refund check in the amount of the overage.

OMI would like an opportunity to make a formal presentation of the 1998 refund check to the City at the Council Agenda Meeting on April 13, 1999.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Charles Venable, Public Works Director Cal

From: Willie Newman, Waste Reduction Coordinator WCN

Date: April 5, 1999

Re: **Curbside Bin Recycling - Status Report**

Effective January 25, 1999, the Solid Waste Division implemented the curbside sort collection method for our residential recycling program. This new collection method utilizes reusable bins for our recycling commodities with collection personnel sorting the materials by commodity into our compartmentalized recycling vehicles. We have just completed our tenth week of operations with this new collection method and have gathered data through a four week audit of our recycling stream. The data from this audit will be compared to the data gathered from the Fall 1998 audit to indicate the effects of implementing our new collection method.

Staff, as in previous audits, created a list of addresses for a twenty percent (20%) sampling of our residential households based on collection days. Our sampling areas do not change from audit to audit to insure accurate comparisons. The following are categories of data gathered and tracked by the Solid Waste Division for on-going recycling analysis: set-out rate, participation rate, and tons collected.

Set-out Rate

The average set-out rate indicates our workload requirements on any given day. To determine the set-out rate, staff drove the entire sampling area marking the addresses which set recyclables out for collection. The average set-out rate is the most important piece of information to determine proper staffing requirements.

Collection Day	Blue Bag	Bin	% +/-
Monday	46%	75%	63%
Tuesday	41%	46%	12%
Wednesday	38%	61%	61%
Thursday	61%	69%	13%
Daily Average	47%	63%	37%

Participation Rate

The participation rate indicates the total percentage of households participating in our residential curbside recycling program. At the end of each audit, staff counts the number of households which set recyclables out for collection at least one time during the audit. These households are considered to be participants.

Collection Day	Blue Bag	Bin	% +/-
Monday	76%	92%	21%
Tuesday	65%	74%	14%
Wednesday	63%	86%	37%
Thursday	82%	89%	9%
Daily Average	*72%*	*85%*	*20%*

Tons Collected

The tons of recyclables collected are tracked to determine seasonal fluctuations and landfill diversion rates. Currently, almost 30% of all waste generated in our residential sector is being recycled.

Collection Day	Blue Bag	Bin	% +/-
Monday	11.89	13.88	17%
Tuesday	8.07	9.98	24%
Wednesday	7.93	8.86	12%
Thursday	10.86	13.06	20%
Daily Average	*9.81*	*11.45*	*18%*

Summary

Staff expected a 20% increase in our set-out rate with the implementation of the curbside sort collection method. This expectation was based on increased participation and households that did not set their bags of recyclables out for collection on a weekly basis (i.e. multiple bags every other week). Furthermore, staff projected a participation rate of approximately 80%. The average daily participation rate is slightly higher than projected, but this number does not affect daily operations as much as our daily set-out rate. The increase in tons of recyclables collected is in line with staff's projection of a 15-20% increase. Tonnages collected does not increase proportionately with participation due the weight differences of the materials collected. Our residents have always recycled a great amount of our heaviest commodities, newspaper and cardboard, but the greatest increase in commodities recycled have been in our lightest weighing commodities, plastic containers and aluminum cans.

The significant increase can be attributed to the city wide education campaign and public perception. Staff spent approximately four months focusing on curbside recycling education by performing speaking engagements, preparing and distributing literature, and advertising in area newspapers and community access television. The new recycling vehicles also helped increase participation by improving public perception. Many residents over the years have expressed concern over our

recyclables being placed in the rear of recycling vehicles identical to our trash vehicles. Our new recycling vehicles are more visible and are uniquely different from our trash vehicles. Due to the increase in our set-out rate and tonnages collected, staff has had to place our spare recycling vehicle into operation on Mondays and Thursdays to insure timely collection of recyclables.

During the first two months of operation, our recycling center generated over $19,000 in revenue and saved $12,000 in processing fees that would otherwise be spent sorting our blue bags. We also have processed and stored approximately $17,000 worth materials that will be marketed in April.

Conclusion

Our residential recycling program has steadily improved its participation rate since 1995. With on-going education and the implementation of our volume based sanitation rates scheduled for January 2000, our participation will continue to grow. Staff does project another significant increase in our recycling set-out and participation rates to occur in January 2000 with the implementation of volume based sanitation rates. With this in mind, staff would like to make preparations to purchase another recycling vehicle to be used as a spare in 2000 and beyond.

Staff would like to thank our residents for the effort they are making in our curbside recycling program. Without their commitment and environmental concern, our recycling programs would not be so successful. Staff will be present at your next agenda session to answer any questions you may have. If you have any questions or comments prior to the meeting, please contact me at your convenience at 444-3497. Remember, Together We Are Making A Difference.

PETTUS FAMILY TRUST
151 West Dickson Street
Fayetteville, Arkansas 72701

Telephone: (501) 443-2363
Facsimile: (501) 443-0390

RICHARD SHEWMAKER
605 West Dickson Street
Fayetteville, Arkansas 72703

Telephone: (501) 442-9094

April 12, 1999

City Council
CITY OF FAYETTEVILLE
c/o Jerry Rose, City Attorney
113 West Mountain
Fayetteville, AR 72701

Attention: Mayor Fred B. Hanna
Alderman Robert Reynolds
Alderman Ron Austin
Alderman Cyrus Young
Alderman Kyle Russell
Alderman Trent Trumbo
Alderman Bob Davis
Alderman Kevin Santos
Alderwoman Heather Daniel

PETITION FOR REMOVAL

Pettus Family Trust, by and through one of its Co-Trustees, E. Lamar Pettus, who is authorized to act on behalf of the Pettus Family Trust and Richard Shewmaker petition the City Council of the City of Fayetteville to remove C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood as Commissioners of the Dickson Street Central Business Improvement District No. 1 of the City of Fayetteville (DSID).

1. Pettus Family Trust is an owner of property located within the DSID and E. Lamar Pettus is a Co-Trustee authorized to act on behalf of the Pettus Family Trust.

2. Richard Shewmaker is a property owner in the DSID.

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CITY CLERK'S OFFICE

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3. C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood are four of the five persons appointed as Commissioners of DSID.

4. Petitioners believe the Commissioners named herein should be removed from their office for dereliction of their duties as Commissioners, self-dealing, and refusal to comply with the laws of the State of Arkansas in the operations of the District, to-wit:

Commissioners have:

a. Failed to hold regular and periodic meetings.

b. Failed to provide notice of meetings to property owners assessed to pay for the business of the District.

c. Failed to support the general purpose of the DSID which was and is the upgrading and enhancement of the Dickson Street area.

d. Failed to maintain minutes of meetings.

e. Failed to properly maintain the records of the DSID in a central location easily accessible by members of the public.

f. Failed to act in a timely manner to adopt or amend Plans of Improvement after abandonment of the original Plan of Improvement.

g. Failed to pursue collection of delinquent assessments and to even discuss the delinquencies owed by Commissioners.

h. Authorized by action or omission payment of public funds for improvement on private property.

i. Failed to promptly attend to the business of DSID.

j. Failed to comply with State codes and City ordinances.

k. Failed to require fellow Commissioners to comply with State codes and City ordinances.

l. Failed to hold meetings in public facilities accessible to all.

m. Failed to advertise for bids for projects constructed with public funds.

n. Failed to advertise for bids for services paid for by public funds.

o. Failed to follow Arkansas statutes handling the business of the District and, specifically, failed to comply with the requirements of the Arkansas Freedom of Information Act.

FOR THE FOREGOING REASONS, Pettus Family Trust, by and through its Co-Trustee, E. Lamar Pettus, and Richard Shewmaker request the City Council remove the above persons from their offices as Commissioners of DSID, take applications, and approve and appoint replacement Commissioners.

E. Lamar Pettus, as Co-Trustee of and on behalf of the Pettus Family Trust, and Richard Shewmaker have read the foregoing allegations and charges and state that same are true and correct to the best of their knowledge and belief.

THE PETTUS FAMILY TRUST

By: E. Lamar Pettus
E. Lamar Pettus
Co-Trustee

Richard M. Shewmaker
Richard Shewmaker

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this 12th day of April, 1999, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person the within-named E. Lamar Pettus, in his capacity as Co-Trustee of the Pettus Family Trust, and Richard Shewmaker, in his individual capacity, to me personally known (or satisfactorily proven), who stated and acknowledged they had so signed, executed, and delivered the 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 12th day of April, 1999.

Notary Public

My Commission Expires:
06-18-2008

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CASE NOTES

Signature by Owner.

This section requires that the owner's name be signed to the petition. The owner's name can be signed by an agent, but only when the agent signs as an agent and the name of the owner is disclosed. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

Where the name of the owner is not signed to the petition in any manner, the assessed value of his land cannot be counted as part of the petition. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

14-184-109. Rules governing petitions.

(a) After the filing of a petition for the creation of a central business improvement district, no petitioner shall be permitted to withdraw his name from it.

(b) No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects.

(c) The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

(d) Similar petitions for the organization of the same district may be filed and together shall be regarded as one petition with the original.

(e) All petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file.

History. Acts 1973, No. 162, § 7; A.S.A. 1947, § 20-1606.

14-184-110. Organizational expenses.

A central business improvement district organized under this subchapter is authorized to pay reasonable compensation to those persons who have done necessary or desirable preliminary work in the organization of it, including the fees of abstractors and title companies, engineers, architects, and attorneys.

History. Acts 1973, No. 162, § 10; A.S.A. 1947, § 20-1609.

14-184-111. Board of commissioners.

(a)(1)(A) In the ordinance creating a central business improvement district, the governing body shall appoint five (5) persons who shall be owners of real property in the district, or officers or stockholders of a corporation owning real property within the district, as commissioners, who shall compose a board of commissioners for the district.

(B) In cities operating under a commission form of government, the mayor and city commissioners, by virtue of their offices, shall be commissioners of each district and shall comprise the board of each district.

(2) The board of commissioners shall elect a chairman and a secretary.

(b)(1)(A) All vacancies that may occur after the board shall have been organized shall be filled by the governing body.

(B) If all places on the board shall become vacant, or those appointed shall refuse or neglect to act or shall cease to have the qualifications required for their original appointment, new members shall be appointed by the governing body as in the first instance.

(2)(A)(i) The governing body shall have the power to remove the board, or any member of it, by a two-thirds (⅔) vote of the whole number of the members of the governing body.

(ii) Removal shall be for cause only and after a hearing upon sworn charges preferred in writing by a property owner in the district. Ten (10) days' notice of the hearing on the charges shall be given.

(B) The governing body shall have the power to remove the board, or any member of it, by a vote of the majority of the whole number of the members elected to the governing body upon the written petition of the owners of a majority in assessed value of the property located within the district, after a hearing upon ten (10) days' notice to each member of the board affected.

(c) The members of the board shall receive no compensation for their services but may be reimbursed for their actual expenses incurred in the performance of their duties.

History. Acts 1973, No. 162, §§ 8, 11; A.S.A. 1947, §§ 20-1607, 20-1610.

14-184-112. Plans and estimated cost of improvement.

(a)(1) As soon as is practicable after the qualification of its members, the board of commissioners for a central business improvement district shall form plans for the improvement as described in the petition and shall obtain estimates of the cost of it.

(2) Prior to the filing of any assessment of benefits to accomplish the plan of improvement, a copy of the plans and the estimated cost for the accomplishment of the plans shall be filed in the office of the city clerk.

(b) The plan may provide for the construction of improvements, and other implementation of the plan, in such sequence and in such parts as the board shall determine from time to time to be most advantageous to the district.

(c)(1) The plan of improvement may be amended at any time by the board in order to include or delete such features as the board shall determine to be in the best interests of the district.

(2)(A) A copy of the plan, as amended, shall be filed in the office of the city clerk, and, if the original assessment of benefits shall not have yet been filed, no further notice shall be necessary.

(B)(i) If the assessment of benefits for the district shall have been filed and a levy of it enacted by ordinance, the board shall examine

STAFF REVIEW FORM

_X_ Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of April 20, 1999

FROM:

Charles Venable		Public Works
Name	Division	Department

ACTION REQUIRED: Approval of a budget adjustment and a resolution authorizing the Mayor to enter into a cost-sharing agreement with the University of Arkansas for the removal and replacement of the curbs and gutters located on the outside of each lane of Arkansas Avenue between Dickson and Maple Streets.

COST TO CITY:

$65,000	$ -0-	Street Improvements
Cost of this Request	Category/Project Budget	Category/Project Name
4470-9470-5809-00	$ -0-	
Account Number	Funds Used to Date	Program Name
99060	$ -0-	Sales Tax Capital Imp
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Coordinator ______ Administrative Services Director ______

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ______

Accounting Manager	Date 4-2-99	ADA Coordinator	Date
City Attorney	Date 4-2-99	Internal Auditor	Date 4-2-99 ✓
Purchasing Officer	Date 4-2-99		

STAFF RECOMMENDATION:

Division Head	Date	Cross Reference
Department Director	Date 4-2-99	New Item: Yes No
Administrative Services Director	Date 5APR99	Prev Ord/Res #: ______
Mayor	Date 4/5/99	Orig Contract Date: ______

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

From: Charles Venable, Public Works Director *CV*

Date: April 1, 1999

Subject: Agenda Request--City Council meeting April 20, 1999, approval of an agreement between the City of Fayetteville and the University of Arkansas for cost-sharing improvements to Arkansas Avenue, and approval of a budget adjustment to fund the project.

As you know, the Street Department roto-milled the surface of Arkansas Avenue between Maple and Dickson Streets in early December in preparation of resurfacing the street during the semester break. However, the weather prevented the placement of the asphalt during this time, and the spring semester began before the weather improved. Since students park along both sides of the street, it was decided to wait until summer to resurface.

In early February, the University of Arkansas Physical Plant Director contacted me inquiring if the City intended to replace the curb and gutters when we did the resurfacing. We informed him that we did not. He indicated the University would be interested in cost-sharing the replacement of the curb and gutter sections along the outside of each lane since they are not in very good shape. The University agreed to pay for the replacement of the curb and gutter sections that were adjacent to their property which entails all of the curb and gutters located on the west side and a portion of the curb and gutters located near Maple Street on the east side.

The attached agreement has been reviewed by the University, Jerry Rose, Randy Allen, and myself, and approval is requested in order to proceed with the project. The work will be done sometime after May 31, and prior to August 23, while the majority of the students are out of school.

The estimated cost is $65,000 for replacing the curb and gutters, utilizing our personnel to remove them and utilizing the contractor, that was approved by the council on a yearly basis, to replace them. The cost of replacing the sidewalks on the east side is approximately $15,000. No sidewalk replacement is needed on the west side.

The University will be billed for the actual expenses incurred (estimated to be no greater than $35,000) upon completion of the project. Therefore, a budget adjustment for removal and replacement of the curb and gutter section, will be necessary in the amount of $65,000, since no funds were set aside for this project in the CIP. The sidewalk replacement will be funded from the funds approved in the budget. The resurfacing costs have been made a part of the 1999 Street Resurfacing program.

CV:msm

attachments

AGREEMENT

This Agreement is entered into by and between the Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas, Fayetteville (collectively "University") and the City of Fayetteville ("City") pursuant to the terms and conditions herein set forth.

WITNESSETH

WHEREAS, the University and City desire to make improvements to Arkansas Avenue between Maple Street and Dickson Street (the "Project") for the mutual benefit of both parties;

WHEREAS, the University and City desire to share the financial responsibility for the Project in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, commitments, and promises herein contained, the parties agree as follows:

1. Schedule of Improvements. The parties mutually agree to make improvements to Arkansas Avenue between Maple Street and Dickson Street in accordance with the following Schedule of Improvements:

(a) Replace approximately 2,500 linear feet of curb and gutter on the east and west sides of Arkansas Avenue.

(b) Replace all driveway approaches on the east and west sides of Arkansas Avenue.

(c) Install approximately 8 access ramps or in any other location on Arkansas Avenue where required by applicable federal and state law.

— Draft copy —

(d) Replace approximately 3,309 square feet of sidewalk located on the east side of Arkansas Avenue.

(e) Repair two sets of steps between the curb and sidewalk on the west side of Arkansas Avenue. IF NEEDED

(f) Place an asphalt overlay on all of Arkansas Avenue.

(g) Topsoil, dress, seed, and straw areas disturbed by any work on the Project. Throughout the remainder of this Agreement, the foregoing items shall be referred to as the "Schedule of Improvements." A copy of the plan identifying each component of the Schedule of Improvements is attached hereto as Exhibit A and is fully incorporated herein by reference.

2. <u>Responsibilities of University</u>. In consideration of the completion of the Project and all other covenants and promises herein set forth, the University agrees to pay the actual cost of the following items comprising the Schedule of Improvements:

(a) The actual cost of the removal and replacement of the curb and gutter sections located on the North end of the east side and the entire length of the West side of Arkansas Avenue between Maple Street and Dickson Street (approximately 1,530 linear feet).

(b) The actual cost of repairing two sets of steps between the curb and sidewalk on the west side of Arkansas Avenue. IF NEEDED.

(c) The actual cost of replacing one driveway Approach if found necessary. Upon the completion and acceptance of all tasks set forth in the Schedule of Improvements, the City will bill the University for actual expenses incurred for the items identified in Paragraph 2(a)-(c). In turn, the University will have thirty (30) days to make payment to the City after receiving the invoice. The parties further agree that the University shall be responsible for a maximum of $35,000 as its share of the cost for the completion of the Schedule of Improvements. In the event that the actual costs of the work for the items set forth in this paragraph exceed $35,000, the City agrees to notify the University of any costs which are estimated to be in excess of the aggregate total of $35,000 and the parties may then renegotiate the scope and responsibilities relating to the Project. In no event, however, shall the University be responsible for any additional costs relating to the Project without its prior written approval.

3. Responsibilities of City. In consideration for the University's cooperation and performance of all other obligations set forth in this Agreement, the City agrees to be solely responsible for paying any and all costs for the completion of all items set forth in the Schedule of Improvements except for those items specified in Paragraph 2(a)-(c) as the financial responsibility of the University. Additionally, the City shall be responsible for performing, supervising, and directing all work necessary to complete each and every item set forth in the Schedule Of Improvements. The City may contract with a third-party contractor to perform any and all necessary work to complete the Schedule of Improvements. The City, however, shall be solely responsible for any and all payments to the third-party contractor but may invoice the University for the actual cost of the items set forth in Paragraph 2(a)-(c) subject to any limitations set forth therein.

If the City contracts with any third-party contractor to perform any or all of the work for the Project, then the City shall ensure that the third-party contractor maintains all necessary insurance with respect to the Project and that the third-party contractor agrees to indemnify both the City and the University from any and all claims of any nature whatsoever arising from or relating to the Project.

4. Time of Performance. The parties agree that the work to complete the Project shall begin on or after May 31, 1999, and shall be completed on or before August 23, 1999 or as the parties otherwise agree in writing.

5. Independent Parties. The parties agree that they are independent parties and nothing in this Agreement shall be construed as creating any agency relationship, joint venture, partnership, or any other relationship of other than that of independent parties.

6. No Assignment. This Agreement shall not be assigned, transferred, or conveyed in any manner unless both parties otherwise agree to do so, in writing, in advance.

7. Amendments. This Agreement constitutes the entire understanding by and between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral and written, relating hereto. This Agreement may not be changed or altered except by written agreement of the parties.

8. Mutual Drafting. This Agreement has been negotiated, drafted, and revised by both parties and should be construed accordingly. Accordingly, the rule of construction that ambiguity is construed against the drafting party shall have no application in any dispute over the interpretation of this Agreement.

9. Independent Analysis. The parties respectively acknowledge and agree that they have consulted with competent, independent legal counsel of their choice before entering into this Agreement.

10. Severability. The parties agree that in the event that one or more of the provisions contained in this Agreement should be held invalid, illegal, or unenforceable in any respect or jurisdiction, the validity, legality and enforceability of such provision or provisions will not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

11. Governing Law. This Agreement is made pursuant to and shall be governed by the laws of the State of Arkansas.

12. Liens. If, because of any act or omission of the City or any third-party contractor, any mechanics or other lien or order for the payment of money is filed against any real property owned by the University, the City or its third-party contractor shall, at their sole cost and expense, cause the same to be canceled and discharged of record, within sixty (60) days after the date of filing thereof. Nothing in this provision , however, shall be construed as a waiver of the University's sovereign immunity or the City's statuatory tort immunity or that any party would be entitled to file a lien against the University or the City.

13. Waiver. No waiver of any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed to be a further or continuing waiver of any such term, provision, or condition of this Agreement.

14. Time of the Essence. The parties agree that time is of the essence in all respects concerning this Agreement and performance hereunder.

15. Notices. Any notice or communication required or permitted to be given hereunder shall be in writing and delivered personally, by overnight courier, by facsimile or by United States certified mail, postage prepaid with return receipt requested, addressed to the parties as follows:

To University:	Leo Yanda Director of Physical Plant University of Arkansas PHPL 142 Fayetteville, Arkansas 72701 Facsimile No.: (501) 575-7268
with a copy to:	Office of the General Counsel 421 Administration Building University of Arkansas Fayetteville, Arkansas 72701 Facsimile No.: (501) 575-5046
To the City	Charles Venable Public Works Director City of Fayetteville 113 W. Mountain Street Fayetteville, Arkansas 72701 Facsimile No.: (501) 575-8257
With a copy to:	Jerry E. Rose 113 W. Mountain St. Fayetteville, Arkansas 72701 Facsimile No.: (501) 575-8315

or to such other persons or places as either of the parties may hereafter designate in writing. Such notice shall be effective when received or on the date of personal or courier delivery or on the day of deposit in the U.S. Mail as provided above, whichever is earlier.

Rejection or other refusal to accept shall not affect the validity or effectiveness of the notice given.

16. Counterparts. This Agreement may be executed concurrently in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be binding upon either party until executed by each party hereto.

IN WITNESS WHEREOF, the parties set their hands by their duly authorized respective officers. This Agreement is effective on the date of the last required signature.

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS, ACTING FOR
AND ON BEHALF OF THE UNIVERSITY OF
ARKANSAS, FAYETTEVILLE

By: ______________________
DONALD O. PEDERSON
Vice Chancellor for Finance and
Administration

Date: ______________________

Approved: ______________________
LEO YANDA
Director of Physical Plant
University of Arkansas,
Fayetteville

Date: ______________________

CITY OF FAYETTEVILLE

By: ______________________
~~CHARLES VENABLE~~ FRED HANNA
~~Public Works Director~~ MAYOR

Date: ______________________

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

February 18, 1999

Mr. Leo Yanda
Physical Plant Director
University of Arkansas
521 South Razorback Road
Fayetteville AR 72701

RE: Arkansas Avenue

Dear Mr. Yanda: Leo

Reference is made to our meeting on February 9, regarding the subject project. We discussed the replacement of the curb and gutter along the outside of both lanes and how this might be accomplished prior to resurfacing the street. We had received a quote of $21.25 per foot to remove and replace the curb and gutter. Using this, an estimate of costs of approximately $35,000 was derived for the portion the University of Arkansas agreed was their responsibility which entailed all of the west side of the south-bound lane and a portion of the east side of the north-bound lane located near the Maple Street intersection. The remaining curb and gutter section would then be the City of Fayetteville's responsibility. Mr. Jay Huneycutt called me on February 11, stating that the University was ok with this arrangement.

Since that time we have investigated the possibility of the City removing the curb and gutter section with our forces and preparing the subbase for the curb and gutter to be done by contract. A copy of this estimate of costs is enclosed for your information. As you can see, this method is estimated to cost a little less than if the contractor did all of the work and will probably be the way in which we actually do the work. Since school is now in session and the students park along both sides of the street, it would be summer before the actual work could be undertaken.

I suppose some type of agreement should be drawn up between the University and City citing the responsibilities of each. We will be happy to draft such an agreement for your review.

Please do not hesitate to call if you have any questions.

Yours truly,

Charles Venable
Public Works Director

CV:msm

c Mayor Hanna
Randy Allen

enclosure

CITY OF FAYETTEVILLE
STREET DIVISION
COST ESTIMATE

JOB: Remove and replace curb. (University property)
Arkansas Ave. (Maple St. to Dickson St.)
(Approx. 1530 lf. curb, 1 driveway & repair steps)

DATE OF ESTIMATE: February 11,1999

EMPLOYEE TYPE	# OF EMPLOYEES	HRS.	COST	EQUIPMENT TYPE	# OF EACH	HRS.	COST		TYPE OF MATERIAL	# OF UNITS	COST	TOTAL
R/R CURB WEST SIDE & REPOUR 1 DRIVEWAY												
PWCL	1	96	1,920.00	CREW TRK	1	96	336.00	0.00	Saw rental	1	150.00	150.00
MW4	2	96	3,264.00	BACKHOE	1	96	960.00	0.00	Sb-2	125	5.18	647.50
MW3	4	96	4,992.00	GRADALL	1	64	0.00	1,920.00	Curb & gutter	1530	8.35	12775.50
MW2			0.00	DUMP TRK	2	96	1,536.00	0.00	Concrete	12.5	61.55	769.38
TEMP			0.00	TRAILER	1	16	0.00	272.00	Topsoil	125	4.00	500.00
			0.00	ROLLER	1	56	1,512.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
ESTIMATED LABOR COST			$10,176.00	ESTIMATED EQUIPMENT COST				$6,536.00	ESTIMATED MATERIAL COST			$14,842.38
									TOTAL ESTIMATED COST			$31,554.38

CITY OF FAYETTEVILLE
STREET DIVISION
COST ESTIMATE

JOB: Remove and replace curb. (City)
Arkansas Ave. (Maple St. to Dickson St.)
(Approx. 970 lf. curb, 8 driveways & 4 ramps)

DATE OF ESTIMATE: February 11, 1999

EMPLOYEE TYPE	# OF EMPLOYEES	HRS.	COST	EQUIPMENT TYPE	# OF EACH	HRS.	COST		TYPE OF MATERIAL	# OF UNITS	COST	TOTAL
R/R CURB EAST SIDE & REPOUR DRIVEWAYS & RAMPS												
PWCL	1	128	2,560.00	CREW TRK	1	128	448.00	0.00	Saw rental	1	150.00	150.00
MW4	2	128	4,352.00	BACKHOE	1	128	1,280.00	0.00	Sb-2	125	5.18	647.50
MW3	4	128	6,656.00	GRADALL	1	96	0.00	2,880.00	Curb & gutter	970	8.35	8099.50
MW2			0.00	DUMP TRK	2	128	2,048.00	0.00	Concrete	36	61.55	2215.80
TEMP			0.00	TRAILER	1	16	0.00	272.00	Topsoil	150	4.00	600.00
			0.00	ROLLER	1	40	1,080.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
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			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
			0.00				0.00	0.00				0.00
ESTIMATED LABOR COST			$13,568.00	ESTIMATED EQUIPMENT COST				$8,008.00	ESTIMATED MATERIAL COST			$11,712.80
									TOTAL ESTIMATED COST			$33,288.80

CITY OF FAYETTEVILLE
SIDEWALK & TRAILS DIVISION
COST ESTIMATE
JOB: Arkansas Avenue Sidewalk Replacement (Remove and replace sidewalks and add access ramps on the east side of Arkansas Avenue between Dickson St. & Maple St.)

DATE OF ESTIMATE: February 19, 1999

EMPLOYEE TYPE	@ HR.	HRS	MEN	TOTAL	VEH. NO.	DESCRIPTION	@ HR	HRS	TOTAL
CL	17.27	120	1	2072.40	264	1990 3/4 Ton P/U	1.17	120	140.40
MW III	11.95	120	2	2868.00	300	1988 3500 Dump	2.17	120	260.40
MW IV	14.00	120	2	3360.00	713	1983 Dump Truck	2.93	80	234.40
					975	1997 Skid Steer	3.49	80	279.20
					982	1997 Trailer 6x12	.19	120	22.80
					983	1997 Belshe Trailer	1.45	80	116.00
					640	575E Backhoe	9.71	40	388.40

ESTIMATED LABOR COST $8300.40 ESTIMATED EQUIPMENT COST $1441.60
ESTIMATED TOTAL Per Square Foot $ 1.64 ESTIMATED TOTAL Per Square Foot $ 0.29
MATERIALS: Dowels, Expansion Joints, Caulking and Base Material ESTIMATED MATERIAL COST $1000.00
ESTIMATED Per Square Foot $ 0.20

SIDEWALKS 4 INCH 4000 PSI CONCRETE	DRIVEWAY APPROACHES 6 INCH 4000 PSI CONCRETE	ACCESS RAMPS 6 INCH 4000 PSI CONCRETE
102' x 5' = 510 Square Feet	57' x 7' = 399 Square Feet	8 RAMPS
166' x 5' = 830 Square Feet	13' x 8' = 104 Square Feet	
137' x 5' = 685 Square Feet	20' x 9' = 180 Square Feet	
146' x 5' = 730 Square Feet	25' x 12' = 300 Square Feet	
100' x 4' = 400 Square Feet		
26' x 4' = 104 Square Feet		
10' x 5' = 50 Square Feet		
ESTIMATED SIDEWALK TOTAL 3309 Sq. Feet = 42 Cu. Yds of Concrete @ $60.00 Per Cubic Yard ESTIMATED SIDEWALK TOTAL COST $2520.00 ESTIMATED SIDEWALK Per Square Foot $0.76	ESTIMATED APPROACH TOTAL 983 Sq. Ft. = 20 Cu. Yds of Concrete @ $60.00 Per Cubic Yard ESTIMATED APPROACH TOTAL COST $1200.00 ESTIMATED APPROACH Per Square Foot $1.22	ESTIMATED ACCESS TOTAL 760 Sq. Ft. = 16 Cu Yds of Conc. @ $60.00 Per Cubic Yard ESTIMATED ACCESS RAMP TOTAL COST $960.00 ESTIMATED ACCESS TOTAL Per Square Foot $1.26

TOTAL JOB COST ESTIMATE $15,422.00 ESTIMATED JOB COST PER SQUARE FOOT $3.21

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvement Fund	Date Requested	Adjustment #
1999	Division:	04/09/99	
	Program:		

Project or Item Requested:
Authorization is requested to establish a new project to remove and replace curb and gutter along Arkansas Avenue between Maple and Dickson streets.

Project or Item Deleted:
Funding for the project is from two sources: payment by the University of Arkansas and reallocation of funding for Cleveland Street - Garland to Frisco.

Justification of this Increase:
The City is scheduled to resurface Arkansas Avenue as part of the Pavement Improvements Project and the University requested that the curb and gutter be repaired.

Justification of this Decrease:
The University is funding their portion of the project and Cleveland Street - Garland to Frisco project was removed by City Council action during the budget process for 1999.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Street Improvements	65,000	4470	9470		5809	00	99060	20

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Street Improvements	30,000	4470	9470		5809	00	98028	10
Payments by Property Owners	35,000	4470	0947		4420	00		

Approval Signatures

Requested By — Date

[signature] — 4/9/99

Budget Manager — Date

Department Director — Date

Admin. Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

C:\APPS\99BUDGET\BUDGTADJ\ARK_AVE

HEATHER'S COPY
#3
CONSENT AGENDA

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of April 20, 1999

FROM:

Billy L. Ammons	**WWTP**	**Public Works**
Name	Division	Department

ACTION REQUIRED:
Approval of a resolution awarding bid number 99-47 to Multi-Craft Contractors in the amount of $410,579 for the installation of the ultraviolet disinfection system for the Paul R. Noland wastewater treatment facility. (Recommendation memo attached)

COST TO CITY:

$410,579.00	**$1,100,000.00**	**UV Disinfection System**
Cost of this Request	Category/Project Budget	Category/Project Name
5400.5800.5801.00	$ 632,100	**WWTP Captial**
Account Number	Funds Used To Date	Program Name
99035.01	$ 467,900	**Water & Sewer**
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

[signature] Budget Coordinator
[signature] Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marilyn Cramer — Accounting Manager — Date 4-20-99
Yolanda Fields — Internal Auditor — Date 4-20-99 ✓
[signature] — City Attorney — Date 4-20-99
___ ADA Coordinator — Date ___
P Vice — Purchasing Officer — Date 4-20-99

STAFF RECOMMENDATION: To approve award of bid 99-47 to Multi-Craft Contractors in the amount of $410,579.00.

Billy L. Ammons — Division Head — Date 20 Apr 99
[signature] — Department Director — Date 4-20-99
[signature] — Administrative Services Director — Date 20APR99
Fred Hanna — Mayor — Date 4/20/99

Cross Reference

New Item: ___ Yes ___ No

Prev Ord/Res #: ___

Orig Contract Date: ___

D:\DATA\WP-DATA\AGENDA.FRM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

April 20, 1999

To: Fayetteville City Council

From: Donald R. Bunn, Assistant Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: Award of Bid
Installation of Ultraviolet System
Paul Noland Wastewater Treatment Plant

Bids were opened on April 19, 1999 on the installation of the ultraviolet system for the Paul Noland Wastewater Treatment Facility. Multi-Craft Contractors, Inc. of Springdale was the only bidder on the job. The bid was in the amount of $424,988.00. A copy of the bid tabulation is attached.

Multi-Craft Contractors agreed to deduct a total of $14,409.00 from the bid price provided the time for completion was changed to 140 days. The lengthened time for completion is due to the time needed to have certain electrical components manufactured. We are in agreement with the time extension, therefore the Construction Contract the memorandum from OMI reflects the adjusted bid price of $410,579.00.

It is the recommendation of the Staff that the bid be awarded to Multi-Craft Contractors in the amount of $410,579.00 with a time of completion of 140 days from the time of a notice to proceed. The budget is sufficient to cover these costs.

OMI

Memorandum

To: Mayor Hanna and Fayetteville City Council Members

Thru: Charles Venable, Public Works Director

From: Billy L. Ammons (PCP) Project Manager BLA

Paul Hawkins (PCP) Maintenance Manager

Date: April 20, 1999

Re: Bid Recommendation for Bid # 99-47

Please reference the attached agenda request for bid # 99-47.

We recommend awarding the bid to the low bidder, Multi-Craft Contractors (MCC) in the amount of $410,579. MCC's bid does not meet the specifications in regard to the time of completion, but is apparently the best that can be done under the circumstances. Certain components of the electrical system needed for this installation are not 'off-the-shelf' items and must be custom manufactured. The proposed time frame for project completion of 140 calendar days is not desirable, but will be acceptable.

Bid # 99-47 deals with the installation of the new ultraviolet disinfection (UV) system for the wastewater treatment facility (WWTF). The equipment needed for this disinfection system has already been purchased and will be delivered in the next few months. Approval of this contract will allow work to go forward in preparing for the eventual installation of the UV equipment.

WWTF personnel will work closely with the contractor in an attempt to expedite the project in whatever ways may be possible. We appreciate your assistance in this important project.

BID : 99-47
DATE: 4/19/99
TIME: 2:00 PM
CITY OF FAYETTEVILLE

DESCRIPTION: ULTRA-VIOLET DISINFECTION SYSTEM INSTLLATION

BIDDER	BASE BID	CATAGORY A	CATAGORY B	CATAGORY C
MULTI-CRAFT CONTRACTORS	$424,988.00	alternate Bid #1 deduct <$73,710.00>	alternate Bid #1 deduct <$118,493.00>	alternate Bid #1 deduct <$231,000.00>
(Project Completion 140 days)			alternate Bid #2 deduct <1,785.00>	

Certified by P Vice
P Vice

B Williams 4/19/99
Witness Date

Multi-Craft Contractors, Inc.

Phone: 501-751-4330
Fax: 501-751-4399
Post Office Box 1760
2300 Lowell Road
Springdale, AR 72765

April 19, 1999

City of Fayetteville

ATTN: Peggy Vice, Purchasing Manager

RE: Ultra-Violet Disinfection System Installation
Bid # 99-47

This notice is to inform you that if the TIME OF COMPLETION for the above referenced project is extended to 140 days, then MCC will allow a deduction of:

<$14,409.00>

from our submitted bid price. This reflects the amount of our bond, less the cost, and assumes that it will not be forfeited.

NOTE: This deduction is contingent upon submittals, if not waived, being reviewed and returned within 14 - 20 calendar days after deliverance.

Our revised bid price would then be: $410,579.00

If you have any questions, please don't hesitate to call me.

Thank you,

Dennis Kelly

Dennis Kelly
Executive Vice President

DK:pap
2.91.57

cc: Billy Ammons
Pollution Control Plant

CONTRACT

This contract executed this _____ day of _________, 1999, between the City of Fayetteville, Arkansas, hereinafter called the City, and Multi Craft Contractors, Inc., hereinafter called the Contractor, and having an address at 2300 Lowell Road, Springdale, AR 72764.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. The Contractor at his 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 99-47 as stated in CONTRACTOR'S PROPOSAL, and in accordance with specifications attached hereto and made a part hereof under Bid #99-47 all included herein as if spelled out word for word.

2. The City shall pay the Contractor based on prices indicated in Contractor's Proposal. Progress payments will be made 30 days submission of invoice and after approval and acceptance of work by project manager. Amount of contract not to exceed $ 410,579.00 .

3. The Contract documents which comprise the contract between the City and the Contractor consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 99-47 with the specifications and conditions typed thereon.

   B. The Contractor's proposal.

   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City and the Contractor and may be modified only by a duly executed written instrument signed by the City and the Contractor.

5. Contractor shall not assign his duties under the terms of this agreement.

6. Contractor agrees to hold the City harmless and indemnify the City, against any and all claims for property damage, personal injury or death, arising from Contractor's 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.

The Contractor shall furnish a certificate of insurance addressed to the Owner, 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, 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 & Automobile Insurance	
Bodily Injury Liability	$1,000,000 aggregate.
Property Damage Liability	$250,000 for each accident. $1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by the Contractor.

8. If contract exceeds $20,000, Contractor agrees to furnish a Performance Bond, approved by the City, guaranteeing the performance of this contract, for not less than one hundred percent of the amount of this contract. Said performance bond shall be conditioned on full and complete performance of this contract and acceptance by the City of Fayetteville for the payment of all labor and materials entering into or incident to the proposed improvements. The Contractor agrees to furnish proof of licensure as required under the terms of Act 150 of the 1965 Acts of the Arkansas Legislature.

9. Contractor agrees to begin work within ten (10) days of notice to proceed and complete the work within 140 calendar days thereafter. Liquidated damages of $100 per day shall be assessed at the option of the City, not as a penalty, beginning on the first day following the completion time to cover additional costs.

10. All work called for herein shall be coordinated directly with Project Manager at 443-3292.

11. This contract may be terminated by the City with 10 days written notice.

12. Contractor shall be responsible for meeting compliance with ADA regulations.

WITNESS OUR HANDS THIS_______DAY OF ______________, 1999.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY__________________________
MAYOR

ATTEST: CITY CLERK

____

Multi-Craft Contractors INC
FIRM NAME

ATTEST: SECRETARY

BY Dennis Kelly Exec. Vice Pres.
NAME AND TITLE

____

PO BOX 1760
Springdale Ar 72765
BUSINESS ADDRESS

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.: OMI-99-17

Date: 04/20/99

P.O. Number: 0

Vendor #: 53800

Vendor Name: Multi-Craft Contractors

Mail: Yes X No

Address: PO Box 1760

FOB Point: Fayetteville, AR

Taxable: Yes X No

City: Springdale

State: AR

Zip: 72765-1760

Ship To Code: 95

Division Head Approval: Billy L. Ammons

Requester: Billy Ammons

*Requester's Employee#: 785

Extension: 443-3292

Item	Description:	Quantity	Unit of issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
1	Construction as per bid #99-47	1	ea		$410,579.00	5400-5800-5801-00	99035-01		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
11					$0.00				
	SHIPPING/HANDLING								

Special Instructions:

Total Price to includes Tax.

Subtotal: $410,579.00

Tax:

TOTAL: $410,579.00

Approvals:

(for purchasing office use only)

Mayor:______ Department Director:______ Purchasing Manager:______

Admin. Services Director:______ Budget Coordinator:______ Data Processing Mgr:______

STAFF REVIEW FORM

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council meeting of April 20, 1999

FROM:

Name	Division	Department
Billy L. Ammons	WWTP	Public Works

ACTION REQUIRED:
Approval of a resolution awarding bid number 99-47 to the selected bidder, who will be determined after the bid opening on April 19, 1999, for the installation of the ultraviolet disinfection system for the Paul R. Noland wastewater treatment facility. (Recommendation memo to follow ASAP)

COST TO CITY:

Estimated $450,000.00	$1,100,000.00	UV Disinfection System
Cost of this Request	Category/Project Budget	Category/Project Name
5400.5800.5801.00	$632,000.00	WWTP Captial
Account Number	Funds Used To Date	Program Name
99035.01	$468,000.00	Water & Sewer
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ______ Budgeted Item ______ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager Date
Internal Auditor Date
City Attorney Date
ADA Coordinator Date
Purchasing Officer Date

STAFF RECOMMENDATION: To approve award of bid 99-47 to selected bidder, after bid opening on April 19, 1999.

Division Head Date
Department Director Date
Administrative Services Director Date
Mayor Date

Cross Reference

New Item: ______ Yes ______ No

Prev Ord/Res #:

Orig Contract Date:

D:\DATA\WP-DATA\AGENDA.FRM

BID 99-47: UV
A.2 page 2

OMI

MEMORANDUM

TO: Mayor Fred Hanna and Fayetteville City Council Members

Thru: Charles Venable, Public Works Director

FROM: Billy Ammons, (PCP) Project Manager
Paul Hawkins, (PCP) Maintenance Manager

DATE: April 1, 1999

SUBJECT: **Bid award recommendation #99-47, Ultraviolet Disinfection System**

Please reference the attached Agenda Request for award of bid 99-47.

We would appreciate your prompt attention to this request for placement and approval on the April 20, 1999 Fayetteville City Council Meeting to avoid EPA noncompliance and possible fines.

OMI

MEMORANDUM

TO: Charles Venable

FROM: Billy L. Ammons BLA

DATE: April 1, 1999

SUBJECT: Agenda Request

Mr. Venable,

We have been working with Peggy Vice on getting things ready to advertise the bid for the installation of the UV system. This bid will be advertised on Sunday April 4,1999, and Sunday April 11, 1999, then be opened on Monday April 19, 1999. We would like to try and get this on the April 20, 1999 Council Meeting, even though the time will be short. Time has become short for the overall project as we have awaited a complete set of specifications for this job, but we still have a chance to beat the oncoming June 21, 1999 deadline if we can expedite this contract.

Accordingly, we have included the attached agenda request for your review and approval, and would ask that you forward it to the appropriate destination if this is acceptable to you.

We do have contingency plans in place to be able to continue to treat water legally under the new EPA rules, but doing so will be very labor intensive and expensive. We would therefore like to proceed as quickly as possible with this project.

Thank you for your help!

RECEIVED
APR 0 2 1999
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

April 2, 1999

To: Fayetteville City Council

From: Don Bunn, Ass't Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: Bid No. 99-47
Ultraviolet Disinfection System
Installation Contract

On February 16, 1999 the Council approved a contract with Trojan Technologies for the purchase of an Ultraviolet Disinfection System for the Fayetteville Wastewater Plant. The memorandum to the Council at that time noted that another contract for installation of the equipment would be presented at a future meeting.

The bids for installation of the ultraviolet equipment will be opened on April 19, 1999. We are asking that the award of that bid be placed on the agenda for the April 20 Council Meeting. The reason for the urgency in awarding the bid is to insure that we have the system installed by June 21, 1999. We must meet this date in order to avoid the preparation of a emergency plan in connection with the storage of chlorine on site.

The bid tabulation and award recommendation will be placed in each Councilman's box in the City Clerk's office just as soon as possible after the bid opening on Monday, April 19.

The estimated cost of the installation is $450,000.00. The overall budget of $1,100,000 for the ultraviolet equipment and installation is not expected to be exceeded.

INSURANCE RENEW
C.5 page 1

STAFF REVIEW FORM

XX Agenda Request
____ Contract Review
____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF April 20, 1999

FROM:

Don Bailey — Name
Personnel — Division
Admin. Services — Department

ACTION REQUESTED:

Exercise option to renew BCBS/U.S.Able Life, AD&D and LTD Group Policies for policy period 5-1-99 through 12-31-99. There is no increase in premium. Annualized total city contributions for calendar year 1999 will be approx. $184,606.

COST TO THE CITY:

$123,550 (5-1 to 12-31-99) Cost of this request	$193,974 (Annual) Category/Project Budget	Life/AD&D, LTD Ins. Category/Project Name.
Various Account Number	$45,738 (Jan.-March) Funds used to date	City Wide Program Name
Project Number	$148,236 Remaining Balance	City Wide Fund

BUDGET REVIEW:

✓ Budgeted Item
____ Budget Adjustment Attached

Budget Coordinator
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager — Date 4-2-99
Internal Auditor — Date 4-2-99
City Attorney — Date 4-5-99
ADA Coordinator — Date
Purchasing Officer — Date 4-5-99

STAFF RECOMMENDATION:

Approve policy renewal

Division Head — Date 4-1-99
Department Director — Date
Administrative Services Director — Date 5APR99
Mayor — Date 4/5/99

Cross Reference

New Item: Yes No

Prev Ord/Res #:

Orig. Contract Date:

STAFF REVIEW FORM

Description Life, AD+D + LTD Insurance Renewal Meeting Date 4-20-99

Comments: Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

TEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Fred Hanna and the Council

THRU: Kevin Crosson, Administrative Services Director KAC

FROM: Don Bailey, Personnel Director DB

DATE: April 1, 1999

SUBJECT: Group Life, AD&D and LTD Insurance

The renewal date for our US Able Group Life, Accidental Death and Dismemberment and Long Term Disability insurance policies is May 1, 1999.

You will note that the current renewal period is for only eight months. This period is at the request of the City in order to have the plan year coincide with our budget year in the future.

There is no change in either coverage or premium rates for the 5-1-99 renewal. Premium rates paid by the employer are:

Life	.31 per $1,000 of coverage
AD&D	.07 per $1,000 of coverage
LTD	.46 per $100 of covered payroll

The rate for the voluntary AD&D which is 100% employee paid, is unchanged at $3.75 per $25,000 of coverage. There is also no change to the rates for the individual Cancer policies which are 100% employee paid.

Plan costs are fully budgeted and are listed in the attached budget summary.

1999 Budget Summary By Account

- Long Term Disability (LTD)
- Accidental Death & Dismemberment (ADD)
- Life Insurance

Fund	LTD Budget	ADD Budget	Life Insurance Budget
General (1010)	$ 48,564	$ 16,646	$ 72,223
Street (2100)	3,374	1,485	5,018
Community Development (2180)	571	203	849
Parks Development (2250)	466	225	693
Drug Law Enforcement (2930)	395	149	588
Water & Sewer (5400)	7,562	3,322	11,241
Solid Waste (5500)	4,145	1,800	6,163
Airport (5550)	1,289	495	1,917
Shop (9700)	1,595	626	2,370
	$ 67,961	$ 24,951	$ 101,062

INSURANCE RENEW
C.5 page 4

1999 COSTS

ACTUAL	LTD	LIFE	AD&D	
JANUARY	$5,315.00	$8,018.65	$1,935.00	
FEBRUARY	$5,252.30	$7,999.87	$1,927.50	
MARCH	$5,306.05	$8,045.13	$1,938.75	
ESTIMATED			$45,738.25	Y.T.D.
APRIL	$5,316.66	$8,061.22	$1,940.00	
MAY	$5,327.30	$8,077.34	$1,945.00	
JUNE	$5,337.95	$8,093.50	$1,945.00	
JULY	$5,348.63	$8,109.68	$1,945.00	
AUGUST	$5,359.32	$8,125.90	$1,945.00	
SEPTEMBER	$5,370.04	$8,142.16	$1,945.00	
OCTOBER	$5,380.78	$8,158.44	$1,945.00	
NOVEMBER	$5,391.54	$8,174.76	$1,945.00	
DECEMBER	$5,402.33	$8,191.11	$1,945.00	
			$138,868.66	ESTIMATED REMAINING
			$184,606.91	ESTIMATED ANNUAL

USAble Life

Renewal Notification Form

Policyholder: City of Fayetteville

Group #: 2467

Renewal Date: 5/15/99

Date Prepared: 3/9/99

Representative: Barbara Lovin

Description of Classes:	LIFE	AD&D	DEP LIFE	STD
All regular full-time employees working a 40 hour week	1.5 X Annual Salary Maximum - $150,000			

	LIFE	AD&D	DEP LIFE	STD
Current Rates	$ .31	$ .07	$	$
Current Volume	$ 32,290,000.00	$ 32,290,000.00		$
Current Premium	$ 10,009.90	$ 2,260.30		$
Your New Rates	$ .31	$ .07	$	$
Your New Premium	$ 10,009.90	$ 2,260.30		$

Your Group Policy contains special provisions which were requested at the date of issue. Please check your policy carefully and if you have questions, please contact your Sales Representative or USAble Life.

Comments: Voluntary Accidental Death and Dismemberment (Vol AD&D) rates will not change.

PLEASE COMPLETE AND SIGN EMPLOYER CERTIFICATION OF ENROLLMENT & ELIGIBILITY ON THE REVERSE SIDE.

YOU'LL CHOOSE US FOR LIFE
P.O. Box 1650
Little Rock, Arkansas 72203-1650
(501) 375-7200

USAble Life

LONG TERM DISABILITY RENEWAL

Policyholder: City of Fayetteville

LTD Policy #: 2467-100

Renewal Date: 5/1/99

Date Prepared: 3/25/99

Representative: Barbara Lovin

Amount of Benefit:	60% of basic monthly earnings not to exceed $6,000
Current Rates Per $100 of Covered Payroll:	.46
Your New Rates Per $100 of Covered Payroll:	.46
Monthly Covered Payroll:	$1,785,874.00
Your New Premium:	$8,215.02

PLEASE COMPLETE THE FOLLOWING INFORMATION

Percentage of Company Contribution: ____________

Number of Eligible Employees: ____________

Remarks: ____________

Representatives Signature: Barbara Lovin Date: 4-1-99

Administrators Signature: ____________ Date: ____________

____
Title

Your Group Policy contains special provisions which were requested at the date of issue. Please check your Policy carefully. If you have questions, please contact your Sales Representative or USAble Life.

Arkansas
BlueCross BlueShield

Barbara C. Lovin, CHE
Group Marketing Representative
237 Millsap Road – Suite #1
Fayetteville, Arkansas 72703
Phone: (501) 527-2317
FAX: (501) 527-2323

April 1, 1999

Mr. Don Bailey
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: USAble Life Renewal
Cancer Series

Dear Don:

This letter serves as written confirmation of the renewal rates for the Cancer Series policy in effect for the City of Fayetteville. The new rates for the period 05/01/99 – 12/31/99 will remain the same as your current rates.

Please feel free to call me if you have questions.

Sincerely,

Barbara Lovin

Barbara Lovin
Group Marketing Representative

Cc: Lisa Mann
Scott Huse
Brenda Hall

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of April 20, 1999.

FROM:

Alett Little	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve a resolution changing the name of Hall Avenue (Highway 112) to Garland to make Garland Avenue the continuous street name south from I-540 to W. Maple Street.

COST TO CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator ___ Administrative Services Director ___

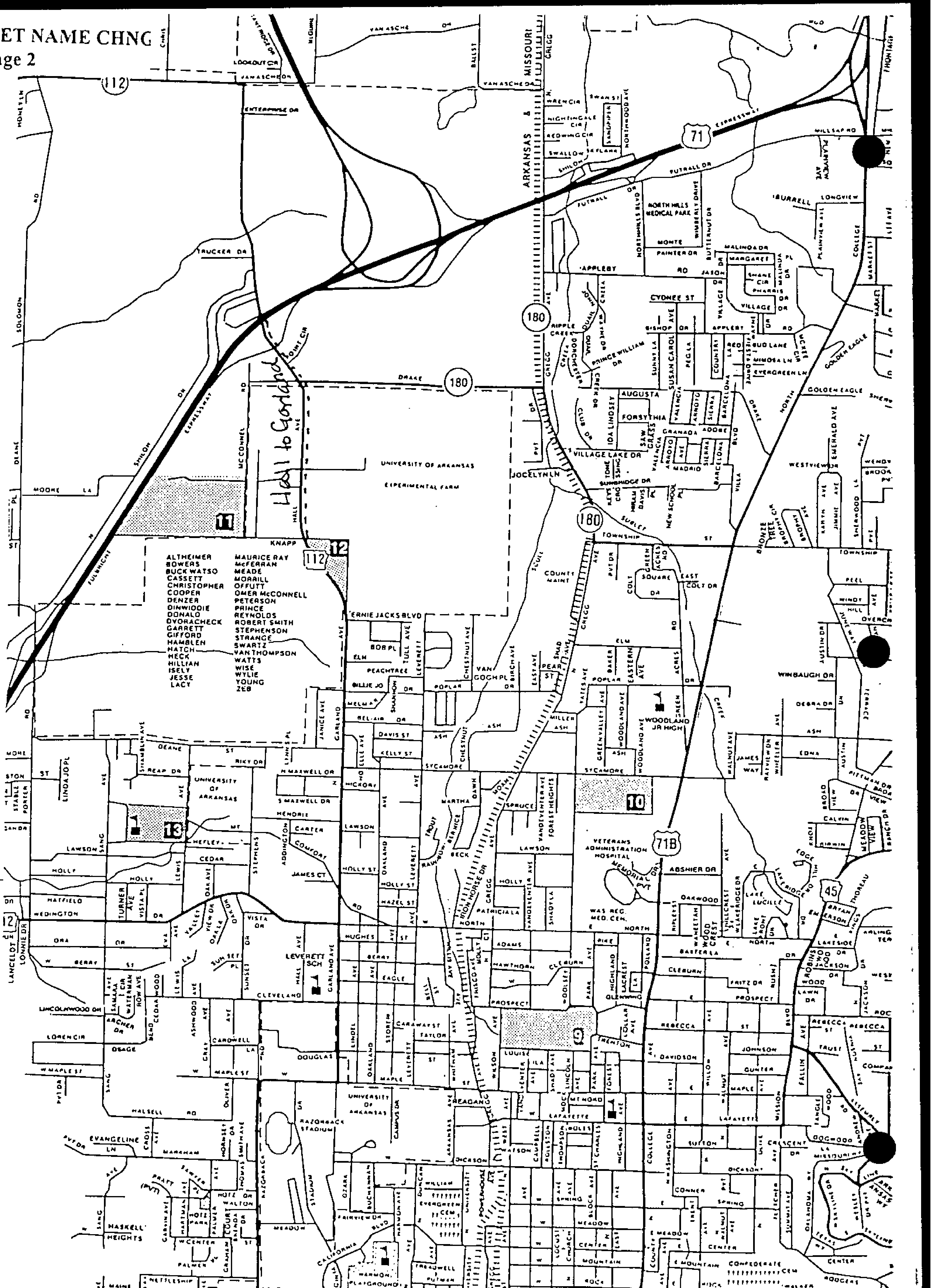
CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ___

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date 4-2-99	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommendation changing the name from Hall Avenue to Garland Avenue in this location. This is forwarded upon request of Al Hughes.

Division Head	Date 4.2.99	Cross Reference
Department Director	Date 4-2-99	New Item: Yes No
Administrative Services Director	Date 2APR99	Prev Ord/Res#: ___
Mayor	Date 4/5/99	Orig Contract Date: ___

STREET NAME CHNG
C.1 page 2



STREET NAME CHNG
C.1 page 3

AL HUGHES AGENCY

1765 NORTH COLLEGE AVENUE • FAYETTEVILLE, ARKANSAS 72703 • (501) 521-9030 • FAX (501) 521-9092

Real Estate and Property Management

March 22, 1999

Ms. Alett Little
Planning Director
113 West Mountain
Fayetteville, AR 72701

Dear Alett;

Every year when I make changes in the city map, I get phone calls regarding the designation of part of Highway 112 from Agri Park to the by-pass. Most of the calls say it should be Garland instead of Hall Avenue.

We have had several deliveries to our house and the driver could not find anything out next to the by-pass. Each one suggested that it would be more appropriate to call the street either Garland or Highway 112.

Please give this some consideration through the proper channels. It is too late to change my 1999 map. If we can correct before next year's map we can make the change.

Sincerely,

Al Hughes

Al Hughes

AH/sh

Loyce Berry
725 N. Hall Avenue
Fayetteville, AR 72701

William Bogle
800 N. Hall Avenue
Fayetteville, AR 72701

George Ledbetter
805 N. Hall Avenue
Fayetteville, AR 72701

Julie Branch
816 N. Hall Avenue
Fayetteville, AR 72701

Charles Baxter
819 N. Hall Avenue
Fayetteville, AR 72701

Robert Hays
824 N. Hall Avenue
Fayetteville, AR 72701

W. Shivers
833 N. Hall Avenue
Fayetteville, AR 72701

David and Elise Burt
912 N. Hall Avenue
Fayetteville, AR 72701

J.M. and John Williams
924 N. Hall Avenue
Fayetteville, AR 72701

J. and Richard Russell
939 N. Hall Avenue
Fayetteville, AR 72701

Julie S. Gabel
949 N. Hall Avenue
Fayetteville, AR 72701

Albert Green
962 N. Hall Avenue
Fayetteville, AR 72701

Claude A. and Mary Hughes
965 N. Hall Avenue
Fayetteville, AR 72701

Donald Eubanks
1002 N. Hall Avenue
Fayetteville, AR 72701

Air Products & Chemicals
2865 N. Hwy 112
Fayetteville, AR 72703

Liquor to Go
2831 N. Hwy 112
Fayetteville, AR 72703

U.S. FORESTRY
2987 PT. CIRCLE #2
FAYETTEVILLE, AR 72704

Y MOTORCYLES INT'L
2880 PT. CIRCLE
FAYETTEVILLE, AR 72704

BYPASS MINI MART
2817 N. GARLAND
FAYETTEVILLE, AR 72703

UNIVERSITY OF ARKANSAS
GARY SLAMONS
PUBLIC SAFETY + TRAINING
FAYETTEVILLE, AR 72701

UNIVERSITY OF ARKANSAS
CHARLES SCIFRES
AGRI DEAN'S OFFICE #205
FAYETTEVILLE, AR 72701

STAFF REVIEW FORM

CLIFFS BOULEVARD
C.2 page 1

_x_ AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of April 6, 1999

FROM:

Jim Beavers	Engineering	Public Works
Name	Division	Department

ACTION REQUESTED:

Approval of a budget adjustment, cost share and bid waiver in the amount of $300,129.00 for construction of Cliffs Boulevard (phase 2) and Happy Hollow extension south of Cliffs Boulevard with the developer's of the Cliffs PUD.

COST TO CITY:

$300,129 *	0	Cliffs cost share
Cost of this Request	Category/Project Budget	Category/Project Name
4470-9470-5809-00	0	Street Impr.
Account Number	Funds Used To Date	Program Name
95028-0020	0	Sales Tax
Project Number	Remaining Balance	Fund

*Estimated costs - please see memorandum

BUDGET REVIEW: ___ Budgeted Item _X_ Budget Adjustment Attached

3/18/99

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager	3-18-99 Date	ADA Coordinator	Date
City Attorney	3-22-99 Date	Yolanda Fields Internal Auditor	3-19-99 Date
Purchasing Officer	3-23-99 Date		

STAFF RECOMMENDATION: Approval of a budget adjustment, cost share and bid waiver in the amount of $300,129.00 for construction of Cliffs Boulevard and Happy Hollow Road extension.

Jim Beavers
Division Head — 3/18/99 Date

Department Director — 3-24-99 Date

Administrative Services Director — 24MAR99 Date

Mayor — 3/24/99 Date

Cross Reference

New Item: Yes

Prev Ord/Res #:

Orig Contract Date:

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

Thru: Charles Venable, PW Director
Don Bunn, Asst. PW Director

From: Jim Beavers, City Engineer JB

Date: 18 March 99

Re: Agenda Request - City Council Meeting April 6, 1999.
Proposed budget adjustment, bid waiver and cost-share in the amount of $300,129 with the developers of the Cliffs PUD for the construction of Cliffs Boulevard (Phase 2) and Happy Hollow Road extension.

Phase 2 of the Cliffs PUD was approved by the Planning Commission on December 14, 1998. The approval included Cliffs Boulevard as a four lane divided boulevard and Happy Hollow as a standard four lane street. The approval also stated that ". . .Any proposed cost share for the construction of the collector streets (Cliffs Blvd. And Happy Hollow Rd.) must be presented to the City Council for consideration . . . ".

The proposed cost share and construction includes Cliffs Boulevard from the existing end of the street (Phase 1) west to Happy Hollow (approximately 1760 linear feet) and Happy Hollow from the Cliffs extension south to the Existing Happy Hollow Road (approximately 887 linear feet).

Based upon the information available in 1998, the current CIP has $250,000 for the Cliffs cost share in the year 2001. The developers have decided to proceed with their project and the developers' engineer, Crafton-Tull and Associates have stated that the developers intend to complete construction of both the Cliffs Boulevard and Happy Hollow in 1999.

A budget adjustment, recommending funding of the cost-share from fund balance is enclosed.

As approved by the Planning Commission, the developers are responsible to construct Cliffs Boulevard and Happy Hollow as standard 28 ft. two lane streets including drainage, curb and gutter, standard sidewalks . . . The City is requested to pay for the differences to construct the four lane Cliffs Boulevard and four lane Happy Hollow including the medians for the boulevard, additional earthwork and paving, additional length of box culvert . . .

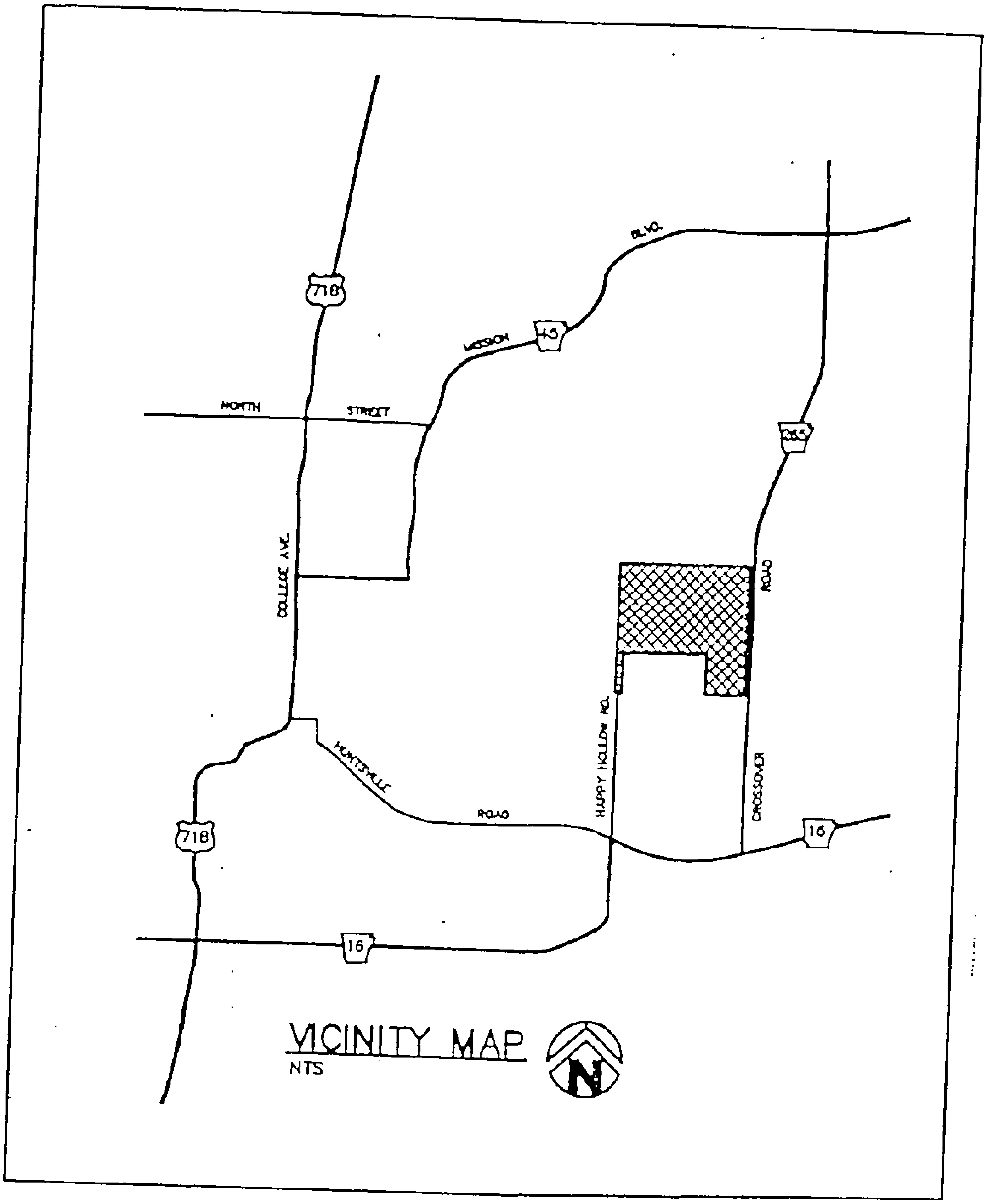
Crafton-Tull and Associates have estimated the costs as:

City	$300,128.79
Developer	$464,574.21
Total	$764,703.00

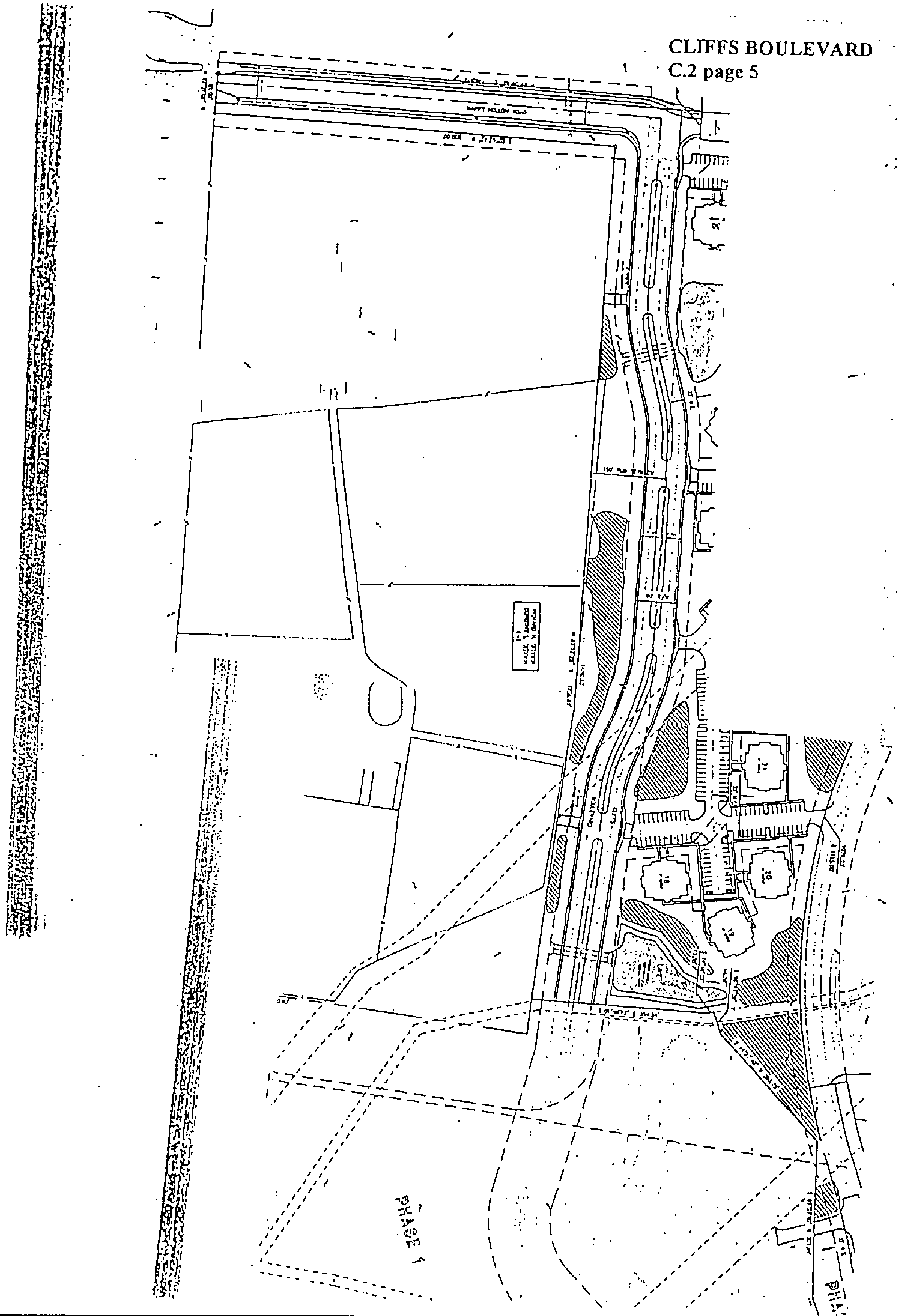
The final costs to the City will be based upon actual costs as documented by Crafton-Tull and Associates subject to review by the City and may, or may not exceed the engineer's estimate. However, the City's share will not exceed the estimated costs without additional authorization.

Enclosures:

Vicinity Map
Budget adjustment
Memorandum dated October 17, 1995
Letter from CTA dated January 29, 1999
Letter from City dated February 8, 1999
Letter from CTA dated March 12, 1999 (received March 17)


718
MISSION
45
BLVD.
NORTH
STREET
265
COLLEGE AVE.
ROAD
HUNTSVILLE
ROAD
HAPPY HOLLOW RD.
CROSSOVER
718
16
16
VICINITY MAP
NTS
N

CLIFFS BOULEVARD
C.2 page 5



for Cliffs boulevard

March 19, 1999

Mr. Fred Hanna, Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: City of Fayetteville proposed cost share for construction of Cliffs Boulevard and Happy Hollow Road

Dear Mr. Hanna,

This letter is being written to request the City's participation in the construction of the above referenced streets. The proposed cost share and construction includes Cliffs Boulevard from the existing end of the street (Phase I) west to Happy Hollow (approximately 1760 linear feet) and Happy Hollow from the Cliffs extension south to the existing Happy Hollow Road (approximately 887 linear feet).

As approved by the Planning Commission, the developers are responsible to construct Cliffs Boulevard and Happy Hollow as standard 28 ft. two lane streets including drainage, curb and gutter, and standard sidewalks. The City is requested to pay for the difference to construct the four lane Cliffs Boulevard and four lane Happy Hollow Road including the medians for the boulevard, additional earthwork and paving, and additional length of box culvert.

Crafton, Tull & Associates have estimated the costs as:

City Portion	$300,128.79
Developer Portion	$464,574.21
Total	$764,703.00

The final costs to the City will be based upon actual costs as documented by Crafton, Tull & Associates subject to review by the City and may, or may not exceed the engineer's estimate. However, the City's share will not exceed the estimated costs without additional authorization.

Sincerely,

Mr. Jim Lindsey

Mr. Bill Underwood

ACCEPTED AND AGREED TO this ________ day of ______________, 1999.

Mr. Fred Hanna, Mayor

ATTEST: City Clerk ________________

Enclosures: Cost Share Breakdown
Cliffs Boulevard and Happy Hollow Road

FAX 575-8316

Jim Beavers

Fax memorandum

3-19-99
Tot Jim Beavers @ 575-8316
3 PAGES

March 19, 1999

to: Tom Hopper, Crafton-Tull

from: Jim Beavers, City of Fayetteville

re: Cliffs phase 2

To make the April 6 agenda I need (by 10 am Monday March 22) a formal letter contract/ agreement signed by the developers which can be signed by the Mayor after Council approval.

Please include the following, or similar:

The proposed cost share and construction includes Cliffs Boulevard from the existing end of the street (Phase 1) west to Happy Hollow (approximately 1760 linear feet) and Happy Hollow from the Cliffs extension south to the Existing Happy Hollow Road (approximately 887 linear feet).

As approved by the Planning Commission, the developers are responsible to construct Cliffs Boulevard and Happy Hollow as standard 28 ft. two lane streets including drainage, curb and gutter, standard sidewalks . . . The City is requested to pay for the differences to construct the four lane Cliffs Boulevard and four lane Happy Hollow including the medians for the boulevard, additional earthwork and paving, additional length of box culvert . . .

Crafton-Tull and Associates have estimated the costs as:

City	$300,128.79
Developer	$464,574.21
Total	$764,703.00

The final costs to the City will be based upon actual costs as documented by Crafton-Tull and Associates subject to review by the City and may, or may not exceed the engineer's estimate. However, the City's share will not exceed the estimated costs without additional authorization.

Thank you

Jim Beavers

...LE

...ENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: City Engineer
THRU: Charles Venable

SUBJECT: Cliffs Cost Sharing

DATE: October 17, 1995

The Cliffs development was planned at a point on Highway 265 where a collector street is shown on the Master Street Plan. The collector runs from Highway 265 to the west to Happy Hollow Road and then continues south along Happy Hollow Road to Highway 16.

When collector streets (or higher classified streets) are required to be constructed as part of a development, it is the policy of the City to require developers to construct the equivalent of a standard city street (31 foot wide, curb and gutter, drainage, etc.) and for the City to pay the additional cost needed to bring the street to the standards of the upgraded classification.

In the case of the Cliffs, the decision was made that in addition to paying for the extra width of street required for a collector, that the City would pay the difference between a standard city street and a boulevard because of the interest expressed within the City in the construction of boulevards instead of normal 4 lane or 5 lane streets.

Therefore, the City placed money in the 1995-1999 CIP for the City's share of the cost of the street. The amounts were about $109,000 for 1995 and $245,000 for 1996. The 1995-1999 CIP was approved by the City Council as part of the budgeting process in 1994.

The 1996-2000 CIP continues the 1996 funding at $245,000. The City's share of the cost includes the extra curb and gutter required for the boulevard section, the extra pavement width, and the extra strength of the roadway section required.

Danny L. Brown, P.E.
Bob H. Crafton, P.E.
Thomas E. Hopper, P.E.
Cline L. Mansur, P.E., R.L.S.
R.E. (Gene) Reece, P.E.
David Swearingen, A.I.A.
James L. Tull, C.D.A.

Principal Emeritus

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Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

Associates

Everett L. Balk, P.E.
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Kurtis J. Jones, P.E.
James W. Koolstra, A.I.A.
Tom Mansur, P.E.
Robert C. Reece, P.E.
Rick G. Rose, R.L.S.
George G. Strella, P.E., D.E.E.
James P. Swearingen, A.I.A.
Richard Wright, RLS

Harry G. Gray, P.E.
(1941-1997)

Mr. Jim Beavers
City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
JAN 29 1999
Eng.

January 29, 1999

Re: Cliffs Phase 2
Public Street Cost Estimates
CTA No. 93033-04

Dear Mr. Beavers:

Please find enclosed an estimate for the cost of construction of Cliffs Boulevard and Happy Hollow Road which will be constructed as a part of the referenced development. We have revised the estimated total cost of each street based upon the completed design, and have also shown a comparison to the cost of a 28' residential street.

On behalf of Mr. Underwood and Mr. Lindsey, we request that this item be placed on the City Council agenda to fund the City's estimate portion of this street construction at the earliest possible date. Should you have any questions regarding this, please feel free to call us.

Sincerely,

Tom Hopper

Tom Hopper, P.E.
+

Cc: Mr. Jim Lindsey
Mr. Bill Underwood

P.O. Box 549 / 2800 North 2nd Street / Rogers, Arkansas 72757-0549 / (501) 636-4838 / FAX (501) 631-6224
E-mail: cta@craftull.com
Website: http://www.craftull.com

Cliffs Phase 2

Public Street Cost Estimates
Engineer's Estimate

CTA No. 93033-04

Estimate #1 - Happy Hollow Road - 887 L.F.					
Item Number	Work Item Description	Unit	Quantity	Unit Price	Extended Cost
1	Clearing & Grubbing	L.S.	1	$20,000.00	$20,000.00
2	Unclassified Excavation	C.Y.	7000	$4.00	$28,000.00
3	2" AHTD Crushed Stone Base	S.Y.	5223	$1.40	$7,312.20
4	8" Portland Cement Concrete Paving	S.Y.	5223	$24.00	$125,352.00
5	Reinforced Concrete - 4'x4'x90' R.C.B.C.	C.Y.	100	$350.00	$35,000.00
6	4' Inlet w/ 2-4' Extensions	EA.	2	$2,500.00	$5,000.00
7	Concrete Curb & Gutter	L.F.	1841	$8.50	$15,648.50
8	6' Sidewalk	L.F.	1826	$10.00	$18,260.00
9	Solid Sod or Topsoil/Seed/Mulch	S.Y.	3903	$5.00	$19,515.00
10	Street Lights	EA.	6	$1,000.00	$6,000.00
				Total	$280,087.70

Estimate #2 - Cliffs Boulevard - 1760 L.F.					
Item Number	Work Item Description	Unit	Quantity	Unit Price	Extended Cost
1	Clearing & Grubbing	L.S.	1	$30,000.00	$30,000.00
2	Unclassified Excavation	C.Y.	10000	$4.00	$40,000.00
3	2" AHTD Crushed Stone Base	S.Y.	11876	$1.40	$16,626.40
4	8" Portland Cement Concrete Paving	S.Y.	11876	$24.00	$285,024.00
5	Reinforced Concrete - Triple 6'x4' R.C.B.	C.Y.	144	$320.00	$46,080.00
6	Reinforced Concrete - Double 6'x4' R.C.B.	C.Y.	97	$320.00	$31,040.00
7	4' Curb Inlet	EA.	4	$1,600.00	$6,400.00
8	4' Curb Inlet w/ 1 - 4' Extension	EA.	2	$2,000.00	$4,000.00
9	18" R.C.P. Drainage Pipe	L.F.	144	$24.00	$3,456.00
10	Concrete Curb & Gutter	L.F.	3357	$8.50	$28,534.50
11	6' Sidewalk	L.F.	3363	$10.00	$33,630.00
12	Solid Sod or Topsoil/Seed/Mulch	S.Y.	4840	$5.00	$24,200.00
13	Street Lights	EA.	6	$1,500.00	$9,000.00
				Total	$557,990.90

PRICE COMPARISON TO A 28' BACK TO BACK RESIDENTIAL STREET

Description	Price per Linear Foot	28' B/B Res. St.	Diff. Price Per L.F.	Length of Street/L.F.	Total Price	Diff. Total Price
CLIFFS BLVD.	$315.77	$74.55	$241.22	887.00	$280,087.70	$213,962.14
HAPPY HOLLOW RD.	$317.04	$74.55	$242.49	1,760.00	$557,990.90	$426,782.40
				Total	$838,078.60	$640,744.54

TEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

February 8, 1999

Tom Hopper, P.E.
Crafton-Tull and Associates
P.O. Drawer 549
2800 North Second Street
Rogers, Arkansas 72757-0549

Re: Cliffs phase II - proposed cost share for Cliffs Boulevard and Happy Hollow extension.

Dear sir,

I have reviewed your proposed estimate and cost share (letter of January 29, 1999) and I do not agree with the proposed cost share.

Specifically, the estimate for a "28' B/B Res. St." is too generic and places more of the burden on the Taxpayers and less than proportionate on the developer.

The request which this office can forward to the City Council will be a request that the City pay for the actual construction costs difference between the requested four lane of Happy Hollow and the Boulevard of the Cliffs, over the costs of the actual site specific 28 ft. street which the developer's would be required to build. The City will pay only for the additional widening on Happy Hollow and the additional widening and boulevard on Cliffs.

Using your cost estimate as furnished January 29, 1999 I estimate that the City's share is closer to $300,000 than the $640,744 which you have requested.

Refer to the attached sketches and notes (3 pages).

Prior to submitting an agenda request to the City Council we need to agree upon an estimate and also have a formal letter agreement signed by the developers which can be signed by the Mayor after Council approval.

Sincerely,

Jim Beavers

Jim Beavers, P.E.
City Engineer

cc: Charles Venable, P.E., PW Director

113 WEST MOUNTAIN 72701 501-521-7700
FAX 501-575-8257

Principals
Danny L. Brown, P.E.
Bob H. Crafton, P.E.
Thomas E. Hopper, P.E.
Cline L. Mansur, P.E., R.L.S.
R.E. (Gene) Reece, P.E.
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George G. Strella, P.E., D.E.E.
James P. Swearingen, A.I.A.
Richard Wright, RLS

Harry G. Gray, P.E.
(1941-1997)

RECEIVED
MAR 17 1999
Round del Eng

March 12, 1999

Mr. Jim Beavers
City of Fayetteville
City Engineer
113 W. Mountain
Fayetteville, AR 72701

Re: Cliffs Boulevard
Street Cost Share
CTA No. 93033-04

Dear Mr. Beavers:

Please find enclosed the revised cost estimate for the construction of Cliffs Boulevard and Happy Hollow Road. Please see the attached calculation pad showing the methodology we used in calculating the Developer's & City's portion of these costs.

We request on behalf of the developer that this item be place on the City Council agenda as soon as possible so that the funds for the construction of these streets may be allocated in the City's budget.

Should you have any questions regarding this estimate, please feel free to call us.

Sincerely,

Tom Hopper

Thomas E. Hopper, P.E.

Cc: Mr. Jim Lindsey
Mr. Bill Underwood
File

P.O. Box 549 / 2800 North 2nd Street / Rogers, Arkansas 72757-0549 / (501) 636-4838 / FAX (501) 631-6224
E-mail: cta@craftull.com
Website: http://www.craftull.com

Happy Hollow Road

887 Linear Feet
Width = 52' Back to Back
80' Right of Way

Clearing & Grubbing – Developer = 50'/80'= 0.625 City = 80'–50'=30' or 30/80 = 0.375
Unclassified Excavation – Developer = 28' City = 52-28=24' or 24'/52'= 0.4615
Concrete Curb & Gutter – Developer = 100% no matter how wide
Base & Paving – (52'-4')-28'/48' = 0.50 for each party
Inlets are developer's responsibility no matter how wide
Box Culvert: Developer installs wing walls/ends + 50' of length
City's share = 80-50/80= 0.375
Sidewalks: Developer – 4/6 = 0.67 City – 6-4/6 = 0.33
Topsoil/Seed/Mulch & Streetlights are developer's responsibility no matter how wide.

Cliffs Boulevard

1760 Linear Feet
Width = 2 – 26' Driving Lanes + 20' median = 72' back to back
84' Right of way

Clearing & grubbing – Developer = 50/84 = .5952 City 84 -50/84 = .4048
Unclassified Excavation – Developer = 28/52 = .5385 City 52-28/52 = 0.4615
Concrete Curb & Gutter – Developer pays for outside curb
City pays for medians ± 50%
Base & Paving – Developer – (28'-4')/(26'-4')*2 = .5455
City - 2*(26-4)-(28'-4')/2*(26'-4') = .4545
Inlets & Storm Pipes – All developer's responsibility
Box Culverts – Developer 50/84 = .60 City = 84 -50/84 = .40
Sidewalks: Developer – 4/6 = .67 City 2/6 = .33

The Cliffs Phase 2
Cost Share Breakdown
Public Streets

CTA No. 93033-04

Happy Hollow Road - 888 L.F.

Item No.	Work Item Description	Quantity	Unit	Unit Price	Developer's Portion	City's Portion	Total Cost
1	Clearing & Grubbing	1	L.S.	$20,000.00	$12,500.00	$7,500.00	$20,000.00
2	Unclassified Excavation	7000	C.Y.	$4.00	$15,078.00	$12,922.00	$28,000.00
3	2" AHTD Crushed Stone Base	4731	S.Y.	$1.40	$3,311.70	$3,311.70	$6,623.40
4	8" Portland Cement Concrete Paving	4731	S.Y.	$24.00	$56,772.00	$56,772.00	$113,544.00
5	Reinforced Concrete - Box Culvert	100	C.Y.	$350.00	$22,750.00	$12,250.00	$35,000.00
6	4' Inlet w/ 2-4' Extensions	2	EA.	$2,500.00	$5,000.00	$0.00	$5,000.00
7	Concrete Curb & Gutter	1841	L.F.	$8.50	$15,648.50	$0.00	$15,648.50
8	6' Sidewalk	1826	L.F.	$10.00	$12,173.33	$6,086.67	$18,260.00
9	Solid Sod or Topsoil/Seed/Mulch	3903	S.Y.	$5.00	$19,515.00	$0.00	$19,515.00
10	Street Lights	6	EA.	$1,000.00	$6,000.00	$0.00	$6,000.00
				Total Cost	$168,748.53	$98,842.37	$267,590.90

Cliffs Boulevard 1760 L.F.

Item No.	Work Item Description	Quantity	Unit	Unit Price	Developer's Portion	City's Portion	Total Cost
1	Clearing & Grubbing	1	L.S.	$20,000.00	$11,800.00	$8,200.00	$20,000.00
2	Unclassified Excavation	10000	C.Y.	$4.00	$21,540.00	$18,460.00	$40,000.00
3	2" AHTD Crushed Stone Base	8604	S.Y.	$1.40	$6,564.85	$5,480.75	$12,045.60
4	8" Portland Cement Concrete Paving	8604	S.Y.	$24.00	$112,540.32	$93,955.68	$206,496.00
5	Reinforced Concrete - Box Culvert	144	C.Y.	$350.00	$30,240.00	$20,160.00	$50,400.00
6	Reinforced Concrete - Box Culvert	97	C.Y.	$350.00	$20,370.00	$13,580.00	$33,950.00
7	4' Inlet	4	EA.	$1,600.00	$4,160.00	$2,240.00	$6,400.00
8	4' Inlet w/ 1-4' Extension	2	EA.	$2,000.00	$4,000.00	$0.00	$4,000.00
9	18" R.C.P. Drainage Pipe	144	L.F.	$24.00	$3,456.00	$0.00	$3,456.00
10	Concrete Curb & Gutter	3357	L.F.	$8.50	$28,534.50	$28,000.00	$56,534.50
11	6' Sidewalk	3363	L.F.	$10.00	$22,420.00	$11,210.00	$33,630.00
12	Solid Sod or Topsoil/Seed/Mulch	4840	S.Y.	$5.00	$24,200.00	$0.00	$24,200.00
13	Street Lights	6	EA.	$1,000.00	$6,000.00	$0.00	$6,000.00
				Total Cost	$295,825.67	$201,286.43	$497,112.10

Total Cost for Cliffs Boulevard & Happy Hollow Road	$464,574.21	$300,128.79	$764,703.00

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year			Date Requested	Adjustment #
1999	Department:	Public Works	April 6, 1999	
	Division:	Engineering		
	Program:	Sales Tax Capital		

Project or Item Requested:

$300,129 to reinitiate the Cliffs Boulevard Cost Sharing Capital Project.

Project or Item Deleted:

$300,129 from the Use of Fund Balance Account.

Justification of this Increase:

The funding is needed to move ahead the Cliffs Boulevard Cost Sharing Project which was originally planned for approved in 2001.

Justification of this Decrease:

Sufficient funding remains in the Sales Tax Fund to comply with City Policy.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Street Improvements	300,129	4470	9470		5809	00	95028	20

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Use of Fund Balance	300,129	4470	0947		4999	99		

Approval Signatures

	Date
Requested By	
Budget Coordinator	3/18/99
Department Director	3-24-99
Admin. Services Director	24MAR99
Mayor	

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

D:\DATA\FORMS\BA-ADNABADJF315.WK4

March 19, 1999

Mr. Fred Hanna, Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: City of Fayetteville proposed cost share for construction of Cliffs Boulevard and Happy Hollow Road

Dear Mr. Hanna,

This letter is being written to request the City's participation in the construction of the above referenced streets. The proposed cost share and construction includes Cliffs Boulevard from the existing end of the street (Phase I) west to Happy Hollow (approximately 1760 linear feet) and Happy Hollow from the Cliffs extension south to the existing Happy Hollow Road (approximately 887 linear feet).

As approved by the Planning Commission, the developers are responsible to construct Cliffs Boulevard and Happy Hollow as standard 28 ft. two lane streets including drainage, curb and gutter, and standard sidewalks. The City is requested to pay for the difference to construct the four lane Cliffs Boulevard and four lane Happy Hollow Road including the medians for the boulevard, additional earthwork and paving, and additional length of box culvert.

Crafton, Tull & Associates have estimated the costs as:

City Portion	$300,128.79
Developer Portion	$464,574.21
Total	$764,703.00

Cliffs Boulevard/Happy Hollow Road

March 19, 1999
Page..........2

The final costs to the City will be based upon actual costs as documented by Crafton, Tull & Associates subject to review by the City and may, or may not exceed the engineer's estimate. However, the City's share will not exceed the estimated costs without additional authorization.

Sincerely,

Mr. Jim Lindsey

Mr. Bill Underwood

ACCEPTED AND AGREED TO this ________ day of ______________, 1999.

Mr. Fred Hanna, Mayor

ATTEST: City Clerk ____________________

Enclosures: Cost Share Breakdown
Cliffs Boulevard and Happy Hollow Road

FAX 575-8316
Jim Beavers

3-19-99
Jot to Jim
Beavers @ 575-8316
3 PAGES

Fax memorandum

March 19, 1999

to: Tom Hopper, Crafton-Tull

from: Jim Beavers, City of Fayetteville

re: Cliffs phase 2

To make the April 6 agenda I need (by 10 am Monday March 22) a formal letter contract/ agreement signed by the developers which can be signed by the Mayor after Council approval.

Please include the following, or similar:

The proposed cost share and construction includes Cliffs Boulevard from the existing end of the street (Phase 1) west to Happy Hollow (approximately 1760 linear feet) and Happy Hollow from the Cliffs extension south to the Existing Happy Hollow Road (approximately 887 linear feet).

As approved by the Planning Commission, the developers are responsible to construct Cliffs Boulevard and Happy Hollow as standard 28 ft. two lane streets including drainage, curb and gutter, standard sidewalks . . . The City is requested to pay for the differences to construct the four lane Cliffs Boulevard and four lane Happy Hollow including the medians for the boulevard, additional earthwork and paving, additional length of box culvert . . .

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City	$300,128.79
Developer	$464,574.21
Total	$764,703.00

The final costs to the City will be based upon actual costs as documented by Crafton-Tull and Associates subject to review by the City and may, or may not exceed the engineer's estimate. However, the City's share will not exceed the estimated costs without additional authorization.

Thank you

Jim Beavers

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

CLIFFS - APPEAL
C.3 page 1

For the Fayetteville City Council meeting of April 6, 1999

FROM:

Jim Beavers	Engineering	Public Works
Name	Division	Department

ACTION REQUESTED:

The developers' of the Cliffs Phase 2 request to appeal certain Planning Commission requirements to the City Council. Specifically item 3, contribution for improvements to Highway 265 and item 11, right-of-way dedication to the AHTD for Highway 265 across the phase I and II property.

A copy of the minutes from the Planning Commission meeting of December 14, 1998 are attached.

The developers' shall prepare their own information for the council.

Staff is preparing this form solely to provide notification that the developers' request to be on the agenda.

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used To Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

N/A

Division Head	Date	Cross Reference
Department Director	Date	New Item: Yes
Administrative Services Director	Date	Prev Ord/Res #____
Mayor	Date	Orig Contract Date:____

MINUTES OF A REGULAR MEETING OF PLANNING COMMISSION

A regular meeting of the Fayetteville Planning Commission was held on December 14, 1998 at 5:30 p.m. in the City Administration Building, 113 West Mountain St., Room 219, Fayetteville, Arkansas.

ITEMS CONSIDERED	ACTION TAKEN
Amendments to the Master Street Plan	Tabled until January 11, 1998
Tune Plaza (LSD98-34)	Approved w/conditions
The Cliffs, Ph II (PP98-11)	Approved w/conditions
Islamic Center (CU98-25)	Approved on Consent Agenda
Hayes (CU95-39)	Tabled until January 11, 1998
Oates (RZ98-21)	Approved
Hooker (CU98-15.1)	Approved w/conditions
Benard (CU98-26)	Approved

COMMISSIONERS PRESENT	COMMISSIONERS ABSENT
Bob Estes	Phyllis Hall-Johnson
J. Forney (arrived at 7:45 p.m.)	Gary Tucker
Lorel Hoffman	
Sharon Hoover	
Conrad Odom	
Lee Ward	

STAFF PRESENT	STAFF ABSENT
Jim Beavers	Dawn Warrick
Janet Johns	
Alett Little	
Ron Petrie	
Brent Vinson	

APPROVAL OF MINUTES

The minutes of the November 23, 1998 meeting were approved as distributed.

PP98-11: PRELIMINARY PLAT
THE CLIFFS, PHASE II, PP 488

This project was submitted by Crafton, Tull and Associates on behalf of William G. Underwood for property located at Cliffs Boulevard and Highway 265. The property is zoned R-1, Low Density Residential, and Phase II contains approximately 34.54 acres.

Tom Hopper and Bill Underwood were present to address the Commission on behalf of this project.

Conditions of Approval

1. Planning Commission determination of the requested density bonus for this Planned Unit Development. The zoning district is R-1 allowing 4 units per acre by right. The developer proposes 6.25 units per acre providing 37.35% open space. Zoning Code provides the Planning Commission the option of approving a density bonus of 7.5 units per acre with the dedication of 35 % open space for a Planned Unit Development.

2. Planning Commission determination of requested waivers:

   a. To allow a structure closer than 100' horizontally to a permanent lake/pond as shown on the plan. The nearest proposed building will be 60' and the remainder will be, on the average, a distance of 75 feet.

   b. 10% grade at the intersection of Sapphire Drive and Goldrush Drive. Please find attached the list of several examples of street slopes.

   Staff supports both requests.

3. Planning Commission determination of any additional onsite or offsite improvements.

   In accordance with 159.33.E., "Off-site improvements to state highways...", the Planning Commission shall determine any improvements required by the developer to be coordinated with the AHTD. Staff requests that the developer contact eh AHTD and determine if improvements to Highway 265 is requested by the AHTD. If improvements are requested and/or such improvements determined to be required by the Planning Commission, then the developer shall provide the improvements as a condition of this Preliminary Plat. In the case of Glenwood Shopping Center, the AHTD and the City required improvements to Highway 265. In the case of Highway 16W, the City assessed a contribution from Clary Development and Sam Rogers Development toward the City's share in the widening project which is funded "50/50" City and State.

The developer has proposed to contribute for the proposed improvements along Highway 265 including sidewalks and ½ the cost of the street fronting the property, times the percent increase of traffic due to the development. This amount will be subtracted from the cost of the Right of Way being dedicated along Highway 265. The Engineer has provided a letter showing this amount being $6,649.35. Please refer to the attached letter dated December 4, 1998, from Crafton, Tull, and Associates.

Based on traffic projections from the applicant's engineer, staff recommends a contribution of $47,548.70 towards the improvement of Hwy 265 adjacent to this development. This amount represents the increase in projected traffic volumes of 3.7% for the entire width of Hwy 265 in this area as a result of this development.

4. Plat Review and Subdivision comments.

5. All improvements shall comply with City's current requirements. Staff approval of final detailed plans, specifications and calculations for grading, drainage, water, sewer, fire protection, streets, sidewalks, parking lots and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval.

6. Payment of Parks fees in the amount of $64,800 (216 units @ $300 each.) Payment is due prior to approval of a final plat for this development.

7. Sidewalk construction in accordance with current standards to include 4' sidewalks with a minimum 6 feet green space along Sapphire Dr. and Goldrush Dr. where these streets are to be constructed for this phase. Also, 6' sidewalks along both sides of Cliffs Blvd. adjacent to the curb, and 6' sidewalks with a minimum of 10' of green space along Happy Hollow Rd. within this phase of development.

8. The developer shall work with the City's 911 Addressing Coordinator to further resolve street naming issues. This must occur prior to this plat being forwarded to the full Commission.

9. Contribution for sidewalks along Hwy 265 for both phase I and phase II is necessary. This shall be included in the assessment for improvements to the state highway according to final plans for the widening project and as determined by the Planning Commission.

10. Contribution for on half of Happy Hollow Rd. adjacent to this phase but not included in this phase of development is required as a condition of this preliminary plat. This guarantee will be refunded to the developer upon complete of the construction of this street segment in a future phase of this project.

11. Right of way per AHTD final plans shall be dedicated to AHTD for all approved phases of this project (I & II) as a condition of this preliminary plat. This shall be by separate document and shall occur upon approval of this plat.

12. Any proposed cost share for the construction of collector streets (Cliffs Blvd. and Happy Hollow Rd.) must be presented to City Council for consideration. A formal estimate was prepared by the developer's engineer and presented to the City Engineer.

    The following is a summary of the approved and budgeted amounts for these cost share items:

    1998 - Approved budgeted amount $50,000.00
    1999 - Proposed budgeted amount $0.00
    2000 - Approved CIP budgeted amount $0.00
    2001 - Approved CIP budgeted amount $250,000.00

13. Approval to be valid for one calendar year.

14. Streetlights shall be installed every 300', at intersections, and at cul de sacs along the public streets. If streetlights are not standard, an agreement between the City and the developer is required.

15. Provide As-Builts for street and drainage for Phase I.

16. Provide additional utility easements along Highway 265 for water and sewer relocation. The placement of these utilities and easements is to be determined as a later date.

17. Dedication of right of way, 50' in width extending from Cliffs Blvd. south to the Seddon property at the points called out to be access easements on the current plat (revised 12/3/98.)

18. Sapphire Dr. and Goldrush Dr. are called out to have 50' right of ways. This street dimension within these rights of way shall be revised to be 28' which meets the current street standard.

19. Tree preservation areas need to be reworked due to the dedication of utility easements along the north side of Cliffs Blvd. This shall be to the satisfaction of the Landscape Administrator - see attached memo.

<u>Committee Discussion</u>

Little: We do have the street names now.

Hoffman: And they have been approved by 911?

Little: Yes.

Odom: Have you had the opportunity to review the nineteen conditions of the approval?

Hopper: We have had opportunity to review the conditions. We agree with the majority. There are two or three items that we would like clarification on. Regarding item #3, we have gone through and computed the developer's contribution to the improvements along Highway 265. As you can see, the method by which we computed the improvements showed a net cost to the developer of $6,649. In looking at the City staff's computation, they came up with a contribution of $47,548 as that contribution. That cost does include sidewalks since the State will be construction sidewalks along that highway. Therefore, Item #9, which calls for a contribution for sidewalks should not be included as a condition of approval. I have discussed that with Mr. Beavers this afternoon and I believe he is in concurrence with me that it does include the sidewalk cost. Just as a point of reference, the $6,649 figure that we had given the City included a credit to Mr. Underwood for the right of way that was being given to the State at a cost of $18,000. The point should be made that if this project was being developed six months from now, the $18,000 would have been paid to him. The $47,548 figure does not give him any credit for giving that right of way. We had asked for that credit as a part of the development costs for this project. This is not something that would stop the project but we feel like Mr. Underwood should be given a credit for that $18,000. Item #12 calls for the City's contribution to improvements to Cliffs Boulevard and Happy Hollow Road based upon the City contributing funds for the widening of both of those streets. We need to move forward with this project and therefore ask the City Council to have those funds available in 1999 in order that this street project and this development may move ahead on schedule. As far as the street lights are concerned, the developer has gone the extra mile in providing upscale lights that give a different atmosphere to this development. There was discussion as Subdivision Committee about shielding these lights from the adjacent neighbors. I went out Friday night and checked the amount of light produced by these street lights and the type of lights will make it very difficult to shield the lights from the neighbors. We would ask that the lights that have been presented be approved with the shielding. They are on 24 feet tall poles and they are a globe style which is not conducive to shielding. We ask that those lights that were used in the first phase be approved for second phase. (*Referring to an exhibit*) The area in the pink is the first phase. The area in yellow is the second phase. As far as the cul de sac, we looked at the grades after the Subdivision Committee meeting and feel like they need to stay as shown. The drive could be constructed up to the street but it would be very street. We would request that the drive be allowed to stay as designed. We understand that Happy Hollow Road, based on the City's request will be a four lane road as opposed to two lane. Based upon that, we are in agreement with the rest of the conditions.

Public Comment

Dan Coody a resident of Fayetteville and a neighbor to The Cliffs objected to the light fixtures because of light pollution. He distributed information regarding light pollution which are on file in the Planning Office.

Dick Seddon the adjoining property owner to the south cautioned that since the second phase of this project is elevated above his property the light will be affecting him and he stated that at Subdivision Committee it was agreed that the possibility of directing the light would be addressed.

Further Discussion

Beavers: Regarding the sidewalk issue, I would agree that the condition was duplicated. We agreed upon the contribution for Highway 265 then the condition #9 should be removed.

Odom: What do we normally do when we talk about a developer giving right of way dedication? Do we give them a credit?

Beavers: No, sir. I stated that we did give credit at Subdivision but was later corrected.

Hoffman: That has always been included in the estimate?

Little: It's really always been treated as two separate items. What we do is refer to the Master Street Plan and determine what the required right of way is and the requirement is dedication of right of way in accordance with the Master Street Plan. Then, we talk about what other off site contributions might be necessary. So, we just treat it as two separate items and I think that is the reason that we've never wrapped it up into one calculation.

Odom: For Item #12, the applicant will have to go to the City Council and request that the project be funded in the budget for 1999 instead of 2000 or 2001.

Beavers: The City Council has the final word. If the City Council desires to fund the cost share, then it can be built as shown on the plans. If the City Council declines to enter into the cost share agreement, then the developer must build a minimum of a two lane street. He may build the boulevard at his own expense if he chooses. The minimum requirement would be the 28 feet two lane street.

Odom: What do we have in that role?

Beavers: More just for your information so that you can discuss it and know that you will get a minimum two lane street if the City Council would not agree to participate in cost share.

Odom: That is up to the City Council and not us.

Beavers: Yes.

Hopper: We would ask the Planning Commission to concur with the recommendation that the street be built as shown.

Little: Yes.

Beavers: Yes.

Ward: One item that we talked about at the Subdivision Committee meeting and I see that they have included them are the easements to the south. My understanding was that we were trying to make more connectivity to that south property which is very large. How wide are those?

Little: They are 20 feet. Ward is correct.

Ward: I think they need to be 50 feet.

Little: 50 is the normal right of way.

Ward: The idea was that the owner to the south was wanting some connectivity into the street but I would like for the future development of the City to have a 50 feet right of way.

Little: We did talk about dedication of right of way and we did not talk about street construction so all we are expecting was for the right of way to be called out.

Ward: We don't expect construction. We just need right of way dedication to joint the property and provide connectivity. It might never be used but 20 feet doesn't do anybody any good.

Hopper: The discuss took place at length between Mr. Seddon and Mr. Underwood was that he be given access and not right of way to the street. Mr. Underwood is not opposed at some time to share with the property owner to fair share the cost of anything which might take place.

Odom: The cost would be to the developer on a future project. Not The Cliffs.

Hopper: In this case, the City is paying for the upgrade and Mr. Underwood is paying for the street itself and there is not a sharing of the property owner to the south in that cost at this time.

Hoffman: We trying to get assurance that the right of way will be wide enough to provide for a future street.

Hopper: That's not a problem. We'll provided 50 feet of right of way.

Odom: Construction would be the total cost of the future development.

Little: So we have resolved that there will be 50 feet of right of way at those two places.

Hopper: Yes. The plat will be amended.

Hoffman: At Subdivision, the discussion did focus on the shielding of the lights. I'm of the opinion that more work can be done on the part of the Underwoods to assure the adjacent property owners by shielding with landscaping or other means so that this does not contribute to the light pollution across this property line. And I think our ordinance also calls for a shielding of some sort regardless to adjacent properties when the zoning is of a lesser nature.

Hopper: Have you been out there at night?

Hoffman: I have. The type of light is certainly preferable. I'm not well versed in the differences between mercury and sodium but I think the sodium is certainly a more diffused look. I think that the number of light to be put in the parking lot for security of the development will have the affect of illuminating the adjacent areas. We need to find some way to incorporate this into a motion that is agreeable to both sides.

Little: Perhaps we could come up with an agreement between staff and Perry Franklin, who pays the City's electric bill, to work with the developer and make sure that the top part of the light is coated in such a way so that the light spreads downwards.

Hoffman: And focused inward if at all possible. In other words, not be put on a pole facing adjoining property.

Little: The type of light that they using has the light flood that spreads in all directions so it would take measures such as looking at the location of the light in order to affect the light spread. It won't be possible to shade one side of that type fixture but we can affect it by the height and placement.

Hopper: We will work to try to minimize the affect on the adjacent property owner by using the same fixture but adjusting height and location.

Underwood: The reason we picked these lights were aesthetic quality. I understood the City encouraged developers to do this. If we can we will solve the pollution problem to some degree. The last stage of this development is 200 feet higher than the first stage and no matter how you shield the lights or place them down, when they are 200 feet taller, there is going to be some pollution. We have security to think about and adequate lighting. It may not be possible to do this without some light pollution.

Odom: We're talking about minimizing.

Hoffman: We're giving you some options. In the absence of parking lot design, when staff reviews your construction drawings, they can look at the placement of the light fixtures and the possibility that the parking lot lighting poles be placed in such a manner that they are not shining unnecessarily onto the other property or that you plant trees.

Underwood: I am amenable. I would like to appeal to you for fairness in regard to the credit for right of way. The State came to me with an offer for this property before this project came before any of the committees and had we not proceeded with our project, the City would have paid because they reimburse the State for the right of way. It seems only fair to me that if we are going to pay for our impact on the highway that we ought to have credit for the land that we are giving for that right of way. I appeal to your fairness on that.

Estes: How do the proposed street lights relate in terms of standard candle power to City street light standards?

Hopper: Their location is in the boulevard in between the lanes. As far as foot candles, I don't have that information. I would guess they are in the range of 50 to 75%.

Estes: Lesser or greater?

Hopper: Lesser.

Estes: It would seem to me that security is essential to this development and if the candle power is 50 to 60 percent less than the standard City street lights, I don't see any basis for objection.

Hopper: That is an observation from being out there. It's not a fact.

Forney: I'm unaware in our regulations of any measures of lumens or foot candles or wattage.

Little: That is correct.

Forney: I understand your wattage statement but there will be more of these than street lights. They are closer to the ground than typical street lights. I'm concerned about this for some of reasons that the residents raised that the light not just from the direct fixture but reflection off the ground which is pretty hard for us to shield. The current vegetation is as thick as it's going to get. It will only get thinner with more development. I feel like we're making very qualitative decisions here. I don't have much to go on. I think the fixtures being used are aesthetically pleasing. We may be in a situation where we are accustom to that side of Mt. Sequoyah being dark and we're seeing more development. Everybody I know doesn't want any development but people keep coming here and we have to put them some where and generally The Cliffs is closer to the center of town and therefore a suitable place for higher density.

Little: The only standard that you have in the ordinance is that outdoor lighted areas are supposed to located 200 feet from any abutting "R district." Street lights are an exception to that. We are talking about two areas of lights. One is within the street which is required by ordinance. It must be one every 300 feet and at the end of cul de sacs and turns. The other is the lighting that is necessary for lighting of parking of lots so that people can see when they are getting into their cars.

Forney: They are lights along the boulevard 300 feet?

Little: Yes.

Forney: Is the west most parking lot between the buildings and the property line and redesign to have the buildings on the west side of the parking lot then that would create more shielding of that illuminated parking lot which we want to be safe and secure but not affect the neighbors in a bad way.

Hopper: The people to the west are the Methodist Assembly and I'm not aware of any residents that are there. I would like to work with the staff and do the best to position the lights to minimize the spread.

MOTION

Ms. Hoffman made a motion to approve the preliminary plat with a caution that there is insufficient information regarding waste water capacity and therefore it is risky to proceed without resolution of that issue by the City Council and subject to all conditions of approval above except as amended as follows:

1. Granting of 6.25 units per acre with 37.35% open space.

3. The $47,548.70 shall remain the assessment for off site improvement and may be appealed to the City Council within six months.

9. Removing the contribution for sidewalks which is covered by condition #3 above.

12. That the Commission recommend the Council appropriate the funds for cost sharing of construction of Cliffs Avenue and Happy Hollow Road as proposed on the preliminary plat.

20. That the following be added to the conditions of approval - a dedication of 50 feet of right of way to the south will be executed.

Mr. Ward seconded the motion.

Further Discussion

Little: Would you clarify that the access to the south to the Seddon property did we agree that would be 50 feet right of way?

Hoffman: I want that included in my motion.

Hoover: At Subdivision meeting, we talked about the sewer capacity and I thought we would have further information.

Odom: We have a meeting in January.

Little: The information will be available January 5. If you are uncomfortable about approving this without that information then we should wait until after January 5.

Odom: I'm uncomfortable but condition #5 covers any action that may affect this development. The developer is on notice that this is a risk.

Forney: I assume that is there an effort for moratorium that it will specify where projects are in the development cycle.

Odom: A moratorium can be in any form or fashion. It could be on all future develops or it could be on all or any building permits. If we start getting sanctioned by the EPA on a daily basis I have a strong suspicion that it will come to a screeching halt.

Forney: How many units is this?

Little: 216.

Forney: We need to consider the waste water capacity situation because a moratorium may not affect things which are through the preliminary plat process. Concerning condition #12, the proposed cost share is not our choice; however, our recommendation should bear some consideration from the Council. What would the typical cost share would be? If this was not a collector street and just a standard street, would be expect the applicant to pay for the full cost of building that street?

Beavers: Yes.

Forney: The cost to this developer would be the cost of a two lane street. Since this is a collector with wider paving we would pay for the difference between the two lane and the collector street.

Beavers: Yes.

Forney: Since they are proposing a boulevard, how does the cost sharing play out?

Beavers: The cost share is the difference between the two lane street and the boulevard which puts more cost to the City than it does to the developer.

Hopper: For a 28 feet back of curb to back of curb and gutter street section, we estimate the cost at $74.55 per foot. For a 52 feet back of curb to back of curb and gutter street section, that cost is $212.73 per foot. A boulevard is $239.09 per foot.

Forney: So we are proposing to Council that they pay the difference between $74.55 per linear foot and $239.09 per linear foot. What is the City's benefit with the boulevard in this particular location?

Hopper: You get four lanes of traffic instead of two and it's more aesthetically pleasing.

Odom: I think our recommendation should be that the City stick to the agreement made during phase I and fund it now since this is when the project is ready to go forward.

Beavers: During Phase I, the Council did approve the cost share for the boulevard. Mr. Hopper may be able to explain why they chose to do that.

Hopper: The reason was that it would be aesthetically pleasing and would a benefit to the

City.

Forney: We've looked at boulevards before and this doesn't look as if it will be a cut through and in my opinion I don't support expending funds for a boulevard in this area because it won't carry a lot of traffic.

Beaver: The total estimate of the City's cost share is $480,000.

Hopper: That includes four lanes for Happy Hollow.

Hoover: Regarding the landscape and tree preservation, is the Landscape Coordinator happy with how this is proceeding?

Little: The only comment from Kim Hesse was that one of the utility easements is shown as a tree preservation area. She has talked to Jerry Kelso about that and the general consensus has been is if that easement is not needed, we are not going to dedicate that so that it can remain a tree preservation area. That is the only issues that I am aware of.

Kelso: That is what we talked about. If for some reason that easement is needed we will designate another area.

Hoover: What was the decision on this group of apartments that only has one way in and out?

Hopper: We look at that trying to make a connection and the grade is excessive.

Hoffman: What does our ordinance require in this situation?

Little: The ordinance requires that there be standard city blocks consisting of anywhere from 250 feet to 1000 feet in length. Anything over 500 feet in length requires a waiver from the Planning Commission. We have traditionally applied that 500 feet in length to mean public street lengths and we had considered this area to be more of a parking lot. We did have discussion at Subdivision and we remember that it was the developer would look at making another way for the length of that to intersect with Happy Hollow Road. There is a very short distance between the parking lot area and Happy Hollow, so the question was grade. There is an area in the location of Unit #33, that would appear to be able to be connected using one of the benches of the terrain.

Hopper: We'll look at that again. If City staff advises we can connect it, we will. We looked at it and felt like that it was not feasible.

Little: We would ask the Planning Commission's guidance on that and whether we should spend more time on that issue.

Hoffman: I raised that point in Subdivision regarding fire and emergency vehicle access. As a compromise to putting a street through is to ask the developer to have an adequate truck turnaround and I will amend my motion to include a vehicle turnaround.

Hoover: I have a problem with the sewer capacity question. Approval of the preliminary plat for this is probably not a good idea when we have such unknowns. I would prefer that we table this until we have complete information.

Estes: I will vote for the preliminary plat. I am concerned about the waste water treatment. We have been put on notice that we are at or near capacity with our waste water treatment. That situation will continue to exist until the City Council sites a waste water treatment plant and until that plant is complete. This is a risk the developer takes. The developer is aware of the situation and they seem willing to accept that risk so I am voting to approve the preliminary plat.

Underwood: We accept that risk.

Forney: How many votes does this require? A simple majority or a majority of the full Commission?

Little: This requires a simple majority. The conditional use request, annexation requests, zoning changes, amendment to the Master Plan, and amendment to the Planning Commission By Laws requires a majority vote of 5.

Roll Call

Upon roll call, the motion passed with a vote of 4-2-0. Commissioners Forney and Hoover voted against the motion.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

OMI REPORT

DEPARTMENTAL CORRESPONDENCE

April 7, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director

Subject: Refund Check,
Wastewater Treatment Plant Operations
OMI

Our contract with OMI for the operation of the Noland Wastewater Treatment Plant calls for an estimated amount to be paid each year for operation of the facility. If the actual cost of operation of the plant is less than the amount paid, then the City receives a refund check in the amount of the overage.

OMI would like an opportunity to make a formal presentation of the 1998 refund check to the City at the Council Agenda Meeting on April 13, 1999.

W/S REFUND BONDS
C.4 page 1

STAFF REVIEW FORM

XXX AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council meeting of April 20, 1999

FROM:

Kevin Crosson	Adm. Serv. Dir.	Adm. Services
Name	Division	Department

ACTION REQUIRED: 1999 WATER & SEWER REFUNDING BONDS: Approval of an ordinance providing for the issuance of Water & Sewer System Refunding Revenue Bonds, Series 1999 in the amount of $8,370,000. All costs associated with the issuance of the bonds will be paid from bond proceeds. The refunding bonds result in an approximate savings of $600,000 to the City.

COST TO CITY:

$	$	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	
Account Number	Funds Used To Date	Program Name
	$	Water & Sewer
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommends approval of the ordinance.

Division Head — Date

Cross Reference

Department Director — Date

New Item: Yes No

Kevin D. Crosson — 7APR99
Administrative Services Director — Date

Prev Ord/Res #:

Fred Hanna — 4/7/99
Mayor — Date

Orig Contract Date:

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Fayetteville City Council

THRU: Fred B. Hanna, Mayor

FROM: Kevin D. Crosson, Administrative Services Director KDC

DATE: April 7, 1999

RE: **Water & Sewer Revenue Refunding Bonds (Series 1999)**

In early 1999, the City engaged an underwriter, Stephens, Inc. and a bond counsel attorney, Kutak Rock, to assist us in making a determination of whether the City's Series 1992 Water & Sewer System Refunding and Improvement Revenue Bonds could be refinanced at lower interest rates resulting in a material cost savings for the City. After reviewing assembled information, a decision was made to proceed with preparation of bond documents due to a favorable interest rate outlook.

Based on recommendations of our underwriter, the bonds are to be marketed and sold on Tuesday, April 13. At the City Council meeting on April 20, an ordinance authorizing the bonds to be issued will be before you for consideration. The ordinance will grant the Mayor and City Clerk the authority to execute all other bond documents necessary to complete the closing of the bonds in late May.

The average coupon rate on the Series 1999 bonds is expected to be 4.30% compared to 5.90% on the existing Series 1992 bonds. The bond issuance provides for the same final maturity of the bonds, which is August 15, 2012. The net savings on the refunding is approximately $550,000. The majority of the bond proceeds will be deposited in an escrow account until the 1999 call date, which is August 15. This will be a fully funded escrow account, which means that all principal, accrued interest, and premiums will be placed in the escrow account at the time the bonds are closed. All interest earnings on the escrow account, which are estimated to be in excess of $50,000 will be returned to the City in August. Thus, the total savings on the refunding should approximate $600,000.

The Series 1999 bonds have received a rating of "A" by Standard & Poors, which maintains the City's existing rating by Standard & Poors. Moody's Investor's Service rated the new bonds "A1", which represents a slight <u>upgrade</u> based on the City's previous rating.

Staff recommends approval of the ordinance providing for the refunding of the Series 1992 bonds based on the interest savings achieved. If you have any questions, please feel free to contact me. Thank you for your consideration of this matter.

KDC/bts

113 WEST MOUNTAIN 72701 501-521-7700
FAX 501-575-8257

ORDINANCE NO. _______

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF $________ PRINCIPAL AMOUNT OF WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1999, OF THE CITY OF FAYETTEVILLE, ARKANSAS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND AN ESCROW DEPOSIT AGREEMENT IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Fayetteville, Arkansas (the "City"), a city of the first class, owns and operates a public water and sewer utility system (which system, together with all capital improvements thereto, is herein collectively called the "System"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Arkansas (the "State"), particularly Arkansas Code Annotated §§ 14-234-201 *et seq.*; Arkansas Code Annotated §§ 14-235-201 *et seq.*; Arkansas Code Annotated §§ 14-164-401 *et seq.*; and Arkansas Code Annotated §§ 19-9-601 *et seq.* (collectively, the "Authorizing Legislation"), to acquire, construct, equip, improve, maintain, operate and repair the System and to issue its revenue bonds to finance and refinance capital improvements to the System; and

WHEREAS, the City has previously issued its $10,000,000 Water and Sewer System Refunding and Improvement Revenue Bonds, Series 1992 (the "Series 1992 Bonds"), of which $8,160,000 in aggregate principal amount remains outstanding, pursuant to the Authorizing Legislation and Ordinance No. 3638 of the City, adopted August 18, 1992; and

WHEREAS, the City has previously issued its $5,500,000 Water and Sewer System Revenue Bonds, Series 1994 (the "Series 1994 Bonds"), of which $4,270,000 in aggregate principal amount remains outstanding, pursuant to the Authorizing Legislation and Ordinance No. 3829 of the City, adopted September 20, 1994; and

WHEREAS, in order to realize debt service savings, the City Council (the "Council") has determined that it is in the best interests of the City and its citizens that the City authorize and issue its Water and Sewer System Refunding Revenue Bonds, Series 1999 (the "Series 1999 Bonds"), in the aggregate principal amount of $________ and with such terms as further described in Section 3 of this Ordinance, to provide funds, together with other available funds, to accomplish the refunding of all of the City's outstanding Series 1992 Bonds, to establish a debt service reserve for the Series 1999 Bonds, and to pay certain expenses incidental to the issuance thereof; and

WHEREAS, arrangements have been made for the sale of the Series 1999 Bonds to Stephens Inc. (the "Underwriter") and in connection therewith there has been prepared and distributed a Preliminary Official Statement dated April __, 1999 (the "Preliminary Official Statement"); and

WHEREAS, there has been submitted to the City a Bond Purchase Agreement dated April 20, 1999 (the "Bond Purchase Agreement"), to be entered into between the City and the Underwriter, providing for the sale of the Series 1999 Bonds to the Underwriter; and

WHEREAS, there has been submitted to the City an Escrow Deposit Agreement dated as of May 1, 1999 (the "Escrow Deposit Agreement"), to be entered into between the City and Bank of Oklahoma, N.A., as escrow trustee (the "Escrow Trustee"), providing for the refunding of the Series 1992 Bonds; and

WHEREAS, copies of the Preliminary Official Statement, Bond Purchase Agreement, Escrow Deposit Agreement, Continuing Disclosure Agreement (as defined herein) and Tax Regulatory Agreement (as defined herein) have been submitted to the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS, AS FOLLOWS:

Section 1. Definitions. In addition to the terms defined in the preamble to this Ordinance, the following terms shall have the following meanings:

"*Accountant*" shall mean a firm of independent certified public accountants of recognized national standing selected from time to time by the City, which may be the firm of accountants that regularly audits the books of the City.

"*Budget*" shall mean the annual budget of the System adopted in accordance with Section 16 of this Ordinance.

"*Code*" shall mean the Internal Revenue Code of 1986, as now or hereafter amended, and applicable regulations issued or proposed thereunder.

"*Consulting Engineer*" shall mean a firm of independent engineers having recognized experience in municipal water and sewer systems selected from time to time by the City.

"*Continuing Disclosure Agreement*" shall mean that Continuing Disclosure Agreement dated as of May 1, 1999, by and between the City and the Trustee.

"*Escrow Trustee*" shall mean Bank of Oklahoma, N.A.

"*Government Obligations*" shall mean (i) direct obligations of, or obligations the payment of the principal of and interest on which is fully guaranteed by, the United States of America; (ii) obligations issued or guaranteed by any instrumentality or agency of the United States of America, whether now existing or hereafter organized, including, but not limited to those of the Federal Financing Bank, the members of the Farm Credit System, whether individually or consolidated, Federal Home Loan Banks, the Export-Import Bank, Government National Mortgage Association and the Tennessee Valley Authority; (iii) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clause (i) of this definition held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in clause (i) of this definition, and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated; (iv) municipal obligations, the payment of the principal of, interest on and redemption premium, if any, on which are irrevocably secured by obligations described in clause (i) of this definition and which obligations have been deposited in an escrow account, which is irrevocably pledged to the payment of the principal of, interest on and redemption premium, if any, on such municipal obligations; (v) obligations issued by any state of the United States; and (vi) municipal obligations the payment of the principal of and interest on which are insured; provided, however, the obligations described in clauses (v) and (vi) of this definition shall also be rated in one of the top two highest rating categories (without regard to any gradation within such category) by both Moody's and S&P or, upon the discontinuance of either or both of such services, any other nationally recognized rating service or services.

"*Gross Revenues*" shall mean all fees, tolls, rates, rentals and charges levied and collected in connection with, and all other income and receipts of whatever kind or character derived by the City from, the operation of the System. Gross Revenues shall specifically include, but shall not be limited to, revenues from water sales, sewer service charges, fire protection charges and interest income on Revenue Fund balances. Notwithstanding the foregoing, Gross Revenues shall not include acreage, front-footage, tap-on, assessment and similar fees, charges, contributions or grants derived by the City in connection with the provision of or payment for capital improvements constituting a part of the System.

"*Guaranteed Investment Contract*" shall mean investment agreements with any bank or trust company which has long-term obligations rated in one of the two highest rating categories by Moody's and S&P or, upon the discontinuance of either or both of such services, any other nationally recognized rating service or services

"*Interest Payment Date*" shall mean February 15 and August 15 of each year, commencing August 15, 1999.

"*Investment Obligations*" shall mean any of the following, to the extent that the same are legal investments for the investment of public funds under State law:

(a) Government Obligations;

(b) banker's acceptances, certificates of deposit or time deposits of any bank, trust company or savings and loan association (including any investment in pools of such banker's acceptances, certificates of deposit or time deposits), which, to the extent that such obligations are not insured by the Federal Deposit Insurance Corporation, are collateralized at all times in amounts and by obligations as shall be permitted by State law;

(c) any repurchase, reverse repurchase or investment agreement with any bank or trust company organized under the laws of any state of the United States or any national banking association, insurance company or government bond dealer reporting to, trading with and recognized as a primary dealer by the Federal Reserve Bank of New York and a member of the Security Investors Protection Corporation, which agreement is secured by any one or more of the securities described in clause (i), (ii) or (iii) of the definition of Government Obligations, provided that the City has a perfected first security interest in the collateral and that the City or its agent has possession of the collateral and that such collateral is held free and clear of claims by third parties;

(d) Guaranteed Investment Contracts; and

(e) any mutual fund(s) rated in the highest applicable rating categories established by Moody's or S&P consisting entirely of Government Obligations.

"*Maximum Principal and Interest Requirements*" shall mean the maximum amount of Principal and Interest Requirements for any fiscal year of the System.

"*Moody's*" shall mean Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the City.

"*Net Revenues*" shall mean, for any period, Gross Revenues less Operating Expenses for such period.

"*Operating Expenses*" shall mean, for any period, all ordinary and necessary expenses of operation, repair, maintenance and insuring of the System under generally accepted accounting principles, except that they shall not include (i) any allowance for depreciation, (ii) any deposits or transfers to the credit of (a) the Series 1994 Bond Fund or the Series 1999 Bond Fund or any other fund or account created for the payment of debt service on Parity Indebtedness or subordinated indebtedness secured by a pledge of Net Revenues as permitted hereunder, (b) the Series 1994 Debt Service Reserve Fund or the Series 1999 Debt Service Reserve Fund or any other debt service reserve fund or account created in connection with the issuance of Parity Indebtedness or subordinated indebtedness secured by a pledge of Net Revenues as permitted hereunder, or (c) the Renewal and Replacement Fund, or (iii) any payments with respect to obligations not payable in whole or in part under any circumstances from Gross Revenues. Operating Expenses shall specifically include obligations of the City to the Beaver Water District of Benton and Washington Counties, Arkansas.

"*Parity Indebtedness*" shall mean the Series 1994 Bonds and other indebtedness of the City issued on a parity of security with the Series 1999 Bonds in accordance with Section 13 of this Ordinance.

"*Principal and Interest Requirements*" for any fiscal year of the System, as applied to the Series 1999 Bonds, shall mean the sum of:

(a) the amount required to pay the interest on the Series 1999 Bonds then outstanding which is payable on the Interest Payment Dates during such fiscal year; and

(b) the amount required to pay the principal of the Series 1999 Bonds then outstanding which is payable on August 15 of such fiscal year.

In calculating Principal and Interest Requirements, there may be excluded any principal and interest payments with respect to the Series 1999 Bonds which the City covenants to pay or satisfy with moneys in the Series 1999 Debt Service Reserve Fund which may be used for such purpose. "Principal and Interest Requirements" for any fiscal year of the System, as applied to the Series 1994 Bonds or any Parity Indebtedness, means the sum of the amounts required by the ordinance providing for the issuance of the Series 1994 Bonds or such Parity Indebtedness to pay or to provide for the payment of the interest on and principal of the Series 1994 Bonds or such Parity Indebtedness then outstanding with respect to such fiscal year.

"*Reserve Fund Requirement*," with respect to the Series 1999 Bonds, shall mean $800,000.

"*S&P*" shall mean Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if "S&P" shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the City.

"*State*" shall mean the State of Arkansas.

"*Tax Regulatory Agreement*" shall mean that Tax Regulatory Agreement dated as of May 1, 1999, by and between the City and the Trustee, relating to the Series 1999 Bonds.

"*Trustee*" shall mean the Trustee serving as such under this Ordinance, whether original or successor. The original trustee is Bank of Oklahoma, N.A.

Section 2. Refunding of the Series 1992 Bonds.

The Council hereby determines that the refunding of the Series 1992 Bonds as provided in Section 22 hereof and in the Escrow Deposit Agreement is in the best interests of the City and its citizens and further determines that the refunding of the Series 1992 Bonds will result in the realization of debt service savings to the City.

Section 3. Authorization and Terms of Bonds.

(a) Under the authority of the Constitution and laws of the State, including particularly the Authorizing Legislation, there is hereby authorized the issuance of revenue bonds of the City to be designated "City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999" in the principal amount of $_________ (the "Series 1999 Bonds"). The Series 1999 Bonds shall be special obligations of the City and the principal of and the interest and any redemption premium on the Series 1999 Bonds shall be secured by a statutory mortgage lien upon the water transmission and distribution portion of the System and by a pledge of the Net Revenues as provided in this Ordinance. The Series 1999 Bonds shall be secured on a parity basis with the City's Water and Sewer System Revenue Bonds, Series 1994 (the "1994 Bonds"), presently outstanding in the aggregate principal amount of $4,270,000. The principal of, the interest and any redemption premium on the Series 1999 Bonds may also be paid as herein provided from moneys in the Series 1999 Debt Service Reserve Fund and certain other funds created hereby, including any income received from the investment of moneys deposited in such funds.

(b) The Series 1999 Bonds shall be dated May 1, 1999, and interest thereon shall be payable semiannually on February 15 and August 15 of each year, commencing August 15, 1999. The Series 1999 Bonds shall be issued as fully registered bonds, numbered consecutively from R-1 upwards, and shall be in denominations of $5,000 or integral multiples thereof. Each Series 1999

Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless it is authenticated as of an Interest Payment Date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first Interest Payment Date, in which event it shall bear interest from its date, or unless at the time of authentication interest on the Series 1999 Bonds shall be in default, in which event it shall bear interest from the date to which interest has been paid in full.

(c) The Series 1999 Bonds shall be issued in the principal amounts, shall mature, unless sooner redeemed in the manner set forth in this Ordinance, and shall bear interest, all as set forth in Exhibit A attached hereto (which Exhibit A is incorporated herein by this reference).

(d) The Series 1999 Bonds shall be subject to redemption prior to maturity in accordance with the provisions pertaining thereto appearing in the form of Series 1999 Bond attached as Exhibit B to this Ordinance. Series 1999 Bonds shall be redeemed only from and to the extent funds on deposit in the Series 1999 Bond Fund are available and sufficient for such purpose.

(e) The Series 1999 Bonds shall be payable, with respect to principal, premium, if any, and interest, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts. The principal of and any redemption premium on each Series 1999 Bond shall be payable to the registered owner thereof or his registered assigns or legal representative at the corporate trust office of the Trustee upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Series 1999 Bond shall be made by the Trustee on each Interest Payment Date to the person appearing on the registration books of the City as maintained by the Trustee hereinafter provided for as the registered owner of such Series 1999 Bond (or the previous Series 1999 Bond or Series 1999 Bonds evidencing the same debt as that evidenced by such Series 1999 Bond) at the close of business on the record date for such interest, which shall be the first day (whether or not a business day) of the calendar month of such Interest Payment Date, by check mailed to such person at his address as it appears on such registration books.

(f) It is expected that the Series 1999 Bonds will be initially registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York, to which principal, premium, if any, and interest payments on the Series 1999 Bonds will be made so long as Cede & Co. or any successor nominee of DTC is the registered owner of the Series 1999 Bonds.

(g) The Bonds shall bear the original or facsimile signatures of the Mayor and City Clerk of the City, and the official seal of the City shall be imprinted or embossed thereon. In case any officer whose signature shall appear on any of the Series 1999 Bonds shall cease to be such officer before the Series 1999 Bonds shall have been delivered, such Series 1999 Bonds may, nevertheless, be delivered as herein provided and may be issued as if the person whose signature appears on such Series 1999 Bonds had not ceased to hold such office. Any Series 1999 Bonds may bear the signatures of such persons who at the time of the execution of such Series 1999 Bonds shall be duly authorized or hold the proper office in the City although at the date of the Series 1999 Bonds such persons may not have been so authorized or have held such office.

(h) The Series 1999 Bonds may be exchanged and registered and transfers of the Series 1999 Bonds may be registered in accordance with the provisions pertaining thereto appearing in the form of Series 1999 Bond attached hereto as Exhibit B to this Ordinance.

(i) No Series 1999 Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this Ordinance until it shall have been authenticated through the execution by the Trustee of the Certificate of Authentication thereon.

Section 4. **Series 1999 Bond Form.** The Series 1999 Bonds and the Certificate of Authentication thereon shall be in substantially the form attached as Exhibit B to this Ordinance, and the Mayor and City Clerk of the City are hereby authorized and directed to make all recitals contained therein.

Section 5. Rate Covenants. The City covenants that:

(a) Subject to the provisions of Section 5(b), it will continue in effect the present schedules of rates for water and sewer services established by Ordinance No. 4059, adopted by the City on October 7, 1997 (which ordinance is hereby confirmed and incorporated herein by this reference and which rates are herein collectively called the "System Rates").

(b) Application of the System Rates will produce during each fiscal year of the System Gross Revenues of at least 110% of the amount required for such fiscal year to (i) pay Operating Expenses, (ii) pay Principal and Interest Requirements on all Series 1994 Bonds, all Series 1999 Bonds and all Parity Indebtedness then outstanding, (iii) pay any Trustee fees, (iv) make required deposits into any debt service reserve funds associated with the Series 1994 Bonds, the Series 1999 Bonds and all Parity Indebtedness then outstanding, and (v) make required deposits into the Renewal and Replacement Fund. The City shall increase System Rates from time to time, as and when necessary, to produce Gross Revenues in the amount specified above.

Section 6. Creation and Confirmation of Funds.

(a) The City hereby incorporates by reference City Ordinance No. 3638, adopted on August 18, 1992 (the "1992 Ordinance"), which authorized the issuance of the Series 1992 Bonds and established and created the following funds relevant to the Series 1999 Bonds:

(i) Revenue Fund;

(ii) Operation and Maintenance Fund; and

(iii) Renewal and Replacement Fund.

(b) The City hereby incorporates by reference City Ordinance No. 3829, adopted on September 20, 1994 (the "1994 Ordinance"), which authorized the issuance of the Series 1994 Bonds and established and created the following funds relevant to the Series 1999 Bonds:

(i) Series 1994 Bond Fund; and

(ii) Series 1994 Debt Service Reserve Fund.

(c) The City hereby creates and establishes the following funds:

(i) Series 1999 Bond Fund; and

(ii) Series 1999 Debt Service Reserve Fund.

The Revenue Fund, Operation and Maintenance Fund and Renewal and Replacement Fund shall be maintained by the City as segregated funds. The Series 1994 Bond Fund, Series 1994 Debt Service Reserve Fund, Series 1999 Bond Fund and Series 1999 Debt Service Reserve Fund shall be maintained by the Trustee as segregated funds.

Moneys deposited in each of such funds shall be expended only as set forth in this Ordinance.

(d) The City may, in connection with the issuance of Parity Indebtedness, create other funds under this Ordinance as may be necessary or convenient.

Section 7. Revenue Fund.

(a) The City shall cause all Gross Revenues to be promptly deposited to the credit of the Revenue Fund.

(b) Commencing on the fifth business day preceding the fifteenth day of the first month following delivery of the Series 1999 Bonds (unless delivery of the Series 1999 Bonds occurs on or prior to the fifth business day preceding the fifteenth day in a given month, in which case the date of commencement shall be the fifth business day preceding the fifteenth day of the month of delivery of the Series 1999 Bonds), and thereafter not later than the fifth business day preceding the fifteenth day of each month, the City shall transfer from the Revenue Fund to the following funds, in the order indicated, the amounts set forth below:

FIRST; as required by the 1992 Ordinance and the 1994 Ordinance, a deposit into the Operation and Maintenance Fund of the amount necessary to cause moneys therein to equal the System's anticipated Operating Expenses, as shown by the Budget of proposed Operating Expenses adopted by the City for the then current fiscal year, for the next succeeding two months;

SECOND; to the Trustee, for deposit into the Series 1994 Bond Fund and the Series 1999 Bond Fund, an amount equal to one-sixth of the interest due on the outstanding Series 1994 Bonds and Series 1999 Bonds on the next Interest Payment Date plus one-twelfth of the principal due on the outstanding Series 1994 Bonds and Series 1999 Bonds on the next principal or sinking fund redemption payment date (provided, however, that the first payments hereunder into the Series 1999 Bond Fund shall be prorated from the date of the Series 1999 Bonds' issuance), after taking into account amounts held in the Series 1994 Bond Fund and the Series 1999 Bond Fund for the payment of such principal and interest, and, for deposit into a separate account, such amount as is required to make the amount in each other fund or account created for the payment of debt service on Parity Indebtedness equal to the amount then required to be in such debt service fund or account;

THIRD; to the Trustee, for deposit into the Series 1994 Debt Service Reserve Fund and/or the Series 1999 Debt Service Reserve Fund, beginning in the month following the month in which a deficiency in the Series 1994 Debt Service Reserve Fund and/or the Series 1999 Debt Service Reserve Fund was created by a withdrawal, valuation or otherwise, an amount at least equal to one-twelfth of the amount of such deficiency until the amount in the Series 1994 Debt Service Reserve Fund and/or the Series 1999 Debt Service Reserve Fund, as the case may be, is equal to the Reserve Fund Requirement with respect to the Series 1994 Bonds or the Series 1999 Bonds, as applicable, and, for deposit into a separate account, such amount as is required to make the amount in each other debt service reserve fund or account created in connection with the issuance of Parity Indebtedness equal to the amount then required to be in such debt service reserve fund or account; and

FOURTH; for deposit into the Renewal and Replacement Fund, to the extent moneys are available in the Revenue Fund, the amount necessary to cause the amount therein to equal $300,000 (as required by the 1992 Ordinance), or such greater amount as the City may determine from time to time to be appropriate, provided that the amount to be transferred from the Revenue Fund and deposited into such fund in any month need not exceed one-twelfth of the amount then required to be held for the credit of the Renewal and Replacement Fund.

(c) If in any month there shall be a failure to transfer the required amount into any of the funds or accounts as described above, then the amount of any deficiency shall be added to the amount otherwise required to be transferred into said funds or accounts in the next succeeding month.

(d) Any moneys remaining in the Revenue Fund immediately following the transfers required by the 1992 Ordinance, the 1994 Ordinance and this Ordinance, and before additional deposits of Gross Revenues are made into the Revenue Fund, may be used, at the option of the City, for any lawful purposes.

(e) On or before the third business day preceding each redemption date for any Series 1999 Bonds called for redemption prior to maturity, the City shall transfer to the Trustee for deposit into the Series 1999 Bond Fund from any available funds of the City an amount sufficient, together with any other funds in the Series 1999 Bond Fund available for such purpose, to pay the interest on, the principal of and any premium on the Series 1999 Bonds to be redeemed pursuant to such call.

Section 8. Operation and Maintenance Fund.

(a) The City shall deposit to the credit of the Operation and Maintenance Fund moneys received therefor pursuant to Section 7 of this Ordinance and Section 8 of the 1994 Ordinance.

(b) Moneys in the Operation and Maintenance Fund shall be expended solely for the purpose of paying Operating Expenses.

Section 9. Series 1999 Bond Fund.

(a) The Trustee shall deposit to the credit of the Series 1999 Bond Fund and any separate account with respect to a debt service fund or account created in connection with the issuance of Parity Indebtedness moneys received therefor pursuant to Section 7 of this Ordinance.

(b) On or before the third business day preceding each Interest Payment Date or redemption date for any of the Series 1999 Bonds outstanding, the Trustee shall withdraw from the Series 1999 Bond Fund and deposit in trust in immediately available funds an amount sufficient to enable the Trustee to remit by mail or wire transfer, as the case may be, to the registered owners of the Series 1999 Bonds the amounts required to pay interest on the Series 1999 Bonds due on such date, and such amount shall be so applied.

(c) On or before the third business day preceding each principal or sinking fund redemption payment date for any of the Series 1999 Bonds outstanding, the Trustee shall withdraw from the Series 1999 Bond Fund and deposit in trust in immediately available funds the amount required to pay principal of the Series 1999 Bonds due on such date, and such amount shall be so applied.

(d) Additional moneys held in the Series 1999 Bond Fund may be applied at the option of the City as a credit toward the required payments into the Series 1999 Bond Fund pursuant to Section 7 hereof, to pay Trustee and paying agent fees and expenses, or, at the option of the City, to the retirement of the Series 1999 Bonds as follows:

(i) At the direction of the City, the Trustee shall endeavor to purchase any Series 1999 Bonds secured hereby and then outstanding, whether or not the Series 1999 Bonds shall then be subject to redemption, on the most advantageous terms obtainable with reasonable diligence, the price not to exceed the principal of and interest on the Series 1999 Bonds plus the amount of the redemption premium, if any, which might on the next redemption date be paid to the registered owners of the Series 1999 Bonds under the provisions of this Ordinance regarding redemption if the Series 1999 Bonds should be called for redemption on the date from moneys in the Series 1999 Bond Fund. However, no such purchase shall be made by the Trustee within the period of 45 days next preceding any Interest Payment Date on which the Series 1999 Bonds are subject to call for redemption under the provisions of this Ordinance, except from moneys other than moneys set aside or deposited for the redemption of Series 1999 Bonds.

(ii) Series 1999 Bonds which are subject to extraordinary redemption at par plus accrued interest up to the date fixed for redemption pursuant to the Ordinance shall be called for redemption on the first Interest Payment Date for which the required notice can be given in the inverse order of their maturities.

(iii) Subject to the provisions of this Ordinance regarding redemption, the Trustee may call for redemption, in inverse order of maturity, on each date on which Series 1999 Bonds are subject to redemption as provided in this Ordinance such amount of such Series 1999 Bonds as, with the redemption premium, if any, will exhaust the moneys which will be held for the credit of the Series 1999 Bond Fund on such date as nearly as may be; provided, however, that no less than $50,000 principal amount of Series 1999 Bonds shall be called for redemption at any one time unless a lesser amount shall retire all outstanding Series 1999 Bonds. On or before the third business day preceding each redemption date, the Trustee shall withdraw from the Series 1999 Bond Fund and set aside in separate accounts the respective amounts required for paying the interest on, the principal of and redemption premium of the Series 1999 Bonds so called for redemption.

Upon the retirement of any Series 1999 Bonds by purchase or redemption, the Trustee shall file with the City Clerk a statement briefly describing such Series 1999 Bonds and setting forth the date of their purchase or redemption, the amount of the purchase price or the redemption price of such Series 1999 Bonds and the amount paid as interest thereon. The Trustee shall cancel said Series 1999 Bonds, in which event they will no longer be deemed outstanding obligations of the City. The expenses in connection with the purchase or redemption of any Series 1999 Bonds shall be paid by the City or the Trustee from Revenues after the application of the Revenues as required by subsections (a), (b) and (c) of Section 7 hereof.

(e) All moneys that the Trustee shall have withdrawn from the Series 1999 Bond Fund or shall have received from any other source and deposited with the Trustee for the purpose of paying any of the Series 1999 Bonds hereby secured, either at the maturity thereof or upon call or redemption, or for the purpose of paying any interest or redemption premium on any of the Series 1999 Bonds hereby secured, shall be held in trust for the respective registered owners of such Series 1999 Bonds. But any moneys that shall be so set aside or deposited by the Trustee and that shall remain unclaimed by the registered owners of such Series 1999 Bonds for the period of three years after the date on which such Series 1999 Bonds, the interest or any redemption premium thereon shall have become due and payable shall be remitted to the State Treasurer or to such other officer, board or body as may then be entitled by law to receive the same, and thereafter the registered owners of such Series 1999 Bonds shall look only to the State Treasurer or to such other officer, board or body, as the case may be, for payment and then only to the extent of the amounts so received without any interest thereon, and the Trustee shall have no responsibility with respect to such moneys.

(f) If there shall be insufficient moneys in the Series 1999 Bond Fund, after all required transfers thereto have been made, to pay in full interest on, principal of and any premium due on any Interest Payment Date or principal payment date, the Trustee shall, on the second business day prior to such date, withdraw from the Series 1999 Debt Service Reserve Fund and deposit immediately available funds in the Series 1999 Bond Fund in an amount equal to such deficiency.

(g) If there shall still be insufficient moneys on deposit with the Trustee, after all required deposits thereto have been made as provided above in this Section 9, to pay in full the interest on, principal of and any premium due with respect to the Series 1999 Bonds on any Interest Payment Date or principal payment date or redemption date, the City shall immediately withdraw from the Renewal and Replacement Fund and deposit in trust with the Trustee in immediately available funds an amount equal to such deficiency.

(h) Moneys credited to a separate account with respect to a debt service fund or account created in connection with the issuance of Parity Indebtedness shall be transferred by the Trustee in accordance with the terms of the ordinance providing for the issuance of such Parity Indebtedness.

Section 10. Renewal and Replacement Fund.

(a) In accordance with the provisions of the 1992 Ordinance, if deductions are made therefrom, the Renewal and Replacement Fund shall be replenished in accordance with the provisions of the 1992 Ordinance.

(b) Subject to the provisions of Section 9 of this Ordinance, moneys in the Renewal and Replacement Fund shall be used solely for the purpose of paying the cost of necessary repairs or replacements due to the depreciation of the System and not paid for with moneys in the Operation and Maintenance Fund and costs of damage caused to the System by unforeseen catastrophes.

Section 11. Series 1999 Debt Service Reserve Fund.

(a) The Trustee shall deposit to the credit of the Series 1999 Debt Service Reserve Fund and any separate account with respect to a debt service reserve fund or account created in connection with the issuance of Parity Indebtedness moneys received therefor pursuant to Sections 7 and 21 of this Ordinance.

(b) Moneys credited to the Series 1999 Debt Service Reserve Fund shall be transferred as necessary, pursuant to Section 9 of this Ordinance, to provide for the payment of the principal of, interest on and premium, if any, on the Series 1999 Bonds when due. Moneys credited to the Series 1999 Debt Service Reserve Fund may also be transferred, at the option of the City, to the Series 1999 Bond Fund to provide for the payment of the final maturity of the principal of the Series 1999 Bonds and the respective interest thereon after all other principal of and interest on the Series 1999 Bonds have been paid, except as may be otherwise provided in connection with any refunding of the Series 1999 Bonds.

(c) Moneys credited to the Series 1999 Debt Service Reserve Fund in excess of the Reserve Fund Requirement and investment earnings on moneys credited to the Series 1999 Debt Service Reserve Fund in excess of the Reserve Fund Requirement shall be transferred to the Series 1999 Bond Fund.

(d) Moneys credited to a separate account with respect to a debt service reserve fund or account created in connection with the issuance of Parity Indebtedness shall be transferred by the Trustee in accordance with the terms of the ordinance providing for the issuance of such Parity Indebtedness.

Section 12. Investment of Moneys.

(a) 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 Ordinance; provided, however, the stated maturity dates of Investment Obligations of Series 1999 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. The City may invest moneys held in the Revenue Fund, Operation and Maintenance Fund and Renewal and Replacement Fund in any investment obligations permitted by State law.

(b) Obligations purchased as an investment of moneys in any fund or account created by this Ordinance shall be deemed at all times to be a part of such fund or account, and any income or loss due to an investment thereof shall be charged to the respective fund or account for which the investment was made except as otherwise provided in this Ordinance.

(c) Investments in any fund or account shall be evaluated at least annually by the City or the Trustee, as may be appropriate. For the purpose of determining the amount in any fund or account, the City and the Trustee shall value all Investment Obligations credited to such fund or account at the price at which such Investment Obligations are redeemable by the holders or owners thereof at their option if so redeemable, or, if not so redeemable, at the lesser of (i) the cost of such Investment Obligations minus the amortization of any premium or plus the amortization of any discount thereon and (ii) the market value of such Investment Obligations, provided that Investment Obligations credited to the Series 1999 Debt Service Reserve Fund, if not so redeemable, shall be valued at the cost thereof minus the amortization of any premium or plus the amortization of any discount thereon.

Section 13. Parity Indebtedness.

(a) The City shall be entitled to issue and incur indebtedness secured on a parity with the Series 1994 Bonds and the Series 1999 Bonds to refund any outstanding Series 1994 Bonds, Series 1999 Bonds or Parity Indebtedness or to finance the cost of constructing any future extensions, betterments or improvements to the System. The amount of any Parity Indebtedness may provide for the funding of interest for such period as the City may determine, the funding of a debt service reserve in such amount as the City may determine and the payment of certain expenses in connection with the issuance of such Parity Indebtedness.

(b) Prior to issuing Parity Indebtedness, the City shall obtain an Accountant's or Consulting Engineer's certificate to the effect that Net Revenues for each of the two fiscal years preceding the year in which such Parity Indebtedness is proposed to be issued were not less than 120% of the Maximum Principal and Interest Requirements on all Series 1994 Bonds, Series 1999 Bonds and any Parity Indebtedness then outstanding and the proposed Parity Indebtedness. In addition, the City may issue Parity Indebtedness to refund any outstanding Series 1994 Bonds, Series 1999 Bonds or Parity Indebtedness without obtaining such certificate if the average annual Principal and Interest Requirements until final maturity for the Parity Indebtedness proposed to be issued are not greater than the average annual Principal and Interest Requirements until final maturity for the

Series 1994 Bonds, Series 1999 Bonds or Parity Indebtedness proposed to be refunded.

Net Revenues may be adjusted for the purpose of the test described above by including a Consulting Engineer's estimate of additional Net Revenues to be derived from existing customers of the System (or existing customers of any facilities to be acquired in connection with any extension, betterment or improvement to the System described in clause (ii) of this paragraph) resulting from (i) System Rate increases adopted before the Parity Indebtedness is issued and (ii) contemplated extensions, betterments and improvements to the System to be financed in whole or in part with the proceeds of the Parity Indebtedness proposed to be issued or to be constructed during the then current or next succeeding fiscal year with any other available funds of the City (as if completed and placed in service).

(c) Nothing in this Ordinance shall prohibit the City from issuing or incurring indebtedness secured by the Net Revenues subordinate to the Series 1994 Bonds, Series 1999 Bonds and any Parity Indebtedness.

Section 14. **Insurance.** While any Series 1999 Bonds are outstanding, the City covenants and agrees to insure and at all times keep insured, in the amount of the actual value thereof, by a responsible insurance company or companies authorized and qualified under the laws of the State to assume the risk thereof, all properties of the System other than water storage tanks, mains and lines for the transmission, distribution or collection of water or wastewater against loss or damage from fire, lightning, tornado, winds, strike, malicious damage or explosion and against loss or damage from any other causes customarily insured against by private companies engaged in a similar type of business. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement or repair of the System, and in such event the City shall, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Series 1994 Bond Fund and the Series 1999 Bond Fund, pro rata, in relation to the then outstanding principal amounts of the Series 1994 Bonds and the Series 1999 Bonds, and, if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied, first, from moneys in the Renewal and Replacement Fund and, second, from any available moneys in the Revenue Fund pursuant to subsection (d) of Section 7 hereof.

Section 15. **Records.** The City shall keep or cause to be kept proper books of accounts and records (separate from all other records and accounts of the City) in which complete and correct entries shall be made of all transactions relating to the operation of the System and its revenues. Such books shall be available for inspection by any registered owner of the Series 1999 Bonds at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an Accountant at least annually, and a copy of the audit shall be delivered in compliance with the terms of the Continuing Disclosure Agreement.

Section 16. Other Covenants. The City hereby covenants that:

(a) The City will promptly pay or cause to be paid the principal of and the interest on each and every Series 1999 Bond and all other indebtedness issued or incurred under the provisions of this Ordinance at the places, on the dates and in the manner specified herein and in the Series 1999 Bonds and any premium required for the retirement of the Series 1999 Bonds and such indebtedness by purchase or redemption, according to the true intent and meaning thereof. Such principal, interest and premium will be payable solely from the Net Revenues (or, in certain circumstances, from the proceeds of the Series 1999 Bonds), and the Net Revenues are hereby pledged to the payment of such principal of and interest and premium on the Series 1999 Bonds and such other indebtedness secured on a parity with the Series 1999 Bonds through the pledge of Net Revenues hereunder and then such other indebtedness not so secured in the manner and to the extent hereinabove particularly specified.

The City is not obligated to pay the principal of and interest and any premium on the Series 1999 Bonds and such other indebtedness except from the Net Revenues pledged hereunder (or, in certain circumstances, from the proceeds of the Series 1999 Bonds), and such principal, interest and premium shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation.

(b) All Series 1999 Bonds paid or purchased either at or before maturity shall be canceled when such payment or purchase is made and held by the Trustee or the City and shall not be reissued.

(c) The System shall be operated on a fiscal year basis beginning January 1 and ending December 31 of each year.

(d) The City will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State, including the charging and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, the segregating of the Gross Revenues as herein required, and the applying of Net Revenues to the respective funds and accounts herein created or confirmed and referred to.

(e) The City will maintain the System in good condition and operate the same in an efficient manner and at reasonable cost.

(f) Except for water service for the purposes of street washing and fire fighting, none of the facilities or services afforded by the System shall be furnished without a charge being made therefor. In the event that the City or any department, agency or instrumentality thereof shall avail itself of the facilities and services afforded by the System, the reasonable value of the service or facilities so afforded shall be charged against the City or such department, agency or instrumentality and shall be paid for as the charges accrue, except as hereinabove otherwise provided. The revenues so received shall be deemed to be Gross Revenues and shall be used and accounted for in the same manner as other Gross Revenues.

(g) So long as any Series 1994 Bonds, Series 1999 Bonds or Parity Indebtedness is outstanding, the City will not mortgage, pledge or otherwise encumber the System or any Gross

Revenues and will not sell, lease or otherwise dispose of all or any substantial portion of the same except as provided in Section 13 of this Ordinance and except for such replacements, substitutions or other dispositions of properties of the System as shall be necessary or incidental to the efficient operation of the System as a revenue-producing enterprise.

(h) In the event the offices of the Mayor, City Clerk or Alderman of the City Council shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer or body shall be performed by the office or officer or body succeeding to the principal function thereof or by the office or officer or body upon whom such powers, obligations and duties shall be imposed by law.

(i) The City shall cause a Budget of proposed System capital costs and Operating Expenses to be prepared for each fiscal year of operation. The Budget for any fiscal year shall be completed no later than February 1 of said fiscal year and shall be available for inspection by the registered owner of any of the Series 1999 Bonds outstanding.

(j) The City covenants that it will not, and it will direct the Trustee not to, take any action that will, or fail to take any action that failure will, cause the interest on Series 1999 Bonds to be includable in the gross income of the registered owners thereof for federal income tax purposes. In furtherance of this covenant, the City agrees to execute and deliver the Tax Regulatory Agreement on or before the date of issuance of the Series 1999 Bonds, in substantially the form presented to this meeting.

(k) In order to comply with the provisions of Securities and Exchange Commission Rule 15c2–12, the City covenants to execute and deliver the Continuing Disclosure Agreement on or before the issuance of the Series 1999 Bonds, in substantially the form presented to this meeting.

Section 17. **Event of Default and Acceleration of Maturities.** If there be any default in the payment of the principal of, premium, if any, or interest on, any Series 1994 Bonds, Series 1999 Bonds or Parity Indebtedness, or if the City defaults in the performance of any of its other covenants or agreements contained in this Ordinance and such default shall continue for 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Trustee, or if there shall be filed by the City a petition in bankruptcy, then upon the continuance of any such event (an "event of default") the Trustee may, and upon the written request of the registered owners of not less than 20% in aggregate principal amount of the Series 1999 Bonds then outstanding shall, by a notice in writing to the City, declare the principal of all of the Series 1999 Bonds then outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything contained in the Series 1999 Bonds or this Ordinance to the contrary notwithstanding; provided, however, that if at any time after the principal of the Series 1999 Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such event of default, or before the completion of the enforcement of any other remedy under this Ordinance, moneys shall have accumulated in the Series 1994 Bond Fund, Series 1999 Bond Fund and/or each fund or account created for the payment of debt service on Parity Indebtedness (as the case may be) sufficient to pay the principal of all matured Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness and all arrears of interest, if any, upon all of the Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness then outstanding (except the principal of any Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness not then due and payable by their terms and the interest accrued on such Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness since the last interest payment date), and the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee and all other amounts then payable by the City hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other event of default known to the Trustee in the observance or performance of any covenant, condition, agreement or provision contained in the Series 1999 Bonds or this Ordinance (other than a default in the payment of the principal of such Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness then due and payable only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee, then and in every such case the Trustee may, and upon the written request of the registered owners of not less than 20% in aggregate principal amount of the Series 1999 Bonds not then due and payable by their terms and then outstanding shall, by written notice to the City, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Section 18. Enforcement of Remedies.

(a) Upon the happening and continuance of any event of default specified in Section 17 hereof, then and in every such case the Trustee may and upon the written request of the registered owners of not less than 10% in aggregate principal amount of the Series 1999 Bonds then outstanding shall, proceed to protect and enforce the rights of the registered owners of the Series 1999 Bonds under the Authorizing Legislation or other applicable State law and this Ordinance by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

(b) Among such remedies the Trustee may, and upon the written request of the registered owners of not less than 10% in aggregate principal amount of the Series 1999 Bonds then outstanding shall, apply in the proper action to a court of competent jurisdiction for the appointment of a receiver to administer the System on behalf of the City and the registered owners of the Series 1999 Bonds, with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of Operating Expenses, to pay principal of and interest on the Series 1994 Bonds, Series 1999 Bonds and Parity Indebtedness outstanding, and to apply the Gross Revenues in conformity with the provisions of the Authorizing Legislation and this Ordinance. When all defaults in principal, premium and interest payments have been cured, the custody and operation of the System shall revert to the City.

(c) It is hereby declared and intended that no one or more registered owners of the Series

1999 Bonds shall have any right in any manner whatever by his, her or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all registered owners of the outstanding Series 1999 Bonds, and that any individual rights of action or other right given to one or more of such owners by law are restricted by this Ordinance to the rights and remedies herein provided.

(d) No remedy conferred upon or reserved to the Trustee or to the registered owners of the Series 1999 Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing or available at law or in equity.

(e) No delay or omission of the Trustee or any registered owners of the Series 1999 Bonds to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Ordinance to the Trustee or the registered owners of the Series 1999 Bonds may be exercised from time to time and as often as may be deemed expedient.

(f) The Trustee may, and upon the written request of the registered owners of not less than 50% in principal amount of the Series 1999 Bonds then outstanding shall, waive any default that shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 19. Trustee.

(a) Bank of Oklahoma, N.A., in the City of Tulsa, Oklahoma, is hereby appointed as Trustee under this Ordinance. The Trustee shall file with the City a written acceptance of the duties and obligations and agreement to execute the trusts imposed upon it by this Ordinance, but only upon the terms and conditions set forth in this Section 19 and subject to the provisions of this Ordinance, to all of which the registered owners of the Series 1999 Bonds agree. Unless an event of default of which the Trustee shall have notice pursuant to the provisions of this Ordinance has occurred and is continuing, the Trustee shall not be responsible except for the performance of those duties that are expressly set forth in this Ordinance, and no implied covenant or duty shall be read into this Ordinance against the Trustee.

(b) The Trustee shall be responsible for the registration, registration of transfer and exchange of Series 1999 Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the Series 1999 Bonds. The Trustee such shall keep the books of the City for the registration, registration of transfer, exchange and payment of the Series 1999 Bonds as provided in this Ordinance.

(c) The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Ordinance, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the City shall reimburse the Trustee for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith, provided that the Trustee will inform the City of any such action that might require the City to reimburse the Trustee before commencing such action and that such reimbursement shall be subject to the provisions of the second paragraph of subsection (f) of this Section 19. If the City shall fail to make such reimbursement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Ordinance and shall be entitled to a preference therefor over any of the Series 1999 Bonds outstanding hereunder.

(d) The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire into the sufficiency of any policies of insurance carried by the City or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised of the payment of any taxes or assessments, or to require any such payment to be made. The Trustee shall have no responsibility in respect of the validity or sufficiency of this Ordinance or the due execution or acknowledgment thereof, or in respect of the validity of the Series 1999 Bonds or the due execution or issuance thereof. The Trustee shall be under no obligation to see that any duties herein imposed upon the City, any Trustee or any party other than itself, or any covenants herein contained on the part of any party other than itself to be performed, shall be done or performed, and the Trustee shall be under no obligation for failure to see that any such duties or covenants are so done or performed.

(e) The Trustee shall not be liable or responsible because of the failure of the City or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the City or because of the loss of any moneys arising through the insolvency or the act or default or omission of any other depository in which such moneys shall have been deposited under the provisions of this Ordinance. The Trustee shall not be responsible for the application of any of the proceeds of the Series 1999 Bonds or any other moneys deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Ordinance. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

(f) Subject to the following paragraph, the City shall, from moneys lawfully available therefor, pay to the Trustee reasonable compensation for all services performed hereunder and also all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of its 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. If the City shall fail to make any payment required by this subsection, the Trustee may make such payment from any moneys in its possession under the provisions of this Ordinance and shall be entitled to a preference therefor over any of the Series 1999 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.

The City shall pay to the Trustee compensation for its services as described in this subsection in accordance with a separate agreement between the City and the Trustee, 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 subsection (c) of this Section 19, shall not exceed $5,000 annually 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.

(g) It shall be the duty of the Trustee, on or before the tenth day of each month after the month in which the Series 1999 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 Ordinance;

(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 Series 1999 Bonds under the provisions of this Ordinance and a description of the Series 1999 Bonds or portions of Series 1999 Bonds so purchased or redeemed; and

(v) any other information that the City may reasonably request.

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.

(h) 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 Series 1999 Bonds.

(i) Upon the redemption of any or all of the Series 1999 Bonds, the Trustee shall be responsible for physically collecting and destroying the redeemed Series 1999 Bonds and issuing to the City the Trustee's certificate of such destruction.

(j) In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee, and in any case in which this Ordinance provides for permitting or taking any action, the Trustee may rely upon any certificate or other instrument required or permitted to be filed with it under the provisions of this Ordinance, and any such instrument shall be evidence of such fact to protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Ordinance, any request, notice, certificate or other instrument from the City to the Trustee shall be deemed to have been signed by the proper party or parties if signed by the Mayor of the City or by any two officers or employees of the City who shall be designated by the City by resolution for such purpose, and the Trustee may accept and rely upon a certificate signed by the City Clerk of the City regarding any action taken by the City.

(k) Except upon the happening of any default in the payment of the principal of, or premium, if any, or interest on the Series 1994 Bonds, Series 1999 Bonds or any Parity Indebtedness, the Trustee shall not be obliged to take notice or be deemed to have notice of any event of default hereunder, unless specifically notified in writing of such event of default by the registered owners of not less than 10% in aggregate principal amount of the Series 1999 Bonds then outstanding.

(l) The Trustee and its directors, officers, employees or agents may in good faith buy, sell, own, hold and deal in any of the Series 1999 Bonds and may join in any action that any registered owner of the Series 1999 Bonds may be entitled to take.

(m) The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, and in accordance with the terms of this Ordinance, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document that it shall in good faith believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Ordinance, or upon the written opinion of an attorney, engineer or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry regarding any statement contained or matters referred to in any such instrument. The Trustee shall not be under any obligation to see to the recording or filing of this Ordinance or otherwise to the giving to any person of notice of the provisions hereof. No permissive right of the Trustee under this Ordinance to take any action shall impose any duty upon the Trustee to take such action, and the Trustee shall not be liable to the registered owners of any Series 1999 Bonds or to the City or any other person for failing to take any such action pursuant to any such permissive right.

(n) The Trustee may resign and thereby become discharged from the trusts hereby created by notice in writing to be given to the City and published once in a daily newspaper of general circulation published in the City and in a daily newspaper of general circulation or a financial journal published in the Borough of Manhattan, City and State of New York, not less than 60 days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee hereunder, if such new Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof.

(o) The Trustee may be removed at any time by an instrument or concurrent instruments in writing, executed by the registered owners of not less than a majority in principal amount of the Series 1999 Bonds then outstanding and filed with the City. A photostatic copy of each such instrument shall be delivered promptly by the City to the Trustee. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Ordinance with respect to the duties and obligations of the Trustee, by any court of competent jurisdiction, upon the application of the City or the registered owners of not less than 5% in aggregate principal amount of the Series 1999 Bonds then outstanding.

(p) If at any time hereafter the Trustee shall resign, be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the City shall appoint a Trustee to fill such vacancy. The City shall cause a notice of any such appointment by it to be mailed by first-class mail, postage prepaid to all registered owners of the Series 1999 Bonds at their addresses as they appear on the registration books.

At any time within one year after any such vacancy shall have occurred, the registered owners of a majority in principal amount of the Series 1999 Bonds then outstanding, by an instrument or concurrent instruments in writing, executed by such owners and filed with the City, may appoint a successor Trustee, which shall supersede any Trustee theretofore appointed by the City. Photostatic copies of each such instrument shall be delivered promptly by the City to the predecessor Trustee and to the Trustee so appointed by such owners.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this subsection, the registered owner of any Series 1999 Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any Trustee hereafter appointed shall be a bank or trust company in good standing duly authorized to exercise corporate trust powers and subject to examination by federal or State authority and shall maintain a reported capital and surplus aggregating not less than $25,000,000.

(q) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also the City, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on written request of its successor or of the City, and upon payment of the expenses, charges and other disbursements of such predecessor that are payable pursuant to the provisions of this Section 19, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it 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 Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the City.

Notwithstanding any of the foregoing provisions of this Section 19, any bank or trust company having power to perform the duties and execute the trusts of this Ordinance and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged or consolidated, or to which the assets and business of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

Section 20. Sale of Bonds.

(a) All actions heretofore taken by the City and its officers, in connection with the offer and sale of the Series 1999 Bonds, including the preparation and distribution of the Preliminary Official Statement, are hereby in all respects ratified and approved. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement presented to the Council for its consideration, with such changes and additions thereto as shall be necessary to reflect the terms of the Series 1999 Bonds and their issuance, and the Mayor of the City is hereby authorized and directed to execute, deliver and permit the distribution of the Official Statement with such changes as he deems advisable in the name of and on behalf of the City, his execution and delivery of the Official Statement to constitute conclusive evidence of his approval of any such changes.

(b) The City hereby represents that it reasonably expects that it and all subordinate entities thereof will not issue more than $10,000,000 of tax-exempt obligations (not counting private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during calendar year 1999. The City hereby designates each of the Series 1999 Bonds as a "qualified tax-exempt obligation" for the purposes of the Code.

(c) There is hereby authorized and directed the acceptance of the offer by the Underwriter, pursuant to the Bond Purchase Agreement, to purchase the Bonds at a price of $__________ (equal to the par amount of the Series 1999 Bonds, less underwriter's discount of $_________), plus accrued interest thereon from May 1, 1999 to the date of delivery thereof. The Bond Purchase Agreement is hereby approved in substantially the form exhibited at this meeting, and the Mayor of the City is hereby authorized to execute, acknowledge and deliver the Bond Purchase Agreement and the City Clerk of the City is hereby authorized to attest the same and to affix the seal of the City thereto. Any changes to the Bond Purchase Agreement may be approved by any officers of the City executing such document, their execution and delivery to constitute conclusive evidence of such approval.

Section 21. Delivery Instructions.

(a) When the Series 1999 Bonds have been executed by the Mayor and City Clerk of the City and the seal of the City imprinted or impressed thereon, as herein provided, they shall be delivered to the Trustee, which shall authenticate them and deliver them to the Underwriter upon the payment of the purchase price, as specified by written instructions of the Mayor or his designee.

(b) The proceeds of the Series 1999 Bonds shall be applied as follows:

(i) There shall be deposited into the Series 1999 Debt Service Reserve Fund moneys sufficient to equal the Reserve Fund Requirement;

(ii) There shall be deposited into the Series 1999 Bond Fund the amount of accrued interest on the Series 1999 Bonds paid by the Underwriter;

(iii) There shall be deposited with the Escrow Trustee an amount sufficient to accomplish the defeasance of the Series 1992 Bonds;

(iv) There shall be paid those costs of issuance of the Series 1999 Bonds as directed in writing by the City to the Trustee; and

(v) There shall be deposited into the Series 1999 Bond Fund the balance of Series 1999 Bond proceeds.

Section 22. Refunding Matters.

(a) Bank of Oklahoma, N.A., in the City of Tulsa, Oklahoma, is hereby appointed as escrow trustee (the "Escrow Trustee") in connection with the refunding of the Series 1992 Bonds, and as such shall perform its responsibilities as provided in the Escrow Deposit Agreement. The Escrow Deposit Agreement is hereby approved in substantially the form exhibited at this meeting, and the Mayor of the City is hereby authorized to execute, acknowledge and deliver the Escrow Deposit Agreement, and the City Clerk is hereby authorized to attest the same and to affix the seal of the City thereto. Any changes to the Escrow Deposit Agreement may be approved by any officers of the City executing such document, their execution and delivery to constitute conclusive evidence of such approval.

(b) Upon delivery of the Series 1999 Bonds, all moneys held by Regions Bank of Little Rock, Arkansas, as trustee for the Series 1992 Bonds shall be transferred and applied as provided in the Escrow Deposit Agreement.

(c) All other moneys held by the City or other parties in funds or accounts established or maintained in connection with the Series 1992 Bonds shall, to the extent necessary to refund the Series 1992 Bonds, be transferred to be held under the Escrow Deposit Agreement or otherwise and applied as provided in the Escrow Deposit Agreement or as directed by written instructions of the Mayor of the City.

Section 23. Supplemental Ordinances.

(a) The provisions of this Ordinance shall constitute a binding contract among the City and the registered owners of the Series 1999 Bonds issued hereunder. The City will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder.

(b) The City may, without consent of the registered owners of the Series 1999 Bonds, adopt ordinances supplemental hereto as may be necessary or desirable:

(i) to cure any ambiguity or formal defect or omission in this Ordinance;

(ii) to grant to or confer on the registered owners of the Series 1999 Bonds any additional rights, remedies, powers or authority that may lawfully be granted to or conferred on them;

(iii) to add to the covenants and agreements of the City in this Ordinance other covenants and agreements to be observed by the City;

(iv) to more precisely identify the revenues pledged under this Ordinance;

(v) to pledge additional revenues under this Ordinance; or

(vi) to provide for the issuance of Parity Indebtedness.

(c) The registered owners of not less than 51% in aggregate principal amount of the Series 1999 Bonds outstanding shall have the right, from time to time, to consent to and approve the adoption by the City of such ordinances supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting (i) an extension of the maturity of the principal of or the interest on any Series 1999 Bond, (ii) a reduction in the principal amount of any Series 1999 Bond or the rate of interest thereof, (iii) the creation of a pledge of revenues other than as created or permitted by this Ordinance, (iv) a privilege or priority of any Series 1999 Bond or Bonds over any other Series 1999 Bond or Bonds, or (v) a reduction in the aggregate principal amount of the Series 1999 Bonds required for consent to such supplemental ordinance.

(d) In the event the City shall adopt any ordinance supplemental to this Ordinance a copy thereof shall be mailed, at least 15 days prior to adoption, by first-class mail postage prepaid, to the registered owner of each Series 1999 Bond outstanding at his or her address appearing in the registration books of the City maintained by the Trustee.

Section 24. **Publication.** The City Clerk of the City is hereby directed to publish this Ordinance once in *The Northwest Arkansas Times*, which is hereby found and declared to be a newspaper published and of general circulation in the City.

Section 25. Defeasance.

(a) If, (i) when the Series 1999 Bonds secured hereby shall have become due and payable in accordance with their terms or shall have been duly called for redemption or (ii) irrevocable instructions to call the Series 1999 Bonds for redemption or to pay the Series 1999 Bonds at their respective maturities or to effect some combination of such payment and redemption shall have been given by the City to the Trustee, the whole amount of the principal and the interest and premium, if any, so due and payable upon all of the Series 1999 Bonds then outstanding shall be paid or sufficient moneys, or obligations described in clause (i) of the definition of "Government Obligations" herein ("Defeasance Obligations") the principal of and the interest on which when due will provide sufficient moneys, shall be held by the Trustee for such purpose under the provisions of this Ordinance, and provision shall also be made for paying all other sums payable hereunder by the City, then and in that case the right, title and interest of the Trustee in the Net Revenues, funds and accounts mentioned in this Ordinance shall thereupon cease, determine and become void, and the City shall have no obligation with respect to such Series 1999 Bonds except for the payment of the principal of, redemption premium, if any, and interest thereon solely from the moneys or Defeasance Obligations deposited pursuant to this Section 25, and the Trustee in such case, on demand of the City, shall release this Ordinance and shall execute such documents to evidence such release as may be reasonably required by the City, and shall turn over to the City any surplus in any fund and account in the Series 1999 Bond Fund and all balances remaining in any other funds and accounts other than moneys held for the redemption or payment of Series 1999 Bonds or the interest thereon for application to any lawful purposes of the City as the Council shall determine; otherwise this Ordinance shall be, continue and remain in full force and effect.

(b) All moneys and obligations held by the Trustee or other bank, trust company or other appropriate financial institution pursuant to this Section 25 shall be held in trust, and the principal of and interest on said obligations when received, and said moneys, applied to the payment, when due, of the principal of and the interest and the premium, if any, on the Series 1999 Bonds payable therefrom.

Section 26. Miscellaneous.

(a) The Mayor, the City Clerk and other officers of the City are hereby empowered to execute and deliver all documents, certificates and other instruments that may be necessary or appropriate under the terms of the Bond Purchase Agreement or to effect the purposes of this Ordinance.

(b) This Ordinance shall not create any right of any kind and no right of any kind shall arise hereunder pursuant to it until the Series 1999 Bonds authorized hereby are issued and delivered.

(c) The provisions of this Ordinance are hereby declared to be severable and, if any such provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

(d) All resolutions or ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 27. Emergency Clause. It is hereby ascertained and declared that, in order to alleviate immediate hazards to the health, safety and welfare of the City, its inhabitants and their property by insuring the continued operation of the System on an adequate and efficient basis and the realization of substantial debt service savings, the refunding of the Series 1992 Bonds must be accomplished and facilitated by the issuance the Series 1999 Bonds. It is, therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be enforced from and after its adoption.

PASSED AND APPROVED this _____ day of __________, 1999.

APPROVED:

____
Fred B. Hanna, Mayor

ATTEST:

____
Heather Woodruff, City Clerk

[SEAL]

EXHIBIT A

City of Fayetteville, Arkansas
Water and Sewer System Refunding Revenue Bonds
Series 1999

Year (August 15)	Coupon Rate	Principal	Interest	Total Debt Service
1999	%	$	$	$
2000				
2001				
2002				
2003				
2004				
2005				
2006				
2007				
2008				
2009				
2010				
2011				
2012				
Total:		$_____	$_____	$_____

Dated 5/1/99 with Delivery of 5/__/99

EXHIBIT B
FORM OF SERIES 1999 BOND

UNITED STATES OF AMERICA, STATE OF ARKANSAS
COUNTY OF WASHINGTON

No. R99-___

$______

CITY OF FAYETTEVILLE
WATER AND SEWER SYSTEM REFUNDING
REVENUE BOND, SERIES 1999

Rate of Interest: ___% Maturity Date: _____ Dated Date:______ CUSIP: ______
Registered Owner: ____

Principal Amount: ____ Dollars

THE CITY OF FAYETTEVILLE, ARKANSAS (the "City"), a city of the first class, duly created under the laws of the State of Arkansas, for value received, promises to pay to the Registered Owner shown above, or registered assigns or legal representative, upon presentation and surrender of this bond at the corporate trust office of Bank of Oklahoma, N.A. (the "Trustee"), in the City of Tulsa, Oklahoma, the Principal Amount shown above on the Maturity Date shown above (unless this bond shall have been called for prior redemption, in which case on the redemption date), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay interest on said Principal Amount from the Dated Date shown above or from the February 15 or August 15 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a February 15 or an August 15 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on February 15 and August 15 in each year, at the Interest Rate per annum specified above, until payment of said Principal Amount. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the first day (whether or not a business day) of the calendar month of the interest payment date, by check mailed to such person at his address as it appears on the bond registration books of the City maintained by the Trustee. So long as The Depository Trust Company ("DTC"), New York, New York, or its nominee is the sole registered owner of the Series 1999 Bonds, all principal, premium, if any, and interest payments on the Series 1999 Bonds will be made by the Trustee to DTC.

This Bond is one of a series of bonds, designated "City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999" and aggregating $_________ in principal amount (the "Series 1999 Bonds"). The Series 1999 Bonds have been issued for the purpose of financing a portion of the cost of refunding $8,160,000 outstanding principal amount of the City's Water and Sewer System Refunding and Improvement Bonds, Series 1992 (the "Series 1992 Bonds"), funding a debt service reserve and paying certain expenses incidental to the issuance thereof. The Series 1999 Bonds have been issued pursuant to and in full compliance with the

Constitution and laws of the State of Arkansas, including particularly Arkansas Code Annotated §§ 14-234-201 *et seq.*; Arkansas Code Annotated §§ 14-235-201 *et seq.*; Arkansas Code Annotated §§ 14-164-401 *et seq.*; and Arkansas Code Annotated §§ 19-9-601 *et seq.* and pursuant to Ordinance No. ______ of the City adopted by the City Council of the City on __________, 1999 (the "Ordinance"). The Series 1999 Bonds are issued and secured on a parity basis with $4,270,000outstanding principal amount of the City's Water and Sewer System Revenue Bonds, Series 1994 (the "Series 1994 Bonds"). The Ordinance permits the City to issue, under certain circumstances, Parity Indebtedness (as defined in the Ordinance) that may be secured on a parity basis with the Series 1994 Bonds and the Series 1999 Bonds and to issue subordinated indebtedness payable from Net Revenues (as defined in the Ordinance) of the City's water and sewer system subordinate to the lien and pledge securing the Series 1994 Bonds and the Series 1999 Bonds and Parity Indebtedness. Reference is hereby made to the Ordinance and to all ordinances 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 appointed under the Ordinance and the registered owners of the Series 1999 Bonds, and the terms upon which the Series 1999 Bonds are issued and secured. A copy of the Ordinance is on file at the corporate trust office of the Trustee and, by the acceptance of this bond, the registered owner hereof assents to all of the provisions of the Ordinance.

The Series 1999 Bonds are special obligations of the City, and the principal of, interest on and any redemption premium on the Series 1999 Bonds are secured by a statutory mortgage lien upon the water transmission and distribution portion of the System and a pledge of the Net Revenues (as defined in the Ordinance) of the City's water and sewer system, as more particularly described in the Ordinance. In no event shall the Series 1999 Bonds constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

THE CITY HAS DESIGNATED THIS BOND AS A "QUALIFIED TAX-EXEMPT OBLIGATION" WITHIN THE MEANING OF SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

The Series 1999 Bonds are special obligations of the City payable from the Net Revenues (as defined in the Ordinance) of the City's water and sewer system (the "System"), which, after providing for the payment of operation and maintenance expenses of the System, are transferred to the Series 1999 Bond Fund established by the Ordinance (the "Series 1999 Bond Fund") in an amount sufficient to pay the principal of, interest on and any redemption premium on the Series 1999 Bonds. The Series 1999 Bonds rank on a parity of security with $4,270,000 outstanding principal amount of the City's Water and Sewer System Revenue Bonds, Series 1994 (the "Series 1994 Bonds"). In the Ordinance, the City covenants to maintain rates for System services sufficient to produce annually gross revenues of at least 110% of the amount required for such fiscal year to (i) pay Operating Expenses, (ii) pay Principal and Interest Requirements on all Series 1994 Bonds, all Series 1999 Bonds and all Parity Indebtedness then outstanding, (iii) pay any Trustee fees, (iv) make required deposits into any debt service reserve funds associated with the Series 1994 Bonds, the Series 1999 Bonds and all Parity Indebtedness then outstanding, and (v) make required deposits into the Renewal and Replacement Fund. The City shall increase System rates from time to time, as and when necessary, to produce Gross Revenues (as defined in the Ordinance) in the amount specified above.

The Series 1999 Bonds are further secured by amounts maintained in the Series 1999 Debt Service Reserve Fund established by the Ordinance (the "Series 1999 Debt Service Reserve Fund"). Moneys in the Series 1999 Debt Service Reserve Fund may be used only for the payment of principal of, premium, if any, and interest on the Bonds in the event moneys in the Series 1999 Bond Fund are insufficient for such purposes or to pay the final maturity of and the respective interest on the Series 1999 Bonds.

Moneys in the Renewal and Replacement Fund, established by Ordinance No. 3638 adopted by the City on August 18, 1992, may also be used to pay principal of and interest on the Series 1999 Bonds if moneys in the Series 1999 Bond Fund and Series 1999 Debt Service Reserve Fund are insufficient for such purposes.

The Series 1999 Bonds maturing on or after August 15, 2005 are subject to redemption prior to maturity, at the option of the City, on and after August 15, 2004, from funds from any source, in whole or in part at any time, at par plus accrued interest to the date fixed for redemption.

If less than all of the Series 1999 Bonds of any one maturity shall be called for redemption, the particular Series 1999 Bonds or portions of Series 1999 Bonds of such maturity to be redeemed shall be selected by lot by the Trustee in such manner as the Trustee in its discretion may determine; provided, however, that the portion of any Series 1999 Bond to be redeemed shall be in the principal amount of $5,000 or some multiple thereof and that, in selecting Series 1999 Bonds for redemption, the Trustee shall treat each Series 1999 Bond as representing that number of Series 1999 Bonds which is obtained by dividing the principal amount of such Series 1999 Bond by $5,000. So long as DTC or its nominee is the sole registered owner of the Series 1999 Bonds, the particular Series 1999 Bonds or portions thereof to be redeemed within a maturity shall be selected by lot by DTC in such manner as DTC shall determine.

If less than all of the Series 1999 Bonds stated to mature on different dates shall be called for redemption, the particular Series 1999 Bonds or portions thereof to be redeemed shall be called in inverse order of their maturities.

Not more than 60 nor less than 30 days before the redemption date of any Series 1999 Bonds to be redeemed, whether such redemption be in whole or in part, the City shall cause a notice of such redemption to be filed with the Trustee and the Trustee shall mail, postage prepaid, such notice to the registered owner of each Series 1999 Bond to be redeemed in whole or in part at his address appearing upon the registration books of the City. Such notice may also be given to such national depositaries and wire services used to distribute information relating to municipal bonds in such manner and at such time as the Trustee may deem appropriate. Failure so to mail or give such notice or any defect therein shall not affect the validity of the proceedings for such redemption as regards registered owners to whom such notice was given as required. Each such notice shall set forth the date designated for redemption, the redemption price to be paid, the maturities of the Series 1999 Bonds to be redeemed and, if less than all of the Series 1999 Bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Series 1999 Bonds to be redeemed and, in the case of any Series 1999 Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Series 1999 Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Series 1999 Bond, a new Series 1999 Bond or Bonds in principal amount equal to the unredeemed portion of such Series 1999 Bond will be issued.

On or before the third business day preceding the date fixed for redemption for any of the Series 1999 Bonds outstanding, the City shall deposit money with the Trustee to pay the principal of and the redemption premium, if any, on the Series 1999 Bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Series 1999 Bonds or portions thereof called for redemption shall be due and payable at the redemption price provided therefor, plus accrued interest to such date. If moneys sufficient to pay the redemption price of the Series 1999 Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, are held by the Trustee in trust for the registered owners of Series 1999 Bonds or portions thereof to be redeemed, interest on the Series 1999 Bonds or portions thereof so called for redemption shall cease to accrue, such Series 1999 Bonds or portions thereof shall cease to be entitled to any benefits or security under the Ordinance or to be deemed outstanding, and the registered owners of such Series 1999 Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption.

If a portion of a Series 1999 Bond shall be selected for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such Series 1999 Bond to the Trustee for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the Trustee shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Series 1999 Bond so surrendered, a new Series 1999 Bond or Bonds of the same maturity, of any authorized denominations and bearing interest at the same rate.

The Series 1999 Bonds are issuable in fully registered form in the denomination of $5,000 or any integral multiple thereof. Upon surrender thereof at the corporate trust office of the Trustee, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee, Series 1999 Bonds may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Series 1999 Bonds of the same maturity, of any authorized denomination and bearing interest at the same rate.

The Trustee shall keep at its corporate trust office the books of the City for the registration of transfer of Series 1999 Bonds. The transfer of this Series 1999 Bond may be registered only upon such books upon the surrender hereof to the Trustee together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such registration of transfer, the Trustee shall deliver in exchange for this Series 1999 Bond a new Series 1999 Bond or Bonds, registered in the name of the transferee, of any authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this Series 1999 Bond, of the same maturity and bearing interest at the same rate.

In all cases in which Series 1999 Bonds shall be exchanged or the transfer of Series 1999 Bonds shall be registered as provided above, the Trustee shall authenticate and deliver at the earliest practicable time Series 1999 Bonds in accordance with such provisions. All Series 1999 Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Series 1999 Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of Series 1999 Bonds. The Trustee shall not be required to exchange or register the transfer of any Series 1999 Bond during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Series 1999 Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Series 1999 Bond called for redemption in whole or in part pursuant to the Ordinance. So long as DTC or its nominee is the sole registered owner of the Series 1999 Bonds, transfers of beneficial interest in the Series 1999 Bonds shall be in accordance with the rules and procedures of DTC and its direct and indirect participants.

The registered owner of this bond is required to give the Trustee written notice of ownership hereof and of the address to which interest payments are to be mailed. The City and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof (whether or not this bond shall be overdue) for the purpose of receiving payment of, or on account of, principal hereof and interest due hereon and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

In certain events, on the conditions, in the manner and with the effect set forth in the Ordinance, the principal of all the Series 1999 Bonds then outstanding under the Ordinance may become or may be declared due and payable before the stated maturities thereof, together with the interest accrued thereon.

This bond is declared to be a negotiable instrument within the meaning of the negotiable instruments law of the State of Arkansas under the provisions of Title 14, Chapter 164, Subchapter 4, and is issued with the intent that the laws of the State of Arkansas will govern its construction.

No covenant or agreement contained in this bond or the Ordinance shall be deemed to be a covenant or agreement of any past, present or future alderman, director, officer or employee of the City in his individual capacity, and no officer thereof executing this bond shall be liable personally on this bond or be subject to any personal liability or accountability by reason of the issuance of this bond.

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 this bond do exist, have happened and have been performed in due time, form and manner as required by law and that the indebtedness represented by the Series 1999 Bonds, together with all other obligations of the City, does not exceed any constitutional or statutory limitation.

This bond shall not be valid until the Certificate of Authentication endorsed hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas, has caused this bond to be executed by its Mayor and its City Clerk, thereunto duly authorized, and its official seal to be imprinted hereon, all as of the Dated Date.

CITY OF FAYETTEVILLE, ARKANSAS

____
Mayor

____
City Clerk

[SEAL]

CERTIFICATE OF AUTHENTICATION

This bond is one of the City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999 described herein.

BANK OF OKLAHOMA, N.A., Trustee

By: ______________________________
Authorized Signatory

Date of authentication: ______________

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, __________ the undersigned, hereby sells, assigns and transfers unto ____________________________ (Please insert Social Security or other identifying number of assignee) the within bond and all rights thereunder and hereby irrevocably constitutes and appoints ________________ attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: ______________________________

____

____

NOTICE: The signature(s) to this assignment must correspond with the names appearing upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

____

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or a trust company.

W/S REFUNDING
C.5 page 1

Stephens Inc.

April 20, 1999

The Honorable Fred Hanna, Mayor
and City Council
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: $8,365,000 City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999

Dear Mayor Hanna and Council:

On behalf of Stephens Inc., I am pleased to advise you that we have agreed to underwrite the above referenced bond issue for the City of Fayetteville at an average interest rate of 4.206%. This interest rate will result in a net cost savings to the City of $626,243.79 by refunding the City's existing 1992 Water and Sewer Improvement and Refunding Revenue Bonds. Outlined below is a comparison of the City's existing bond issue and the results of this refunding.

Comparative Analysis

Issue	Maturity	Interest Rate	Total Principal & Interest Cost	Net Savings
Existing 1992	2012	5.984%	$12,281,300.00	N/A
Series 1999 Refunding	2012	4.206%	$11,252,316.21	$626,243.79

Following is a Summary Structure and Pricing Report that presents the key components of this transaction.

Mr. Gordon Wilbourn, with the Kutak Rock law firm, and I will be in attendance during the City's April 20, 1999 City Council Meeting to present the necessary bond ordinance to authorize this transaction and achieve the above described savings for the City.

If you have any questions concerning this financing, please feel free to contact me.

Sincerely,

Dennis Hunt

Dennis Hunt

DH/kg

cc: Mr. Kevin Crosson
Mr. Gordon Wilbourn

$8,365,000

City of Fayetteville, Arkansas
Water and Sewer System Refunding Revenue Bonds

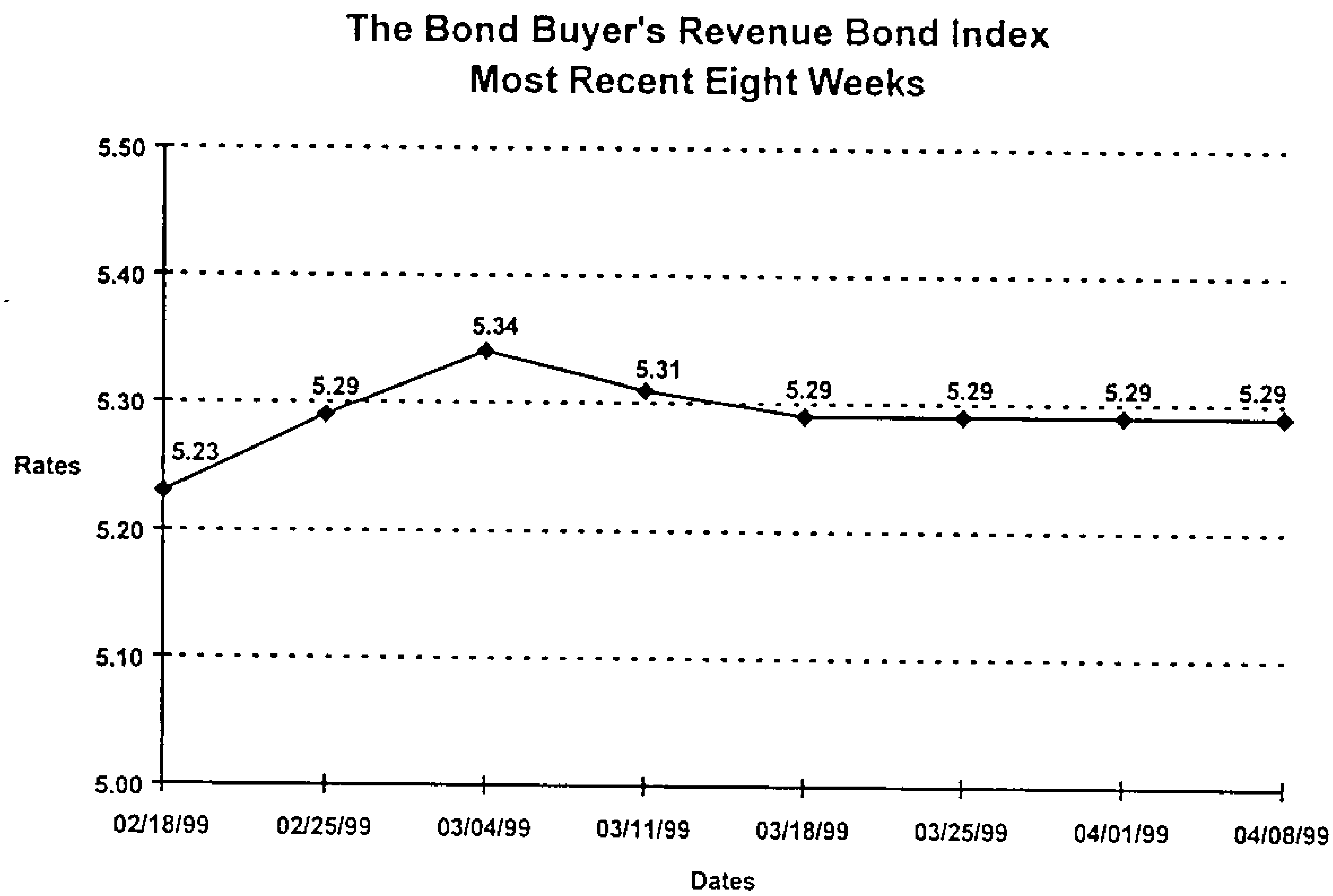
Series 1999

Summary
Structure and Pricing Report
April 20, 1999

Prepared by
Stephens Inc.

Purpose of Report. To present the pricing and structure for the City of Fayetteville's Water and Sewer System Refunding Revenue Bond issue and to detail all costs associated with this financing.

Trend of Interest Rates. Charted below is an eight week trend of the Bond Buyer's Index of 25 Revenue Bonds (REV DEX). This index is a weekly gauge of the tax-exempt revenue bond market and is comparable in many ways to the Dow Jones Industrial Average.



Based on the current tax-exempt market, Stephens has committed to purchase this issue with an average coupon of 4.206% for maturities in the years 1999-2012. Arkansas investors are the primary purchasers of these bonds.

Sources of Funds

Par Amount of Bonds	$8,365,000.00
Existing Funds on Hand	1,211,200.00
Accrued Interest	24,509.40
TOTAL	$9,600,709.40

Uses of Funds

Cost to Retire Bonds	$8,629,525.00
Debt Service Reserve	800,000.00
Cost of Issuance	70,000.00
Underwriter's Discount	75,285.00
Accrued Interest	24,509.40
Contingency	1,390.00
TOTAL	$9,600,709.40

Description of Financing's Components

Costs of Issuance. While these numbers are estimates, they should be close to the actual costs the System will incur. Funds remaining will be applied towards the issue's first interest and principal payment in August of 1999.

Bond Counsel (Includes Expenses)	$37,000.00
Trustee (Authentication)	1,500.00
Prepaid Escrow & Trustee Fee	6,404.00
Rating Expense: Standard & Poor's	9,000.00
Rating Expense: Moody's	10,900.00
Ordinance Publication	1,500.00
Official Statements	1,750.00
Clearing Costs (CUSIP, Ticket Charges, DTC, Day Loan)	1,222.00
Miscellaneous	724.00
Total Costs of Issuance	$70,000.00

Underwriter's Discount. In the amount of $9.00 per thousand ($75,285.00), this amount will be paid to Stephens Inc. for structuring and marketing the bond issue.

Cost to Retire Bonds. This figure is the amount due to call the Series 1992 issue on August 15, 1999 at 103%. This amount will be invested by the Trustee until the call date and investment earnings will be applied towards the first interest payment on the Series 1999 issue.

Call Provision. Optional beginning August 15, 2004 at par.

Debt Service Reserve. The Debt Service Reserve will be funded at $800,000.00. Earnings from the reserve fund will be used to pay debt service.

Refunding Analysis

The following information includes a Savings Report, Sources and Uses of Funds Statement, and Debt Service Schedule for the Series 1999 Bonds. Based on reducing the average coupon on the debt from 5.984% to 4.206%, the net interest cost savings is $626,243.79.

W/S REFUNDING
C.5 page 5

City of Fayetteville, AR
Series 1999 Refunding Issue

==============
Savings Report
==============

Date	Principal	Coupon	Interest	Total	Prior Debt Service	Savings	Cumulative Savings
	- - - - - - - - Proposed Debt Service	- - - - - - - -					
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	595,525.00	421,753.79	10,553.79
2/15/ 0			168,441.25				
8/15/ 0	450,000.00	3.600000	168,441.25	786,882.50	834,130.00	47,247.50	57,801.29
2/15/ 1			160,341.25				
8/15/ 1	465,000.00	3.650000	160,341.25	785,682.50	830,700.00	45,017.50	102,818.79
2/15/ 2			151,855.00				
8/15/ 2	485,000.00	3.650000	151,855.00	788,710.00	835,950.00	47,240.00	150,058.79
2/15/ 3			143,003.75				
8/15/ 3	500,000.00	3.750000	143,003.75	786,007.50	834,530.00	48,522.50	198,581.29
2/15/ 4			133,628.75				
8/15/ 4	525,000.00	3.900000	133,628.75	792,257.50	840,110.00	47,852.50	246,433.79
2/15/ 5			123,391.25				
8/15/ 5	545,000.00	3.950000	123,391.25	791,782.50	838,790.00	47,007.50	293,441.29
2/15/ 6			112,627.50				
8/15/ 6	565,000.00	4.000000	112,627.50	790,255.00	840,327.50	50,072.50	343,513.79
2/15/ 7			101,327.50				
8/15/ 7	590,000.00	4.050000	101,327.50	792,655.00	839,615.00	46,960.00	390,473.79
2/15/ 8			89,380.00				
8/15/ 8	615,000.00	4.150000	89,380.00	793,760.00	841,870.00	48,110.00	438,583.79
2/15/ 9			76,618.75				
8/15/ 9	640,000.00	4.200000	76,618.75	793,237.50	841,470.00	48,232.50	486,816.29
2/15/10			63,178.75				
8/15/10	665,000.00	4.250000	63,178.75	791,357.50	838,657.50	47,300.00	534,116.29
2/15/11			49,047.50				
8/15/11	695,000.00	4.350000	49,047.50	793,095.00	838,067.50	44,972.50	579,088.79
2/15/12			33,931.25				
8/15/12	1,525,000.00	4.450000	33,931.25	1,592,862.50	1,640,017.50	47,155.00	626,243.79
	8,365,000.00		2,911,906.61	11,276,906.61	12,289,760.00		626,243.79
ACCRUED			24,590.40	24,590.40			
	8,365,000.00		2,887,316.21	11,252,316.21	12,289,760.00		626,243.79

Dated 5/ 1/99 with Delivery of 5/27/99
Bond Years 69,236.556
Average Coupon 4.205736
Average Life 8.276934
N I C % 4.205736 % Using 100.0000000
T I C % 4.193000 % From Delivery Date
Arbitrage Yield 4.193000 %

N O T E : Cumulative Savings are Net of the Initial Transfer Amount of 411,200.00

N O T E : Savings on 8/15/99 Include Accrued Interest of 24,590.40

Net Present Value Savings at: 4.1930% Equals 477,771.07 or 5.7115% of Par of the Current Issue
or 5.8550% of Par of the Prior Issue

N O T E : Present Value Savings are Net of the Initial Transfer Amount of 411,200.00

Micro-Muni Debt Date: 04-14-1999 @ 13:13:54 Filename: FAY Key: NEW

W/S REFUNDING
C.5 page 6

City of Fayetteville, AR
Series 1999 Refunding Issue

Sources and Uses of Funds

Delivery Date: 5/27/99

Sources of Funds

Par Amount of Bonds	$8,365,000.00	
+Premium /-Discount	$0.00	
Bond Proceeds		8,365,000.00
Accrued Interest		24,590.40
Assumed DSR Balance		800,000.00
Assumed Bond Fund Balance		411,200.00
		$9,600,790.40

Uses of Funds

Cost to Retire Bonds		8,629,525.00
Cost of Issuance		70,000.00
Underwriter's Discount	(0.900000%)	75,285.00
Accrued Interest		24,590.40
Debt Service Reserve		800,000.00
Contingency		1,390.00
		$9,600,790.40

Micro-Muni Sizing Date: 04-14-1999 @ 13:14:27 Filename: FAY Key: NEW

City of Fayetteville, AR
Series 1999 Refunding Issue

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Debt Service Schedule

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	198,361.61
2/15/ 0			168,441.25	168,441.25	
8/15/ 0	450,000.00	3.600000	168,441.25	618,441.25	786,882.50
2/15/ 1			160,341.25	160,341.25	
8/15/ 1	465,000.00	3.650000	160,341.25	625,341.25	785,682.50
2/15/ 2			151,855.00	151,855.00	
8/15/ 2	485,000.00	3.650000	151,855.00	636,855.00	788,710.00
2/15/ 3			143,003.75	143,003.75	
8/15/ 3	500,000.00	3.750000	143,003.75	643,003.75	786,007.50
2/15/ 4			133,628.75	133,628.75	
8/15/ 4	525,000.00	3.900000	133,628.75	658,628.75	792,257.50
2/15/ 5			123,391.25	123,391.25	
8/15/ 5	545,000.00	3.950000	123,391.25	668,391.25	791,782.50
2/15/ 6			112,627.50	112,627.50	
8/15/ 6	565,000.00	4.000000	112,627.50	677,627.50	790,255.00
2/15/ 7			101,327.50	101,327.50	
8/15/ 7	590,000.00	4.050000	101,327.50	691,327.50	792,655.00
2/15/ 8			89,380.00	89,380.00	
8/15/ 8	615,000.00	4.150000	89,380.00	704,380.00	793,760.00
2/15/ 9			76,618.75	76,618.75	
8/15/ 9	640,000.00	4.200000	76,618.75	716,618.75	793,237.50
2/15/10			63,178.75	63,178.75	
8/15/10	665,000.00	4.250000	63,178.75	728,178.75	791,357.50
2/15/11			49,047.50	49,047.50	
8/15/11	695,000.00	4.350000	49,047.50	744,047.50	793,095.00
2/15/12			33,931.25	33,931.25	
8/15/12	1,525,000.00	4.450000	33,931.25	1,558,931.25	1,592,862.50
	8,365,000.00		2,911,906.61	11,276,906.61	
ACCRUED			24,590.40	24,590.40	
	8,365,000.00		2,887,316.21	11,252,316.21	

Dated 5/ 1/99 with Delivery of 5/27/99
Bond Years 69,236.556
Average Coupon 4.205736
Average Life 8.276934
N I C % 4.205736 % Using 100.0000000
T I C % 4.193000 % From Delivery Date
Arbitrage Yield 4.193000 %

Micro-Muni Sizing Date: 04-13-1999 @ 16:25:50 Filename: FAY Key: NEW

W/S REFUNDING
C.5 page 1

Stephens Inc.

April 20, 1999

The Honorable Fred Hanna, Mayor
and City Council
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: $8,365,000 City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999

Dear Mayor Hanna and Council:

On behalf of Stephens Inc., I am pleased to advise you that we have agreed to underwrite the above referenced bond issue for the City of Fayetteville at an average interest rate of 4.206%. This interest rate will result in a net cost savings to the City of $626,243.79 by refunding the City's existing 1992 Water and Sewer Improvement and Refunding Revenue Bonds. Outlined below is a comparison of the City's existing bond issue and the results of this refunding.

Comparative Analysis

Issue	Maturity	Interest Rate	Total Principal & Interest Cost	Net Savings
Existing 1992	2012	5.984%	$12,281,300.00	N/A
Series 1999 Refunding	2012	4.206%	$11,252,316.21	$626,243.79

Following is a Summary Structure and Pricing Report that presents the key components of this transaction.

Mr. Gordon Wilbourn, with the Kutak Rock law firm, and I will be in attendance during the City's April 20, 1999 City Council Meeting to present the necessary bond ordinance to authorize this transaction and achieve the above described savings for the City.

If you have any questions concerning this financing, please feel free to contact me.

Sincerely,

Dennis Hunt

Dennis Hunt

DH/kg

cc: Mr. Kevin Crosson
Mr. Gordon Wilbourn

$8,365,000

City of Fayetteville, Arkansas
Water and Sewer System Refunding Revenue Bonds

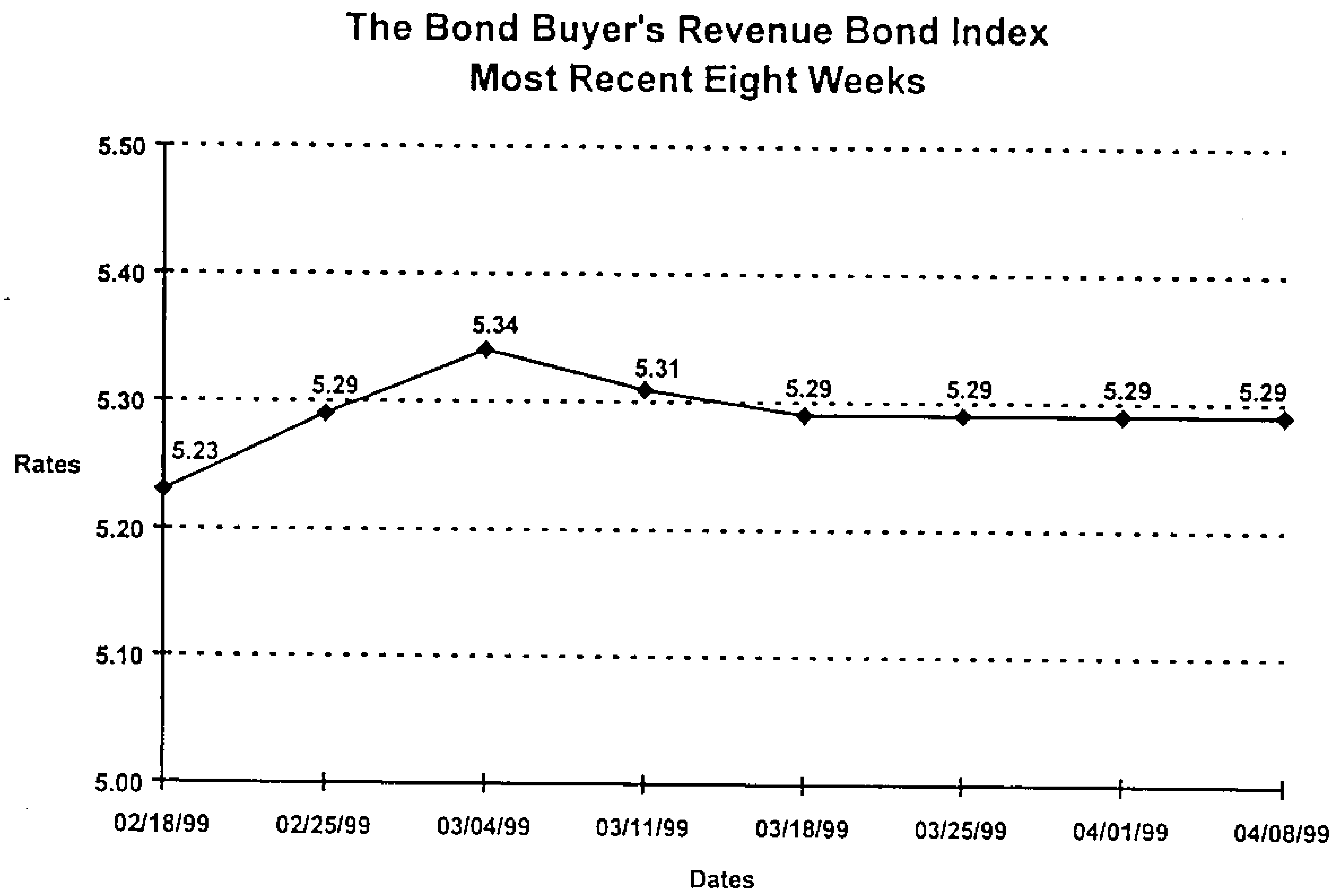
Series 1999

Summary
Structure and Pricing Report
April 20, 1999

Prepared by
Stephens Inc.

Purpose of Report. To present the pricing and structure for the City of Fayetteville's Water and Sewer System Refunding Revenue Bond issue and to detail all costs associated with this financing.

Trend of Interest Rates. Charted below is an eight week trend of the Bond Buyer's Index of 25 Revenue Bonds (REV DEX). This index is a weekly gauge of the tax-exempt revenue bond market and is comparable in many ways to the Dow Jones Industrial Average.



Based on the current tax-exempt market, Stephens has committed to purchase this issue with an average coupon of 4.206% for maturities in the years 1999-2012. Arkansas investors are the primary purchasers of these bonds.

Sources of Funds

Par Amount of Bonds	$8,365,000.00
Existing Funds on Hand	1,211,200.00
Accrued Interest	24,509.40
TOTAL	$9,600,709.40

Uses of Funds

Cost to Retire Bonds	$8,629,525.00
Debt Service Reserve	800,000.00
Cost of Issuance	70,000.00
Underwriter's Discount	75,285.00
Accrued Interest	24,509.40
Contingency	1,390.00
TOTAL	$9,600,709.40

Description of Financing's Components

Costs of Issuance. While these numbers are estimates, they should be close to the actual costs the System will incur. Funds remaining will be applied towards the issue's first interest and principal payment in August of 1999.

Bond Counsel (Includes Expenses)	$37,000.00
Trustee (Authentication)	1,500.00
Prepaid Escrow & Trustee Fee	6,404.00
Rating Expense: Standard & Poor's	9,000.00
Rating Expense: Moody's	10,900.00
Ordinance Publication	1,500.00
Official Statements	1,750.00
Clearing Costs (CUSIP, Ticket Charges, DTC, Day Loan)	1,222.00
Miscellaneous	724.00
Total Costs of Issuance	$70,000.00

Underwriter's Discount. In the amount of $9.00 per thousand ($75,285.00), this amount will be paid to Stephens Inc. for structuring and marketing the bond issue.

Cost to Retire Bonds. This figure is the amount due to call the Series 1992 issue on August 15, 1999 at 103%. This amount will be invested by the Trustee until the call date and investment earnings will be applied towards the first interest payment on the Series 1999 issue.

Call Provision. Optional beginning August 15, 2004 at par.

Debt Service Reserve. The Debt Service Reserve will be funded at $800,000.00. Earnings from the reserve fund will be used to pay debt service.

Refunding Analysis

The following information includes a Savings Report, Sources and Uses of Funds Statement, and Debt Service Schedule for the Series 1999 Bonds. Based on reducing the average coupon on the debt from 5.984% to 4.206%, the net interest cost savings is $626,243.79.

W/S REFUNDING
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City of Fayetteville, AR
Series 1999 Refunding Issue

==============
Savings Report
==============

Date	Proposed Debt Service Principal	Coupon	Interest	Total	Prior Debt Service	Savings	Cumulative Savings
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	595,525.00	421,753.79	10,553.79
2/15/ 0			168,441.25				
8/15/ 0	450,000.00	3.600000	168,441.25	786,882.50	834,130.00	47,247.50	57,801.29
2/15/ 1			160,341.25				
8/15/ 1	465,000.00	3.650000	160,341.25	785,682.50	830,700.00	45,017.50	102,818.79
2/15/ 2			151,855.00				
8/15/ 2	485,000.00	3.650000	151,855.00	788,710.00	835,950.00	47,240.00	150,058.79
2/15/ 3			143,003.75				
8/15/ 3	500,000.00	3.750000	143,003.75	786,007.50	834,530.00	48,522.50	198,581.29
2/15/ 4			133,628.75				
8/15/ 4	525,000.00	3.900000	133,628.75	792,257.50	840,110.00	47,852.50	246,433.79
2/15/ 5			123,391.25				
8/15/ 5	545,000.00	3.950000	123,391.25	791,782.50	838,790.00	47,007.50	293,441.29
2/15/ 6			112,627.50				
8/15/ 6	565,000.00	4.000000	112,627.50	790,255.00	840,327.50	50,072.50	343,513.79
2/15/ 7			101,327.50				
8/15/ 7	590,000.00	4.050000	101,327.50	792,655.00	839,615.00	46,960.00	390,473.79
2/15/ 8			89,380.00				
8/15/ 8	615,000.00	4.150000	89,380.00	793,760.00	841,870.00	48,110.00	438,583.79
2/15/ 9			76,618.75				
8/15/ 9	640,000.00	4.200000	76,618.75	793,237.50	841,470.00	48,232.50	486,816.29
2/15/10			63,178.75				
8/15/10	665,000.00	4.250000	63,178.75	791,357.50	838,657.50	47,300.00	534,116.29
2/15/11			49,047.50				
8/15/11	695,000.00	4.350000	49,047.50	793,095.00	838,067.50	44,972.50	579,088.79
2/15/12			33,931.25				
8/15/12	1,525,000.00	4.450000	33,931.25	1,592,862.50	1,640,017.50	47,155.00	626,243.79
	8,365,000.00		2,911,906.61	11,276,906.61	12,289,760.00		626,243.79
ACCRUED			24,590.40	24,590.40			
	8,365,000.00		2,887,316.21	11,252,316.21	12,289,760.00		626,243.79

Dated 5/ 1/99 with Delivery of 5/27/99
Bond Years 69,236.556
Average Coupon 4.205736
Average Life 8.276934
N I C % 4.205736 % Using 100.0000000
T I C % 4.193000 % From Delivery Date
Arbitrage Yield 4.193000 %

N O T E : Cumulative Savings are Net of the Initial Transfer Amount of 411,200.00

N O T E : Savings on 8/15/99 Include Accrued Interest of 24,590.40

Net Present Value Savings at: 4.1930% Equals 477,771.07 or 5.7115% of Par of the Current Issue
or 5.8550% of Par of the Prior Issue

N O T E : Present Value Savings are Net of the Initial Transfer Amount of 411,200.00

Micro-Muni Debt Date: 04-14-1999 @ 13:13:54 Filename: FAY Key: NEW

W/S REFUNDING
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City of Fayetteville, AR
Series 1999 Refunding Issue

Sources and Uses of Funds

Delivery Date: 5/27/99

Sources of Funds

Par Amount of Bonds..................	$8,365,000.00	
+Premium /-Discount..................	$0.00	
Bond Proceeds..		8,365,000.00
Accrued Interest.....................................		24,590.40
Assumed DSR Balance..................................		800,000.00
Assumed Bond Fund Balance............................		411,200.00
		$9,600,790.40

Uses of Funds

Cost to Retire Bonds.................................	8,629,525.00
Cost of Issuance.....................................	70,000.00
Underwriter's Discount.................(0.900000%)...	75,285.00
Accrued Interest.....................................	24,590.40
Debt Service Reserve.................................	800,000.00
Contingency..	1,390.00
	$9,600,790.40

Micro-Muni Sizing Date: 04-14-1999 @ 13:14:27 Filename: FAY Key: NEW

City of Fayetteville, AR
Series 1999 Refunding Issue

W/S REFUNDING
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Debt Service Schedule

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	198,361.61
2/15/ 0			168,441.25	168,441.25	
8/15/ 0	450,000.00	3.600000	168,441.25	618,441.25	786,882.50
2/15/ 1			160,341.25	160,341.25	
8/15/ 1	465,000.00	3.650000	160,341.25	625,341.25	785,682.50
2/15/ 2			151,855.00	151,855.00	
8/15/ 2	485,000.00	3.650000	151,855.00	636,855.00	788,710.00
2/15/ 3			143,003.75	143,003.75	
8/15/ 3	500,000.00	3.750000	143,003.75	643,003.75	786,007.50
2/15/ 4			133,628.75	133,628.75	
8/15/ 4	525,000.00	3.900000	133,628.75	658,628.75	792,257.50
2/15/ 5			123,391.25	123,391.25	
8/15/ 5	545,000.00	3.950000	123,391.25	668,391.25	791,782.50
2/15/ 6			112,627.50	112,627.50	
8/15/ 6	565,000.00	4.000000	112,627.50	677,627.50	790,255.00
2/15/ 7			101,327.50	101,327.50	
8/15/ 7	590,000.00	4.050000	101,327.50	691,327.50	792,655.00
2/15/ 8			89,380.00	89,380.00	
8/15/ 8	615,000.00	4.150000	89,380.00	704,380.00	793,760.00
2/15/ 9			76,618.75	76,618.75	
8/15/ 9	640,000.00	4.200000	76,618.75	716,618.75	793,237.50
2/15/10			63,178.75	63,178.75	
8/15/10	665,000.00	4.250000	63,178.75	728,178.75	791,357.50
2/15/11			49,047.50	49,047.50	
8/15/11	695,000.00	4.350000	49,047.50	744,047.50	793,095.00
2/15/12			33,931.25	33,931.25	
8/15/12	1,525,000.00	4.450000	33,931.25	1,558,931.25	1,592,862.50
	8,365,000.00		2,911,906.61	11,276,906.61	
ACCRUED			24,590.40	24,590.40	
	8,365,000.00		2,887,316.21	11,252,316.21	

Dated 5/ 1/99 with Delivery of	5/27/99	
Bond Years	69,236.556	
Average Coupon	4.205736	
Average Life	8.276934	
N I C %	4.205736 %	Using 100.0000000
T I C %	4.193000 %	From Delivery Date
Arbitrage Yield	4.193000 %	

Micro-Muni Sizing Date: 04-13-1999 @ 16:25:50 Filename: FAY Key: NEW

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 13, 1999

AGENDA SESSION
APRIL 20, 1999

I. REPORT FROM OMI: A presentation of a refund check to the city.

II. CURBSIDE BIN RECYCLING: Status report

III. NEW ITEM: Petition for removal of Dickson Street Central Business Improvement District board members, filed by Lamar Pettus and Richard Shewmaker

* Move to May 11, 5:00 p.m.

IV. DISCUSSION: Permitting process of odor-emitting businesses in Fayetteville, i.e. Bakery Feeds and Hanna's Potpourri

Next Tues.

Planning Commission appeal ~~not~~ to hear Simmons Bank appeal on parking

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Charles Venable, Public Works Director Cd

From: Willie Newman, Waste Reduction Coordinator WCN

Date: April 5, 1999

Re: **Curbside Bin Recycling - Status Report**

Effective January 25, 1999, the Solid Waste Division implemented the curbside sort collection method for our residential recycling program. This new collection method utilizes reusable bins for our recycling commodities with collection personnel sorting the materials by commodity into our compartmentalized recycling vehicles. We have just completed our tenth week of operations with this new collection method and have gathered data through a four week audit of our recycling stream. The data from this audit will be compared to the data gathered from the Fall 1998 audit to indicate the effects of implementing our new collection method.

Staff, as in previous audits, created a list of addresses for a twenty percent (20%) sampling of our residential households based on collection days. Our sampling areas do not change from audit to audit to insure accurate comparisons. The following are categories of data gathered and tracked by the Solid Waste Division for on-going recycling analysis: set-out rate, participation rate, and tons collected.

Set-out Rate

The average set-out rate indicates our workload requirements on any given day. To determine the set-out rate, staff drove the entire sampling area marking the addresses which set recyclables out for collection. The average set-out rate is the most important piece of information to determine proper staffing requirements.

Collection Day	Blue Bag	Bin	% +/-
Monday	46%	75%	63%
Tuesday	41%	46%	12%
Wednesday	38%	61%	61%
Thursday	61%	69%	13%
Daily Average	*47%*	*63%*	*37%*

113 WEST MOUNTAIN 72701 (501) 575-8398

Participation Rate
The participation rate indicates the total percentage of households participating in our residential curbside recycling program. At the end of each audit, staff counts the number of households which set recyclables out for collection at least one time during the audit. These households are considered to be participants.

Collection Day	Blue Bag	Bin	% +/-
Monday	76%	92%	21%
Tuesday	65%	74%	14%
Wednesday	63%	86%	37%
Thursday	82%	89%	9%
Daily Average	*72%*	*85%*	*20%*

Tons Collected
The tons of recyclables collected are tracked to determine seasonal fluctuations and landfill diversion rates. Currently, almost 30% of all waste generated in our residential sector is being recycled.

Collection Day	Blue Bag	Bin	% +/-
Monday	11.89	13.88	17%
Tuesday	8.07	9.98	24%
Wednesday	7.93	8.86	12%
Thursday	10.86	13.06	20%
Daily Average	*9.81*	*11.45*	*18%*

Summary
Staff expected a 20% increase in our set-out rate with the implementation of the curbside sort collection method. This expectation was based on increased participation and households that did not set their bags of recyclables out for collection on a weekly basis (i.e. multiple bags every other week). Furthermore, staff projected a participation rate of approximately 80%. The average daily participation rate is slightly higher than projected, but this number does not affect daily operations as much as our daily set-out rate. The increase in tons of recyclables collected is in line with staff's projection of a 15-20% increase. Tonnages collected does not increase proportionately with participation due the weight differences of the materials collected. Our residents have always recycled a great amount of our heaviest commodities, newspaper and cardboard, but the greatest increase in commodities recycled have been in our lightest weighing commodities, plastic containers and aluminum cans.

The significant increase can be attributed to the city wide education campaign and public perception. Staff spent approximately four months focusing on curbside recycling education by performing speaking engagements, preparing and distributing literature, and advertising in area newspapers and community access television. The new recycling vehicles also helped increase participation by improving public perception. Many residents over the years have expressed concern over our

recyclables being placed in the rear of recycling vehicles identical to our trash vehicles. Our new recycling vehicles are more visible and are uniquely different from our trash vehicles. Due to the increase in our set-out rate and tonnages collected, staff has had to place our spare recycling vehicle into operation on Mondays and Thursdays to insure timely collection of recyclables.

During the first two months of operation, our recycling center generated over $19,000 in revenue and saved $12,000 in processing fees that would otherwise be spent sorting our blue bags. We also have processed and stored approximately $17,000 worth materials that will be marketed in April.

Conclusion

Our residential recycling program has steadily improved its participation rate since 1995. With on-going education and the implementation of our volume based sanitation rates scheduled for January 2000, our participation will continue to grow. Staff does project another significant increase in our recycling set-out and participation rates to occur in January 2000 with the implementation of volume based sanitation rates. With this in mind, staff would like to make preparations to purchase another recycling vehicle to be used as a spare in 2000 and beyond.

Staff would like to thank our residents for the effort they are making in our curbside recycling program. Without their commitment and environmental concern, our recycling programs would not be so successful. Staff will be present at your next agenda session to answer any questions you may have. If you have any questions or comments prior to the meeting, please contact me at your convenience at 444-3497. Remember, Together We Are Making A Difference.

PETTUS FAMILY TRUST
151 West Dickson Street
Fayetteville, Arkansas 72701

Telephone: (501) 443-2363
Facsimile: (501) 443-0390

RICHARD SHEWMAKER
605 West Dickson Street
Fayetteville, Arkansas 72703

Telephone: (501) 442-9094

April 12, 1999

City Council
CITY OF FAYETTEVILLE
c/o Jerry Rose, City Attorney
113 West Mountain
Fayetteville, AR 72701

Attention: Mayor Fred B. Hanna
Alderman Robert Reynolds
Alderman Ron Austin
Alderman Cyrus Young
Alderman Kyle Russell
Alderman Trent Trumbo
Alderman Bob Davis
Alderman Kevin Santos
Alderwoman Heather Daniel

PETITION FOR REMOVAL

Pettus Family Trust, by and through one of its Co-Trustees, E. Lamar Pettus, who is authorized to act on behalf of the Pettus Family Trust and Richard Shewmaker petition the City Council of the City of Fayetteville to remove C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood as Commissioners of the Dickson Street Central Business Improvement District No. 1 of the City of Fayetteville (DSID).

1. Pettus Family Trust is an owner of property located within the DSID and E. Lamar Pettus is a Co-Trustee authorized to act on behalf of the Pettus Family Trust.

2. Richard Shewmaker is a property owner in the DSID.

3. C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood are four of the five persons appointed as Commissioners of DSID.

4. Petitioners believe the Commissioners named herein should be removed from their office for dereliction of their duties as Commissioners, self-dealing, and refusal to comply with the laws of the State of Arkansas in the operations of the District, to-wit:

Commissioners have:

a. Failed to hold regular and periodic meetings.

b. Failed to provide notice of meetings to property owners assessed to pay for the business of the District.

c. Failed to support the general purpose of the DSID which was and is the upgrading and enhancement of the Dickson Street area.

d. Failed to maintain minutes of meetings.

e. Failed to properly maintain the records of the DSID in a central location easily accessible by members of the public.

f. Failed to act in a timely manner to adopt or amend Plans of Improvement after abandonment of the original Plan of Improvement.

g. Failed to pursue collection of delinquent assessments and to even discuss the delinquencies owed by Commissioners.

h. Authorized by action or omission payment of public funds for improvement on private property.

i. Failed to promptly attend to the business of DSID.

j. Failed to comply with State codes and City ordinances.

k. Failed to require fellow Commissioners to comply with State codes and City ordinances.

l. Failed to hold meetings in public facilities accessible to all.

m. Failed to advertise for bids for projects constructed with public funds.

n. Failed to advertise for bids for services paid for by public funds.

o. Failed to follow Arkansas statutes handling the business of the District and, specifically, failed to comply with the requirements of the Arkansas Freedom of Information Act.

FOR THE FOREGOING REASONS, Pettus Family Trust, by and through its Co-Trustee, E. Lamar Pettus, and Richard Shewmaker request the City Council remove the above persons from their offices as Commissioners of DSID, take applications, and approve and appoint replacement Commissioners.

E. Lamar Pettus, as Co-Trustee of and on behalf of the Pettus Family Trust, and Richard Shewmaker have read the foregoing allegations and charges and state that same are true and correct to the best of their knowledge and belief.

THE PETTUS FAMILY TRUST

By: E. Lamar Pettus
E. Lamar Pettus
Co-Trustee

Richard M. Shewmaker
Richard Shewmaker

S:\LAMARP\DSID\PET.412

<u>ACKNOWLEDGEMENT</u>

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this 12th day of April, 1999, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person the within-named E. Lamar Pettus, in his capacity as Co-Trustee of the Pettus Family Trust, and Richard Shewmaker, in his individual capacity, to me personally known (or satisfactorily proven), who stated and acknowledged they had so signed, executed, and delivered the 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 12th day of April, 1999.

Notary Public

My Commission Expires:
06-18-2008

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CASE NOTES

Signature by Owner.

This section requires that the owner's name be signed to the petition. The owner's name can be signed by an agent, but only when the agent signs as an agent and the name of the owner is disclosed. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

Where the name of the owner is not signed to the petition in any manner, the assessed value of his land cannot be counted as part of the petition. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

14-184-109. Rules governing petitions.

(a) After the filing of a petition for the creation of a central business improvement district, no petitioner shall be permitted to withdraw his name from it.

(b) No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects.

(c) The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

(d) Similar petitions for the organization of the same district may be filed and together shall be regarded as one petition with the original.

(e) All petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file.

History. Acts 1973, No. 162, § 7; A.S.A. 1947, § 20-1606.

14-184-110. Organizational expenses.

A central business improvement district organized under this subchapter is authorized to pay reasonable compensation to those persons who have done necessary or desirable preliminary work in the organization of it, including the fees of abstractors and title companies, engineers, architects, and attorneys.

History. Acts 1973, No. 162, § 10; A.S.A. 1947, § 20-1609.

14-184-111. Board of commissioners.

(a)(1)(A) In the ordinance creating a central business improvement district, the governing body shall appoint five (5) persons who shall be owners of real property in the district, or officers or stockholders of a corporation owning real property within the district, as commissioners, who shall compose a board of commissioners for the district.

(B) In cities operating under a commission form of government, the mayor and city commissioners, by virtue of their offices, shall be commissioners of each district and shall comprise the board of each district.

(2) The board of commissioners shall elect a chairman and a secretary.

(b)(1)(A) All vacancies that may occur after the board shall have been organized shall be filled by the governing body.

(B) If all places on the board shall become vacant, or those appointed shall refuse or neglect to act or shall cease to have the qualifications required for their original appointment, new members shall be appointed by the governing body as in the first instance.

(2)(A)(i) The governing body shall have the power to remove the board, or any member of it, by a two-thirds (⅔) vote of the whole number of the members of the governing body.

(ii) Removal shall be for cause only and after a hearing upon sworn charges preferred in writing by a property owner in the district. Ten (10) days' notice of the hearing on the charges shall be given.

(B) The governing body shall have the power to remove the board, or any member of it, by a vote of the majority of the whole number of the members elected to the governing body upon the written petition of the owners of a majority in assessed value of the property located within the district, after a hearing upon ten (10) days' notice to each member of the board affected.

(c) The members of the board shall receive no compensation for their services but may be reimbursed for their actual expenses incurred in the performance of their duties.

History. Acts 1973, No. 162, §§ 8, 11; A.S.A. 1947, §§ 20-1607, 20-1610.

14-184-112. Plans and estimated cost of improvement.

(a)(1) As soon as is practicable after the qualification of its members, the board of commissioners for a central business improvement district shall form plans for the improvement as described in the petition and shall obtain estimates of the cost of it.

(2) Prior to the filing of any assessment of benefits to accomplish the plan of improvement, a copy of the plans and the estimated cost for the accomplishment of the plans shall be filed in the office of the city clerk.

(b) The plan may provide for the construction of improvements, and other implementation of the plan, in such sequence and in such parts as the board shall determine from time to time to be most advantageous to the district.

(c)(1) The plan of improvement may be amended at any time by the board in order to include or delete such features as the board shall determine to be in the best interests of the district.

(2)(A) A copy of the plan, as amended, shall be filed in the office of the city clerk, and, if the original assessment of benefits shall not have yet been filed, no further notice shall be necessary. .

(B)(i) If the assessment of benefits for the district shall have been filed and a levy of it enacted by ordinance, the board shall examine

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 13, 1999

AGENDA SESSION
APRIL 20, 1999

I. REPORT FROM OMI: A presentation of a refund check to the city.

II. CURBSIDE BIN RECYCLING: Status report

III. NEW ITEM: Petition for removal of Dickson Street Central Business Improvement District board members, filed by Lamar Pettus and Richard Shewmaker

IV. DISCUSSION: Permitting process of odor-emitting businesses in Fayetteville, i.e. Bakery Feeds and Hanna's Potpourri

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Charles Venable, Public Works Director CV

From: Willie Newman, Waste Reduction Coordinator WCN

Date: April 5, 1999

Re: **Curbside Bin Recycling - Status Report**

Effective January 25, 1999, the Solid Waste Division implemented the curbside sort collection method for our residential recycling program. This new collection method utilizes reusable bins for our recycling commodities with collection personnel sorting the materials by commodity into our compartmentalized recycling vehicles. We have just completed our tenth week of operations with this new collection method and have gathered data through a four week audit of our recycling stream. The data from this audit will be compared to the data gathered from the Fall 1998 audit to indicate the effects of implementing our new collection method.

Staff, as in previous audits, created a list of addresses for a twenty percent (20%) sampling of our residential households based on collection days. Our sampling areas do not change from audit to audit to insure accurate comparisons. The following are categories of data gathered and tracked by the Solid Waste Division for on-going recycling analysis: set-out rate, participation rate, and tons collected.

Set-out Rate

The average set-out rate indicates our workload requirements on any given day. To determine the set-out rate, staff drove the entire sampling area marking the addresses which set recyclables out for collection. The average set-out rate is the most important piece of information to determine proper staffing requirements.

Collection Day	Blue Bag	Bin	% +/-
Monday	46%	75%	63%
Tuesday	41%	46%	12%
Wednesday	38%	61%	61%
Thursday	61%	69%	13%
Daily Average	*47%*	*63%*	*37%*

Participation Rate

The participation rate indicates the total percentage of households participating in our residential curbside recycling program. At the end of each audit, staff counts the number of households which set recyclables out for collection at least one time during the audit. These households are considered to be participants.

Collection Day	Blue Bag	Bin	% +/-
Monday	76%	92%	21%
Tuesday	65%	74%	14%
Wednesday	63%	86%	37%
Thursday	82%	89%	9%
Daily Average	*72%*	*85%*	*20%*

Tons Collected

The tons of recyclables collected are tracked to determine seasonal fluctuations and landfill diversion rates. Currently, almost 30% of all waste generated in our residential sector is being recycled.

Collection Day	Blue Bag	Bin	% +/-
Monday	11.89	13.88	17%
Tuesday	8.07	9.98	24%
Wednesday	7.93	8.86	12%
Thursday	10.86	13.06	20%
Daily Average	*9.81*	*11.45*	*18%*

Summary

Staff expected a 20% increase in our set-out rate with the implementation of the curbside sort collection method. This expectation was based on increased participation and households that did not set their bags of recyclables out for collection on a weekly basis (i.e. multiple bags every other week). Furthermore, staff projected a participation rate of approximately 80%. The average daily participation rate is slightly higher than projected, but this number does not affect daily operations as much as our daily set-out rate. The increase in tons of recyclables collected is in line with staff's projection of a 15-20% increase. Tonnages collected does not increase proportionately with participation due the weight differences of the materials collected. Our residents have always recycled a great amount of our heaviest commodities, newspaper and cardboard, but the greatest increase in commodities recycled have been in our lightest weighing commodities, plastic containers and aluminum cans.

The significant increase can be attributed to the city wide education campaign and public perception. Staff spent approximately four months focusing on curbside recycling education by performing speaking engagements, preparing and distributing literature, and advertising in area newspapers and community access television. The new recycling vehicles also helped increase participation by improving public perception. Many residents over the years have expressed concern over our

recyclables being placed in the rear of recycling vehicles identical to our trash vehicles. Our new recycling vehicles are more visible and are uniquely different from our trash vehicles. Due to the increase in our set-out rate and tonnages collected, staff has had to place our spare recycling vehicle into operation on Mondays and Thursdays to insure timely collection of recyclables.

During the first two months of operation, our recycling center generated over $19,000 in revenue and saved $12,000 in processing fees that would otherwise be spent sorting our blue bags. We also have processed and stored approximately $17,000 worth materials that will be marketed in April.

Conclusion
Our residential recycling program has steadily improved its participation rate since 1995. With on-going education and the implementation of our volume based sanitation rates scheduled for January 2000, our participation will continue to grow. Staff does project another significant increase in our recycling set-out and participation rates to occur in January 2000 with the implementation of volume based sanitation rates. With this in mind, staff would like to make preparations to purchase another recycling vehicle to be used as a spare in 2000 and beyond.

Staff would like to thank our residents for the effort they are making in our curbside recycling program. Without their commitment and environmental concern, our recycling programs would not be so successful. Staff will be present at your next agenda session to answer any questions you may have. If you have any questions or comments prior to the meeting, please contact me at your convenience at 444-3497. Remember, Together We Are Making A Difference.

PETTUS FAMILY TRUST
151 West Dickson Street
Fayetteville, Arkansas 72701

Telephone: (501) 443-2363
Facsimile: (501) 443-0390

RICHARD SHEWMAKER
605 West Dickson Street
Fayetteville, Arkansas 72703

Telephone: (501) 442-9094

April 12, 1999

City Council
CITY OF FAYETTEVILLE
c/o Jerry Rose, City Attorney
113 West Mountain
Fayetteville, AR 72701

Attention: Mayor Fred B. Hanna
Alderman Robert Reynolds
Alderman Ron Austin
Alderman Cyrus Young
Alderman Kyle Russell
Alderman Trent Trumbo
Alderman Bob Davis
Alderman Kevin Santos
Alderwoman Heather Daniel

PETITION FOR REMOVAL

Pettus Family Trust, by and through one of its Co-Trustees, E. Lamar Pettus, who is authorized to act on behalf of the Pettus Family Trust and Richard Shewmaker petition the City Council of the City of Fayetteville to remove C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood as Commissioners of the Dickson Street Central Business Improvement District No. 1 of the City of Fayetteville (DSID).

1. Pettus Family Trust is an owner of property located within the DSID and E. Lamar Pettus is a Co-Trustee authorized to act on behalf of the Pettus Family Trust.

2. Richard Shewmaker is a property owner in the DSID.

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APR 1 2 1999
CITY CLERK'S OFFICE

3. C. Thomas Pearson, Jr.; Leroy Pearce; Carl Collier; and William G. Underwood are four of the five persons appointed as Commissioners of DSID.

4. Petitioners believe the Commissioners named herein should be removed from their office for dereliction of their duties as Commissioners, self-dealing, and refusal to comply with the laws of the State of Arkansas in the operations of the District, to-wit:

Commissioners have:

a. Failed to hold regular and periodic meetings.

b. Failed to provide notice of meetings to property owners assessed to pay for the business of the District.

c. Failed to support the general purpose of the DSID which was and is the upgrading and enhancement of the Dickson Street area.

d. Failed to maintain minutes of meetings.

e. Failed to properly maintain the records of the DSID in a central location easily accessible by members of the public.

f. Failed to act in a timely manner to adopt or amend Plans of Improvement after abandonment of the original Plan of Improvement.

g. Failed to pursue collection of delinquent assessments and to even discuss the delinquencies owed by Commissioners.

h. Authorized by action or omission payment of public funds for improvement on private property.

i. Failed to promptly attend to the business of DSID.

j. Failed to comply with State codes and City ordinances.

k. Failed to require fellow Commissioners to comply with State codes and City ordinances.

l. Failed to hold meetings in public facilities accessible to all.

m. Failed to advertise for bids for projects constructed with public funds.

n. Failed to advertise for bids for services paid for by public funds.

o. Failed to follow Arkansas statutes handling the business of the District and, specifically, failed to comply with the requirements of the Arkansas Freedom of Information Act.

FOR THE FOREGOING REASONS, Pettus Family Trust, by and through its Co-Trustee, E. Lamar Pettus, and Richard Shewmaker request the City Council remove the above persons from their offices as Commissioners of DSID, take applications, and approve and appoint replacement Commissioners.

E. Lamar Pettus, as Co-Trustee of and on behalf of the Pettus Family Trust, and Richard Shewmaker have read the foregoing allegations and charges and state that same are true and correct to the best of their knowledge and belief.

THE PETTUS FAMILY TRUST

By: E Lamar Pettus
E. Lamar Pettus
Co-Trustee

Richard M. Shewmaker
Richard Shewmaker

S:\LAMARP\DSID\PET.412

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this 12th day of April, 1999, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person the within-named E. Lamar Pettus, in his capacity as Co-Trustee of the Pettus Family Trust, and Richard Shewmaker, in his individual capacity, to me personally known (or satisfactorily proven), who stated and acknowledged they had so signed, executed, and delivered the 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 12th day of April, 1999.

Notary Public

My Commission Expires:
06-18-2008

S:\LAMARP\DSID\PET.412

CASE NOTES

Signature by Owner.

This section requires that the owner's name be signed to the petition. The owner's name can be signed by an agent, but only when the agent signs as an agent and the name of the owner is disclosed. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

Where the name of the owner is not signed to the petition in any manner, the assessed value of his land cannot be counted as part of the petition. Hood v. Central Bus. Imp. Dist. No. 1, 301 Ark. 35, 781 S.W.2d 35 (1989).

14-184-109. Rules governing petitions.

(a) After the filing of a petition for the creation of a central business improvement district, no petitioner shall be permitted to withdraw his name from it.

(b) No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects.

(c) The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

(d) Similar petitions for the organization of the same district may be filed and together shall be regarded as one petition with the original.

(e) All petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file.

History. Acts 1973, No. 162, § 7; A.S.A. 1947, § 20-1606.

14-184-110. Organizational expenses.

A central business improvement district organized under this subchapter is authorized to pay reasonable compensation to those persons who have done necessary or desirable preliminary work in the organization of it, including the fees of abstractors and title companies, engineers, architects, and attorneys.

History. Acts 1973, No. 162, § 10; A.S.A. 1947, § 20-1609.

14-184-111. Board of commissioners.

(a)(1)(A) In the ordinance creating a central business improvement district, the governing body shall appoint five (5) persons who shall be owners of real property in the district, or officers or stockholders of a corporation owning real property within the district, as commissioners, who shall compose a board of commissioners for the district.

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(a)(1) As soon as is practicable after the qualification of its members, the board of commissioners for a central business improvement district shall form plans for the improvement as described in the petition and shall obtain estimates of the cost of it.

(2) Prior to the filing of any assessment of benefits to accomplish the plan of improvement, a copy of the plans and the estimated cost for the accomplishment of the plans shall be filed in the office of the city clerk.

(b) The plan may provide for the construction of improvements, and other implementation of the plan, in such sequence and in such parts as the board shall determine from time to time to be most advantageous to the district.

(c)(1) The plan of improvement may be amended at any time by the board in order to include or delete such features as the board shall determine to be in the best interests of the district.

(2)(A) A copy of the plan, as amended, shall be filed in the office of the city clerk, and, if the original assessment of benefits shall not have yet been filed, no further notice shall be necessary.

(B)(i) If the assessment of benefits for the district shall have been filed and a levy of it enacted by ordinance, the board shall examine

4/20/99

CITY COUNCIL

OLD BUS.

1ST READING	CONSENT	#2 - RUFFLED	AMEND #2 PURCHASE HOUSE	#3 - CEO	AMEND #3
DAVIS	Y	LEFT ON 1ST	Y	LEFT ON 1ST	Y
TRUMBO	Y		Y		N
DANIEL m	Y		Y		Y
SANTOS	Y		Y	m	Y
YOUNG	Y		Y	2ND	Y
RUSSELL	Y		Y		Y
REYNOLDS 2ND	Y		Y		N
AUSTIN	Y		Y		N
MAYOR HANNA (TIE)	Y				

2ND READING			SANTO SUSPEND		
DAVIS 2ND			Y		Y
TRUMBO			Y		Y
DANIEL			Y		Y
SANTOS m			Y		N
YOUNG			Y		N
RUSSELL			Y		N
REYNOLDS			Y		Y
AUSTIN			Y		Y
MAYOR HANNA (NO VOTE)			—		

3RD READING					
DAVIS			Y		
TRUMBO			Y		
DANIEL			N		
SANTOS			Y		
YOUNG			Y		
RUSSELL			Y		
REYNOLDS			Y		
AUSTIN			Y		
MAYOR HANNA (NO VOTE)					
			APPR. 7-1-0		

W/S REFUNDING
C.5 page 1

Stephens Inc.

April 20, 1999

The Honorable Fred Hanna, Mayor
and City Council
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: $8,365,000 City of Fayetteville, Arkansas Water and Sewer System Refunding Revenue Bonds, Series 1999

Dear Mayor Hanna and Council:

On behalf of Stephens Inc., I am pleased to advise you that we have agreed to underwrite the above referenced bond issue for the City of Fayetteville at an average interest rate of **4.206%**. This interest rate will result in a net cost savings to the City of **$626,243.79** by refunding the City's existing 1992 Water and Sewer Improvement and Refunding Revenue Bonds. Outlined below is a comparison of the City's existing bond issue and the results of this refunding.

Comparative Analysis

Issue	Maturity	Interest Rate	Total Principal & Interest Cost	Net Savings
Existing 1992	2012	5.984%	$12,281,300.00	N/A
Series 1999 Refunding	2012	4.206%	$11,252,316.21	**$626,243.79**

Following is a Summary Structure and Pricing Report that presents the key components of this transaction.

Mr. Gordon Wilbourn, with the Kutak Rock law firm, and I will be in attendance during the City's April 20, 1999 City Council Meeting to present the necessary bond ordinance to authorize this transaction and achieve the above described savings for the City.

If you have any questions concerning this financing, please feel free to contact me.

Sincerely,

Dennis Hunt

Dennis Hunt

DH/kg

cc: Mr. Kevin Crosson
Mr. Gordon Wilbourn

W/S REFUNDING
C.5 page 2

$8,365,000

City of Fayetteville, Arkansas
Water and Sewer System Refunding Revenue Bonds

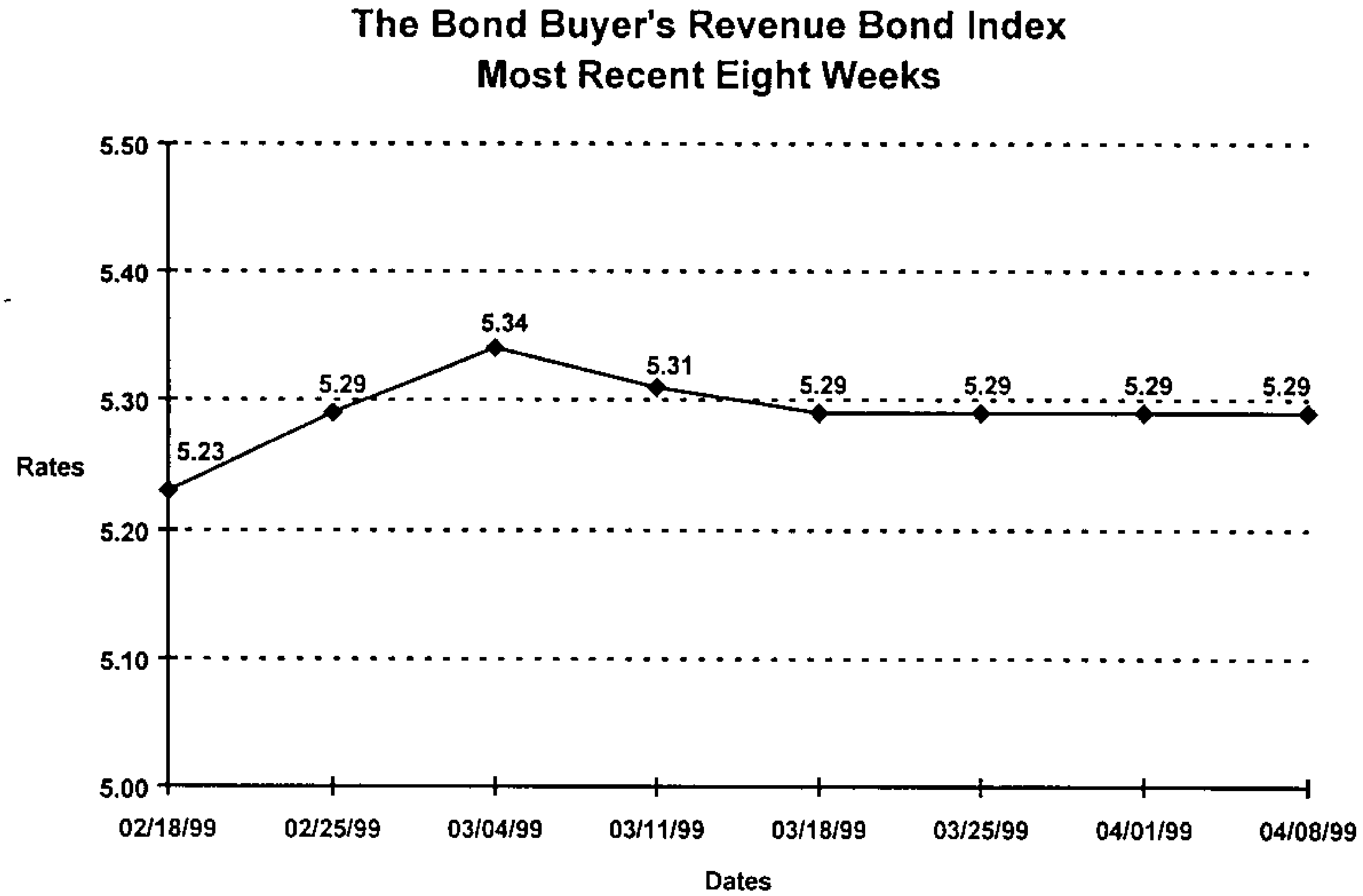
Series 1999

Summary
Structure and Pricing Report
April 20, 1999

Prepared by
Stephens Inc.

Purpose of Report. To present the pricing and structure for the City of Fayetteville's Water and Sewer System Refunding Revenue Bond issue and to detail all costs associated with this financing.

Trend of Interest Rates. Charted below is an eight week trend of the Bond Buyer's Index of 25 Revenue Bonds (REV DEX). This index is a weekly gauge of the tax-exempt revenue bond market and is comparable in many ways to the Dow Jones Industrial Average.



Based on the current tax-exempt market, Stephens has committed to purchase this issue with an average coupon of 4.206% for maturities in the years 1999-2012. Arkansas investors are the primary purchasers of these bonds.

Sources of Funds

Par Amount of Bonds	$8,365,000.00
Existing Funds on Hand	1,211,200.00
Accrued Interest	24,509.40
TOTAL	$9,600,709.40

Uses of Funds

Cost to Retire Bonds	$8,629,525.00
Debt Service Reserve	800,000.00
Cost of Issuance	70,000.00
Underwriter's Discount	75,285.00
Accrued Interest	24,509.40
Contingency	1,390.00
TOTAL	$9,600,709.40

Description of Financing's Components

Costs of Issuance. While these numbers are estimates, they should be close to the actual costs the System will incur. Funds remaining will be applied towards the issue's first interest and principal payment in August of 1999.

Bond Counsel (Includes Expenses)	$37,000.00
Trustee (Authentication)	1,500.00
Prepaid Escrow & Trustee Fee	6,404.00
Rating Expense: Standard & Poor's	9,000.00
Rating Expense: Moody's	10,900.00
Ordinance Publication	1,500.00
Official Statements	1,750.00
Clearing Costs (CUSIP, Ticket Charges, DTC, Day Loan)	1,222.00
Miscellaneous	724.00
Total Costs of Issuance	$70,000.00

Underwriter's Discount. In the amount of $9.00 per thousand ($75,285.00), this amount will be paid to Stephens Inc. for structuring and marketing the bond issue.

Cost to Retire Bonds. This figure is the amount due to call the Series 1992 issue on August 15, 1999 at 103%. This amount will be invested by the Trustee until the call date and investment earnings will be applied towards the first interest payment on the Series 1999 issue.

Call Provision. Optional beginning August 15, 2004 at par.

Debt Service Reserve. The Debt Service Reserve will be funded at $800,000.00. Earnings from the reserve fund will be used to pay debt service.

Refunding Analysis

The following information includes a Savings Report, Sources and Uses of Funds Statement, and Debt Service Schedule for the Series 1999 Bonds. Based on reducing the average coupon on the debt from 5.984% to 4.206%, the net interest cost savings is **$626,243.79**.

W/S REFUNDING
C.5 page 5

City of Fayetteville, AR
Series 1999 Refunding Issue

==============
Savings Report
==============

Date	Principal	Coupon	Interest	Total	Prior Debt Service	Savings	Cumulative Savings
	- - - - - - - - Proposed Debt Service	- - - - - - - -					
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	595,525.00	421,753.79	10,553.79
2/15/ 0			168,441.25				
8/15/ 0	450,000.00	3.600000	168,441.25	786,882.50	834,130.00	47,247.50	57,801.29
2/15/ 1			160,341.25				
8/15/ 1	465,000.00	3.650000	160,341.25	785,682.50	830,700.00	45,017.50	102,818.79
2/15/ 2			151,855.00				
8/15/ 2	485,000.00	3.650000	151,855.00	788,710.00	835,950.00	47,240.00	150,058.79
2/15/ 3			143,003.75				
8/15/ 3	500,000.00	3.750000	143,003.75	786,007.50	834,530.00	48,522.50	198,581.29
2/15/ 4			133,628.75				
8/15/ 4	525,000.00	3.900000	133,628.75	792,257.50	840,110.00	47,852.50	246,433.79
2/15/ 5			123,391.25				
8/15/ 5	545,000.00	3.950000	123,391.25	791,782.50	838,790.00	47,007.50	293,441.29
2/15/ 6			112,627.50				
8/15/ 6	565,000.00	4.000000	112,627.50	790,255.00	840,327.50	50,072.50	343,513.79
2/15/ 7			101,327.50				
8/15/ 7	590,000.00	4.050000	101,327.50	792,655.00	839,615.00	46,960.00	390,473.79
2/15/ 8			89,380.00				
8/15/ 8	615,000.00	4.150000	89,380.00	793,760.00	841,870.00	48,110.00	438,583.79
2/15/ 9			76,618.75				
8/15/ 9	640,000.00	4.200000	76,618.75	793,237.50	841,470.00	48,232.50	486,816.29
2/15/10			63,178.75				
8/15/10	665,000.00	4.250000	63,178.75	791,357.50	838,657.50	47,300.00	534,116.29
2/15/11			49,047.50				
8/15/11	695,000.00	4.350000	49,047.50	793,095.00	838,067.50	44,972.50	579,088.79
2/15/12			33,931.25				
8/15/12	1,525,000.00	4.450000	33,931.25	1,592,862.50	1,640,017.50	47,155.00	626,243.79
	8,365,000.00		2,911,906.61	11,276,906.61	12,289,760.00		626,243.79
ACCRUED			24,590.40	24,590.40			
	8,365,000.00		2,887,316.21	11,252,316.21	12,289,760.00		626,243.79

Dated 5/ 1/99 with Delivery of 5/27/99
Bond Years 69,236.556
Average Coupon 4.205736
Average Life 8.276934
N I C % 4.205736 % Using 100.0000000
T I C % 4.193000 % From Delivery Date
Arbitrage Yield 4.193000 %

N O T E : Cumulative Savings are Net of the Initial Transfer Amount of 411,200.00

N O T E : Savings on 8/15/99 Include Accrued Interest of 24,590.40

Net Present Value Savings at: 4.1930% Equals 477,771.07 or 5.7115% of Par of the Current Issue
or 5.8550% of Par of the Prior Issue

N O T E : Present Value Savings are Net of the Initial Transfer Amount of 411,200.00

Micro-Muni Debt Date: 04-14-1999 @ 13:13:54 Filename: FAY Key: NEW

W/S REFUNDING
C.5 page 6

City of Fayetteville, AR
Series 1999 Refunding Issue

========================
Sources and Uses of Funds
========================
Delivery Date: 5/27/99

Sources of Funds

Par Amount of Bonds..................	$8,365,000.00	
+Premium /-Discount..................	$0.00	
Bond Proceeds..		8,365,000.00
Accrued Interest.......................................		24,590.40
Assumed DSR Balance....................................		800,000.00
Assumed Bond Fund Balance..............................		411,200.00
		$9,600,790.40

Uses of Funds

Cost to Retire Bonds...................................	8,629,525.00
Cost of Issuance.......................................	70,000.00
Underwriter's Discount.................(0.900000%)...	75,285.00
Accrued Interest.......................................	24,590.40
Debt Service Reserve...................................	800,000.00
Contingency..	1,390.00
	$9,600,790.40

Micro-Muni Sizing Date: 04-14-1999 @ 13:14:27 Filename: FAY Key: NEW

City of Fayetteville, AR
Series 1999 Refunding Issue

W/S REFUNDING
C.5 page 7

====================
Debt Service Schedule
====================

Date	Principal	Coupon	Interest	Period Total	Fiscal Total
8/15/99	100,000.00	3.600000	98,361.61	198,361.61	198,361.61
2/15/ 0			168,441.25	168,441.25	
8/15/ 0	450,000.00	3.600000	168,441.25	618,441.25	786,882.50
2/15/ 1			160,341.25	160,341.25	
8/15/ 1	465,000.00	3.650000	160,341.25	625,341.25	785,682.50
2/15/ 2			151,855.00	151,855.00	
8/15/ 2	485,000.00	3.650000	151,855.00	636,855.00	788,710.00
2/15/ 3			143,003.75	143,003.75	
8/15/ 3	500,000.00	3.750000	143,003.75	643,003.75	786,007.50
2/15/ 4			133,628.75	133,628.75	
8/15/ 4	525,000.00	3.900000	133,628.75	658,628.75	792,257.50
2/15/ 5			123,391.25	123,391.25	
8/15/ 5	545,000.00	3.950000	123,391.25	668,391.25	791,782.50
2/15/ 6			112,627.50	112,627.50	
8/15/ 6	565,000.00	4.000000	112,627.50	677,627.50	790,255.00
2/15/ 7			101,327.50	101,327.50	
8/15/ 7	590,000.00	4.050000	101,327.50	691,327.50	792,655.00
2/15/ 8			89,380.00	89,380.00	
8/15/ 8	615,000.00	4.150000	89,380.00	704,380.00	793,760.00
2/15/ 9			76,618.75	76,618.75	
8/15/ 9	640,000.00	4.200000	76,618.75	716,618.75	793,237.50
2/15/10			63,178.75	63,178.75	
8/15/10	665,000.00	4.250000	63,178.75	728,178.75	791,357.50
2/15/11			49,047.50	49,047.50	
8/15/11	695,000.00	4.350000	49,047.50	744,047.50	793,095.00
2/15/12			33,931.25	33,931.25	
8/15/12	1,525,000.00	4.450000	33,931.25	1,558,931.25	1,592,862.50
	8,365,000.00		2,911,906.61	11,276,906.61	
ACCRUED			24,590.40	24,590.40	
	8,365,000.00		2,887,316.21	11,252,316.21	

Dated 5/ 1/99 with Delivery of 5/27/99

Bond Years	69,236.556	
Average Coupon	4.205736	
Average Life	8.276934	
N I C %	4.205736 %	Using 100.0000000
T I C %	4.193000 %	From Delivery Date
Arbitrage Yield	4.193000 %	

Micro-Muni Sizing Date: 04-13-1999 @ 16:25:50 Filename: FAY Key: NEW

4/20

Expanded after 4-20-72) A structure located in a mobile home park for the convenience of the residents to provide storage space for often used outdoor equipment, furniture, tools and other items which cannot be conveniently stored in the typical mobile home.

Compact Automobile. (Parking and Loading) Any vehicle less than six feet wide and 15 feet long.

Compaction. (Physical Alteration of Land) The densification of a fill by mechanical means.

Company Flag. (Signs) A flag identifying a business or an organization where the flag is displayed.

Comprehensive Plan. (Development) A long-range plan for the planning area including plans for land use, streets and community facilities.

Conditional Use. (Zoning) A use permitted in certain zoning districts subject to certain conditions imposed by the Planning Commission after review of a development plat.

Condominium. (Zoning) Two or more single-family dwelling units constructed in a series of attached units and submitted to a horizontal property regime under A.C.A.§8-13-102 et seq.

Conical Surface. (Airport Zone) A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty-to-one for a horizontal distance of 4,000 feet.

Construction Permit. (Stormwater Management, Drainage and Erosion Control) Stormwater Management, Drainage and Erosion Control Permit issued by the City to an entity with the legal ability to construct the stormwater management system in accordance with the approved system design and permit conditions.

Construction. (Stormwater Management, Drainage and Erosion Control) Any on-site activity that would result in the creation of a new stormwater management system, including the building, assembling, expansion modification, or alteration of the existing contours of the property; the erection of buildings or other structures, any part thereof; or land clearing.

Contour Intervals. (Development) Topographic map lines connecting points of equal elevations.

Controlled Access Highway. (Signs) Any state or federal numbered highway designated by ordinance as a controlled access highway by the City Council.

Cribbing. (Physical Alteration of Land) A framework of bars for support or strengthening.

Cut. (Physical Alteration of Land) The same thing as an excavation.

Dance Hall. (Zonings) Any building, premises, pavilion, or place of business wherein dancing is permitted, conducted or engaged in by the public in general, including but not limited to private clubs as defined by Ordinance and/or the laws of the state of Arkansas, either for profit or not.

Dead-End Street. (Development) A street having one end open to traffic and being permanently terminated by a vehicular turnaround.

number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family. (Zoning) A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, Two-Family. (Zoning) A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling Unit. (Zoning) One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Easement. (Development) A grant by the property owner to the public, a corporation or persons, of the use of a strip of land for specific purposes.

Energy Code. (Building Regulations) Arkansas Energy Code.

Enforcement Officer. (Mobile Homes and Parks)(Mobile Homes and Parks Opened or Expanded after 4-20-72) The Chief Building Inspector of the City, or his duly authorized representative.

Engineer. (Stormwater Management, Drainage and Erosion Control) A professional engineer registered in Arkansas, or other person exempted pursuant to the provisions of the Arkansas Code Annotated, who is competent in the fields of hydrology and stormwater management.

Erect. (Signs) To build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.

Erosion. (Stormwater Management, Drainage and Erosion Control) The removal of soil particles by the action of water, wind, ice or other geological agents.

Evergreen. (Physical Alteration of Land) A plant that retains leaves or needles year-round.

Excavation. (Physical Alteration of Land) The mechanical removal of earth material from water or land.

Facilities Emitting Odors. (Zoning Regulations) Any function that involves a process which emits or has the potential for emitting an odor.

Facilities Handling Explosives. (Zoning) Any function that involves a process dealing with a product with explosive potential.

Family. (Zoning) One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over three persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

FEMA. (Physical Alteration of Land) Federal Emergency Management Agency.

Fill. (Physical Alteration of Land) A deposit of earth material placed by artificial means.

§163.16 FACILITIES EMITTING ODORS AND FACILITIES HANDLING EXPLOSIVES. Facilities Emitting Odors and Facilities Handling Explosives, shall be a conditional use in the I-2, General Industrial, zoning district subject to the following conditions:

A. Notice. Notice shall be given as set forth in §157.04 B. 5.

B. Inspection. Before a conditional use permit is issued for a facility emitting odors or handling explosives, the building must be inspected by the Fire Marshall and Building Inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazards exist. No conditional use permit shall be issued for a facility emitting odors or a facility handling explosives if the building does not pass inspection.

C. LSD Review. All facilities emitting odors or handling explosives shall be subject to the large scale development review process.

D. Reasonable Satisfaction. The Planning Commission shall be reasonably satisfied that the permitted use will not generate generally offensive or noxious odors or create an unreasonable hazard to the public.

(Code 1991, §160.101)

§163.17 GARAGE SALES. Garage Sales are permitted in any zoning district subject to the following conditions:

A. Frequency. Garage sales shall not locate in one location more than four times per year.

B. Term. Garage sales may be held for a duration not to exceed three consecutive days.

C. Signs. One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two days before the sale begins. Signs are not to be located in public rights-of-way. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day or located in public rights-of-way may be removed by city staff and for any such sign removed, a collection fee shall be imposed.

(Code 1991, §160.103; Ord. No. 3970, §3, 5-7-96)

§163.18 GASOLINE SERVICE STATIONS. A gasoline service station shall be subject to the following requirements:

A. Bulk and Area. Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located, but in no case shall the site for such a use be less than the following:

Minimum Lot Area:	12,000 sq. ft.
Minimum Frontage:	120 ft.
Maximum Width Curb Cuts or Driveway Width	40 ft.
Minimum Distance of Driveways From Right-of-Way Intersections	40 ft.

2. Development Plan. The plan for development shall show the proposed development as planned and staged in relation to surrounding property and shall include topographic surveys indicating present conditions (including drainage) and the conditions (including topography), drainage and soils to be left at the end of the extraction phase. Contour intervals shall be five feet. The plan for development shall demonstrate the feasibility of the operation proposed without hazard or damage to other properties because of increased flooding or runoff, undesirable rise or reduction in ground water levels, erosion, or undermining or settlement in adjoining areas. This plan shall also show important locational aspects of the stages of exploitation, where and how traffic will be handled, where equipment will be operating, the location and dimension of structures, safety safeguards, depth of excavation and hydrogeology in the area.

3. Plan for Reuse. A site plan of the restored property showing its proposed future use shall be submitted. Such proposed reuse shall be compatible with surrounding property. Where conditions are suitable, permanent lakes may be permitted, but intermittent lakes and marshes shall not be allowed. Excavation shall be phased so that no more than 10 acres shall be in use or unrestored at any time. Restoration standards shall conform to § 161.06 of this Code and shall result in conditions appropriate for the planned reuse of the site.

§164.07 NONCONFORMING USES AND STRUCTURES.

A. Intent.

1. Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

2. It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities as long as the bulk and area requirements of the R-3 District are met.

3. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

4. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.

(Code 1991, §160.135; Code 1965, App. A, Art 4(1); Ord. No. 1747, 6-29-70; Ord. No. 1918, 5-15-83; Ord. No. 2126, 7-14-75)

B. Nonconforming Lots of Record.

1. In any district in which single-family dwellings are permitted, a single-family dwellings and customary accessory buildings may be erected on any

CITY COUNCIL — NEW BUSINESS

	#1 NAME STR.	#2 CLIFFS	#3 PC APPEAL	#4	EMERG CL.
DAVIS	Y	Y m	Y	Y	Y
TRUMBO	Y	ABSTAIN	AB	Y m	Y
DANIEL ZN	Y	Y	Y	ABSENT	ABSENT
SANTOS	Y	Y	Y	Y	Y
YOUNG	Y	ABSTAIN	AB	Y	Y
RUSSELL	Y	Y	Y	Y	Y
REYNOLDS	Y	Y	Y	Y	Y
AUSTIN m	Y	Y 2	Y	Y 2	Y
MAYOR HANNA					
		6-0-2	6-0-2		7-0-0

		2ND READING		2ND READING	
DAVIS		Y		Y	
TRUMBO		ABSTAIN	2	Y	
DANIEL		Y			
SANTOS		Y		Y	
YOUNG		ABSTAIN		Y	
RUSSELL		Y		Y	
REYNOLDS 2		Y		Y	
AUSTIN m		Y	m	Y	
MAYOR HANNA					
		6-0-2			

		3RD READ		3RD READ	
DAVIS		Y		Y	
TRUMBO		AB		Y	
DANIEL		Y		Y	
SANTOS		Y		Y	
YOUNG		AB		Y	
RUSSELL		Y		Y	
REYNOLDS		Y		Y	
AUSTIN		Y		Y	
MAYOR HANNA					
		6-0-2		6-	

FAYETTEVILLE

CITY OF FAYETTEVILLE
FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
APRIL 20, 1999

A meeting of the Fayetteville City Council will be held on April 20, 1999 at 6:30 p.m. in Room 219 of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be considered.

A. CONSENT

1. **APPROVAL OF MINUTES:** Approval of the minutes from the April 6, 1999 City Council meeting.
2. **ARKANSAS AVENUE:** A resolution approving a budget adjustment and authorizing the Mayor to enter into a cost-sharing agreement with the University of Arkansas for the removal and replacement of the curbs and gutters located on the outside of each lane of Arkansas Avenue between Dickson and Maple Street.
3. **BID 99-47:** A resolution awarding bid number 99-47 to the selected bidder, who will be determined after the bid opening on April 19, 1999, for the installation of the ultraviolet disinfection system for the Paul R. Noland wastewater treatment facility.
4. **INSURANCE POLICY RENEWALS:** MOVED FROM NEW BUSINESS, ITEM C.5. A resolution to exercise option to renew Blue Cross/Blue Shield, U.S. Able Life, Accidental Death & Dismemberment, and Long Term Disability Group Policies for policy period May 1, 1999 through December 31, 1999. There is no increase in premium. Annualized total city contributions for calendar year 1999 will be approximately $184,606.

B. OLD BUSINESS

1. **HISTORIC DISTRICT COMMISSION:** An ordinance approving the amendment of Ordinance 3836 to provide for two additional members to the Historic District Commission for a total of nine members. Item was left on the first reading.
2. **LAND POSSESSION - RUPPLE ROAD:** An ordinance authorizing the City Attorney to seek court-ordered possession of 0.317 acre of land owned by Tony and Bobbye Hardin, located north of Mt. Comfort Road and west of Salem Road for the purpose of extending Rupple Road from Mt. Comfort Road to the proposed new middle school. Ordinance should also include specific temporary easements. Item was left on the first reading.
3. **CHIEF EXECUTIVE OFFICER:** An ordinance amending Chapter 10, General Provisions, of the Code of Fayetteville, to add Section 10.13, Chief Executive Officer, to define miscellaneous powers and duties of the mayor. Item was left on the first reading.

C. NEW BUSINESS

1. **STREET NAME CHANGE:** A resolution changing the name of Hall Avenue (Highway 112) to Garland to make Garland Avenue the continuous street name south from I-540 to W. Maple Street.
2. **CLIFFS BOULEVARD:** A resolution approving a budget adjustment, cost share and bid waiver in the amount of $300,129 for construction of Cliffs Boulevard Phase 2 and Happy Hollow extension south of Cliffs Boulevard with the developers of the Cliffs PUD.
3. **PLANNING COMMISSION APPEAL:** A request for an appeal of a Planning Commission requirement for the Cliff's Phase 2 Preliminary Plat.
4. **DISCUSSION OF ODOR-EMITTING BUSINESSES:** A discussion of the permitting process of odor-emitting businesses in Fayetteville, i.e. Bakery Feeds and Hanna's Potpourri.
5. **1999 WATER & SEWER REFUNDING BONDS:** An ordinance that provides for the issuance of Water & Sewer System Refunding Revenue Bonds, Series 1999 in the amount of $8,370,000. All costs associated with the issuance of the bonds will be paid from bond proceeds. The refunding bonds result in an approximate savings of $600,000 to the City.
6. **INSURANCE POLICY RENEWALS:** MOVED TO CONSENT AGENDA, ITEM A.4.

Only items presented by the City Council or City Staff may be discussed during the meeting. If you have an item you wish to discuss, please contact your alderman to have it presented at the next City Council Agenda Session. For further assistance, please contact Heather Woodruff, City Clerk at 575-8323.

Mr. Morrie Roberts, Library Board, stated the board had conducted nineteen meetings with the public in which they had listened to the citizens' wishes and concerns. The proposed cost of the library would be $22,220,292.00. He read the resolutions which the Library Board had passed. The first was to select the land north of City Hospital for the new central library. They recommended to the city that the existing Library be maintained. Their decision had been a community decision. The next step would be the formal commitment of land which had been offered to them by Washington Regional Medical Center. Then the building would be brought before the electorate. The library board would need to work with the council to find the best way to hold a referendum.

Mayor Hanna asked if they had considered using the old County Court House as a new library and to put a parking deck behind it.

Mr. Steve Singleton, Library Board, stated he had been asked by the board to explore the properties in town. He had consulted with the county administrator and had determined that it was not a suitable site for a library, because the building was divided into many small rooms which would make effective library service impossible. There were other sites considered, some on Dickson Street, and others. From the land available the hospital site and the existing library site were the only two viable options.

Mayor Hanna asked if they were making a mistake by locating the library in the downtown area rather than going north, where there was more population.

Ms. Louise Schaper, Library Director, replied they had made a commitment to the downtown area to stay in that area. Their problem was how to get a central location that was affordable. There was a large amount of traffic that came to the library which had a positive impact on the area. When a library located in an area, it had a blossoming effect. It was important to build a strong central library before they considered branch libraries. Branches required a fair amount of duplication of core services and core collections. They could drain away from a central library. The Youth Center was proceeding with their plans and they would probably be allowed to have a branch library within the new Youth Center.

Alderman Davis thought they needed a new library, but he questioned the proposed location.

Alderman Austin asked if they had inquired about the use of the old Montgomery Ward building.

Mr. Steve Singleton stated the suggestion had been made. When he had contacted them, they were not interested in selling the property. What they were interested in was a short term lease. It did not make sense for them to make a large investment for a short term lease.

WARRANT SERVICE FEES
An ordinance establishing a $25.00 warrant service fee.

ADDITIONAL POLICE STAFF
A resolution approving the increase of the 1999 operating budget to add one police sergeant, one police officer, and one dispatcher.

Mayor Hanna explained the money for the additional personnel would be from money generated from the warrant service fees.

Mr. Rose introduced Casey Jones, the City Prosecutor.

Alderman Trumbo felt this was needed because of the number of warrants issued and this would help fund personnel.

Mr. Jones explained people would not be assessed the fee until their conviction. It would be added to their court costs and other fees. He added the other side of his office was the Hot Check office and all of their cases were warrant cases. His cases were not always warrant cases. Last month there were 402 warrants issued out of the Hot Check office. He added his office had to throw out warrants over three years old.

In response to questions from Alderman Russell, Mr. Jones stated most of their warrants were for failure to appear. He explained the court costs were only paid if the person was convicted. If the person was not convicted, they would not have to pay the court costs for warrant fees.

Mr. Rose read the ordinance for the first time.

Alderman Daniel moved to suspend the rules and move to the second reading. Alderman Santos seconded the motion. Upon roll call, the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Russell moved to amend the ordinance to add Section 3 which would state that warrant service fees shall be assessed by the court upon conviction. Alderman Davis seconded the motion. Upon roll call, the motion carried unanimously.

Alderman Austin moved to suspend the rules and move to the third and final reading. Alderman Santos seconded the motion. Upon roll call, the motion carried unanimously.

Mr. Hardin stated he was disappointed in the way things had been handled. He had never received any letter or notification regarding the adjoining property.

Mr. Venable stated Mr. Hardin had been present at some of the meetings. In response to complaints from Mr. Hardin, he stated there had been a public hearing regarding the master street plan.

Mr. Hardin stated he had not been informed of the meeting tonight.

Ms. Little explained that on the city wide plans there were individual notifications. There was publication in the newspaper. There were 25 public meetings on the master street plan which had been advertised in paper.

Mr. Hardin stated a city engineer had come to his home and tried to explain where the road would be going. He felt there were other places where the street could go. This location would be close to his house. He had contacted Ms. Daniel, but she had been unable to help him.

Alderman Daniel stated she had discussed the problem with the city engineers and they had thought Mr. Hardin was more agreeable with the plan.

In response to questions, Mr. Venable stated this had been discussed several times during council meetings and street committee meetings.

Alderman Russell suggested leaving the ordinance on the first reading.

Mr. Venable stated his land had been purchased by Mr. Hardin after the city had started his process.

Mr. Hardin stated he had time to go and buy the land, why did the city not try and acquire the land before they decided to construct the street.

Mr. Venable stated the city could not move that fast.

Mr. Hardin did not believe the council had any idea what effect the street would have on his life. The street would be 20 to 30 feet from his house.

The council agreed to meet Mr. Hardin on Monday April 21,1999 for a tour of the property.

The ordinance was left on the first reading.

Mayor Hanna stated the ordinance would not change anything as it was now. They would continue to operate as they were now. He added he could not overrule the Planning Commission's decisions.

Alderman Trumbo asked if they were only accomplishing what other municipalities had already done. He asked if they were doing anything drastic.

Alderman Santos thought they were avoiding the checks and balances of having a professional staff to make administrative decisions, which would be taken away by this ordinance. He stated these positions were hired by the mayor and he should have confidence in them to make decisions.

Alderman Young stated he failed to understand the ordinance. If the mayor had these powers under the state law, then what were they doing with the ordinance.

Mr. Rose stated he thought he was writing an ordinance which would eliminate the council to have to change an ordinance every time there was a title change or change in personnel. Their ordinances were very specific on what decisions were made by whom. He questioned if a mayor decided to eliminate a position and/or incorporate other duties, then they would have to go back into each ordinance and change each one that was specific.

Alderman Young did not believe they needed section B.

Mr. Rose stated the mayor had no choice other than to follow the city ordinance.

Alderman Trumbo did not see how this ordinance would expand anything that was already in place.

Alderman Russell expressed concern about interpretations, he thought it would give the mayor the authority to overrule someone's interpretation on a city regulation. He asked if the ordinance or the state law had the authority to overrule the interpretation of a director without firing the individual.

Mr. Rose replied any time one of these people made a discretionary decision that the mayor did not like and thought was wrong, he could probably disagree with that.

Ms. Little explained for an administrative lot split, if someone disagreed with her interpretation, then they would go to the Planning Commission for things pertaining to subdivision regulations. In zoning regulations, her interpretations were referred to the Board of Adjustments. This terms with the mayor might have his request denied. Then they have created an arbitrary and capricious determination by city hall. He asked if he were a developer should he go see the mayor first to get approval then go through the process knowing what the outcome will be or did he go through the process first and if he did not get what he wanted then go to the mayor's office. He thought this created an environment with a lot of political favoritism. He asked if there was a limit to the powers, was there a line they could not cross.

Mr. Rose replied the mayor could not violate state law and he was under a duty to make sure that the ordinances were faithfully and constantly obeyed.

Mr. Coody thought this ordinance could create a problem and asked the aldermen to vote against it.

Ms. Fran Alexander, an area resident, explained the differences between the two forms of local government and how they affected citizens. She felt this ordinance would erode the foundation of the city.

Ms. Marion Orton, an area resident, stated the city manager form of government hired a professional manager, the manager then carried out the ordinances. The citizen went to the elected board. This system removed a certain amount of politics from decisions. She expressed concern about Mayor Hanna's statement that this was a change from city manager form of government.

Mayor Hanna explained this was one of the changes that had not been implemented and the ordinances on the books did not address the mayor. All they were trying to do was to get the correct wording in the ordinances.

Ms. Orton stated she was leery of the change. She did not understand the change.

Mayor Hanna stated it as a small change and everyone was making more out of it than there was.

Ms. Orton did not want to place too much power in one person's authority.

Mayor Hanna suggested leaving the ordinance on the first reading.