

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA FAYETTEVILLE CITY COUNCIL FEBRUARY 15, 2000

A meeting of the Fayetteville City Council will be held on February 15, 2000 at 5:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

- **STATE OF THE CITY ADDRESS**
- **NOMINATING COMMITTEE REPORT**
- **EMPLOYEE OF THE MONTH**

A. **CONSENT AGENDA**

1. **APPROVAL OF THE MINUTES:** Approval of the February 1, 2000 City Council minutes.
2. **SURVEY SERVICES:** A resolution approving a contract in the amount of \$29,735.00 to Garver Engineers to provide surveying services for the City's use to design three trails (Joyce, Mud Creek, and Mud Creek Tributary) "in-house".
3. **PILOT TROLLEY ROUTE:** A resolution approving a contract amendment in the amount of \$37,500 with Jones Transportation to initiate a pilot trolley route from south Fayetteville. An additional \$12,000 is requested for fuel, maintenance and other expenses.
4. **CLEVELAND SIDEWALK:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton Anchor Division in the amount of \$114,025.00; approval of a contract contingency funding of \$17,104.00 (15%); approval of \$20,000.00 for contract administration, construction inspection and materials testing; and approval of a budget adjustment.
5. **WIMBERLY DRIVE:** A resolution not requiring the dedication of 10 feet of additional right-of-way based on the Master Street Plan for Wimberly Drive classified as a collector street. The request was submitted by Crafton, Tull, and Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive as LSD 99-27.

B. OLD BUSINESS

1. **RZA 99-5.00:** An ordinance approving annexation request RZA 99-5.00 submitted by Engineering Design Associates on behalf of Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is in the planning growth area and contains approximately 13.39 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
2. **RZ 99-35.00:** An ordinance approving RZ99-35 submitted by Engineering Design Associates on behalf of Arkansas Oaks Inc. for property located at the southeast corner of intersection of Bridgeport Drive and Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 13.39 acres. The request is to rezone the property to R-1, Low Density Residential. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
3. **PARKING REGULATIONS:** An ordinance amending Chapter 72, Parking Regulations, of the Code of Fayetteville, to amend the rates for parking meter zones and rates for parking in the city parking garages; to define the term "Parking Meter Zones"; and allow the parking meter zones to be described, established and altered by the Mayor or his duly authorized representative. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
4. **WATER AND SEWER RECONNECT FEES:** An ordinance amending chapter 51: Water and Sewers, of the code of Fayetteville, to amend the fee for service reconnections; provide for a minimum billing; and amend the charge for broken locks and couplings. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.

C. NEW BUSINESS

1. **H & H CARRIAGE COMPANY:** A resolution approving a Certificate of Public Convenience and Necessity for H & H Carriage Company

2. **MULTI-PURPOSE SPORTS ARENA:**

- A. Approval of an ordinance awarding a contract to Questec Corporation for preparation of a business plan, waiving competitive bidding, and appropriating up to \$200,000 for preparation of business plan.
- B. Approval of an ordinance to expand the role of the Public Facilities Board to include recreational facilities and multi-family housing as provided by state law.

3. **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch water line and an eight inch water line along Mally Wagnon Road.

4. **SUMMERSBY SUBDIVISION:** An ordinance approving a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hayes, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch water line and a twelve inch waterline within this development.

5. **SIGN ORDINANCE:** An ordinance amending Chapter 151 of the Code of Fayetteville to define and provide for the regulation of monument signs; and define and clarify the use of joint identification and area signs.

6. **SOLID WASTE EXTRA TRASH BAGS:** A resolution requesting the Director of the Solid Waste Division to consider the possibility that citizens will not have used their full allotment of 104 - 30 gallon trash bags in his proposed revisions of solid waste collection structure for the year 2001.

CHECKLIST FOR CITY COUNCIL MEETING: ____/____/2000

AGENDA DUE:	Draft	Tentative	Agenda Session	Final
DATE:				

DISTRIBUTION:	T	A	F	Staff:	T	A	F
Bob Reynolds	✓	✓	✓	Mayor Hanna	✓	✓	✓
Ron Austin	✓	✓	✓	John Maguire	✓	✓	✓
Cyrus Young	✓	✓	✓	Nancy Hendricks	✓		✓
Kyle Russell	✓	✓	✓	Charles Venable	✓	✓	✓
Trent Trumbo	✓	✓	✓	Don Bunn	✓	✓	✓
Bob Davis	✓	✓	✓	Marilyn Cramer	✓		✓
Kevin Santos	✓	✓	✓	Steve Davis	✓		✓
Heather Daniel	✓	✓	✓	Yolanda Fields	✓		✓
				Jerry Rose	✓	✓	✓
Northwest AR Times	✓	✓	✓	Tim Conklin	✓	✓	✓
Morning News	✓	✓	✓	Alett Little	✓		✓
AR Democrat-Gazette	✓	✓	✓				✓

- ☒ **Draft Agenda**
- ☒ Check for Additional Items
 - ☐ Mail Notification Letters to Applicants / Property Owners

- ☒ **Tentative Agenda**
- ☒ Include all contracts
 - ☒ Include budget adjustments
 - ☒ All signatures on Staff Review Form
 - ☒ Page numbers correct
 - ☒ 24 copies of agenda packet distributed to Distribution
 - ☒ 34 copies of agenda cover distributed to general staff
 - ☒ 10 copies of agenda cover placed in City Clerk's office agenda cubbybox
 - ☐ Put minutes cover (items approved) on front of agenda

Continued: CHECKLIST FOR CITY COUNCIL MEETING: ____/____/2000

- ☐ **Agenda Session**
 - ☐ Attendance
 - ☐ Additional Information
 - ☐ New Information
 - ☐ Requested Information
 - ☐ Distribute Agenda Session packet to anyone absent
 - ☐ Make sure Lana / Marilyn have their copies

- ☐ **Final Agenda**
 - ☒ Additional Information
 - ☐ Minutes
 - ☐ All signatures on Staff Review Form and executed contracts (other side)
 - ☒ Include all contracts
 - ☒ Include budget adjustments
 - ☒ 24 copies of agenda packet distributed to Distribution
 - ☐ 34 copies of agenda cover distributed to general staff
 - ☐ 15 copies of agenda cover placed in City Council entry box
 - ☒ Advertisement
 - ☒ Display ad faxed to NWAT, Friday, 11:00 a.m.
 - ☒ Fax proof checked / returned to NWAT by Friday afternoon
 - ☒ Cut out Final Agenda from Monday newspaper
 - ☒ Internet disk: approved minutes, agenda, public meetings to Kevin Springer

- ☐ **City Council**
 - ☒ Roll tally
 - ☒ Assemble and bring full agenda
 - ☒ Resolutions / Ordinances:
 - ☒ Resolutions / Ordinances assembled and signed
 - ☒ Update Resolutions / Ordinances Book
 - ☒ Attach correspondence / conversations to Resolutions / Ordinances
 - ☒ Resolutions / Ordinances indexed and microfilmed
 - ☒ Publish ordinances
 - ☒ File ordinances at Washington County Courthouse
 - ☒ Distribute originals and copies with cover letters
 - ☒ Send ordinances for codification
 - ☐ Thank you letters to speakers
 - ☐ Send notification letters to applicants
 - ☐ Index City Council minutes
 - ☐ Distribute City Council minutes
 - ☐ Planning
 - ☐ Marilyn Cramer
 - ☐ Arthur Andersen
 - ☐ Public Library

FEB 15, 2000.

late
5:50

	Roll				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA	✓				
	Nominating report			HD, CS.	
AUSTIN	P.C. WARD Hoff Allen			✓	
DAVIS	A.P. Wong / Sullivan			✓	
TRUMBO	Lib - Sedgwick, Galt full			✓	
DANIEL	HD - Maxwell, Burton full			✓	
SANTOS	Const. app - Burton, Russell			✓	
YOUNG	Coal. Kiefer			✓	
RUSSELL				✓	
REYNOLDS					
MAYOR HANNA					
	Employee - actual office supplies.				
	H, KS				
	Consent agenda				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA					
	6-0-1.				

	RZA 99-5.00				
AUSTIN	✓				
DAVIS					
TRIMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA					
	7-0-0.				
	RZ 99-35.				
AUSTIN	✓				
DAVIS					
TRIMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA					
	7-0-0.				
	CY HD 300				
	Parking Regulations.				
AUSTIN	✓	✓			
DAVIS					
TRIMBO	✓	✓			
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	✓			
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
MAYOR HANNA					
	7-0-0.	7-0-0.			

	<i>all KS 300.</i> <i>Water & Sewer</i>		<i>press</i>		
AUSTIN	✓	✓			
DAVIS					
TRUMBO	✓	✓			
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	✓			
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
MAYOR HANNA					
	<i>KS PA.</i>	<i>7-0-0.</i>			
	<i>H+IT</i>				
AUSTIN	✓				
DAVIS					
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA					
	<i>0-0.</i>				
	<i>multi-sports area</i>				
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
MAYOR HANNA					

	RA. 2ND BD. Mulligan	RA H. H.	3RD PASS.		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	✓	✓	✓		
SANTOS	✓	✓	✓		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
MAYOR HANNA					
	3-0 2ND RA 2ND K.R. Summit	3-0 BD 3RD RA 3RD S. Belue	3-0 PASS		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	✓	✓	✓		
SANTOS	absent	absent	absent		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
MAYOR HANNA					
	RA 2ND KS Sign	BD 3RD KS	PASS		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	absent	✓	✓		
SANTOS	✓	✓	✓		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
MAYOR HANNA					
	3-0	3-0.			

11:5 table
BD.

	trash	bags.			
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA	8-0-				
	RAH 2nd				
	spoke memo				
AUSTIN	✓				
DAVIS late.	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
MAYOR HANNA					
	5-3-0. motor failed	2/3 vote.			
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
MAYOR HANNA					

from
#2

algome! 8:35.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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FINAL

BOLD



CITY OF FAYETTEVILLE CITY COUNCIL TENTATIVE AGENDA

A meeting of the Fayetteville City Council will be held on February 15, 2000 at 5:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

- STATE OF THE CITY ADDRESS
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PLEASE NOTE
* TIME CHANGE *

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 - B. Approval of an ordinance to expand the role of the Public Facilities Board to include recreational facilities and multi-family housing as provided by state law.
 - ~~C. Approval of a land lease with safeguards to protect the operations of the airport.~~
3. **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch water line and an eight inch water line along Mally Wagon Road.
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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.

Approved by: *[Signature]*

Questions (501) 442-1700

Date: _____

By 4:30 p.m. Today

Proof Copy-Please Approve/Correct
and Fax Back to (501) 442-5477

PROOF
NORTHWEST ARKANSAS TIMES

Attn: City Clerks Office
From: Sherry Jolly

delete

Fayetteville

CHAMBER OF COMMERCE

February 15, 2000

TO: Heather Woodruff
City Clerk

FROM: Marilyn Johnson *M Johnson*
Director, Convention and Visitor Development

RE: Appointments to A & P Commission

As provided by law, the A & P Commission submits for approval of the City Council, the following names:

Ching Mong, general manager of Quality Inn, to fill the unexpired term of Carl Maguire (term expires 3-31-2001)

John Gilliam, owner Ozark Brewing Company, for full term beginning 4-1-2000 (will replace Jim Waselues)



RECEIVED

FEB 15 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

2-3-00

DEAR APRIL,

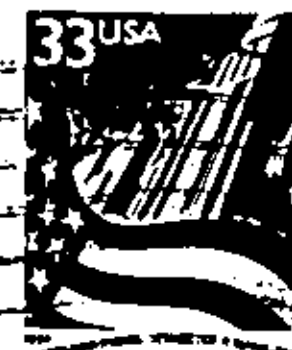
WE LIVE IN SOUTH FAYETTEVILLE
AND WOULD LIKE TO GIVE OUR
SUPPORT CONCERNING THE TROLLEY
COMING DOWN SOUTH 71 TO
OUR AREA.

MY NEIGHBOR, NEIL SMITH
DOES NOT DRIVE AND IS ELDERLY.
THIS WOULD BE A GREAT HELP
TO HER, AS I'M SURE IT
WOULD BE TO OTHERS.

Thank-you,
Jo CREED Pruett
AND
NEIL Smith



Jo C Pruett
2152 S Clover Dr
Fayetteville, AR
72701-6925



CITY ADMINISTRATION
113 W. MOUNTAIN
FAYETTEVILLE, AR.

Feb 5

To Whom it may concern,

This would be a good thing for the older people living down in the south part of town. I'm referring to the trolley. There are some down here that don't drive anymore and would still like to be a little more independent.

Hopefully this passing for us will be a plus for Fayetteville.

Thank you,
Nell Smith



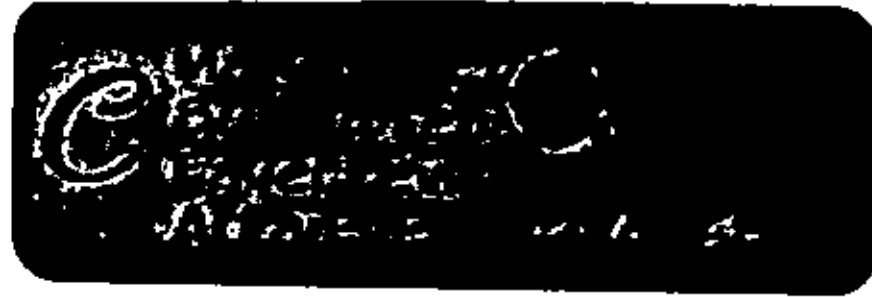
N. Smith
2201 S Clover Dr.
Fayetteville, AR 72701-6974



City Adm Bldg
113 W. Mountain
Fayetteville,
Ark

72701

Attention
myel



2-4-00

To whom it may concern -

I am eagerly looking forward to having the trolley system come south of the square especially as I have no transportation except the goodness of friends and most of them are too busy and I hate to bother them so often. I know several elderly women in the same boat as I in this regard having the trolley available would give us all a small measure of independence.

Please consider having a stop as close to Cato Springs Rd. as possible - So far as I know there are no buses that stop at University South and that would be conveniently located for quite a few people as the Gelle addition & Clover Creek are quite close by.

I hope this letter will help get a bus line to this section of town.

Thank you very much

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B. OLD BUSINESS

- 4220 PASS ✓
1. ✓ **RZA 99-5.00:** An ordinance approving annexation request RZA 99-5.00 submitted by Engineering Design Associates on behalf of Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is in the planning growth area and contains approximately 13.39 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
- 4221 PASS ✓
2. ✓ **RZ 99-35.00:** An ordinance approving RZ99-35 submitted by Engineering Design Associates on behalf of Arkansas Oaks Inc. for property located at the southeast corner of intersection of Bridgeport Drive and Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 13.39 acres. The request is to rezone the property to R-1, Low Density Residential. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
- 4222 PASS ✓
3. ✓ **PARKING REGULATIONS:** An ordinance amending Chapter 72, Parking Regulations, of the Code of Fayetteville, to amend the rates for parking meter zones and rates for parking in the city parking garages; to define the term "Parking Meter Zones"; and allow the parking meter zones to be described, established and altered by the Mayor or his duly authorized representative. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
- 4223 PASS ✓
4. ✓ **WATER AND SEWER RECONNECT FEES:** An ordinance amending chapter 51: Water and Sewers, of the code of Fayetteville, to amend the fee for service reconnections; provide for a minimum billing; and amend the charge for broken locks and couplings. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.

C. NEW BUSINESS

- 23-00 PASS ✓
1. ✓ **H & H CARRIAGE COMPANY:** A resolution approving a Certificate of Public Convenience and Necessity for H & H Carriage Company

2. **MULTI-PURPOSE SPORTS ARENA:**

- A. ✓ Approval of an ordinance awarding a contract to Questec Corporation for preparation of a business plan, waiving competitive bidding, and appropriating up to \$200,000 for preparation of business plan.
- B. ✓ Approval of an ordinance to expand the role of the Public Facilities Board to include recreational facilities and multi-family housing as provided by state law.

3. ✓ **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch water line and an eight inch water line along Mally Wagnon Road.

4. ✓ **SUMMERSBY SUBDIVISION:** An ordinance approving a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hayes, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch water line and a twelve inch waterline within this development.

5. ✓ **SIGN ORDINANCE:** An ordinance amending Chapter 151 of the Code of Fayetteville to define and provide for the regulation of monument signs; and define and clarify the use of joint identification and area signs.

6. ✓ **SOLID WASTE EXTRA TRASH BAGS:** A resolution requesting the Director of the Solid Waste Division to consider the possibility that citizens will not have used their full allotment of 104 - 30 gallon trash bags in his proposed revisions of solid waste collection structure for the year 2001.

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AGENDA SESSION

February 8, 2000

FOR

CITY COUNCIL MEETING

FEBRUARY 15, 2000

ADDITIONAL INFORMATION

1. **PILOT TROLLEY ROUTE:** Additional information for A. 3.
2. **H & H Taxi:** Additional information for item C. 1.
3. **SOLID WASTE EXTRA TRASH BAGS:** Additional information for item C. 7.

NEW ITEMS

1. **QUESTEC CORPORATION:** An ordinance awarding a contract to Questec Corporation for preparation of a business plan, waiving competitive bidding, and appropriating up to \$200,000 for preparation of a business plan.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA FAYETTEVILLE CITY COUNCIL FEBRUARY 15, 2000

A meeting of the Fayetteville City Council will be held on February 15, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

- **STATE OF THE CITY ADDRESS**

- **NOMINATING COMMITTEE REPORT**

- A. CONSENT AGENDA**

1. **APPROVAL OF THE MINUTES:** Approval of the February 1, 2000 City Council minutes.
2. **SURVEY SERVICES:** A resolution approving a contract in the amount of \$29,735.00 to Garver Engineers to provide surveying services for the City's use to design three trails (Joyce, Mud Creek, and Mud Creek Tributary) "in-house".
3. **PILOT TROLLEY ROUTE:** A resolution approving a contract amendment in the amount of \$37,500 with Jones Transportation to initiate a pilot trolley route from south Fayetteville. An additional \$12,000 is requested for fuel, maintenance and other expenses.
4. **CLEVELAND SIDEWALK:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton Anchor Division in the amount of \$114,025.00; approval of a contract contingency funding of \$17,104.00 (15%); approval of \$20,000.00 for contract administration, construction inspection and materials testing; and approval of a budget adjustment.

- B. OLD BUSINESS**

1. **RZA 99-5.00:** An ordinance approving annexation request RZA 99-5.00 submitted by Engineering Design Associates on behalf of Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is in the planning growth area and contains approximately 13.39 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.

2. **RZ 99-35.00:** An ordinance approving RZ99-35 submitted by Engineering Design Associates on behalf of Arkansas Oaks Inc. for property located at the southeast corner of intersection of Bridgeport Drive and Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 13.39 acres. The request is to rezone the property to R-1, Low Density Residential. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
3. **PARKING REGULATIONS:** An ordinance amending Chapter 72, Parking Regulations, of the Code of Fayetteville, to amend the rates for parking meter zones and rates for parking in the city parking garages; to define the term "Parking Meter Zones"; and allow the parking meter zones to be described, established and altered by the Mayor or his duly authorized representative. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.
4. **WATER AND SEWER RECONNECT FEES:** An ordinance amending Chapter 51: Water and Sewers, of the Code of Fayetteville, to amend the fee for service reconnections; provide for a minimum billing; and amend the charge for broken locks and couplings. The ordinance was left on the second reading at the February 1, 2000 City Council meeting.

C. NEW BUSINESS

1. **H & H CARRIAGE COMPANY:** A resolution approving a Certificate of Public Convenience and Necessity for H & H Carriage Company.
2. **WIMBERLY DRIVE:** A resolution not requiring the dedication of 10 feet of additional right-of-way based on the Master Street Plan for Wimberly Drive classified as a collector street. The request was submitted by Crafton, Tull, and Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive as LSD 99-27.
3. **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch water line and an eight inch water line along Mally Wagon Road.
4. **SUMMERSBY SUBDIVISION:** An ordinance approving a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hayes, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch water line and a twelve inch waterline within this development.

5. **SIGN ORDINANCE:** An ordinance amending Chapter 151 of the Code of Fayetteville to define and provide for the regulation of monument signs; and define and clarify the use of joint identification and area signs.
6. **TRANSIENT MERCHANT LICENSE:** A report and discussion on the proposed Transient Merchant License.
7. **SOLID WASTE EXTRA TRASH BAGS:** A resolution requesting the Director of the Solid Waste Division to consider the possibility that citizens will not have used their full allotment of 104 - 30 gallon trash bags in his proposed revisions of solid waste collection structure for the year 2001.

**DRAFT TENTATIVE AGENDA
FAYETTEVILLE CITY COUNCIL
FEBRUARY 15, 2000**

A meeting of the Fayetteville City Council will be held on Tuesday, February 15, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

STATE OF THE CITY.
A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes of the February 1, 2000 City Council meeting.
2. **SURVEY SERVICES:** A resolution approving a contract in the amount of \$29,735.00 with Garver Engineers to provide surveying services for the City's use to design three trails (Joyce, Mud Creek, and Mud Creek Tributary) "in-house".

B. OLD BUSINESS

C. NEW BUSINESS

1. **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a ^{2"}two inch water line along Mally Wagnon Road.
2. **SUMMERSBY SUBDIVISION:** An ordinance approving a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hays, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch waterline and a twelve inch waterline within the development.
3. *okay* **SIGN ORDINANCE:** Discussion of amendments to the sign ordinance.

4. **TRANSIT MERCHANTS LICENSE:** Discussion of a Transient Merchants License.

TAXI CAB ORDINANCE: Discussion of amendments to the Taxi Cab ordinance.

5. *Call me again to clarify*
Paul. Condit
6. *Cleveland St. sidewalks.*

*Have them
call Mayor*

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
FEBRUARY 1, 2000**

A meeting of the Fayetteville City Council was held on February 1, 2000 at 6:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna; Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, Russell; City Planner Tim Conklin; Public Works Director Charles Venable; Administrative Services Director John Maguire; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Press, and Audience.

CONSENT AGENDA

APPROVAL OF THE MINUTES: Approval of the minutes of January 14 and January 18, 2000 City Council meetings.

RECORD DESTRUCTION: A resolution authorizing the destruction of records.
RESOLUTION 10-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROLLFORWARDS: A resolution approving a budget adjustment which will allow for the rollforward of all projects or items in progress which were appropriated in the 1999 Budget. The items which are approved will become a part of the 2000 Budget.
RESOLUTION 11-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ALLTEL COMMUNICATIONS: A resolution granting a temporary revocable license for the placement of buried fiber optic communication cable in the street and alley rights-of-way.
RESOLUTION 12-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BAKERY FEEDS: A resolution approving a budget adjustment for the settlement with Bakery Feeds.
RESOLUTION 13-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SETTLEMENT EXPENSES: A resolution to reimburse the plaintiffs in James Harp, ET AL, vs Griffin Industries, Inc. U. S. District Court, Western District of Arkansas, Case No. 99-5075 for settlement expenses in an amount not to exceed \$7,500.00.
RESOLUTION 14-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to approve the Consent Agenda. Alderman Daniel seconded the motion.

Alderman Austin asked to pull item number four off the consent agenda. A resident from Ward 1 wanted to make some general comments about fiber optics.

Item number 4 was pulled from the agenda.

Upon roll call the motion carried unanimously.

OLD BUSINESS

HWY 265 CONDEMNATION: An ordinance authorizing the City Attorney to seek possession of certain lands located along Highway 265 in the City of Fayetteville by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocations. Such properties are owned by Anthony De Palma, Jeane and David Randle, and Timothy and Christine Klinger. The ordinance was left on the first reading at the January 18, 2000 City Council meeting.

Mr. Rose read the ordinance for the second time.

Lamar Pettus stated Mr. and Mrs. Randle have owned this lot for quite a few years and about a year ago the Highway Department took from the South end 32 feet up to the North end 52 feet of their property and pushed it back. At that time the Highway Department paid the Randles severance damage of \$11,000.00. The City is in essence wanting an easement over an additional 15 feet and is offering \$650.00 without any severance damage. He had learn that Arkansas Western Gas Company was wanting another 30 feet. The Randle's do not believe this property will be sellable as residential property with the drainage coming across the lot to the North and with the Fire Department to the South and the electric substation. The Randles would still like the City to simply buy the lot. The city appraised the lot for \$42,000.00, but they would be willing to offset that \$42,000.00 by the \$11,500.00 severance pay that the State of Arkansas has already paid them. He asked the council to deny the condemnation procedure and purchase the property for \$30,500.00.

Charlie Venable explained the reason for the 15 foot easement. The water line is going to be just inside the highway right-of-way, except at the North end. The city would need the easement to work in if there was ever a problem in the water line.

Alderman Austin asked Mr. Pettus if he was proposing a reduced easement.

Lamar Pettus replied he was not proposing one. We are saying that if don't have a need for the easement to put in the water line and they are saying it will go in the City right-of-way, then you really don't have the right to take. What you are saying is, we want to take for some reason that we might need in the future. I think the City has to decide whether or not it has the right to take

a full 15 foot or if it only needs 5 feet or if it should only take the portion of the property to the North end that is going into the easement but I would suggest to you that you probably stand a better chance on the right of taking it if you were taking 5 feet as to opposed to 15 feet but you know I am not offering that. We would like to sell you the whole lot and as I said we can wait and pick up the check, if someone will go ahead and make the motions.

Alderman Russell questioned how the 15 feet was determined.

Charlie Venable replied the city would probably need that much room to work. He recommended the council proceed with the condemnation. He added they could settle any time up until they went to court.

Lamar Pettus requested if the Council was going to go ahead with the ordinance that Mr. Rose notify him when the order was submitted to court. He explained the way most condemnations start is that you file the law suit, you submit the order, you pay in \$600.00, in this case, and you have your easement. He would like to be heard on that initial hearing because we wanted to try to challenge the City's right to take the full 15 feet at that time.

In response to questions regarding other condemnations, Jill Goddard stated there were two temporary verbal agreements, but they still getting final signatures and we have one that we have had a counter offer but we are not sure on.

Alderman Santos stated this is an easement for the City to be able to access the property to repair, to install and repair the water line. The City is not going to own the property. The City was not taking the property. They are not reducing the value of the property at all because this 15 feet falls within the 25 foot set back that would be unable to be build upon anyway.

Lamar Pettus disagreed stating if that is true, then you shouldn't be filing a condemnation action because that is what condemnation does. It is an action by which a government takes property from the private owner. You are taking an interest in that property so it is a taking.

Alderman Austin questioned the value of the property before anyone started putting easements on it.

Mr. Pettus replied the property had been appraised \$42,000 after the highway department had condemned their easement, but their appraisal was about \$50,000.

Alderman Reynolds stated he was not in favor of holding this project up because this highway is well needed. He hoped the city could work it out, but right now he was interested in building Highway 265. We need it bad.

In response to questions, Mr. Pettus stated the gas company wanted an additional 30 foot easement. The gas company was talking about putting their gas line within 5 feet of the existing right-of-way.

Alderman Davis stated it sounded like the gas company may be the one that needed to buy this property.

Alderman Daniels asked what the staff knew about the gas company easement.

Charlie Venable responded the gas company worked on their own easements.

Mr. David Randle, property owner, stated he was at a loss. On one of the maps that we have been shown it shows that there is a proposed 6 inch gas line. The 6 inch gas line runs within the current right-of-way belonging to the State of Arkansas bought for the City of Fayetteville. However, the gas company now says that they are not going to put a 6 inch gas line, it is a 16 inch gas line. A 16 inch gas line requires a 50 foot easement as I'm told. Twenty feet of that easement is going to be in the existing right-of-way as it is now. That's why they are trying to obtain a 30 foot easement in addition to that 20 feet. Now, they tell me they are going to put that gas line within the first 5 feet immediately West of the existing right-of-way. If they do that, you can't access a water line in the first place. In the second place, SWEPCO has a telephone pole sitting right on the right-of-way, anyhow. You can't put a water there. There are too many discrepancies in this thing for it to be pushed aside and not looked at logically and I would request that you look at it a little bit further than just jump in and say, we need to go ahead with this proposal at the present time because it is not finalized. It isn't clear. I hear one thing from the City engineer; I hear something from the gas company and I don't hear anything from anybody that can tell me anything logical.

Mr. Sid Norbash, city staff engineer, stated he was the project manager on this project. This is a very complicated process, very involved. The gas company as well as other utility companies are trying very hard to relocate these utilities. Originally the gas company had two lines in there, two high pressure lines, and they were wanting to combine that. He explained the discrepancy was that the gas company has changed their plans. The City was going by what we were given several months ago. He could understand the confusion. He could not speak for the gas company but he thought this was going to be one high pressure gas line parallel to our water line. They were all trying to squeeze everything in as much as they could and be safe the best we can be, knowing that there is a high pressure water line and high pressure gas line there, so that we won't have to take so much property. They were talking about a 24 inch water line in this case and should we have a blowout out there, it is going to be a grand canyon there before long. So we do need a buffer as well as the gas company. Now the high pressure gas line for the safety of the public, they require that kind of buffer and again, he can not speak for the gas company, I wish we had their rep here. But it was his understanding that this is a high pressure gas line that

for the safety reasons they required a buffer. Again, in this case, he have not had a direct conversation with the gas company as far as where exactly they are going to locate. But with a high pressure gas line next to our water line our practice has been, if we go beyond 5-6 feet separation they feel comfortable with the gas line and we feel comfortable with the water line. And this is basically what it is going to be.

Alderman Russell asked Mr. Norbash what his response was to Mr. Randle's argument that it is going to be virtually impossible for us to put a water line where we say we are going to put it because of the gas line and the telephone pole.

Mr. Norbash replied this contract is on the agenda tonight and hopefully you will approve this for us. We are ahead of the gas company. The gas company is behind us. So basically we will be in there first and we will install our water line.

Alderman Russell added if anybody is going to have a problem getting in, it's going to be the gas company and not us.

Sid Norbash agreed with Alderman Russell.

Alderman Davis stated it is important that the city proceed on with this endeavor. I do want to see that the Randles are taken care of properly and I feel like they will be. In prior experiences with Sid and Ed, and probably my own, they were very clear with they worked things out.

**Alderman Austin moved to suspend the rules and move to third and final reading.
Alderman Santos 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 ordinance passed unanimously.

ORDINANCE 4218 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

ALLTEL COMMUNICATIONS

A resolution granting a temporary revocable license for the placement of buried fiber optic communication cable in the street and alley rights-of-way.

Ms. Judy Warren, an area resident, passed out a series of photos illustrating the marker poles placed by another company to mark their buried cables. She expressed concern about the appearance of these poles and asked that the council consider restricting the size and placement

of these items. And to encourage the companies to find a more attractive solution.

Alderman Young stated he had never seen these markers before and suggested the company use plat markers similar to what the university used.

Mr. Roy Montgomery, ALLTEL, explained in the neighborhoods, when we go through the neighborhood, like we were planning to go through here, we always put those things down as low as we can. Usually 24-30 inches. And that is an industry standard post, the white with the orange with the 800 number to call before digging. And we limit those as much as we can. Normally we just put them to where you can tell which direction the cable goes. And like where we are coming down one street, if we have one at the end, then you can look or come down the other way and find out which way the cable went. We don't put them, there won't be five in a block. He explained they are not pedestals. They are just locators that you put there so that people can know that the cable is there and we can get it located before they dig. That's all they are for.

Mayor Hanna asked how tall their markers were ?

Roy Montgomery replied they usually put them in neighborhoods at 24-30 inches. In the neighborhoods that we went through in Little Rock we put them at 24-30 inches above the ground. Now they do have a new thing that they have come up with that they leave them at the five foot level and put a bird house on top of that portion up there.

Mayor Hanna stated he could see Ms. Warren's point with these pictures. These do seem rather high to have so close together in the neighborhood. I understand the reason for needing them. It looks like 18-24 inches would do exactly the same thing.

Roy Montgomery stated they are just as good that way as they are 5-6 feet because if people are out there going to do something, they are looking for something anyway, they are looking to see something so it doesn't have to be stuck up 6-8 feet off of the ground.

Mayor Hanna asked if we gave you a temporary license for this and we requested that the marking post not be any higher than 18 inches.

Roy Montgomery replied yes, we can do that because the part that has the number, the orange portion that has the numbers and all on it is not but about a foot high.

Mr. Bobby Ferrell , Southwestern Bell Telephone, stated he lived at 2413 Twin Oaks Court, Fayetteville. This is unfortunate. I think I have talked with this lady or perhaps another person in the neighborhood and I can't speak for ALLTEL. They can speak for themselves. The reason that we use industry standard.....I don't know if you drive down the Interstate very much but

these taller posts are up and down the highways. They are up and down the Interstate. They are everywhere. Part of the reason for that is that there is such a tremendous amount of traffic carried over fiber. I'm sure you have all seen our typical markers for our buried cable. They are a green, much like a street sign. They are a green iron pole, and then they a metal deal that says Call 1-800 before digging. If you hit one of those, you most probably going to knock out a small number of customers, if you dig into it or if you hit it. If you go into that fiber optic, those things carry tremendous amount of traffic and it causes, if you hit one, it knocks, a whole heck of lot off, compared to a conventional copper cable that is the distribution cable in the neighborhood. We try to be sensitive to our customers in the neighborhoods and this is something that I didn't realize that ALLTEL had done in Little Rock but I will bring it up to our people. When we were approached about this neighborhood out there the main point for us is that we can't afford to have one of those fibers knocked out. And it is typical to have a copper cable hit. People gardening, people working on fence, I mean, we take calls, especially during the digging season, or gardening season, we take calls every day, several times a day, several times a week. We take them on weekends and it just seems that when you have that tall marker there that the fiber is not hit and the color on it is different on it also. I'll be happy to answer any questions if you have any.

Alderman Austin questioned how deep do you take these fiber optics?

Bobby Ferrell replied it depends upon the terrain. Most of them, I think, they try to bury them about 30-36 , 24-36.

Alderman Austin asked who's expense is it if you cut one?

Bobby Ferrell answered it depends upon whether you called to have a locate. That is why we have those signs out there. It says to call this 800 number. I noticed earlier in the ALLTEL temporary franchise tonight, it listed that they should call the ONE CALL number. If a customer knows they are going to dig and they call the number before they dig, we will come out and ONE CALL will locate all the utilities in the area. They will flag them. They use flags and they use paint to show where these utilities are located. So if a person calls and we come out and locate them and then they dig somewhere other than that, then it is not their fault. If they dig where we have located them, it's their fault. But on traditionally copper cable, I am saying, we have customers typically every day, ALLTEL probably has the same thing, where people dig into our cables, dig into our drops and we come out there and we fix them. We don't charge the customer. But when you get into this load that our fiber carries, it is a different story. That's where we are.

Alderman Davis asked Mr. Ferrell if he could see any way you can decrease the height of yours to 18-24 inches?

Bobby Ferrell replied he don't see how we can decrease it to 18-24 inches, but I'll never say never. I'm going to convey to our company what you have asked me tonight. If they are looking at 5, it may be shorter, but I promise you I'll go back tomorrow and I'll make some telephone calls and I'll convey this to them.

Alderman Austin moved to approve the resolution with an 18" to 24" height limitation. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 14-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

A MOMENT'S NOTICE

A resolution approving a Certificate of Public Convenience for A Moment's Notice Express Inc.

Mayor Hanna explained it was his understanding this person was wanting to bid on the Safe Ride Program contract University of Arkansas-picks up students and takes them home on Thursday, Friday and Saturday nights, not with the intent of the person requesting to have a regular taxi service.

Ms. Colleen Storey, applicant, replied that was right.

Alderman Austin moved to approve the resolution. Alderman Reynolds seconded the motion.

Ms. Colleen Storey stated she was asking for a taxi permit to do the Safe Ride Program for the University of Arkansas.

Alderman Reynolds stated the council was working on this Taxi Ordinance right now in the Review Committee and we may have some new regulations later on but I don't see any problem with holding this up.

Upon roll call the motion carried unanimously.

RESOLUTION 15-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 99-5.00

An ordinance approving annexation request RZA 99-5.00 submitted by Andy Feinstein of Engineering Design Associates on behalf of Richard Doyle, Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is in the planning growth area and contains approximately 13.39 acres. The request is to annex the subject property into the City of Fayetteville.

Mr. Rose read the ordinance for the first time.

Alderman Davis 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.

Mr. Michael, Engineering Design Associates, explained Mr. Feinstein could not make it tonight. I am representing Arkansas Oaks Incorporated. I am here to answer any questions that you might have.

Alderman Young asked if the owner realize that because of the sewer plant situation that the City is not obligated or required, guaranteed to supply sewer to the project?

Michael stated we are aware of that. We are presently doing Bridgeport subdivision which is directly next door and we have checked into that.

Alderman Daniels stated she represented Ward 4 along with Kevin and I haven't gotten any calls on it but I'm not keen on passing this tonight because it is an annexation and then it is followed by a re-zoning and I would like this to be before the Public for at least another Council meeting.

ITEM WAS LEFT ON THE SECOND READING.

RZ 99-35

An ordinance approving RZ 99-35 submitted by Andy Feinstein of Engineering Design Associates on behalf of Richard Doyle for property located at the southeast corner of intersection of Bridgeport Drive and Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 13.39 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Rose read the ordinance for the first time.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Young seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

THE ITEM WAS LEFT ON THE SECOND READING.

HWY 265 WATER AND SEWER RELOCATIONS

A resolution approving a construction contract with Basic Construction for the Highway 265 water and sanitary sewer relocations phase II in the amount of \$2, 107, 961.00. Approval of a

10 percent contract contingency in the amount of \$210, 796.10 and the approval of a budget adjustment.

Alderman Davis noted 51 percent of this money is reimbursed by the Arkansas Highway Department.

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

RESOLUTION 16-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SEWER SYSTEM IMPROVEMENTS

A resolution approving the contract with RJN for engineering services in connection with sewer system improvements in the amount of \$638,267.00.

Alderman Trumbo stated RJN has done a lot of work for us in the past. They do a good job in connection with McClelland Engineering. This is a lot of the work that is going to be needed to proceed forward with the new waste water treatment plant and existing systems.

Alderman Young questioned if the contract that we are approving is the new one that was in our packet with this memorandum dated January 28th, 2000 with those changes and one addition. That's the contract that we approved?

Mr. Jeff Erf, 2711 Woodcliff Road, stated I have a couple of questions. The first one, or comment, on the document I have here City of Fayetteville Agreement and Services Page 2, under Section 4, Services to be furnished by the engineer. It talks about phase I, the work that results from a preliminary designing court and they will furnish 10 copies to the City of Fayetteville. I would ask that for this contract and for other contracts you consider of this magnitude that you ask the firm to provide the documents also a copy that would be accessible from the Web site, from the City's web site, as easy to produce either a W-acrobat file or HML file so the City could put this document on the web side. We are talking about a hundred million dollar project and I think the more information that you have out there about it the better off everyone is going to be and the less controversial it is going to be. So my suggestion is if you can write in the agreement here that they consider or not consider but that they do supply copies in some format that could go into web site easily and I don't want to get technical here, but if they go to an adobe acrobat file try not to make, they can break it up so that it is not say over 2 megabytes a file. Otherwise, it is just too long to down load.

John Maguire replied I think we can accommodate it.

Jeff Erf stated I just think there are a lot of things the City could put on their web site. This is a

big deal. This is going to be a very big deal and I think we would be better off the more information we know about the project.

Jeff Erf added another thing is I have a little concern about spending this amount of money this early without an election and it is I guess a year away is what we are talking about. I guess my question is what happens a year from now if the citizens vote this thing down. How much of the engineering that's done out of this \$638,000.00, how much of that is salvageable if for example we have to redesign the whole project and move the new waste water treatment facility five miles away?

Mayor Hanna replied this doesn't actually just concern itself with that new waste water treatment plant, does it Charlie?

Charlie Venable explained this collection system is mostly for the new waste water treatment plant. But we have to have this in order to come with a pretty good cost estimate on determining how much we are going to ask for. This is not the only contract we are going to have. We are going to have three others that are coming in. One will be for preliminary design for the West Water Treatment Plant out West. One will be for upgrading our existing plant and one for looking at the distribution system or collection system on the East side of town. All of those will be necessary for us to have for the preliminary stage until we can go out and ask for it. If it is voted down then we have spent that money. But we are going to have to have it. We are going to have to spend the money in order come up with a program to give to the people on how much we are going to have. We are going to have a lot of meetings and other things on these, on the preliminary so it is just going to be necessary whatever we do here to come up with something.

Alderman Young replied in answer to part of your question, at least my perception, this contract is the separating out of the flows. Right now it is all going East, well, if we build one on the West side, you are going to have to rearrange the flows. Even it was shoved further out or in a different place they would be a little bit of additional engineering for this to reroute it but basically the bulk of this money and this engineering would stay in tact because it is just rearranging/separating the flows out.

Alderman Austin thought there is something worse than spending this money and having the public vote it down. That would be to not spend the money, go to the public and have them pass it and a bunch of money approved, a bunch of taxes collected, and not have a plan; not have a good plan. You have all of this money and what are you going to do with it if you don't have a plan. So you have to have a plan before you take the vote so the public can know what they are voting on.

Alderman Daniel moved to approve the resolution. Alderman Davis seconded the motion.

RESOLUTION 17-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CABLE BOARD NAME CHANGE

An ordinance changing the name of the Fayetteville Cable Board to "Telecommunications Board".

Jerry Rose read the ordinance for the first time.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the resolution for the second time.

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

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

Alderman Daniels stated this is a very hard working and knowledgeable group. I think we are very lucky to have those individuals that we have on the Cable Board. I don't see any problem with this at all.

Alderman Trumbo added I don't either. I think they have done a wonderful job. They have really upgraded a lot negotiating quite a bit. This has been a lot of hard work on the Cable Board's part or I should say on the Telecommunications Board's part. How are coming along on the Internet capabilities via cable for the City?

Mr. Marvin Hilton, Cable Administration, replied that is an interesting question because in March we are scheduled to have a cable board meeting that is going to be live on the Internet. That is being done as a demonstration at the University of Arkansas School of Business. The cable board will be live on the World Wide Web on March, I forget the exact date is, but the regular meeting. It will be something new. Actually Peg Centers all across the country are either planning on doing this or beginning to do it. They are beginning to put video out on the Internet. They call it Web Streaming. That is just another example of how telecommunications is converging television and computers. In the beginning depending the equipment, they are using the picture may not be as large as a regular TV but in the future it will be. In several cities they are all ready putting their council meetings on the World Wide Web and last I heard Austin, Texas was doing that. So you could sit in your office and if you had a question about what went on in last night's council meeting you could just click on the web site and bring it up. The audio is at this stage most of the people doing this, the audio is complete but the picture part is only like one frame every 15 seconds. It is not full motion video yet but it could be and

probably will be when the cable modem, the high speed cable modem service is available here in Fayetteville.

Alderman Daniel asked is that live or just a replay?

Marvin Hilton replied it will be live. We are going to go live in March at the Cable Board.....

Upon roll call the motion carried unanimously.

ENVIRONMENTAL CONCERNS

A resolution requiring the Fayetteville City Council and all city boards, committees, commissions and departments to consider the recommendations of the Environmental Concerns Committee when making decisions that have an environmental impact.

Alderman Santos stated that he is the chair of the Environmental Concerns Committee. He stated the committee hasn't been asked to make any recommendations on any issues in the year that he has been chair. He said the Committee feels they have considerable expertise available and they would like to be asked for their opinion on things that concern the environment. Members of the committee have decided the committee really has two functions. One function is to provide expertise in the form of recommendations and opinions to any other City board, committee, commission or department making a decision that could have a significant environmental impact. This would not be binding and it would be up to the individual committees, commissions or departments to decide if the impact was going to be significant. The second function is education. They feel they have an opportunity to educate the public on environmental issues and are going to start having guest speakers beginning with the meeting on February 16th at 5:30 p.m. Dr. Art Brown from the Biological Sciences Department of the University and some of his doctoral students will speak at that meeting. Anyone interested in wetland habitat or the issue of endangered species in general is encouraged to attend..

Alderman Russell stated that he believed Mr. Rose had changed the title of the resolution to read "requesting" rather than "requiring" at the request of the Council so it is clear that no one will be required to do anything and that the scope of the Committee is not being expanded. Mr. Santos has stated that the intention of the resolution is simply to nudge other committees and boards and remind them that the expertise is available and the committee would like to be consulted.

Alderman Trumbo asked how things would work differently with this new resolution. For example, would this new annexation and rezoning on Mount Comfort have to go before the Environmental Concerns Committee to see about the wetlands?

Alderman Santos replied that if the Planning Commission were to decide that there are

significant wetlands involved, it would be their decision to ask the Environmental Concerns Committee for recommendations. Though this option has always been available, it hasn't often been used.

Alderman Davis stated he felt it sounded to him as if the Committee is asking to put something on the books that really may not have any merit or basis to begin with. At this point, if the Council meets in Agenda Session and has a concern about any issue, they can pull it off the agenda and send it to a committee for recommendation. He wasn't sure why this change would be needed or how it would change the situation. He stated he believes the environment is very important and we should do anything we can to protect it, but he wasn't clear about the need for this change.

Alderman Santos stated the wording for the resolution comes directly out of the Charter of the Committee. This is what the committee is charged to do. This resolution is just a statement from the City Council that we really would like for our departments, commissions and boards to follow the Charter, be aware of this option to consult this committee and to use that option.

Alderman Austin suggested it was sort of like restating something that has already been stated. Like the Ordinance Review Committee asking the Council to ask the Committee for information on every ordinance that is brought up.

Alderman Santos stated that the Ordinance Review Committee is also bypassed on quite a few ordinances too.

Alderman Austin said that was fine with him. The Committee doesn't have time to review every ordinance or every project that comes up. I don't see how you, who all is on that committee, He wondered how the Environmental Concerns Committee would have the time to come up with an opinion on every issue.

Alderman Santos said the key word is "significant", it is up to the discretion of each department to ask for an opinion. The committee is asking for a statement from the Council that they believe the committee is not a joke and they would like to see the committee used for its intended purpose.

Alderman Daniel stated she felt there is plenty out there that this committee can look into and it is almost a publicity thing, They are saying. "we are here! Give us something to do". This is a committee that should carry weight.

Alderman Reynolds said he felt Kevin was doing a great job but he (Alderman Reynolds) doesn't want anything additional to do if it is not serious business and if it doesn't have something serious to do about the impact of this City. At this point, if a Council member is concerned

about an environmental issue, he can pull the item off the agenda and recommend that it be sent to the Committee.

Alderman Russell said he would have to take issue with the notion that there is nothing for the Environmental Concerns Committee to do. He doesn't feel the City has a lot of environmental problems that deserve a whole lot of attention, but there are always ways to improve. It may be that there will need to be some changes made in the Solid Waste Department's Pay as you Throw Program, and this could be an issue for the Environmental Concerns Committee to make recommendations on. This is just a non-binding acknowledgment that this committee is worth while, and should be taken seriously. Also that we appreciate the work that they do and we will abide by the Charter in the future. He doesn't feel the Committee is asking to be contacted on everything. They are asking to be contacted on some things.

Alderman Austin asked why one of the four aldermen on the Environmental Concerns Committee had not requested that the issue of wetlands at the Research and Technology Park be sent to the Environmental Concerns Committee for recommendation.

Alderman Young asked why the staff or somebody hadn't brought the issue to the Environmental Concerns Committee.

Alderman Santos said a good example was the Great House Park controversy with the cutting all the trees down. He thinks that situation could have been handled entirely by the Environmental Concerns Committee with the exact same outcome. It would have saved a lot of time and heartache.

Alderman Russell agreed. He accepted his share of the responsibility for not sending this issue to the Environmental Concerns Committee to take some work off all shoulders of the Council and staff. He stated he plans to vote for this resolution.

Alderman Austin said his main concern is the wording of the ordinance. Is it necessary to give recognition to a body that has been elected, that has been charged and taken the oath to do certain things? Is it necessary for the Council to recognize them? If it is, he said he would vote for this.

Alderman Santos said he felt it represents the attitude of the Council that it really does want City staff, City departments or other commissions and boards to consider the Environmental Concerns Committee as a resource.

Alderman Austin asked about the possibility of adding a time limit.

Alderman Davis said what is significant to one person, might not be significant to another.

Nine different people might have nine different opinions.

Alderman Reynolds questioned why the staff had not brought the issue of wetlands at the Research and Technology park before the Environmental Concerns Committee.

Charles Venable, Public Works Director, said everything has to be cleared through the Corp of Engineers if the city is doing anything in a wetland area.

Mayor Hanna explained that it wasn't a wetland area when that was done. It was because the city cleared that thing off and didn't do any drainage work on it.

Mr. Venable: explained that the City knew there was an environmental concern there because around 1991 a study was done and there was seven acres of wetland. And all of this was preserved. What we didn't realize was that when we got the Corp involved again, it had grown from 7 to 70 acres. He stated that he doesn't necessarily agree with what the Corps has done but they have said that if we would have kept it mowed it wouldn't have become a wetland. When we go to the Corps and they say we have to do the studies, we have to do the studies. He didn't think the Environmental Concerns Committee would have been able to help on that study. It would have had to be done anyway.

Mayor Hanna explained that the City had simply removed the cattle from the area and when the grazing stopped, the grass grew and started retaining water and moisture, expanding the 7 acres of wetland to 70 acres.

Alderman Santos said some expert advise might have been useful then.

Alderman Daniels stated the Trails Advisory Committee made a move like this a few years ago too, and I can't remember if we called it a resolution or what but we convinced the staff and the Planning Commission is suppose to look over any new streets, building projects to make sure we can the proper trails in or how many or so on. I think that really helped us along too, to draw attention to ourselves and the needs of the public as far as trails, sidewalks and things.

Alderman Davis stated I think the discussion tonight is opened that up whether we vote for this or not to where we will think about it.

Mayor Hanna stated the Environmental Concerns Committee has done some real good works, done a lot on our Solid Waste recycling and a lot other areas they have worked in. He added regardless of this resolution tonight I would encourage you to look real strongly at more education to the people.

Alderman Santos stated we have been trying to schedule speakers. Are there any more speakers

out there? Anybody who wants to speak to the Environmental Concerns Commission give me a call.

Jeff Erf, an area resident, I would just encourage the Council to support the resolution. I would also encourage the Environmental Concerns Committee to be more active. I think there is a lot that they could be doing. I was wondering if you were considering or proposing that the ECC review for example, Storm Water Management plans? Or erosion control plans on large projects?

Alderman Young replied there is an ordinance that regulates that.

Jeff Erf asked about educating developers and contractors on best management practices? There is a need for that in this town.

Alderman Santos: That goes back to unfortunately to the ordinance. I think that maybe if we could put together a program on erosion control.

Jeff Erf stated there are a lot of different entities studying the Mud Creek Water Shed. Now it would be nice, I don't think there is one umbrella organization overseeing all of that. I mean would that be a role you could see the ECC playing.

Alderman Santos replied as an advisory committee, no we are not, I don't think we want to take on anything that big. What this resolution is asking for is individual decisions by the Planning Commission, Parks Board, the Street Committee, the Water and Sewer Committee, all have issues. Broad water shed issues, I can't see that we would anything to contribute to that. That takes intergovernmental cooperation between agencies like the State of OK, State of AR, State of MO.

Jeff Erf stated I'm just trying to understand what your committee can contribute.

Alderman Young stated unless the Planning Commission came up on something odd ball that just blows their mind, you know, and they are having trouble dealing with it and so they could give it to the ECC. For one thing that would be an opportunity for additional public input on that specific aspect of.

Jeff Erf asked is your mission just to bring about environmental awareness to the citizens of Fayetteville?

Alderman Santos replied to provide advice, professional advice on general topics not on specific projects.

Dan Coody an area resident, stated if the issue had been brought to you and the committee about the four county regional solid waste for bringing household hazardous waste drop off center here in Fayetteville, I know the City staffers decided to let another town have the opportunity to have that, so now it is in Springdale on Randall Wolbe(?) Road, up there at the Springdale Street Department. So being a Fayetteville citizen, I have to take paints, pesticides, household insecticides anything I would consider household hazardous waste, up to the North side of Springdale. Had this been brought to your committee, the option of having household hazardous waste drop off site here in town, having been brought to your committee, might the results have turned out differently so that we could in Fayetteville have a hhw drop off site?

Alderman Santos replied I don't know. That is something the committee would decide. I can see two sides to the argument immediately myself, is that we don't want to concentrate those toxic materials in our City. But then again we want to make it more available for citizens to get rid of those toxic materials instead of having them spread out around the City.

Alderman Davis stated we do have those pick ups, either once or twice a year if you are able to take it down to the City and we dispose of those items for you. Twice a year.

Charlie Venable stated we cut it to once. We were having it twice. This past year we only had it one time. Although we didn't receive all that much, probably because of the Springdale location.

Alderman Daniel agreed I think people would participate more and the thing is you have to remember when this date is coming up. I agree, Dan, I think we kind of missed the boat on.

Mayor Hanna stated well that was a Four County Solid Waste decision.

Dan Coody stated I think the City was all for that option and the City turned it down according to Cheryl Zotti and the quotes that I read in the paper. We were given the opportunity to have a drop off station down at the South industrial park but we turned it down and it is North of Springdale.

Mayor Hanna asked Mr. Coody if he knew the requirements for the city of Fayetteville.

Dan Coody replied I think the requirements were to have it manned for four hours a day either two or three days a week. A grand total of four hours for three days because it was twelve man hours a week to have somebody stationed there so it would be open two or three times a week so people could come in on say, Monday, Wednesday and Friday and drop off materials instead of having to wait six months or a year to store the materials and then deal with it in a four hour period. But I would hope that the ECC might get the respect it deserves to when these issues come before you could make recommendations that might make it more convenient for folks

who are concerned about things like that here in town. Thank you.

Alderman Russell stated before we vote on this I would to ask Mr. Rose since this is not part of the Agenda, only the title is, I would like to ask Mr. Rose to read what we are voting on for the benefit of the public and the people watching at home.

Mr. Rose read the resolution.

Alderman Santos moved to pass this resolution. Alderman Russell seconded the motion. Upon roll call the motion carried by a vote of five to three. Aldermen Reynolds, Austin, and Davis voting nay.

RESOLUTION 18-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

An ordinance amending Chapter 72, Parking Regulations, of the Code of Fayetteville, to amend the rates for parking meter zones and rates for parking in the city parking garages; to define the term "Parking Meter Zones"; and allowing the parking meter zones to be described, established and altered by the Mayor or his duly authorized representative.

Mr. Rose read the ordinance for the first time.

Mayor Hanna stated I got a number of e-mails late this afternoon from the people who are questioning this and are concerned about it. One of the main reasons we have done this is we see what the renovation of our Downtown area and the need for more parking. We can't expend monies for parking decks and things like that unless we get our parking fees up to a level where we can support a bond. We are all ready looking at the possibility of building a deck West of Campbell Building, West of the E. J. Ball Building and the first step is to get enough revenue generated from our Downtown parking. Now our Downtown parking is considerably cheaper than it is in most cities. I think it would be, we need to look at this long term. One of the firms that I got a bunch of e-mails from I intend to call them in the morning. We talked to John Lewis at the Bank of Fayetteville, or rather he talked to me during Christmas season, because of all the people coming Downtown, he was concerned about the parking for his employees. We started running the shuttle from Wal Mart Center Parking lot to the Square every morning before work and every afternoon after work. John told me that a lot of his employees were using it. It freed up parking spaces. I think that maybe some of the Downtown people have not taken advantage of that and we are going to encourage them to do it. Right now we are in a worse situation than we have been because we have a whole lot blocked off where we are building the Town Center. So there is a reason for this, it is not just to bring in income. I understand what people are talking about when they have to pay an extra \$10.00 a month for Hang Tags or something like that. But they also have the option of going to the Walton Arts Center and riding for free and not spending any money. Also their employer has the option of paying their parking for them. I just wanted to make you aware of all of that.

Apryl Okoroafor, the Parking Management Director, stated we didn't look at just any one city. My predecessor did an intensive study by contacting several cities throughout the region and area checking out their prices. He did a very intense research on this. And what we are proposing is not something that is even in the same market with the other cities that he reviewed. We are proposing something that we feel would be viable for all market. We are not even trying to compare with the University. If you check the University rates, they far exceed what we are proposing here. The reason we are proposing a 25 cent increase on the short term meters is that on the Square we are having great difficulty and also on Dickson Street of people utilizing the short meter, the two hour meters, for all day usage. That defeats the purpose of the short term meter. The short term meter is to encourage customers to come up and utilize those spaces for businesses on the Square. Right now ten cents an hour is very convenient for people who work on the Square to come up and park and run out every two hours and plug this meter. And I know it may strange, but it is a common practice for people who work on the Square to plug the meters every two hours rather than walking a block away and plugging the meter for all day and not having to worry about it again. It is convenient. So our goal here is to encourage employees on the Square to move to long term meters, not to discourage consumers for coming up to the Square but make them aware that the purpose of the meters is to keep traffic flow moving through the Square. Not to get people up there to park to have them park and then go off and do their business else where but to have the traffic flow moving and by increasing this rate we are going to encourage people in the flow of traffic on the Square to move, to increase, to get more people up there doing more business because they can find parking more readily rather going out and having to search at the rate that we are doing now. It is very inconvenient.

Alderman Daniels stated I had a lengthy conversation with Apryl today and I was really impressed with everything that went into this study. We have been struggling with this parking problem ever since I have been on the Council and there is not going to be a perfect solution. But after listening to her, her reasons and how they put this all together, I am going to vote in favor of this. If this doesn't work, we can change it. But believe me, we bought the hand held meters which were expensive and that has helped, Apryl says. She has mountains of statistics we could look at and spend hours talking about it. Also there is new technology coming out every week but there is a price for that. But I think we are going to keep chip away at this and when I saw how thoughtfully this had been put together, I said, I am going to go for it. Let's try this.

Alderman Austin asked on this area here on this drawing, a 40-50 block area, down by Lafayette, Archibald Yell, College and West Avenue, do you have any idea how many people work in that area, or have a business in that area?

Apryl Okoroafor replied I have not actually taken a census of the exact number that work there. I just put out a survey last month and I counted 182 employees and business owners on the Square and that is not even the tip of the iceberg. That's not even one block. I took it over at

the college. My 182 count only dealt with the people currently on my hang tag and card lot programs and business names. I actually walked the streets, got the names of the businesses, went down the list and wrote their addresses so I could get a fair share of information out to the public in that one square block around the square. I got 182. That does not count all employees.

Alderman Austin asked are we talking a couple thousand?

Apryl Okoroafor replied I would think so, yes.

Mayor Hanna stated that's the reason we need to make plans for more parking in the area and we can't do it if we leave the rates so low. Apryl and John worked real hard on that. To be honest with you I thought they set the rates too low.

John Maguire stated It might be of some interest to the Council that the market survey that Apryl is talking about we have paper commitment, just a tally of 104, I believe it is, people who are willing to commit to the lot back of the Lewis Brothers old building for long term parking at rates between \$50-\$60 a month. They are willing to sign three year leases. So this is trying to get us up to market and plan for the need Downtown in a big way.

Alderman Reynolds asked are talking about raising meters on Dickson Street or are we talking about a parking garage on Dickson Street also?

Apryl Okoroafor stated I would like to clarify that about the meters on Dickson.

Alderman Reynolds stated all the buildings are full now and we have two more coming.

Apryl Okoroafor stated at the end of the Sidewalk Skate(?) Project. At the conclusion of that they will be removing the meters on Dickson and that will be two hour parking. So there will no longer be meters on Dickson Street. All the meters will be Downtown. It will make the view much nicer but it will also increase the strain on the Parking Division. We will have to look into increasing the number of enforcement officers that we currently have.

Alderman Reynolds stated if you take the meters down there, it means that we will have University parking there all day long.

Apryl Okoroafor stated we are going to have timed two hour parking. We are going to have a meter officer who will run that lot and the street every two hours issuing tickets if the vehicle has not moved every two hours.

Alderman Reynolds stated see the way it is now, Apryl, what time does your man hit the

parking lot down there first? 8:00 o'clock - 8:30??

Apryl Okoroafor answered it is usually about 8:15 - 8:30 a.m.

Alderman Reynolds stated those students park there and they run down to the corner and catch the bus and they are back to their car and gone before your man makes that second round.

Mayor Hanna stated if it works around the Square and we are able to generate enough income to build another parking deck. I am certain Dickson Street will be next on that. We will have to have a commitment from the people down there to use the spaces and give us contracts to use them. I know you are right because I have driven down and looked at it. And it is probably time to start charging for parking in that area.

Alderman Young stated when I first became an alderman, this parking situation was one of the first problems that was dumped on me. In fact the reason I think I inherited it was that the staff had been dealing with it for years before I came on the Council. They threw their hands up. The problem was around the Square and some of the same problems that she is describing and some of the things in this ordinance were some the things kicked around and discussed at that time. At the time we left the rates where they were but we changed up the hang tags and hand held meters. Evidently that has worked for a while but there is still problems and it is just like the Mayor pointed out a lot of it is just the merchants and employees realized there is an alternative way of dealing with things down here on the Square.

Alderman Santos stated I will go ahead and say too that except for that one down side of costing people literally nickels and dimes more per year, it is doing so many good things. It is going to enable the parking deck to be built to make better use of our Downtown property. It is going to be better for businesses because it is going to get employees out the prime parking spots and open those up for customers for the Downtown and Dickson Street businesses. And as far as urban design goals go, it is going to make for a more pedestrian friendly environment in the Downtown and Dickson Street which we are also committed to because we are going to be increasing the price of parking there. Fewer people drive. More people ride the public transit. So I go ahead and make a motion. Yes I move that we pass this resolution.

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

Mr. Rose read the resolution for the second time.

Alderman Russell stated since this does affect a lot of citizens I was going to suggest that we

leave this and the next issue we leave them on the second reading so that we can at least kind of follow our rezoning and annexation policy on what public comments. Since it does affect probably more citizens than a rezoning and annexation will. Unless there is some kind of emergency.

Jeff Erf asked a quick question. I notice on page 2 Section I No 2 it mentions the Town Center Parking Garage. Is the City going to collect the money for that and will it go into City or is the money collected for parking and the new parking garage below the Town Center, will that go to Commission?

John Maguire stated my understanding, sir, is that it would go to the City. Except the spaces allocated to Becker Development which has about 30 spaces or so.

Mayor Hanna stated it goes into the Parking Fund. That's what we are wanting to build up so we can spend the money on more parking.

Jeff Erf asked so it will be under City control not A & P Commission control?

John Maguire stated that's correct.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

WATER AND SEWER RECONNECT FEES

An ordinance amending Chapter 51: Water and Sewers, of the Code of Fayetteville, to amend the fee for service re-connection; provide for a minimum billing; and amend the charge for broken locks and couplings.

Mr. Rose read the ordinance for the first time.

Alderman Austin stated \$40.00 a trip is pretty reasonable. I give \$40.00 when they come out to check my heating system.

Alderman Daniels stated my concern here is people who are really in trouble financially. Now what happens when someone really can't pay the bill? I know they can get some help but

John Maguire stated that's a good question, Heather. This ordinance is directed to those who are flagrant abusers of not paying their bill for a period of time. Regular customers, long time customers of the City, if they are out of work, or they have a history of paying even late three or four months a year, they pull that up on the computer and those people aren't cut off. This is directed to those who are flagrant and we are not amused by the outcomes of those flagrant abusers.

Alderman Daniels stated I believe there are also some entities up in the community that will even pay utilities for families that are struggling or having problems temporary usually and does the City work directly with those folks or do you know?

John Maguire stated I personally don't have any contact with that but the Community Development guys have gone to the rescue of people that had dire emergencies and have even put in heating systems for example. He added they are give a notice and I have instructed them to even give them within a two day window of when that water will be cut off. Presently we send them a letter, then we go out and we put a hang tag on the door. We are going to discontinue the hang tags. If it is a problem, then we don't see any merit in us making a trip out there and saying we are going to turn it off next week.

Alderman Russell stated you have found that most of the time either the letter does the job and solves the problem or the problem doesn't get solved at all.

John Maguire stated it is just an added cost to the City that we see no benefit to the customer or to the City.

Alderman Trumbo moved to suspend the rules and go to the second reading. Alderman Davis seconded the motion. Upon roll call the ordinance carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Trumbo stated I was going to ask the Environmental Concerns Committee to see if they could get with Willie Newman to have a televised open volume based trash program. We are getting so many people that don't know their for doing this. I think it is a good time to have an open public hearing on suggestions, like going from a 30 gallon to a 32 and just talking more about it because a lot of people, we have had a number of hearings but they were not watching or weren't there or didn't read so if you wouldn't mind entertaining that I think it would be very timely.

Alderman Santos stated I think we could probably put that in for our March meeting. The meetings are always 5:30 p.m. on the 3rd Wednesday of the month in Room 326 and you don't want to miss Dr. Brown and his PHD student show April 16th at 5:30 p.m. Everybody come.

Meeting adjourned at 8:50 p.m.

State of the City 1999

FAYETTEVILLE, ARKANSAS

**Delivered by Mayor Fred Hanna
to the Citizens of Fayetteville and the City Council
*February 15 , 2000***

What does Fayetteville have in common with Las Vegas, Phoenix, and Austin, Texas? We're all in the top ten fastest-growing communities in the nation. Even our neighbor Fort Smith did not make it into the top 100 fastest-growing, according to Census data released two months ago. The national headlines from this story may bring more people to our area, with some predictions that Fayetteville's population will double in the next 20 years.

It's already a challenge for a community our size to meet the inevitable growing pains of increased population while trying to maintain the natural beauty and small town charm we love.

As we enter a new century, it's a good time to look forward as we look back, something we are doing well according to the White House, which awarded Fayetteville the official designation of *White House Millennium Community*, the only one in this region.

And as the clock chimed midnight on December 31, 1999, traffic lights worked, water flowed, sewers functioned, police and fire protection stood ready. Our diverse population came together in unity. In Fayetteville, the new year & new century began in safety, joy and good will.

We are fortunate to have a sound City BUDGET. Not only is our financial position strong, but our Budget is available to all our citizens in an understandable format, winning a national *Distinguished Budget Presentation Award* and *Comprehensive Annual Financial Report Award* again in 1999.

This year, our FIRE DEPARTMENT's Children's Safety House hosted over 3,000 children, a very valuable tool in fire prevention. We've opened two new fire stations to ensure fire protection for all parts of the city, and placed defibrillators with all our fire companies for immediate response to cardiac arrest. Our average emergency response time was under 4 minutes. Perhaps the greatest measure of success was that in all of 1999, there was only one reported fire injury and no fire fatalities, an exceptional record for a city our size.

Our POLICE DEPARTMENT implemented its motorcycle patrol for traffic control, which has proven to be very popular. The Bicycle Patrol continues to be one of our most visible and effective programs, with many citizens expressing appreciation for the positive Police presence on Dickson Street after the Tennessee game. We added a School Resource Officer this year for a total of four in all, at both high school campuses and both junior highs. Our computerized reporting system in police cars allows greater speed and accuracy in accessing vital information. This year we closed a record number of drug labs in our city, with officers being trained to combat the growing plague of methamphetamine. To help keep our children drug-free, we now have 15 police officers trained in Drug Abuse Resistance Education (DARE), and our

high-profile DARE vehicle was confiscated from a convicted drug dealer.

Our ANIMAL SERVICES DIVISION continues to care for our animal inhabitants. Our new Shelter Clinic was established this year and has been a resounding success. Medical care is provided for Shelter animals, emergency help for injured animals brought in by Animal Control officers, and spay/neutering for adopted pets. Over 3,000 animals were sheltered this year, with about a third of them adopted or reclaimed.

COMMUNITY DEVELOPMENT makes Fayetteville a better place to live for all our citizens. We completed 9 substandard housing rehabilitations for low & moderate income home owners, 33 emergency repairs, and 2 affordable homes bought after restoration by low to moderate income buyers. An attractive playground was constructed at the Yvonne Richardson Community Center, which was also the center for last spring's successful neighborhood clean-up

Our City ENGINEERS had a busy year, completing the Old Missouri/Zion Road intersection to improve traffic safety, the Highway 45 and Gulley Road water system improvements, water & sewer relocations along Highway 16 West, Arkansas Avenue street improvements & sidewalks, Sunbridge Drive extension, and Lake Fayetteville Dam improvements. We are currently at work on Ruppel Road to serve the new Westside middle school, Poplar Street widening & drainage improvements, Highway 16 West cost-share, Leverett/Sycamore intersection, Boardwalk area drainage improvements, and 6th Street extension.

This year, the City's INSPECTION DIVISION received the highest rating in the State for both residential and commercial property from the national Insurance Service Office. Just under 7,000 permits were issued, with over 22,000 inspections as our town continues to grow. There were almost 1,000 residential permits issued, the second highest in our history.

One of our City's best innovations has been the In-house Overlay program of our STREET DIVISION. We repaired and paved miles of city streets, increased parking for Veterans Memorial Park, and added a left turn lane at Deane Street for Garland Avenue. In addition to repairs due to increased traffic and heavier vehicles, we cleaned roadways, swept street lanes, cleaned ditches and installed drainage.

Our TRAFFIC DIVISION contributed to the safety of our citizens by producing and repairing over 3,000 street signs, pavement markings and crosswalks as well as making almost 200 traffic signal repairs. Left turn signals were installed to help traffic flow, pedestrian/ADA audible signals were added to major streets for increased safety and 8-phase upgrades were completed at busy intersections such as Dickson & College.

But Fayetteville is also about nature and greenspace. Last Arbor Day, our TREE & LANDSCAPE program gave away over 1,000 trees to our city's residents, free of charge. Last year, we were again proud to receive the *Tree City USA* award.

Our PARKS & RECREATION DIVISION continues to be one of the finest in the nation for a city our size. Our citizens can visit a different city park every week of the year. In summer, they can join almost 20,000 of their neighbors attending 8 free outdoor concerts at Gulley Park, an increase of over 4,000 people from last year. Adult softball leagues enjoyed a 50% increase in the number of teams, and our new Gary Hampton Softball Complex is ready to host its first tournament this spring. Attractive, accessible new playground equipment in Walker Park was helped by our request for a matching grant of \$30,000 from the state. Wilson Park's new pavilion was donated by the Junior Civic League and installed by the City, with playground equipment & surfacing replaced for the safety of our children. A new park was dedicated to honor Clarence Craft, a preliminary master plan was developed for Mt Sequoyah Park and two boat docks were renovated at Lake Fayetteville, just a fraction of the projects completed by this busy division of the City.

The SOLID WASTE DIVISION also kept busy in 1999 trying to keep our city clean and our landfills from reaching capacity. Curbside recycling increased, with 85% of our residents participating, and almost 4,000 tons of recycling collected last year. Residential and commercial solid waste climbed last year to almost 35,000 tons. We distributed compost; collected hazardous household waste in the annual Round-up; recycled Christmas trees to use in area lakes as fish habitats, and cleaned up after *Race for the Cure*, *Springfest*, *Autumnfest*, *First Night* and other community events. After two years of public hearings, the City Council approved the volume-based sanitation plan recommended by the citizens on the Environmental Concerns Committee, to help reduce landfill and preserve our natural environment.

Did you know that Fayetteville's water and sewer system was installed in 1889, with many of those original pipes are still in use? With increased demand on both systems, our WATER & SEWER DIVISION repaired over 150 fire hydrants, repaired over 600 water leaks and constructed over 7,000 feet of new water line. Sewer lines were inspected by television cameras, replaced and cleaned to prevent future problems.

Every month, over 25,000 water meters in our city were read. Every day, over 11 million gallons of wastewater were treated at the Paul Noland Wastewater Plant. All year, in all types of weather and environmental conditions, the plant was in total compliance with all permit standards and was given a rating of 100%, the highest rating awarded by the Arkansas Department of Environmental Quality.

What does the future hold? A major opportunity for Fayetteville is the Year 2000 United States CENSUS. We know that we're growing, and this is our chance to learn how much. If everyone in Fayetteville, including our University students, returns their Census form, we can bring our fair share of our tax dollars back home.

Another challenge will be the best use of our municipal airport, Drake Field. Through the City's ECONOMIC DEVELOPMENT Office, we are finding innovative uses for the Airport in addition to its current use as a general aviation facility. We are also making great strides toward developing our new RESEARCH & TECHNOLOGY PARK, which will put Fayetteville in the forefront of this dynamic field, with exciting prospects for a strong economic base and good jobs.

As the 8th fastest-growing area of the country, we also try to preserve our heritage. We can look forward to the ongoing enhancement of Dickson Street and our Downtown Square. At a time when many downtown areas across the nation are falling into disuse and abandonment, ours is a vital, attractive part of the city which continues to grow and thrive. Our TOWN CENTER is already taking shape, with the majority of work to be completed this year. With the restoration of historic buildings downtown for residential as well as commercial use, the Town Center will be a hub of activity for our citizens and visitors alike.

The people of Fayetteville will have the chance to determine the kind of future our city will have as they look at issues such as a new WASTEWATER TREATMENT PLANT, a SENIOR COMMUNITY CENTER and relocation of the FAYETTEVILLE PUBLIC LIBRARY. Numerous public meetings have been and will continue to be held on these proposals. You are encouraged to attend. Or you may watch these and all of your city government meetings, such as this one, live on our cable GOVERNMENT CHANNEL which has captured some of the citizens who made Fayetteville so special over the past year:

[VIDEO]

Citizens of Fayetteville and City Council Members, the state of our city is strong.

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of February 15, 2000

FROM:

Jim Beavers Engineering Public Works
Name Division Department

ACTION REQUIRED:

Approval of a contract in the amount of \$29,735.00 to Garver Engineers to provide surveying services for the City's use to design three trails (Joyce, Mud Creek and Mud Creek Tributary) "in-house".

COST TO CITY:

<u>\$29,735</u> cost of this Request	<u>\$750,000</u> Project Budget	<u>Fayetteville</u> <u>Multi-use Trails</u> Project Name
<u>4470-9470-5814.00</u> Account Number	<u>0</u> Funds Used To Date	<u>Sidewalks/Trails</u> Program Name
<u>99081-1</u> Project Number	<u>\$750,000</u> Remaining Balance	<u>Sales Tax</u> Fund

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

[Signature] 1/26/2000
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>[Signature]</u> Accounting Manager	<u>1-25-00</u> Date	<u> </u> ADA Coordinator	<u> </u> Date
<u>[Signature]</u> City Attorney	<u>1-31-00</u> Date	<u>[Signature]</u> Internal Auditor	<u>1-31-00</u> Date
<u>[Signature]</u> <u>PR</u> Purchasing Officer	<u>1-31-00</u> Date		

STAFF RECOMMENDATION: Approval

<u>[Signature]</u> Division Head	<u>1/25/00</u> Date	<u> </u> Cross Reference
<u>[Signature]</u> Department Director	<u>1-31-00</u> Date	New Item: Yes
<u>[Signature]</u> Administrative Services Director	<u>2-1-00</u> Date	Prev Ord/Res # <u> </u>
<u>[Signature]</u> Mayor	<u>2/1/00</u> Date	Orig Contract Date: <u> </u>

STAFF REVIEW FORM

Description Surveying for trails - Garver Engineers Meeting Date February 15, 2000

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

Thru: Charles Venable, Public Works Director
Contract Review

From: Jim Beavers, City Engineer *JB*

Date: January 25, 2000

Re: Council Meeting February 15, 2000
Contract for surveying with Garver Engineers
Trails on Mud Creek, Mud Creek Tributary and Joyce

The City of Fayetteville plans to design and construct five trails utilizing City funds and \$600,000.00 in federal funding.

Trail one is Raven Trail and is planned to be between Farr Lane and Katherine Avenue. The design for trail one has been completed "in-house".

Trail two is planned from Gulley park east to Azalea Terrace on the south side of Mud Creek tributary.

Trail three is planned along the north right-of-way of Joyce Street from Old Missouri Road west to a existing trail located south of Joyce along the tributary drainage creek.

Trail four is planned to be on the north side of Mud Creek from Old Missouri Road west to a existing trail located along Mud Creek starting at the tributary drainage creek. Trail four will include a trail head at Old Missouri Road.

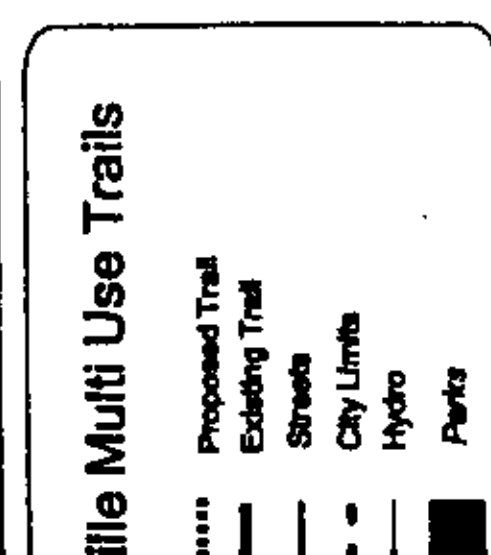
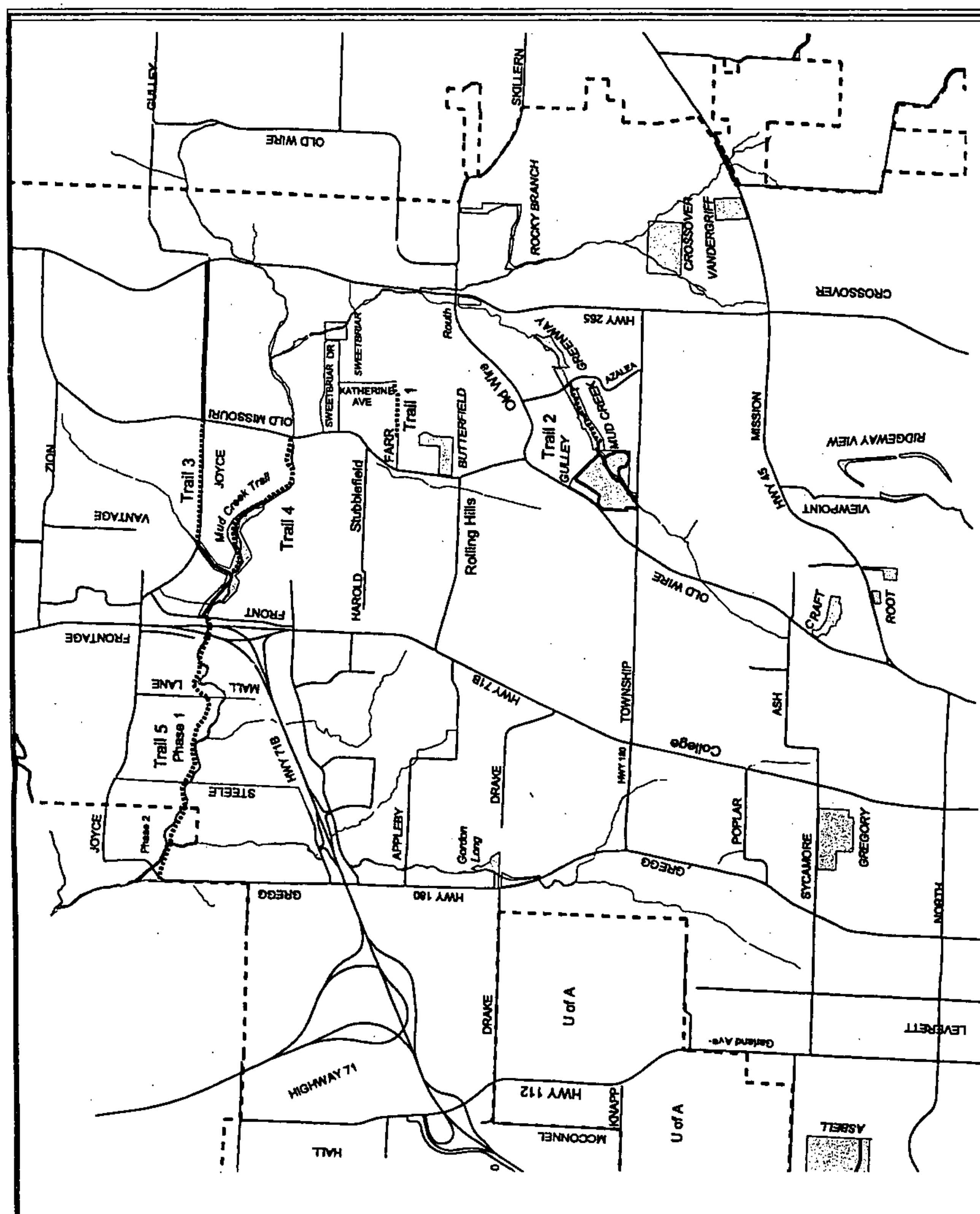
Trails 2,3 and 4 will be designed by the City "in-house".

Trail five (to be designed by a consultant) is planned for the south and north sides (crossing at planned development bridges) of Mud Creek west of Highway 71B. This trail will be designed to be adjacent to floodways and/or wetlands and/or mitigated wetlands for the development (CMN) as designed by the consultant with involvement of the USACOE and others as applicable.

The federal funding requires that the final designs be submitted to the AHTD no later than October 28, 2000. Due to other ongoing designs the City Engineering cannot perform the field work and surveying for trails 2,3 and 4 in a timely fashion and requests City Council approval of the attached contract with Garver Engineers to provide surveying services. The City Engineering office will utilize the surveying data provided by Garver for the designs of trails 2,3 and 4.

enc:

1. Map
2. Contract



CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Agreement entered into and executed this ____ day of _____ 2000, by and between the City of Fayetteville acting by and through its Mayor, hereinafter called the "OWNER," and with Garver Engineers, with offices located at Fayetteville, Arkansas, hereinafter called the "ENGINEER."

WITNESSETH:

Whereas, the "OWNER" is planning to survey for the design trails at different locations in the Mud Creek basin; and whereas, the "OWNER'S" forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and whereas, the "ENGINEER'S" staff is adequate and well qualified and it has been determined that its current work load will permit completion of the plans for the project on schedule;

Now, therefore, it is considered to be in the best public interest for the "OWNER" to obtain assistance of the "ENGINEER'S" organization in connection with said engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

SECTION I - EMPLOYMENT OF ENGINEER

The "OWNER" agrees to employ the "ENGINEER" to perform, and the "ENGINEER" agrees to perform, professional engineering services in connection with the project set forth in the Sections to follow; and the "OWNER" agrees to pay and the "ENGINEER" agrees to accept, as specified in the Sections to follow as full and final compensation for work accomplished in the specified time.

SECTION II - DESCRIPTION OF THE PROJECT

This project includes field surveying services for the design of trails (to be designed by the City) at the following locations:

1. Mud Creek from Mud Creek Tributary east to Old Missouri Road.
2. Joyce Street from Mud Creek Tributary east to Old Missouri Road.
3. Mud Creek/Gulley Park.

SECTION III - INFORMATION & SERVICES

The "OWNER" will furnish any standards and other information which may relate to the project including the record description of the property, any record easements affecting the property to which the survey shall make reference, free of charge, to the "ENGINEER".

SECTION IV - SERVICES TO BE FURNISHED BY THE "ENGINEER" DURING "DESIGN" PHASE

Specifically, our scope of services is described in the following paragraphs. In general, the scope will include surveying, data collection, and data transfer for use by the City in the design of the trails.

Garver Engineers will conduct field surveys consisting of strip topo at approximately 50-ft intervals along the designated routes. We will locate existing monumentation, utilities, improvements, and break lines.

A contour map of each route will be produced with one-foot contour intervals. Error will not exceed one-half contour interval. At least two permanent control points will be established utilizing GPS methods noting the coordinates and elevations to the nearest 0.01 foot. Spot elevations at each intersection of a 50-ft (approximate) square grid covering the route and at street intersections, and at 50 feet on center of curbs, sidewalks, and edge of paving will also be provided. Location of buildings, trees over eight inches in diameter, utilities both above and below ground (with flow lines of any storm sewers), and any other topographic features that may be present on the route, will be indicated.

All survey data will be tied to the City of Fayetteville's plane coordinate system and all elevations shall be tied to the National Geodetic Vertical Datum (NGVD) 1929.

All drawings will be at a scale of 1" = 30'-0", and we will furnish three (3) copies of each drawing. A digital copy in Autocad Release 14 will also be provided to the Owner. It is also understood that the Owner will utilize the Engineer's drawings for the design of the trails.

Trail #2 Gulley Park Gulley Park to Azalea Terrace.

Surveys will begin at the existing trail in Gulley Park and follow along the south side of Mud Creek approximately 150 feet wide including two ditches south of Country Way for approximately 1,600 feet to the east side of Azalea Terrace.

Trail #3 Joyce Boulevard Mud Creek Tributary to Old Missouri Road.

Surveys will begin at the Mud Creek tributary crossing Joyce Boulevard and follow along the north side of Joyce Boulevard approximately 75 feet wide including all drives for approximately 2,600

feet to the East side of Old Missouri Road.

Trail #4 Mud Creek

Mud Creek Tributary to Old Missouri Road.

Surveys will begin at the Mud Creek tributary and follow along the north side of Mud Creek approximately 75 feet wide for approximately 3,100 feet to the West side of Old Missouri Road. Information will include cross-sections of tributary to Joyce Boulevard, and a topo of area for proposed trail head (approximately 400 ft x 600 ft) on the west side of Old Missouri Road north of Mud Creek.

GPS data will also be provided. A subconsultant of the Engineer will provide approximately ten (10) control points for the project. The location of these control points will be determined by the Engineer to provide stability and visibility. A report will be furnished detailing the horizontal and vertical coordinates as based on the City of Fayetteville's plane coordinate system.

SECTION V - COORDINATION WITH "OWNER" - Not Used

SECTION VI - OFFICE LOCATION FOR REVIEW OF WORK - Not Used

SECTION VII - CONCEPT AND PRELIMINARY SUBMISSION - Not Used.

SECTION VIII - FINAL SUBMISSION - Not Used

**SECTION IX - ENGINEER RESPONSIBILITY DURING "BIDDING" AND
"CONSTRUCTION" PHASES - Not Used**

SECTION X - SUBCONTRACTING

Subcontracting by the "ENGINEER" of any of the services provided herein shall require prior approval by the "OWNER."

SECTION XI - TIME OF BEGINNING AND COMPLETION

The "ENGINEER" shall begin work under this Agreement within ten (10) calendar days of a Notice to Proceed and complete the work within 75 calendar days from the date work begins.

SECTION XII - FEES AND PAYMENTS

A. "Design" Phase Services:

For, and in consideration of, the services to be rendered by the "ENGINEER," the "OWNER" shall pay the "ENGINEER" on the basis of actual salary costs for work time directly connected with work chargeable to the project, plus payroll additives and general overhead costs of 161% of direct labor costs, plus direct reimbursable expenses associated with the project, plus a fixed fee which are payable as follows:

1. "Design" phase services (Surveying Services)
not to exceed: \$25,857.00
2. Fixed fee for "Design" services: \$3,878.00
3. Engineering contract amount for "Design" phase
services not to exceed: \$29,735.00

The basis of this upper limit and justification for the fee is contained in Appendix "A" attached hereto. Subject to the City Council's approval, adjustment of the upper limit may be made should the "ENGINEER" establish and the "OWNER" agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if the "OWNER" decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment.

Appendix "B" covers the classification of personnel and the approximate current salary rate for all personnel to be assigned to this project by the "Engineer."

Final payment for Design services shall be made upon the "OWNER'S" approval and acceptance with the satisfactory completion of the "Design" phase for the project.

- B. "Bidding" Phase Services - Not Used
- C. "Construction" Phase Services - Not Used
- D. "Geotechnical Investigation" Services:
- E. "Special" Services

For "Special" services, not described herein, the "OWNER" shall pay the "ENGINEER" at the rates listed in Appendix B multiplied by a 3.0 markup. Special services will be required only when directed by the City in writing. These hourly rates will be subject to change after six months from the date of the Contract to reflect any changes in our pay rates which may occur.

SECTION XIII - CHANGES

The "OWNER" may at any time, by written order, make changes within the general scope of the contract in the work and services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable increase or decrease shall be made in the upper limit contract amount, including fee or time of required performance, or both, and the contract shall be modified in writing accordingly.

Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor or the City Council in advance of the change in scope, price of fees.

Any claim by the "ENGINEER" for adjustment under this clause must be asserted with thirty (30) days from the date of receipt by the "ENGINEER" of the notification of change, provided, however, that the "OWNER" if it decides that the facts justify such action, may receive and act upon any such claim assessed at any time prior to the date of final payment under this contract. Failure to agree to any adjustment shall be cause for a dispute concerning a question of fact within the meaning of the clause of this contract entitled SECTION XVII MISCELLANEOUS PROVISIONS, (1) Dispute Resolutions. However, nothing in this clause shall excuse the "ENGINEER" from proceeding with the contract as changed.

SECTION XIV - OWNERSHIP OF DOCUMENTS

All documents, including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of the "OWNER." The "ENGINEER" may retain reproduced copies of drawings and copies of other documents.

SECTION XV - POSTPONEMENT OR CANCELLATION OF THE CONTRACT

It is understood that the "OWNER" will have the right to suspend or cancel the work at any time.

- A. Postponement - Should the "OWNER," for any reason whatsoever, decide to postpone the work at any time, the "OWNER" will notify the "ENGINEER," who will immediately suspend work. Should the "OWNER" decide during such suspension not to resume the work, or should such suspension not be terminated within a year, the work shall be cancelled as hereinafter provided.
- B Cancellation - Should the "OWNER," for any reason whatsoever, decide to cancel or to terminate the use of the "ENGINEER'S" service, the "OWNER" will give written notice thereof to the "ENGINEER," who will immediately terminate the work. If the "OWNER" so elects, the "ENGINEER" may be instructed to bring a reasonable stage of completion to those items, whose value would otherwise be lost. The "ENGINEER" shall turn over all data, charts, survey notes, figures, drawings and other records or information collected or produced hereunder whether partial or complete. Upon such termination of the "ENGINEER'S" services, the "ENGINEER" shall be paid on a proportional amount of the total fee, less prior partial payments, based on the ratio of work done to the total amount of work to be performed.

SECTION XVII - MISCELLANEOUS PROVISIONS

- 1. Dispute resolution - Any dispute concerning a question of fact in connection with

the work and having a financial value of \$10,000, or less, shall be referred for determination to the Mayor of the City of Fayetteville, whose decisions in the matter shall be final and conclusive. Disputes resulting from claims greater than \$10,000 shall be subject to mediation.

2. Responsibility for Claims and Liability - The "ENGINEER" shall save harmless the "OWNER" from all claim and liability due to its (the "ENGINEER'S") activities, or those subcontractors, its agents, or its employees during the time this contract is in force.
3. General Compliance with Laws - The "ENGINEER" shall comply with all federal, state and local laws and ordinances applicable to the work. The "Engineer" shall be a professional engineer, licensed in the State of Arkansas.
4. Engineers Endorsement - The "ENGINEER" shall endorse and recommend all plans, specifications, estimates and engineering data finished by it. All design shall be checked in accordance with accepted engineering practices. All plan quantities shall be checked and verified.

SECTION XVIII - SUCCESSORS AND ASSIGNS

The "OWNER" and the "ENGINEER" each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement, except as above. Neither the "OWNER" nor the "ENGINEER" shall assign, sublet or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any possible personal liability on the part of any officer or agent of any public body which may be party hereto.

SECTION XIX - COVENANT AGAINST CONTINGENT FEES

The "ENGINEER" warrants that it has not employed or retained by company or person, other than a bonafide employee working solely for the "ENGINEER," to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the "ENGINEER," any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, the "OWNER" shall have the right to annul this contract without liability.

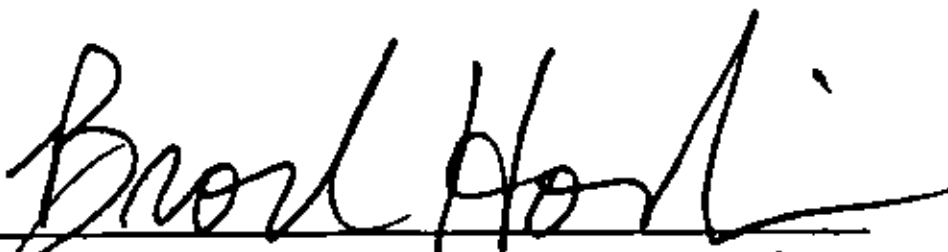
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first herein written.

CITY OF FAYETTEVILLE

ENGINEER

By: _____
Mayor

GARVER ENGINEERS
Name of the firm

By: 
Authorized Representative

ATTEST:

City Clerk

ATTEST



Survey Services

A. 2. Page 14

Appendix A - Page 1 of 2

26-Jan-00

City of Fayetteville

Fayetteville City Trails

Surveying Services

A contour map of each route will be produced with one-foot contour intervals. Error will not exceed one-half contour interval. At least two permanent control points will be established utilizing GPS methods noting the coordinates and elevations to the nearest 0.01 foot. Spot elevations at each intersection of a 50-foot approximately square grid covering the route and at street intersections, and at 50 feet on center of curbs, sidewalks, and edge of paving will also be provided. Location of building, trees over eight inches in diameter, utilities both above and below ground (with flow lines of any storm sewers), and any topographic features that may be present on the site will be indicated. This survey will be tied to the City of Fayetteville's plane coordinate system and all elevations shall be tied to the National Geodetic Vertical Datum (NGVD) 1929.

Location and Topographic Surveys for Proposed Trail#2 Gulley Park

Trail #2 Gulley Park: Beginning with a topo of area at existing trail in Gulley Park and continue East +/- 150' wide including two ditches for +/- 1600' to Azalea Terrace.

	1	Total
Project Manager	2	2
Project Engineer	0	0
Design Engineer	0	0
Project Surveyor	32	32
Technician/Draftsman	0	0
Clerical	1	1
Survey Crew	44	44
Construction Observer	0	0
Construction Engineer	0	0

Location and Topographic Surveys for Proposed Trail#3 North Joyce Boulevard

Trail #3 North Joyce Boulevard: Beginning with a topo of area at existing trail at tributary crossing and Joyce Boulevard and continue East +/- 75' wide including all drives for +/- 2600' to the East side of Old Missouri Road.

	1	Total
Project Manager	2	2
Project Engineer	0	0
Design Engineer	0	0
Project Surveyor	44	44
Technician/Draftsman	0	0
Clerical	1	1
Survey Crew	58	58
Construction Observer	0	0
Construction Engineer	0	0

Location and Topographic Surveys for Proposed Trail#4 Mud Creek

Trail #4 Mud Creek: Beginning with a topo of area at existing trail at tributary and Mud Creek and continue East +/- 75' wide for +/- 3100' to the West side of Old Missouri Road. To include cross-sections of tributary to Joyce Boulevard, and a topo of area for possible trail head (+/- 400' x600').

	1	Total
Project Manager	2	2
Project Engineer	0	0
Design Engineer	0	0
Project Surveyor	48	48
Technician/Draftsman	0	0
Clerical	1	1
Survey Crew	72	72
Construction Observer	0	0
Construction Engineer	0	0

25-Jan-00

Appendix A - Page 2 of 2
City of Fayetteville
Fayetteville City Trails
Surveying Services

	Trail #2		Trail #3		Trail #4	
	MAN HOURS	COST	MAN HOURS	COST	MAN HOURS	COST
DIRECT SALARY COST						
Project Manager	2	\$60.00	2	\$60.00	2	\$60.00
Project Engineer	0	\$0.00	0	\$0.00	0	\$0.00
Design Engineer	0	\$0.00	0	\$0.00	0	\$0.00
Project Surveyor	32	\$664.00	44	\$913.00	48	\$996.00
Technician/Draftsman	0	\$0.00	0	\$0.00	0	\$0.00
Clerical	1	\$11.00	1	\$11.00	1	\$11.00
Survey Crew	44	\$1,672.00	58	\$2,204.00	72	\$2,736.00
Construction Observer	0	\$0.00	0	\$0.00	0	\$0.00
Construction Engineer	0	\$0.00	0	\$0.00	0	\$0.00
Subtotal - Salaries		\$2,407.00		\$3,188.00		\$3,803.00
LABOR AND GENERAL ADMINISTRATIVE OVERHEAD (161%)		\$3,875.27		\$5,132.68		\$6,122.83
DIRECT NON-PAYROLL COSTS						
Consultant		\$375.00		\$375.00		\$500.00
Reproduction		\$5.00		\$6.00		\$6.00
Survey Supplies		\$10.00		\$10.00		\$15.00
Aerial Photography		\$0.00		\$0.00		\$0.00
Computer Rental		\$0.00		\$0.00		\$0.00
Travel Costs		\$15.00		\$6.00		\$5.00
Subtotal - Direct Non-Payroll Costs		\$405.00		\$397.00		\$526.00
Subtotal		\$6,687.27		\$8,717.68		\$10,451.83
PROFESSIONAL FEE (profit)		\$1,003.09		\$1,307.65		\$1,567.77
TOTAL :		\$7,690.00		\$10,025.00		\$12,020.00

\$29,735.00

TOTAL ESTIMATED COST:

Appendix B
Garver Engineers
Hourly Rate Schedule

Classification	Regular
Senior Project Manager	\$37.00
Project Manager	\$30.00
Senior Project Engineer	\$26.00
Project Engineer	\$24.00
Senior Design Engineer	\$22.25
Construction Engineer	\$19.50
Design Engineer/Designer	\$22.25
Environmental Scientist	\$21.00
Geologist	\$20.00
CADD Administrator	\$20.00
Senior CADD Technician	\$18.00
CADD Technician	\$16.25
Senior Construction Observer	\$20.00
Construction Observer	\$19.50
Project Surveyor	\$20.75
Party Chief	N/A
Instrument Man	\$19.25
Rodman	\$12.00
Clerical	\$11.00

STAFF REVIEW FORM

XX AGENDA REQUEST
XX CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of February 15, 2000

FROM:

Bill Oestreich
Name

Fleet Operations
Division

Admin Services
Department

ACTION REQUIRED: Approval of a contract amendment with Jones Transportation is requested. The contract amendment is needed to initiate a pilot trolley route for south Fayetteville. The contract amendment with Jones Transportation is NTE \$37,500.00. An additional \$12,000 is requested for fuel, maintenance and other expenses.

COST TO CITY:

\$49,500 estimated	40,000.00	Services & Charges
	20,000.00	Services & Charges
Cost of this Request	Category/Project Budget	Category/Project Name
2180-4960-5315-01	-0-	Public Services
1010-6600-5315-01	-0-	Miscellaneous
Account Number	Funds Used To Date	Program Name
	40,000.00	Community Dev.
	20,000.00	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: XX Budgeted Item Budget Adjustment Attached

[Signature]
Budget Manager

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

[Signature]
Accounting Manager

[Signature]
City Attorney

[Signature]
Purchasing Officer

2/3/2000
Date

2/3/2000
Date

2/3/00
Date

GRANTING AGENCY:

[Signature]
Internal Auditor

[Signature]
ADA Coordinator

2-3-00
Date

STAFF RECOMMENDATION: Staff recommends approval of contract amendment.

Bill Oestreich 2.3.00
Division Head Date

Cross Reference

New Item: **Yes No**

Prev Ord/Res #:

Orig Contract Date:

[Signature]
Department Director Date
[Signature] 2-3-00
Administrative Services Director Date

 Date
Mayor

STAFF REVIEW FORM

Description Jones Transportation

Meeting Date 2/15/2000

Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Reference Comments:

CITY OF FAYETTEVILLE
FLEET OPERATIONS
INTER-OFFICE MEMORANDUM

TO: Mayor/City Council
THRU: John Maguire, Administrative Services Director
THRU: Steve Davis, Budget Manager 
FROM: W. A. Oestreich, Fleet Operations Superintendent 
DATE: February 2, 2000

SUBJECT: AMENDMENT TO CONTRACT #695 - Jones Transportation Service

Attached is the Agenda Request for an amendment to the Trolley Services Contract originally issued as Contract 695, Resolution 11-99 on March 21, 1999 with renewal for calendar year 2000 on December 21, 1999 with Resolution 163-99. This amendment will provide No Charge Trolley service to the southern portion of Fayetteville. The proposed route with stops is also attached. This route has been timed at 1 hour and provides transfer capability at the City Administration Building to the Downtown Trolley route, Razorback Transit Red route and Razorback Transit Orange route.

The route is scheduled to operate from 8:30 A.M. to 4:00 P.M. Monday through Friday and 8:30 A.M. to Noon on Saturday except for the following days: Memorial Day, 4th of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. The initial starting point of the route will be from the Fleet Operations Facility at 1525 S. Happy Hollow Road with the first stop at the corner of Armstrong/Curtis and 15th Street. This will eliminate any deadhead mileage on the unit or unnecessary operations time.

Transferring to the above listed services will provide the opportunity to travel from the stops listed to the University Area and to the Northwest Arkansas Mall. Maps showing the routes and stops are also attached.

Razorback Transit and Ozark Regional Transit have reviewed this proposal and have provided input on coordination of service delivery and route operations.

The proposed primary unit for the south route will be #213, a 15 seat ADA compliant vehicle. We will keep Unit #210 as a spare unit for both routes.

Funding for this amendment and for the operating costs will be provided by the General Fund and Community Development funding.

C:\APPRODATA\PDATA\DOES\CONTROL\AME.10M

Note: The difference between the contract times and the route times is due to the required vehicle inspections before and after the trip.

Pilot Trolley Route

A. 3. Page 4

City of Fayetteville, Arkansas
South Route - Cost Calculation

Hours of Operations		8.50
Days/ Week Operated		5.60

Hours of Operations/Week		47.60
Weeks Operated in 2000	February 28 to December 31	44.00

Hours of Operation from February 28 to December 31		2,094.40
Hours Not Operating		51.00
Memorial Day, 4th of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day		-----
Projected Hours of Operation		2,043.40
Labor Cost per Hour	\$	17.50

Gross Labor Cost for South Route	\$	35,759.50
		=====
	Round Up to	\$ 37,500.00
Vehicle Operating Cost - South Route		
Route miles	15.10	
# of Routes (each route = one hour)	2,043	
(Hours of Operation * Weeks Operated) Less Six Days		-----
Number of Miles	30,855	
Cost per Mile	\$ 0.38	

Vehicle Operating Cost		11,700.00

Projected Cost of South Route for Ten (10) Months	\$	49,200.00
		=====

AMENDMENT TO THE

AGREEMENT WITH Jones Transportation

AMENDMENT # 2

This is an amendment to the Agreement for Trolley Services

executed on the _____ day of _____ 19__ between the City of

Fayetteville, Arkansas and Jones Transportation.

Additional services required due to expansion of trolley services to include
a south route. The south route will begin operation on/after February 28, 2000 and
operate Monday through Friday, Eight (8) AM to Four Thirty (4:30) PM and Saturday
Eight (8) AM to One (1) PM -----except for the following days: Memorial Day,
4th of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

The charge for the additional services shall not exceed Thirty Seven
Thousand Five Hundred and no/100 dollars.

\$37,500.00.

CITY OF FAYETTEVILLE:

Mayor Date _____

Jones Transportation Co. Inc.
Company

Harold L. Jones
Pres
Title

Date 22 00

FOR OFFICE USE ONLY

Existing P.O. # _____

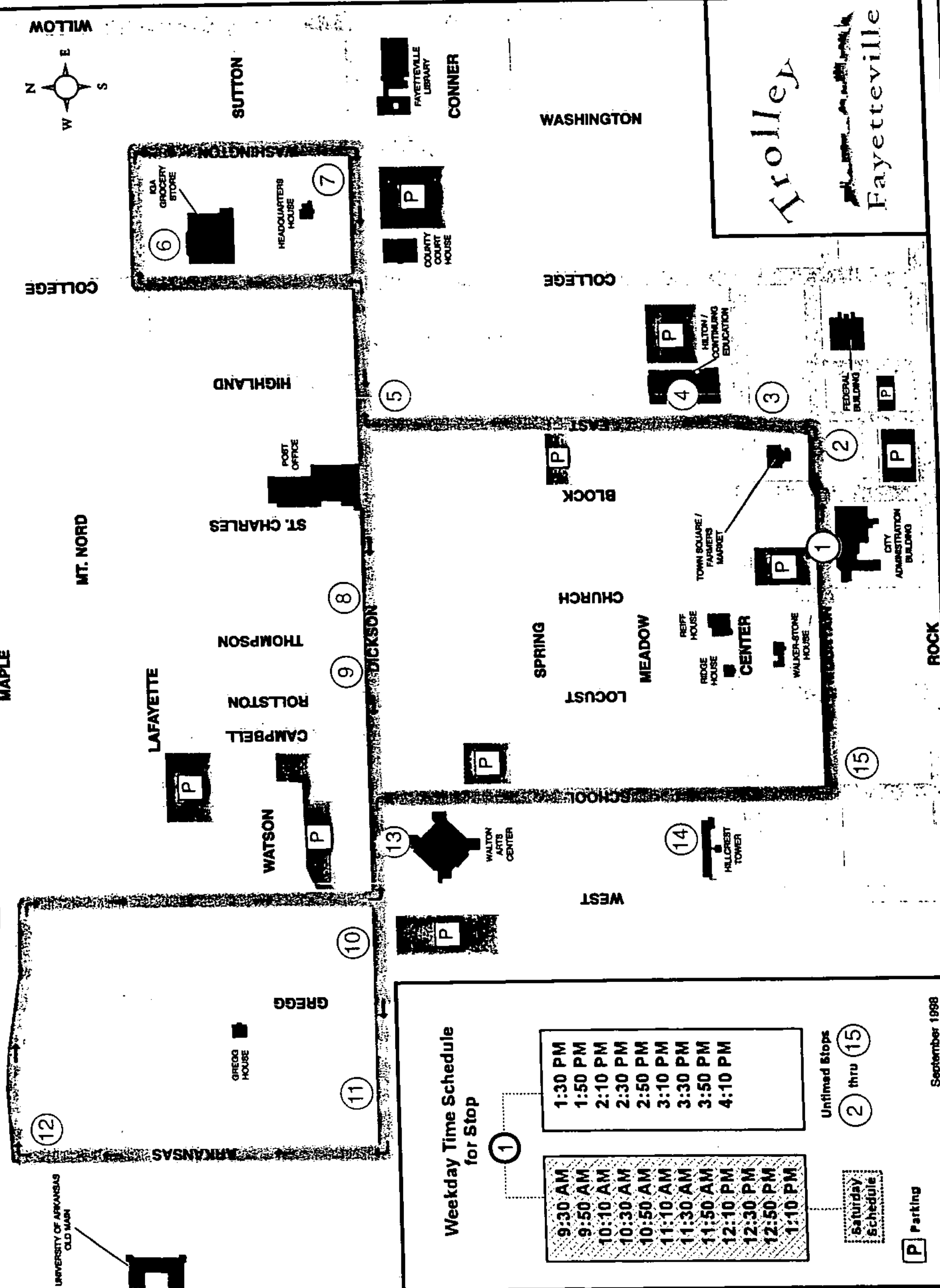
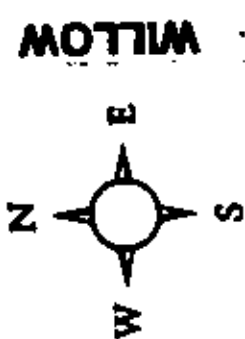
Contract # _____

Pilot Trolley Route
A. 3. Page 6



THE FAYETTEVILLE TROLLEY

MAPLE



Weekday Time Schedule for Stop 1

9:30 AM	1:30 PM
9:50 AM	1:50 PM
10:10 AM	2:10 PM
10:30 AM	2:30 PM
10:50 AM	2:50 PM
11:10 AM	3:10 PM
11:30 AM	3:30 PM
11:50 AM	3:50 PM
12:10 PM	4:10 PM
12:30 PM	
12:50 PM	
1:10 PM	

Unfimed Stops

2 thru 15

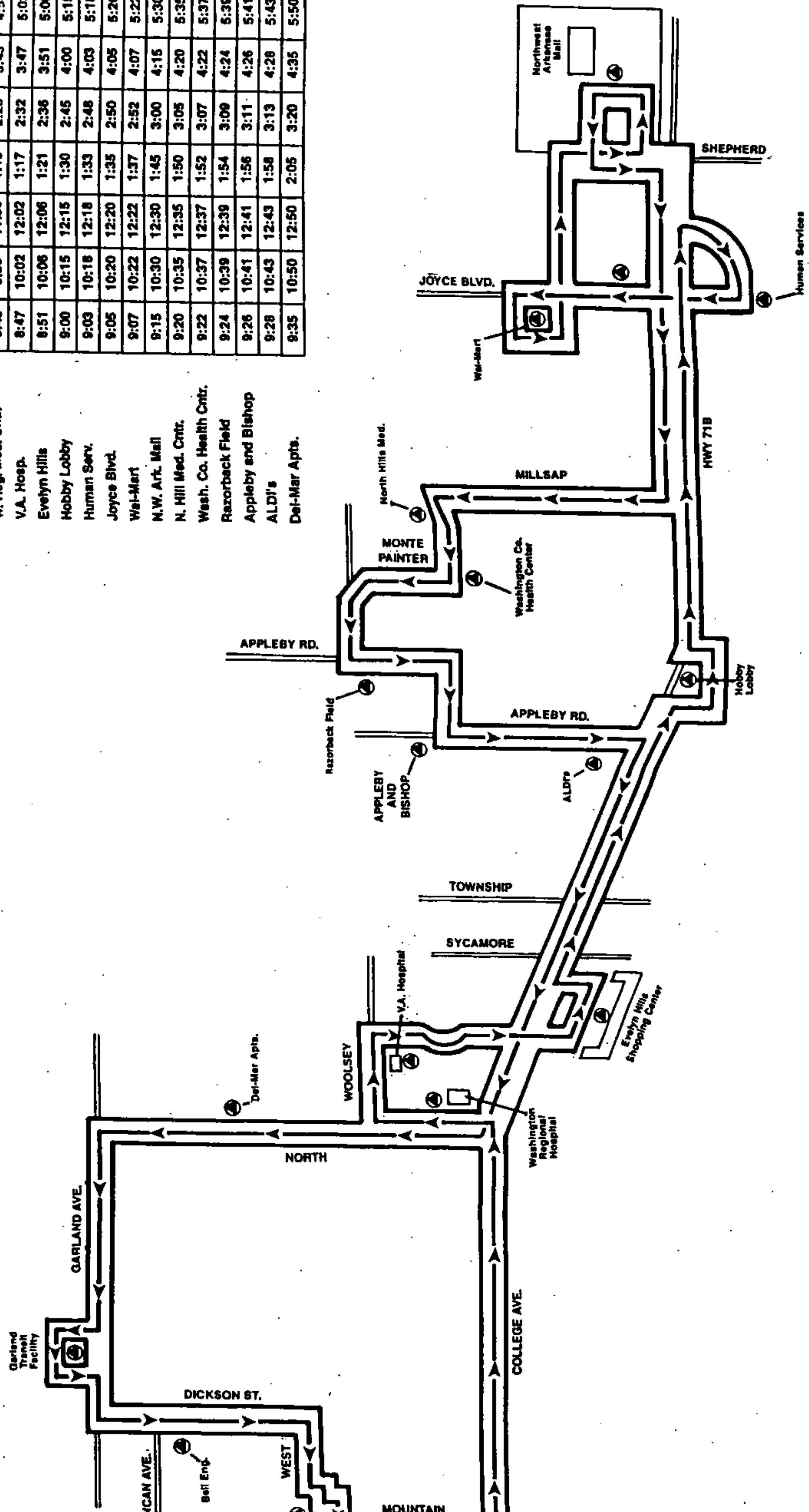
Saturday Schedule

P Parking

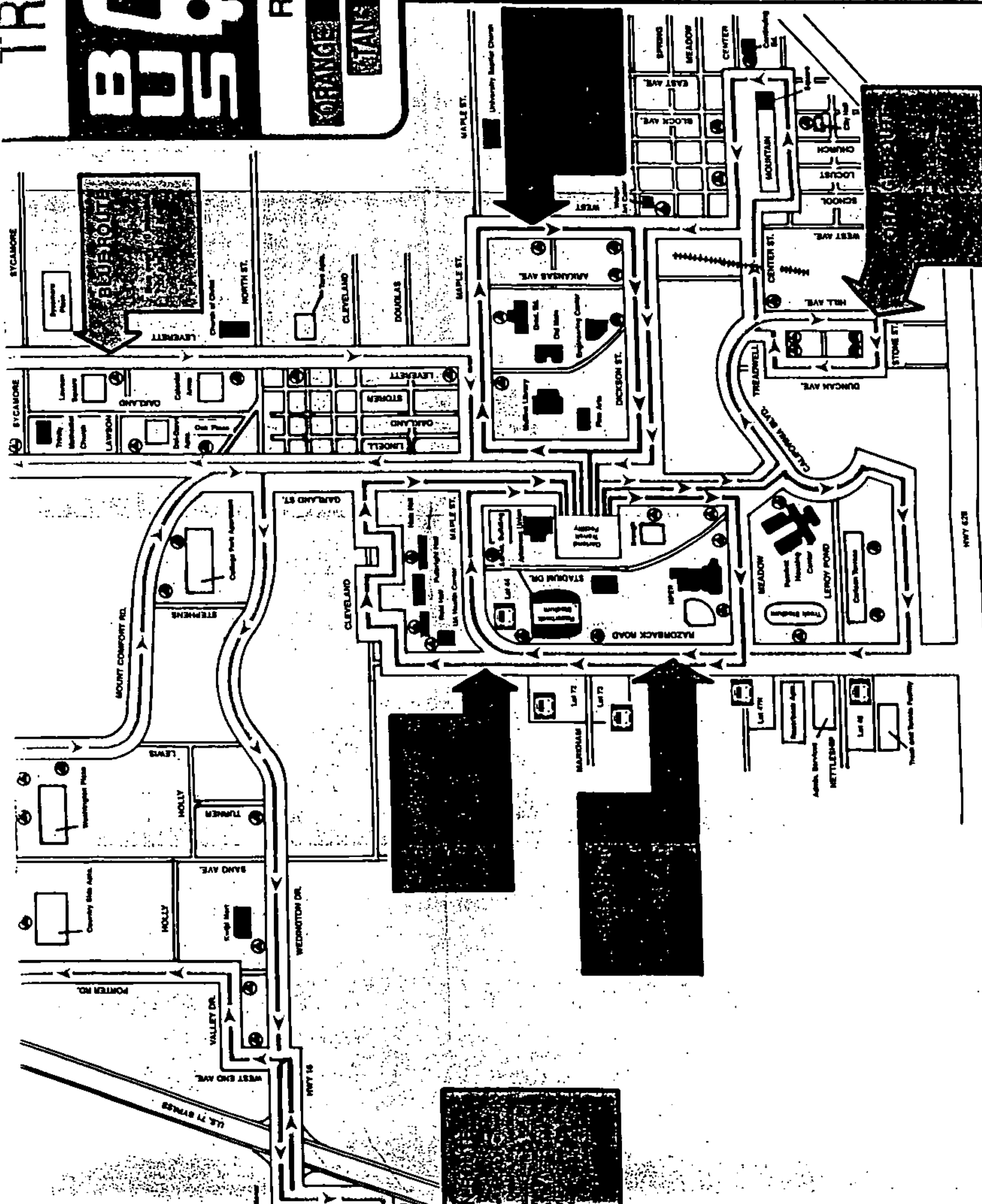
September 1998

RED ROUTE	BUS DEPARTURE TIMES							
	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	P.M.	P.M.
Bus Stops	8:30	8:45	11:45	1:00	2:15	3:30	4:45	
Garland Transit Facility	8:32	9:47	11:47	1:02	2:17	3:32	4:47	
Bell Engr.	8:35	9:50	11:50	1:05	2:20	3:35	4:50	
Hillcrest Towers	8:37	9:52	11:52	1:07	2:22	3:37	4:52	
City Hall	8:43	9:58	11:58	1:13	2:28	3:43	4:58	
W. Reg. Med. Cntr.	8:47	10:02	12:02	1:17	2:32	3:47	5:02	
V.A. Hosp.	8:51	10:06	12:06	1:21	2:36	3:51	5:06	
Evelyn Hills	9:00	10:15	12:15	1:30	2:45	4:00	5:15	
Hobby Lobby	9:03	10:18	12:18	1:33	2:48	4:03	5:18	
Human Serv.	9:05	10:20	12:20	1:35	2:50	4:05	5:20	
Joyce Blvd.	9:07	10:22	12:22	1:37	2:52	4:07	5:22	
Wal-Mart	9:15	10:30	12:30	1:45	3:00	4:15	5:30	
N.W. Ark. Mall	9:20	10:35	12:35	1:50	3:05	4:20	5:35	
N. Hill Med. Cntr.	9:22	10:37	12:37	1:52	3:07	4:22	5:37	
Wash. Co. Health Cntr.	9:24	10:39	12:39	1:54	3:09	4:24	5:39	
Razorback Field	9:26	10:41	12:41	1:56	3:11	4:26	5:41	
Appleby and Bishop	9:28	10:43	12:43	1:58	3:13	4:28	5:43	
ALDI's	9:35	10:50	12:50	2:05	3:20	4:35	5:50	
Del-Mar Apts.								

Garland Transit Facility
Bell Engr.
Hillcrest Towers
City Hall
W. Reg. Med. Cntr.
V.A. Hosp.
Evelyn Hills
Hobby Lobby
Human Serv.
Joyce Blvd.
Wal-Mart
N.W. Ark. Mall
N. Hill Med. Cntr.
Wash. Co. Health Cntr.
Razorback Field
Appleby and Bishop
ALDI's
Del-Mar Apts.



Residence



STAFF REVIEW FORM
RECEIVED

X AGENDA REQUEST
X CONTRACT REVIEW
 GRANT REVIEW

FEB 04 2000

For the Fayetteville City Council meeting of CITY OF FAYETTEVILLE February 15, 2000

FROM:

Paul Libertini PL Engineering Public Works
Name Division Department

ACTION REQUIRED: Award the construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$ 114,025.00; approve contract contingency funding of \$ 17,104.00 (15%); approve funding of \$ 20,000.00 for contract administration, construction inspection and materials testing; and approve the attached budget adjustment.

COST TO CITY:

<u>\$ 151,129.00</u> Cost of this Request	<u>\$ -0-</u> Category/Project Budget	<u>Cleveland Street Sidewalk Construction</u> Category/Project Name
<u>4470-9470-5814.00</u> Account Number	<u>\$ -0-</u> Funds Used To Date	<u>Sidewalk Improvements</u> Program Name
<u>99083-1</u> Project Number	<u>\$ -0-</u> Remaining Balance	<u>Sales Tax</u> Fund

BUDGET REVIEW:

 Budgeted Item X Budget Adjustment Attached

[Signature] Administrative Services Director
Budget Coordinator

CONTRACT/GRANT/LEASE REVIEW:

Marilyn J. Cramer 1-27-00
Accounting Manager Date
[Signature] 1-31-00
City Attorney Date
[Signature] 1-31-00
Purchasing Officer Date

GRANTING AGENCY:

[Signature] 1-31-00
Internal Auditor Date

ADA Coordinator Date

STAFF RECOMMENDATION: Approval of action items listed above.

[Signature] 1/26/00
Division Head Date
[Signature] 2-1-00
Department Director Date
[Signature] 2-1-00
Administrative Services Director Date
[Signature] 2/1/00
Mayor Date

Cross Reference

New Item: Yes x No

Prev Ord/Res #:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Mayor Fred Hanna
Charles Venable, Public Works Director *CV*
Don Bunn, Assistant Public Works Director
Jim Beavers, City Engineer *JB*

From: Paul Libertini, Staff Engineer *PL*

Date: January 26, 2000

Re: **Agenda Request, Council Meeting of February 15, 2000**
Cleveland Street Sidewalk Construction Contract

1. Staff Recommendation: Staff recommends that the City Council award the construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division; approve contract contingency funding; approve contract administration funding (includes construction inspection and materials testing); and approve the attached budget adjustment to fully fund the project.

2. Project Background: The Engineering Division has completed in-house design plans for the construction of approximately 1500 linear feet of concrete sidewalk on the north side of Cleveland Street from Sang Avenue to Ashwood Avenue which will provide pedestrian access to the Leverett Elementary School. As part of this project, the existing asphalt curb will be removed and replaced with concrete curb & gutter, and the existing driveways will be reconstructed/replaced to tie into the new sidewalk. This project was advertised for bids on January 9th & January 16th.

3. Estimated Project Costs: Bids were opened on Tuesday, January 25, 2000. The engineer has reviewed the bids and recommends awarding the contract to the low bidder, McClinton-Anchor Division in the amount of \$ 114,025.00. The estimated total project costs including contingency monies for unforeseen project expenditures are as follows:

Construction Contract	\$ 114,025.00
Contract Contingency	\$ 17,104.00
<u>Contract Administration</u>	<u>\$ 20,000.00</u>
Total	\$ 151,129.00

4. Budget Adjustment: A budget adjustment, in the amount of \$ 151,129.00 is attached for review and approval.

BID TABULATION

Cleveland Street Sidewalk Construction

Fayetteville, Arkansas
January 26, 2000

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
McClinton-Anchor Division	\$ 114,025.00
Sweetser Construction	\$ 135,926.00

McClinton-Anchor's low bid of \$ 114,025.00 was within 10% of the Engineer's estimate.

AGREEMENT
BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2000 by and between the **City of Fayetteville, Arkansas** (hereinafter called OWNER) and **APAC-Arkansas, Inc., McClinton-Anchor Division** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

PROJECT - Cleveland Street Sidewalk Construction: removal & disposal of existing asphalt curb, asphalt pavement, concrete curb & gutter, driveways, and sidewalk; and construction of approximately 1500 LF of concrete curb & gutter and sidewalk with associated earthwork, aggregate base, asphalt pavement, driveways, access ramps and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Engineering Dept.
113 W. Mountain
Fayetteville, Arkansas 72701

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within 60 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 90 calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of the Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER Two hundred dollars (\$200.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER Two hundred dollars (\$200.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS

Item No.	Item Description	Unit	Estimated Quantity	Unit Price	Extended Price
1	Mobilization	LS	1	\$5,000.00	\$5,000.00
2	Protective Fencing for Trees	LF	700	\$5.00	\$3,500.00
3	Maintenance of Traffic	LS	1	\$7,500.00	\$7,500.00
4	Site Preparation	LS	1	\$15,000.00	\$15,000.00
5	Removal & Disposal of Concrete Driveways, Sidewalks & Swale	SY	160	\$5.00	\$800.00
6	Removal and Disposal of Asphalt Curb & Pavement	SY	600	\$5.00	\$3,000.00
7	Removal and Disposal of Concrete Curb & Gutter	LF	40	\$5.00	\$200.00
8	Compacted Embankment (Select Hillside Material)	CY	275	\$15.00	\$4,125.00
9	Aggregate Base Course	TN	415	\$20.00	\$8,300.00
10	Portland Cement Concrete Base	CY	30	\$175.00	\$5,250.00
11	Concrete Curb & Gutter	LF	1500	\$8.75	\$13,125.00
12	Concrete Sidewalk (4")	SY	750	\$24.00	\$18,000.00
13	Concrete Driveway (6")	SY	475	\$30.00	\$14,250.00
14	Concrete Access Ramp (4")	SY	100	\$30.00	\$3,000.00
15	ACHM Surface Course (Type 2)	TN	30	\$65.00	\$1,950.00
16	Imported Top Soil	CY	60	\$25.00	\$1,500.00
17	Seeding & Mulching	AC	0.3	\$20,000.00	\$6,000.00
18	Silt Fence (Type E 4)	LF	700	\$4.50	\$3,150.00
19	Straw Bale	EA	25	\$15.00	\$375.00
Total Base Bid Amount					\$114,025.00

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02 . All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to OWNER as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data

with the Contract Documents.

6.7. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 15, inclusive).
- 7.7. Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.
- 7.8. Addenda numbers __ to __, inclusive.
- 7.9. Drawings (not attached hereto) consisting of a cover sheet and sheets numbered 1 through 6, inclusive with each sheet bearing the following general title:

Cleveland Avenue Sidewalk Construction

7.10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.10.1. Notice to Proceed

7.10.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in quadruplicate. One counterpart each has been delivered to OWNER and ENGINEER, and two counterparts have been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 2000 (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: APAC-Arkansas, Inc.,
McClinton-Anchor Division

By: _____
Mayor Fred Hanna

By: James A. Cole
James A. Cole

Vice President
Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest K. Selby

Address for giving notices

Address for giving notices

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. 0011841299

Agent for service of process:

The Corporation Company
417 Spring Street
Little Rock, AR 72201

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2000	Department: Public Works Division: Engineering Program: Sales Tax Capital	Date Requested January 26, 2000	Adjustment #
---------------------	---	------------------------------------	--------------

Project or Item Requested:

\$151,129 is requested to initiate the Cleveland Street Sidewalk Capital Project.

Project or Item Deleted:

\$151,129 from the Sidewalk Improvements Capital Project.

Justification of this Increase:

The funding will be used for construction and engineering costs associated with this project.

Justification of this Decrease:

The project funding for this project is for all sidewalk improvements.

This adjustment will move a portion of the funds to a separate capital project to better track the activity.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number				Project Number	
Sidewalk Improvements	151,129	4470	9470	5814	00	99083	1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number				Project Number	
Sidewalk Improvements	151,129	4470	9470	5814	00	96041	1

Approval Signatures

Requested By

Date

Budget Manager

Date

Department Director

Date

Admin. Services Director

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

(not a purchase order)

Vendor Name: McClinton-Anchor (APAC of AR) James Cole

Cleveland Sidewalk
A. 4. Page 13

STAFF REVIEW FORM

X Agenda Request
 _____ Contract Review
 _____ Grant Review

For the Fayetteville City Council meeting of February 15, 2000.

FROM: _____
 Tim Conklin _____ Planning _____ Public Works _____

 Name _____ Division _____ Department _____

ACTION REQUESTED: To approve a resolution to not require the dedication of 10 feet of additional right of way based on the Master Street Plan for Wimberly Drive classified as a collector street. This request was submitted by Geoffrey Bates of Crafton, Tull & Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive as LSD99-27.

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 _____
 _____ 2-3-00
 City Attorney _____ Date _____

 Purchasing Officer _____ Date _____

ADA Coordinator _____ Date _____

 Internal Auditor _____ Date _____

STAFF RECOMMENDATION: Staff recommended approval of the right of way reduction as a condition of approval for this large scale development which was approved by the Planning Commission vote of 7-0-1. Commissioner Shackelford abstained.

_____ 2-3-00
 Division Head _____ Date _____
 _____ 2-3-00
 Department Director _____ Date _____
 _____ 2-3-00
 Administrative Services _____ Date _____
 Director _____
 _____ 2/4/00
 Mayor _____ Date _____

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

LSD 99-27.00

Page 1

PC Meeting of 24 Jan 00

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Northpark Place II, LSD

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Sara Edwards, Ron Petrie P.E.
DATE: January 20, 2000

Project: LSD 99-27.00: Large Scale Development (Northpark Place Phase II, pp 212) was submitted by Geoffrey Bates of Crafton, Tull & Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive. The property is zoned C-2, Thoroughfare Commercial and contains approximately 1.9 acres. The request is for a 19,700 square foot building with 130 parking spaces. A conditional use is being requested for excess parking spaces.

 **Findings:** The applicant is requesting an additional 39 parking spaces as a conditional use. They are also applying for a property line adjustment along the southern lot line in order to provide the additional parking. A landscaping variance is being requested to reduce the amount of landscaping required along the front property lines adjacent to Wimberly and Millsap. A waiver is being requested in order to dedicate 10 feet less than the required right of way along Wimberly Drive. This property has been exempted from the Design Overlay District (see attached memo). Commercial Design Standards do apply and building elevations have been provided. Cross access is proposed at two locations to the east of this site.

Recommendation: Approval subject to the thirteen (13) conditions listed below.

Conditions of Approval:

1. Planning Commission determination of compliance with Commercial Design Standards including signage.
2. Planning Commission determination of a variance request to allow a 4.8' landscape strip along Millsap and a 7' landscape strip along Wimberly Drive in lieu of the required 15' landscape strip. *The Landscape Administrator, Kim Hesse, supports this variance request under the condition that berms and/or larger plants be utilized in these areas.*
3.  City Council approval of a waiver request to allow 25 feet of right-of-way along Wimberly Drive in lieu of the required 35 feet of right of way for a designated Collector Street on the Master Street Plan. This street was classified as a Collector on February 16, 1999.
4. Planning Commission approval of a conditional use to allow 39 additional parking spaces for a total of 130 parking spaces. *This development is required to have 79 parking spaces and is allowed 91 spaces with the additional 20 % allowance.*

5. Approval of a property line adjustment to allow for the additional parking. The additional land is located on the east side of the property and is approximately 60 feet in width and 405 feet in length. This is an administrative item being reviewed by Planning staff.
6. Provide a ramp and access aisles or spaces with direct access to the building to be in compliance with ADA regulations.
7. Plat Review and Subdivision comments (to include written staff comments mailed to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
8. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) 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. All improvements shall comply with City's current requirements.
9. Sidewalk construction in accordance with current standards to include a 6 foot sidewalk with minimum 10 foot green space along Millsap Drive.
10. Large Scale Development approval to be valid for one calendar year.
11. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
12. All new utilities are required to be underground.
13. Provide screening for the dumpster on all sides visible from the public right of way.

Background:

The proposed Large Scale Development was reviewed at the December 29, 1999 Technical Plat review, and the January 13, 2000 Subdivision Committee meeting. In a different configuration, this project was denied at the July 28, 1997 Planning Commission meeting due to the potential for inadequate parking and concerns over underground utilities. This proposed building is significantly smaller than the 1997 proposal and additional parking spaces have been provided.

The Subdivision Committee forwarded the Large Scale Development to the full Planning Commission subject to all staff comments, submittal of sign elevations, addition of a landscaping note, cross access added to the plat, update of letter regarding the need for parking spaces, and a letter from the North Hills Medical Park Architectural Review Committee approving the building elevations and the 15 feet green space requirement.

- a) Water is available along both Wimberly Drive and Futrall Street.
- b) Sanitary sewer is available along Wimberly Drive.
- c) Streets. No extensions or improvements to existing streets are recommended.
- d) Grading and Drainage. A preliminary plan and report has been received. A final plan and report will be required prior to construction.

Date: / /

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

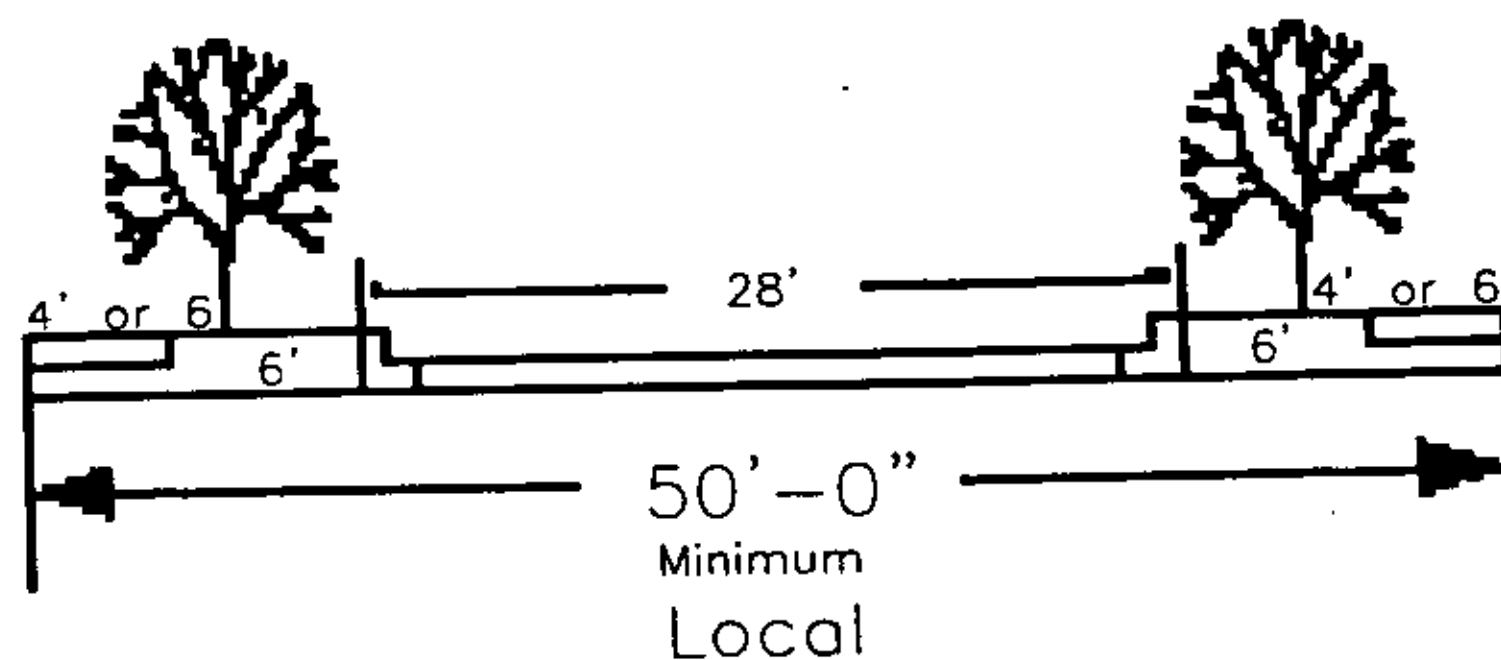
by

title

date

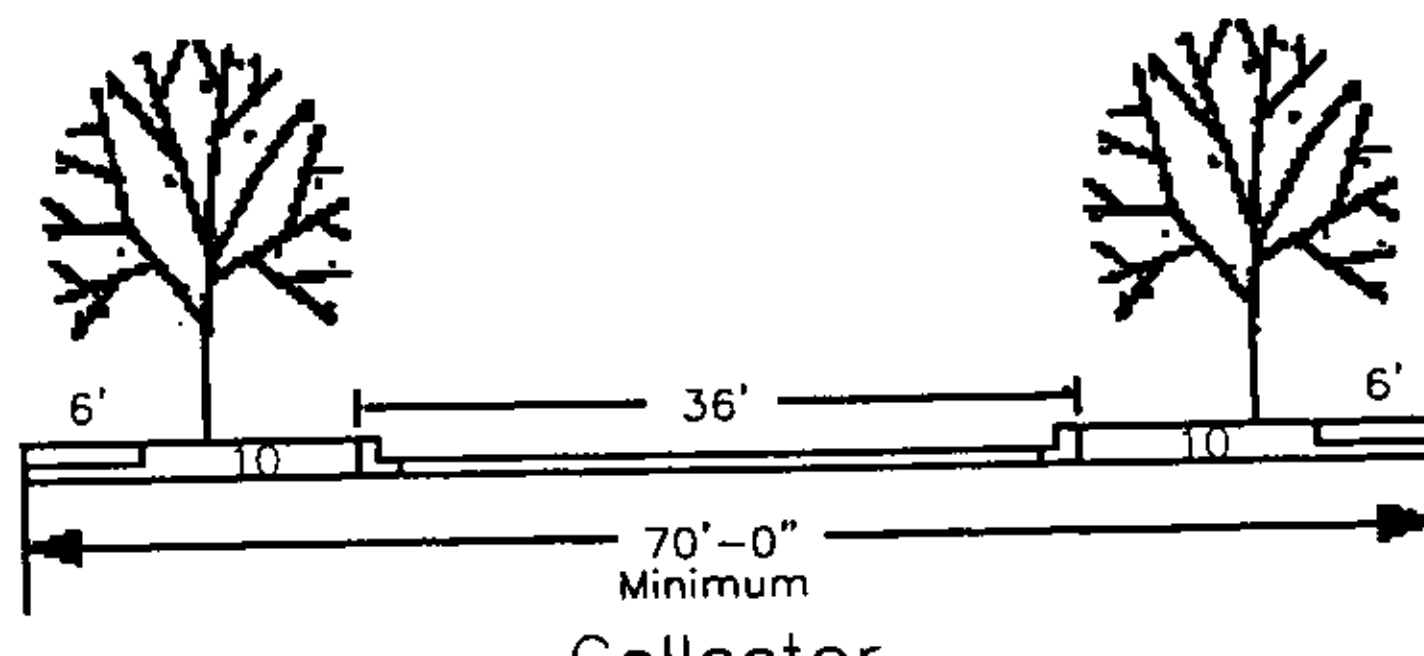
LOCAL STREETS provide for the second lowest level of traffic flow and service. They provide access to abutting land uses and provide connections to higher order systems. They are not intended to provide for through traffic movements.

Design Service Volume:	Less than 4,000 vpd
Speed:	20-25 mph
Traffic Lanes:	Two 10' lanes
Parking Lanes:	Provided but not defined
Paved Width:	28' from back of curb
Right of Way:	50'
Sidewalks:	Two 4', at least 6' from curb
Tree planting areas:	Two, at least 6' wide



COLLECTOR STREETS provide traffic circulation within residential, commercial, and industrial areas. They collect traffic from local or residential streets in neighborhoods and channel it into the arterial system. Connections between arterials should be indirect to discourage use by traffic from outside the neighborhood. In residential neighborhoods, frontage along collectors is discouraged; houses should front on local or residential streets.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 70'
Multi-use trail:	Two at least 6' wide, at least 10' from curb
Tree Planting areas:	Two, at least 10' wide



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January 24, 2000
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**LSD99-27: LARGE SCALE DEVELOPMENT
NORTH PARK PLACE PHASE II, PP212**

This item was submitted by Geoffrey Bates of Crafton, Tull & Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive. The property is zoned C-2, Thoroughfare Commercial and contains approximately 1.9 acres. The request is for a 19,700 square foot building with 130 parking spaces. A conditional use is being requested for excess parking spaces.

Geoffrey Bates was present on behalf of the request.

Conditions of Approval

Staff recommends approval subject to the following 13 conditions:

1. Planning Commission determination of compliance with Commercial Design Standards including signage.
2. Planning Commission determination of a variance request to allow a 4.8 foot landscape street along Millsap and a seven foot landscape strip along Wimberly Drive in lieu of the required 15 foot landscape strip. *The Landscape Administrator, Kim Hesse, supports this variance request under the condition that berms and/or larger plants be utilized in these areas.*
- * 3. City Council approval of a waiver request to allow 25 feet of right of way along Wimberly Drive in lieu of the required 35 feet of right of way for a designated Collector Street on the Master Street Plan. This street was classified as a Collector on February 16, 1999.
4. Planning Commission approval of a conditional use to allow 39 additional parking spaces for a total of 130 parking spaces. *This development is required to have 79 parking spaces and is allowed 91 spaces with the additional 20% allowance.*
5. Approval of a property line adjustment to allow for the additional parking. The additional land is located on the east side of the property and is approximately 60 feet in width and 405 feet in length. This is an administrative item being reviewed by Planning staff.
6. Provide a ramp and access aisles or spaces with direct access to the building to be in compliance with ADA regulations.

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January 24, 2000
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7. Plat Review and Subdivision comments.
8. 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. All improvements shall comply with City's current requirements.
9. Sidewalk construction in accordance with current standards to include a six foot sidewalk with minimum 10 foot green space along Millsap Drive.
10. Large Scale Development approval to be valid for one calendar year.
11. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City as required by §158.01. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
12. All new utilities are required to be underground.
13. Provide screening for the dumpster on all sides visible from the public right of way.

Commission Discussion

Estes: Has the applicant has an opportunity to read and study the 13 conditions of approval?

Bates: Yes, sir.

Estes: Does the applicant agree with each of the 13 conditions of approval?

Bates: Yes, they do.

Estes: Has the applicant signed the conditions of approval?

Bates: Yes, we have.

Estes: And these have been delivered to staff. Is that correct, Mr. Conklin?

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Warrick: They have signed the conditions for the conditional use but not the large scale. The Planning Commission has a few determinations to make with regard to the large scale.

Estes: Staff, is there any information that you would like to provide the Commission at this time with regard to this large scale development?

Conklin: We did receive a letter with regard to the request for the additional parking spaces. That is the next item on the agenda, however, they are showing as a part of their large scale development the additional parking spaces.

Estes: Is the applicant present?

Bates: Yes, sir. I'm Geoff Bates with Crafton, Tull, and Associates.

Estes: Do you have a presentation you would like to make to the Commission?

Bates: This plan has been before you before. At that time, the building the was too large and there wasn't enough parking so we've gone back and made the building as small as feasibly possible at this time. We've added additional parking from the plan before you last time. This has been a very difficult site because it is surrounded by 3 streets. There is a street on every side of it. On the back of it, there is an overhead power line so we're really locked in to where we can put the building and that is why we have asked for the variance for the parking and for 15 feet to five feet for landscaping. Before, when this was before you, it was okay to have a five foot landscape area. They had not passed the new ordinance. Since then, they have also revised the Master Street Plan. We worked really hard to try to comply with all the ordinances. Since this is such a tough site, we had to go with what we have now. I feel this is a good, workable plan. There is a lot of connectivity. We've moved some of the existing dumpsters to the back. We can't really reduce the size of our building and have a feasible project due to the cost of the lot. The Landscape Administrator, Ms. Hesse, and the Architectural Review Committee for North Hills, have both approved the five foot landscape area and think it would be fine. We plan to berm it up and work with Kim Hesse as much as possible to satisfy the city. Do we need to wait to address the parking at this time?

Estes: The conditional use regarding parking in excess of that allowed by ordinance is set as the next item on the agenda so let's stick with the agenda and handle it separately.

Bates: We provided two additional entrances for connectivity. One for the property to be developed in the future and one to the existing office next to it now. If you have any questions, I'll be glad to respond.

Estes: Commissioners, do you have any questions of this applicant at this time? Thank

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you.

Public Comment

None.

Further Commission Discussion

Shackelford: Prior to beginning the conversation, I need to let you know that due to a conflict of interest, I will be abstaining from the vote on both the large scale development and the conditional use.

Estes: Thank you.

Hoffman: To summarize the Subdivision Committee discussions, we did find that the elevations of the building met the design standards and they have complied with our request regarding cross access between properties and have shown us elevations of the sign which we did not have. They have also given us the approval of the Architectural Review Committee for the development. I understand there was discussion about the landscaping. It's my understanding that Kim Hesse had approved that based on putting in larger planting material and more mature trees. I think Subdivision found that to be an acceptable trade off to get bigger plants.

MOTION

Commissioner Odom made a motion to approve large scale development 99-27 subject to conditions and staff comments.

Commissioner Hoffman seconded the motion.

Estes: There is a motion to approve large scale development 99-27 and that motion has been seconded. Is there any discussion? I have several questions I would like to ask of the applicant and these questions regard massing and density of the project. This is 1.9 acres. Is that correct?

Bates: I believe it is larger now since they are going to buy the additional land for the parking lot and I don't believe that acreage was included in the latest report you have. I believe it is over two acres now.

Estes: So we now have in excess of two acres?

Bates: 2.4 acres, I believe.

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Estes: What percentage of the land area is to be occupied by the building?

Bates: Less than 20%.

Estes: And what percent is to be occupied by the parking area?

Bates: I'm showing 63% with the parking lot. That includes sidewalks and everything. That is not just the parking. It's everything that is asphalt or concrete.

Estes: Is 83% then occupied by the building and the parking lot?

Bates: Yes, sir.

Estes: Staff, in a C-2 zoning, what are the requirements regarding massing and density?

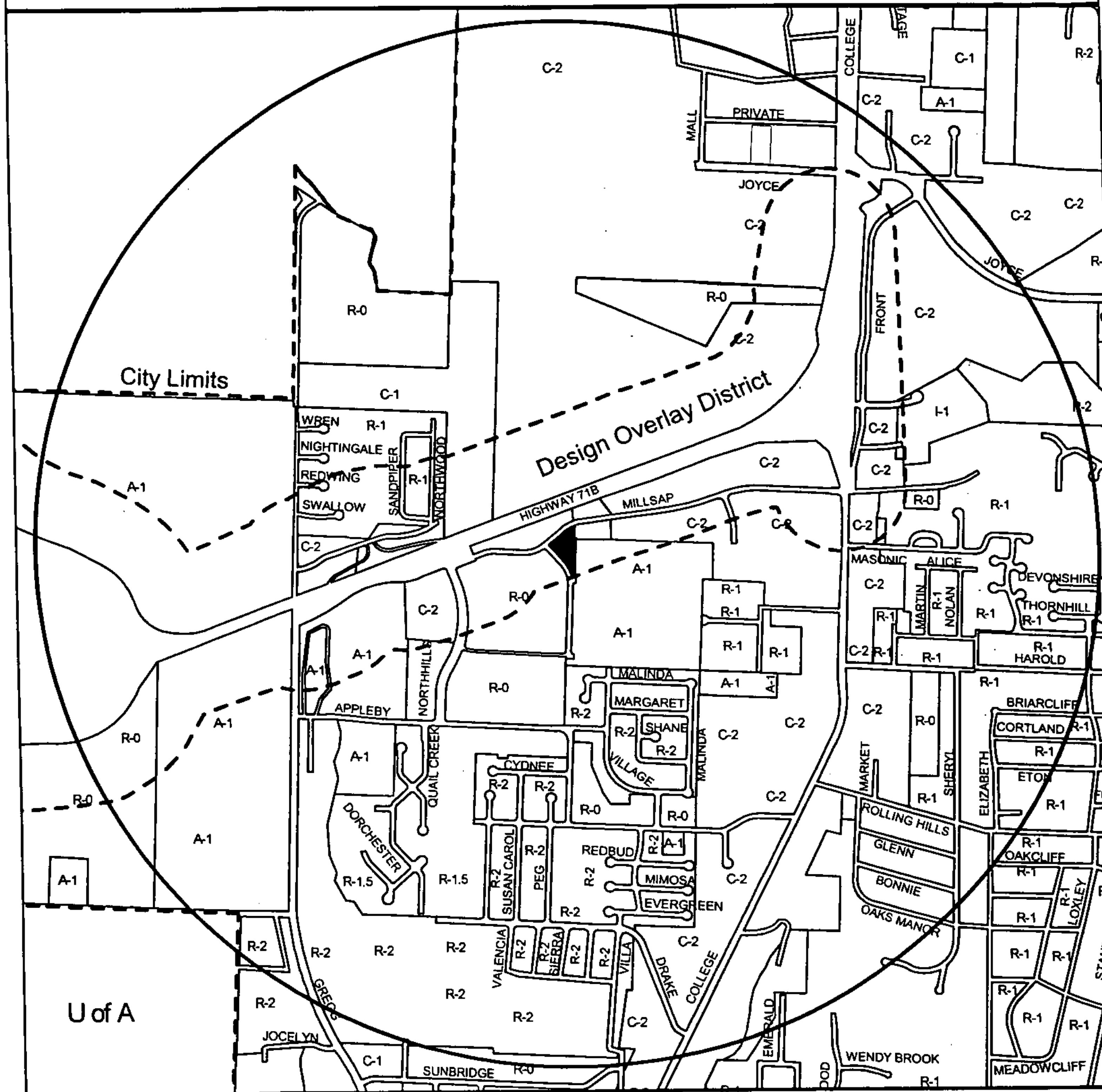
Conklin: Under our Commercial Design Standards, you are required to have 15% open area and green space and 85% for buildings and parking. They are meeting that requirement.

Estes: I have no other questions. Any other discussion?

Roll Call

Upon roll call, the motion passed with a vote of 7-0-1. Commissioner Shackelford abstained.

CU00-1.00 - Northpark Phase 2 (Parking) - One Mile Diameter



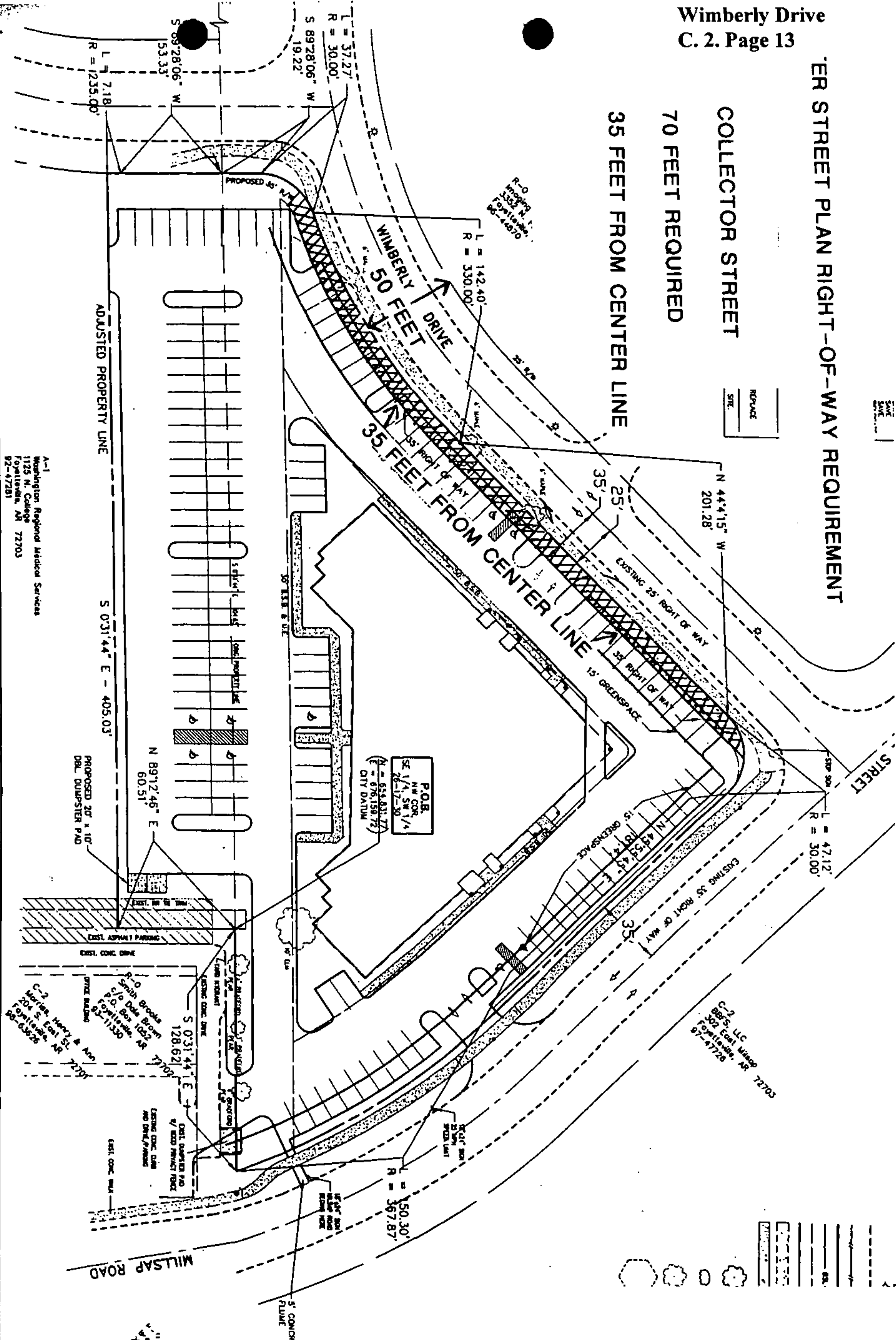
1400 0 1400 Feet

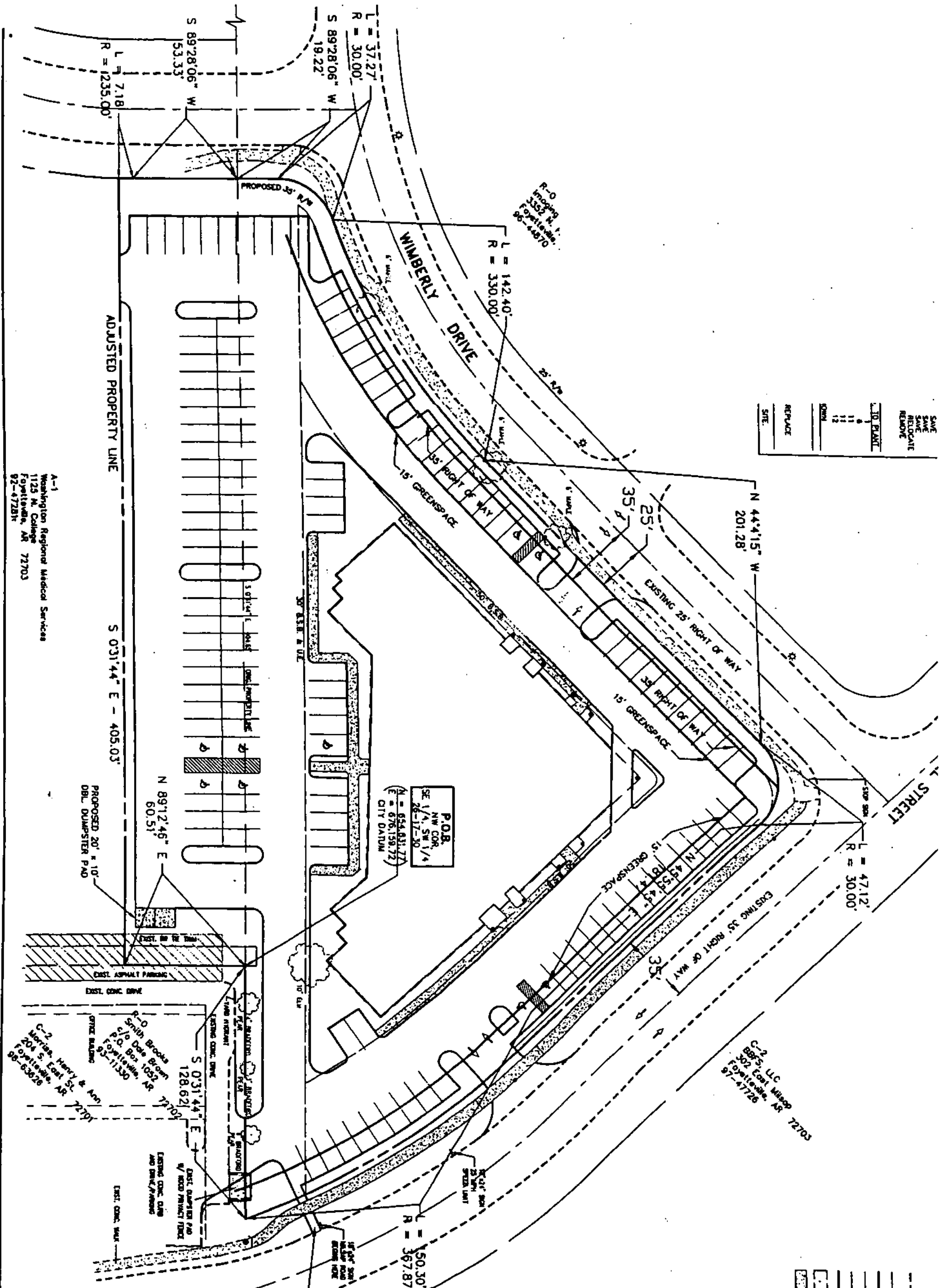


COLLECTOR STREET

70 FEET REQUIRED

35 FEET FROM CENTER LINE





§166.05 LARGE SCALE DEVELOPMENT.

6. Dedication of Right-of-Way. Dedicate sufficient right-of-way to bring those streets which the Master Street Plan shows to abut or intersect the large scale development into conformance with the right-of-way requirements of the master street plan for said streets; provided, the Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LESSER DEDICATION OF RIGHT OF WAY FOR A COLLECTOR STREET, WIMBERLY DRIVE, AS PROVIDED UNDER §166.05 (6) OF THE UNIFIED DEVELOPMENT ORDINANCE WHICH PROVIDES THAT THE PLANNING COMMISSION MAY RECOMMEND A LESSER DEDICATION IN THE EVENT OF UNDUE HARDSHIP OR PRACTICAL DIFFICULTIES AND SUCH LESSER DEDICATION SHALL BE SUBJECT TO APPROVAL BY THE CITY COUNCIL.

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

Section 1. That the City Council hereby approves not requiring a 10 foot dedication of right of way for Northpark Place II along Wimberly Drive between Futrall and Longview.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By _____
Heather Woodruff, City Clerk

CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY APPLICATION

As required in § 117.32 of the Fayetteville Code of Ordinances.

***** APPLICANT *****

NAME: Helen B. HUNSAKER + SAM HARMON
ADDRESS: 3242 Hall Rd.
HARRISON Ar
PHONE: 870-741-2158

DESCRIBE YOUR EXPERIENCE IN THE TRANSPORTATION OF PASSENGERS.

H.B. has driven 17 years (for pleasure) on wagons was raised with her
Sam drives stage coaches in parades for Johnson Brothers + also
wagons for number of years.

LIST YOUR FINANCIAL STATUS, INCLUDING THE AMOUNT OF ALL UNPAID JUDGEMENTS AGAINST YOU AND THE NATURE OF THE TRANSACTION OR ACTS GIVING RISE TO SAID JUDGEMENTS.

HB Lives on 200 acre farm in Boone Co. Works for Boone Co. J.P. 17 years
+ farm serves minority chairman (Retired) AARP District Director (Scoutmaster)
Sam Harmon is self employed + works on farm raising horses + mules
with HB

***** BUSINESS *****

NAME OF BUSINESS: H. + H. Carriage Co.
BUSINESS LOCATION: HARRISON + Springdale
MAILING ADDRESS: 3242 Hall Rd.
870-741-2158
PHONE: 501-751-6585

HOW MANY VEHICLES WILL BE AVAILABLE FOR YOUR OPERATION OR CONTROL ?

3

LIST THE LOCATION OF PROPOSED DEPOTS AND TERMINALS.

Fayetteville City Square

DESCRIBE THE COLOR SCHEME OR INSIGNIA TO BE USED TO DESIGNATE YOUR VEHICLES.

White + Black Red

WHAT IS YOUR PROPOSED RATE SCHEDULE ?

\$10 Adults
\$5 for 12 children to 5 (under 5 free)

Horse

LIST THE HOURS BETWEEN WHICH YOU PROPOSE TO PROVIDE TAXICAB SERVICE TO THE GENERAL PUBLIC, AND THE DAYS, IF ANY, ON WHICH YOU DO NOT PROPOSE TO PROVIDE TAXICAB SERVICE TO THE GENERAL PUBLIC.

5:30 - 9:30 thru week
5:30 - 11:30 Fri, Sat.

LIST THE NAMES AND ADDRESSES OF ALL OFFICERS AND STOCKHOLDERS OF THE COMPANY IF INCORPORATED.

DESCRIBE THE EXPERIENCE OF ALL OFFICERS AND STOCKHOLDERS IN THE TRANSPORTATION OF PASSENGERS.

LIST THE FINANCIAL STATUS OF THE OFFICERS AND STOCKHOLDERS OF THE COMPANY, IF INCORPORATED, INCLUDING THE AMOUNT OF ALL UNPAID JUDGEMENTS AGAINST ANY OF THEM AND THE NATURE OF THE TRANSACTIONS OF ACTS GIVING RISE TO SAID JUDGEMENTS.

TO WHOM SHOULD COMPLAINTS BE DIRECTED?

Helen B. Hunsaker 870-741-2158

APPLICANT, ON AN ATTACHED SHEET, PLEASE GIVE ANY FACTS WHICH YOU BELIEVE TEND TO PROVE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE GRANTING OF A CERTIFICATE. This seems to be an asset to the city ~~the~~mas holidays.

References:

Boone Co. Sheriff. Danny Hickman
Mayor of Harrison Bob Reynolds
Lennie Johnson - Johnson Brothers & Cowley Up Woster St
Past owner of Carriages from

February 7, 2000

Fayetteville City Council

This is to inform you that H & H Carriage Company, comprised of Sam Harmon and Helen Bill Hunsaker, have purchased the business formerly known as Fayetteville Carriages owned and operated by Gunner Broberg. We purchased 3 carriages and 3 horses that Mr. Broberg used in his operation in Fayetteville. We will also be using the same drivers as were previously used in the operation. We plan to commence immediately.

I, Sam Harmon, am a life-time resident of Springdale, Arkansas and am an experienced horseman. I have driven teams and last year drove a team pulling a stagecoach in the 4th of July parade in Springdale. I am an independent business man and have a great deal of fiscal responsibility.

I, Helen Bill Hunsaker, was born and raised in Boone County in the Gaither community near Harrison. I am also an excellent horse person and can drive teams as well. I have represented my area of the county as Quorum Court member for 16 years and have been very active in other community endeavors over the years.

We believe that the H & H Carriage Company will be a real asset to the area under our leadership.

Thank you,

Sam Harmon

Sam Harmon

Helen Bill Hunsaker
Helen Bill Hunsaker

H & H Carriage Company
3242 Hall Road
Harrison, AR 72601
(870) 741-2158

Exclusive Agreement for the Preparation of a Business Plan Leading to the Development of the Northwest Arkansas Multipurpose Recreation Center

THIS AGREEMENT is made this _____ day of February, 2000, by and between the City of Fayetteville ("City") and QuesTec Corporation, a Missouri corporation ("QuesTec") to prepare a business plan leading to the development of the Northwest Arkansas Multipurpose Recreation Center ("the Project").

IN CONSIDERATION of the mutual covenants and agreements set forth herein, the City and QuesTec agree as follows:

1. During the one hundred twenty (120) day period following the date of this Agreement, QuesTec, with the cooperation of the City, will develop a comprehensive Business Plan for the Project to be owned by the City, which will include the following:

- A facility needs analysis.
- An economic impact analysis.
- A local demographic market study.
- A written architectural program, including ADA assessment.
- An area site plan.
- An arena concept design.
- Schematic Design development plans and performance specifications.
- A detailed construction budget.
- A forecast of revenue and operating expenses.
- A total project development budget.
- A detailed business plan including ownership structure and financing formula.
- A feasibility study by a firm satisfactory to a financial institution sufficient to complete the financing of the project.

2. For a period of one (1) year from the date of delivery of the Business Plan, the City will deal exclusively with QuesTec, and shall not initiate, respond to or participate in any discussion or negotiation with any other person or entity concerning the potential development or construction of a new multipurpose recreation center or similar project or any matter related to or ancillary thereof without written notification that the project has been abandoned by QuesTec. Similarly, for a period of one (1) year from the date of delivery of the Business Plan, QuesTec shall not initiate, respond to or participate in any discussion or negotiation concerning the potential development or construction of the new multipurpose recreation center or similar project within the distance of 50 miles from the City's boundaries.

3. The City shall pay QuesTec a fixed fee in the sum of Two Hundred Thousand Dollars (\$200,000), payable as follows:

A. One Hundred Thousand Dollars (\$100,000) fifteen (15) days after the date of this Agreement; and

B. Seventy-five Thousand Dollars (\$75,000) forty-five (45) days after the date of this Agreement; and

C. Twenty-five Thousand Dollars (\$25,000) within fifteen (15) days after delivery of the Business Plan.

4. While the parties understand that this contract is not a contract for professional engineering services, the terms and provision of Sections 3.1, 3.2, 3.3, 3.5, 5.1.2, 5.4, 6.2, 7.2, 7.3.1, 7.3.2, and 7.4 of the Standard Form of Agreement Between Owner and Engineer for Study and Report Professional Services, EJDC No. 1910-19 (1985 Edition) as Issued and Published Jointly By Professional Engineers in Private Practice, A Practice Division of the National Society of Professional Engineers, American Consulting Engineers Council and American Society of Civil Engineers, with the term "OWNER" used therein interpreted as referring to the City and the term "ENGINEER" used therein interpreted as referring to QuesTec, and the term "the Assignment" used therein interpreted as referring to the Business Plan, are incorporated herein by reference.

5. This Agreement represents the entire and integrated agreement between the City and QuesTec and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and QuesTec.

6. The parties recognize and agree that the Business Plan provided for herein is to be used for the development of the Northwest Arkansas Multipurpose Recreation Center by Nustadia Inc. exclusively for a period of one (1) year following the delivery of the Business Plan.

7. QuesTec agrees to reimburse the City the \$200,000 fee for the business plan should the Project be developed by QuesTec and/or Nustadia, their successors and assigns. Said reimbursement shall be paid by QuesTec to the City ninety (90) days following the start of construction on the project.

CITY OF FAYETTEVILLE

QUESTEC CORPORATION, a
Missouri Corporation

By: _____
Mayor

By: _____
Joseph Greaves, Vice President

ATTEST: _____
City Clerk

By: _____
Gary McLagan, Secretary

**Exclusive Agreement for the Preparation of a Business Plan Leading to the
Development of the Northwest Arkansas Multipurpose Recreation Center**

THIS AGREEMENT is made this _____ day of February, 2000, by and between the City of Fayetteville ("City") and QuesTec Corporation, a Missouri corporation ("QuesTec") to prepare a business plan leading to the development of the Northwest Arkansas Multipurpose Recreation Center ("the Project").

IN CONSIDERATION of the mutual covenants and agreements set forth herein, the City and QuesTec agree as follows:

1. During the one hundred twenty (120) day period following the date of this Agreement, QuesTec, with the cooperation of the City, will develop a comprehensive Business Plan for the Project to be owned by the City, which will include the following:

- A facility needs analysis.
- An economic impact analysis.
- A local demographic market study.
- A written architectural program, including ADA assessment.
- An area site plan.
- An arena concept design.
- Schematic Design development plans and performance specifications.
- A detailed construction budget.
- A forecast of revenue and operating expenses.
- A total project development budget.
- A detailed business plan including ownership structure and financing formula.
- A feasibility study by a firm satisfactory to a financial institution sufficient to complete the financing of the project.

2. For a period of one (1) year from the date of delivery of the Business Plan, the City will deal exclusively with QuesTec, and shall not initiate, respond to or participate in any discussion or negotiation with any other person or entity concerning the potential development or construction of a new multipurpose recreation center or similar project or any matter related to or ancillary thereof without written notification that the project has been abandoned by QuesTec. Similarly, for a period of one (1) year from the date of delivery of the Business Plan, QuesTec shall not initiate, respond to or participate in any discussion or negotiation concerning the potential development or construction of the new multipurpose recreation center or similar project within the distance of 50 miles from the City's boundaries.

3. The City shall pay QuesTec a fixed fee in the sum of Two Hundred Thousand Dollars (\$200,000), payable as follows:

A. One Hundred Thousand Dollars (\$100,000) fifteen (15) days after the date of this Agreement; and

B. Seventy-five Thousand Dollars (\$75,000) forty-five (45) days after the date of this Agreement; and

C. Twenty-five Thousand Dollars (\$25,000) within fifteen (15) days after delivery of the Business Plan.

4. While the parties understand that this contract is not a contract for professional engineering services, the terms and provision of Sections 3.1, 3.2, 3.3, 3.5, 5.1.2, 5.4, 6.2, 7.2, 7.3.1, 7.3.2, and 7.4 of the Standard Form of Agreement Between Owner and Engineer for Study and Report Professional Services, EJDC No. 1910-19 (1985 Edition) as Issued and Published Jointly By Professional Engineers in Private Practice, A Practice Division of the National Society of Professional Engineers, American Consulting Engineers Council and American Society of Civil Engineers, with the term "OWNER" used therein interpreted as referring to the City and the term "ENGINEER" used therein interpreted as referring to QuesTec, and the term "the Assignment" used therein interpreted as referring to the Business Plan, are incorporated herein by reference.

5. This Agreement represents the entire and integrated agreement between the City and QuesTec and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and QuesTec.

6. The parties recognize and agree that the Business Plan provided for herein is to be used for the development of the Northwest Arkansas Multipurpose Recreation Center by Nustadia Inc. exclusively for a period of one (1) year following the delivery of the Business Plan.

7. QuesTec agrees to reimburse the City the \$200,000 fee for the business plan should the Project be developed by QuesTec and/or Nustadia, their successors and assigns. Said reimbursement shall be paid by QuesTec to the City ninety (90) days following the start of construction on the project.

CITY OF FAYETTEVILLE

QUESTEC CORPORATION, a
Missouri Corporation

By: _____
Mayor

By: _____
Joseph Greaves, Vice President

ATTEST: _____
City Clerk

By: _____
Gary McLagan, Secretary

CC. 9/15

Eski-Motives

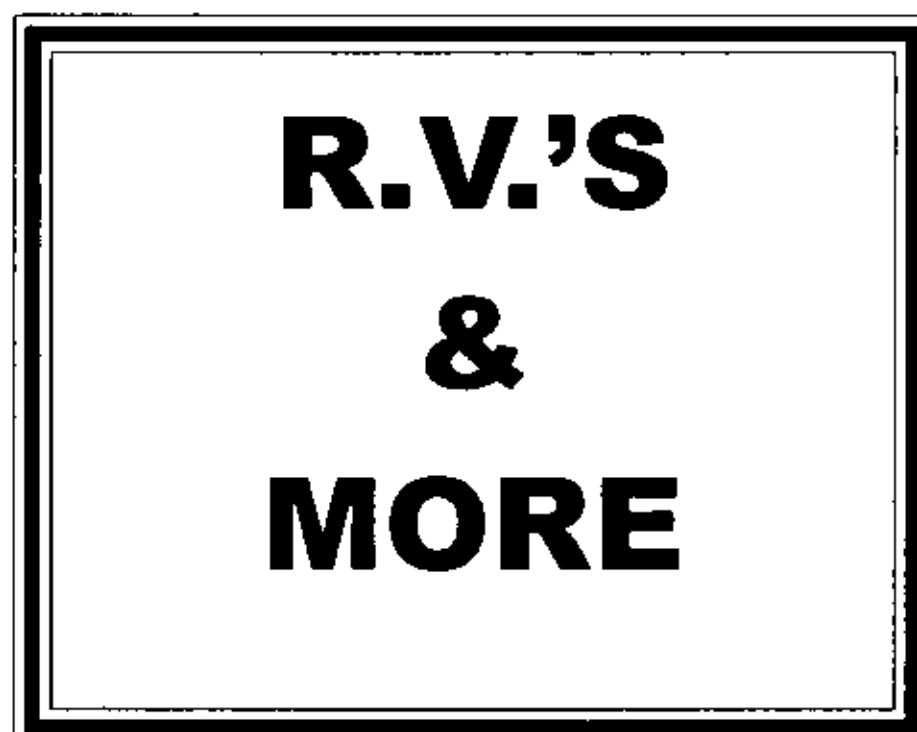
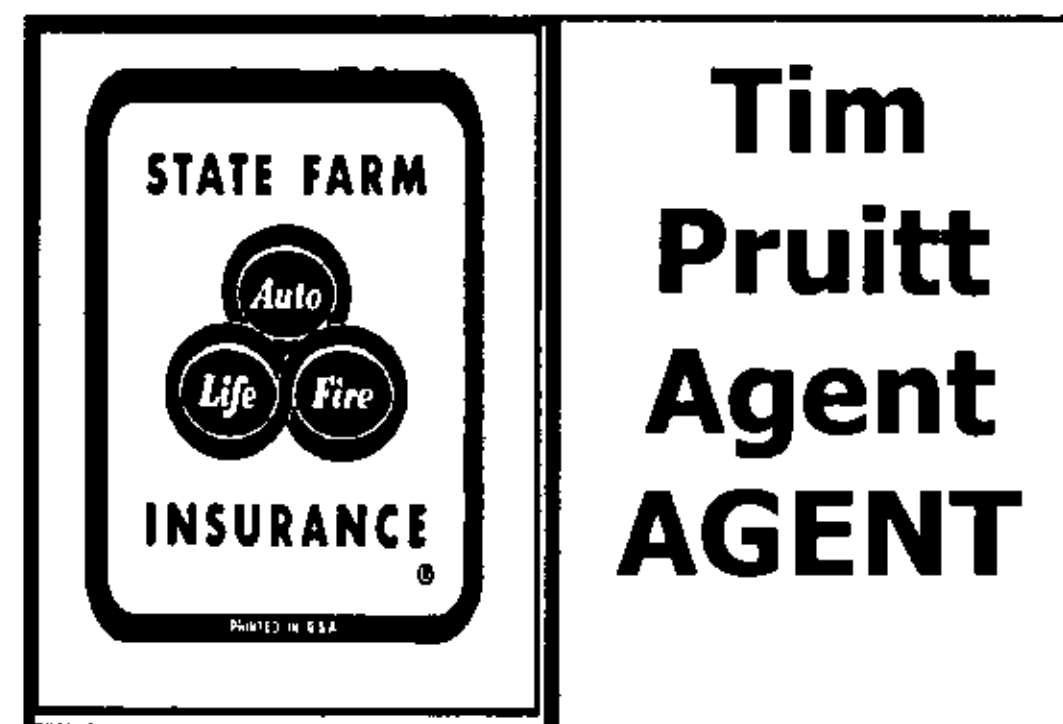
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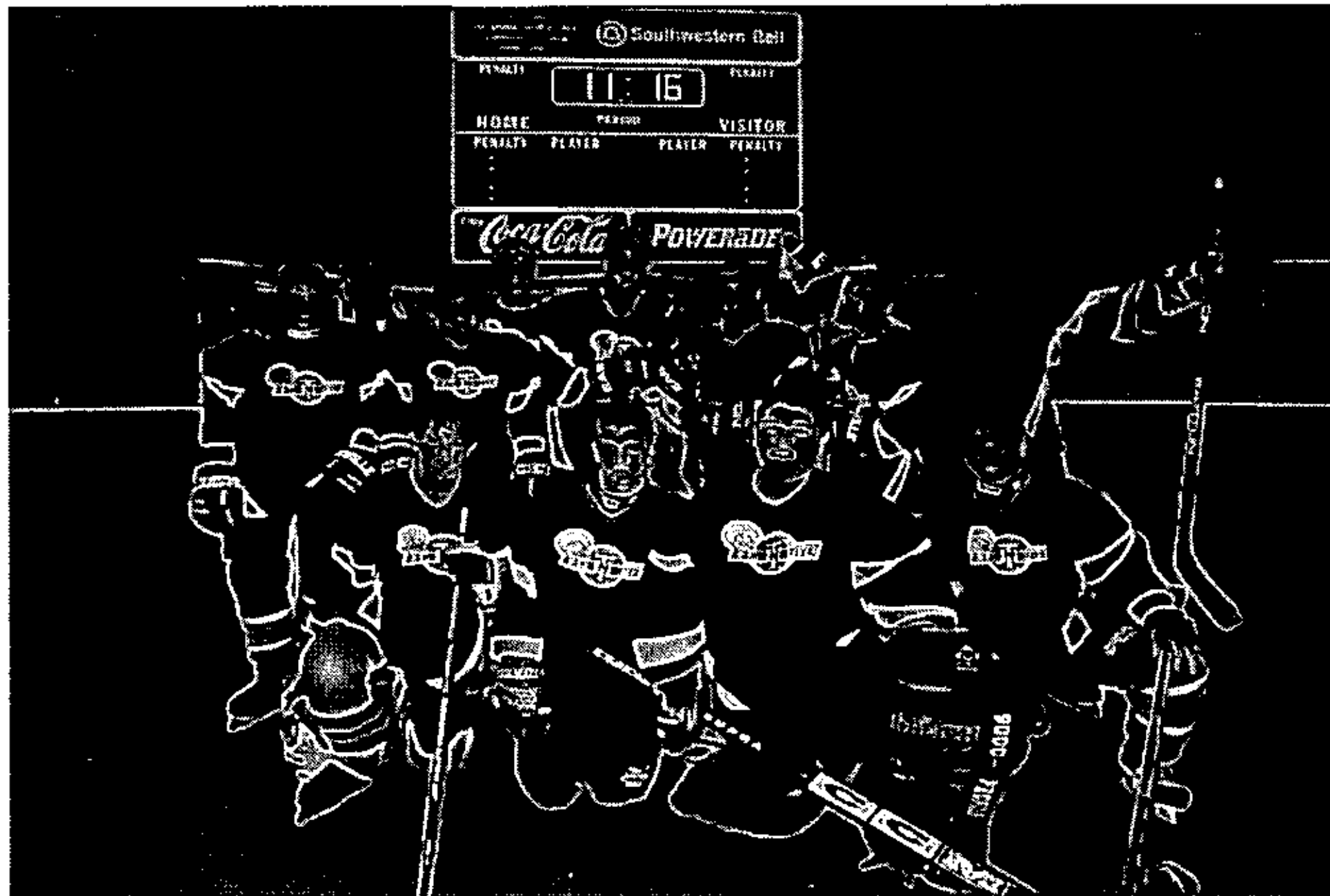
1999-2000 Midgets



Blankenship, Joe	6	Parson, Wade	25
Burt, Chris	9	Parsons, Luke	10B
Chesley, Joseph	4	Rhodes, Joe	16
Gray, David	8	Rouse, Kyle	24B
Greer, Tommy	20	Schaffer, Larry	17
Hill, Matt	7	Seliga, A.J.	13
Koch, Gerrit	5	Seliga, Matt	14
McGarrah, Chris	23B	Sutton, Alex	12B
McNair, Daniel	11	Snow, Jesse	15
Miller, Andy	22	Timmons, Tim	19
Mitchell, Kevin	21	Vinagre, Edward	18

Coaches: David Burt, Jim Fougny, Mark Aprea
 Manager: Karen Snow

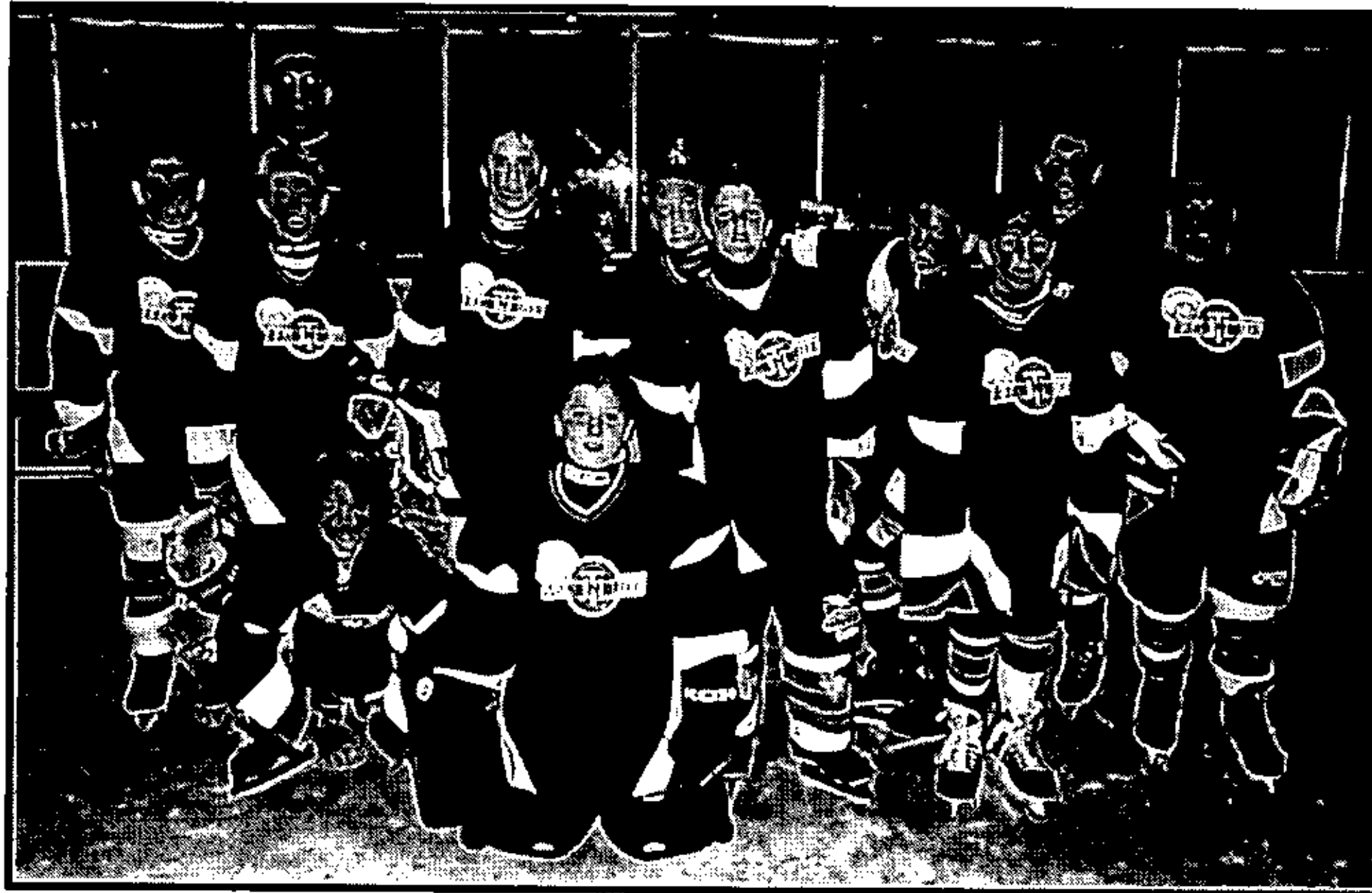
1999-2000 Bantams



Barnett, Michael	13	Nightengale, Mellissa	16
Blankenship, Joe	6	Parsons, Luke	10
Curiel, Johnny	11	Rouse, Kyle	24
Holt, Austin	9	Shenk, Donnie	5
Marx, Jason	7	Sutton, Alex	12
McGrarrah, Chris	23	Timmons, Tim	19
Miller, Andy	22	Young, Tyler	4

Coaches: Randy Buterbaugh, Vergil Maghiar
Manger: Ronnie Marx, Carol Marx

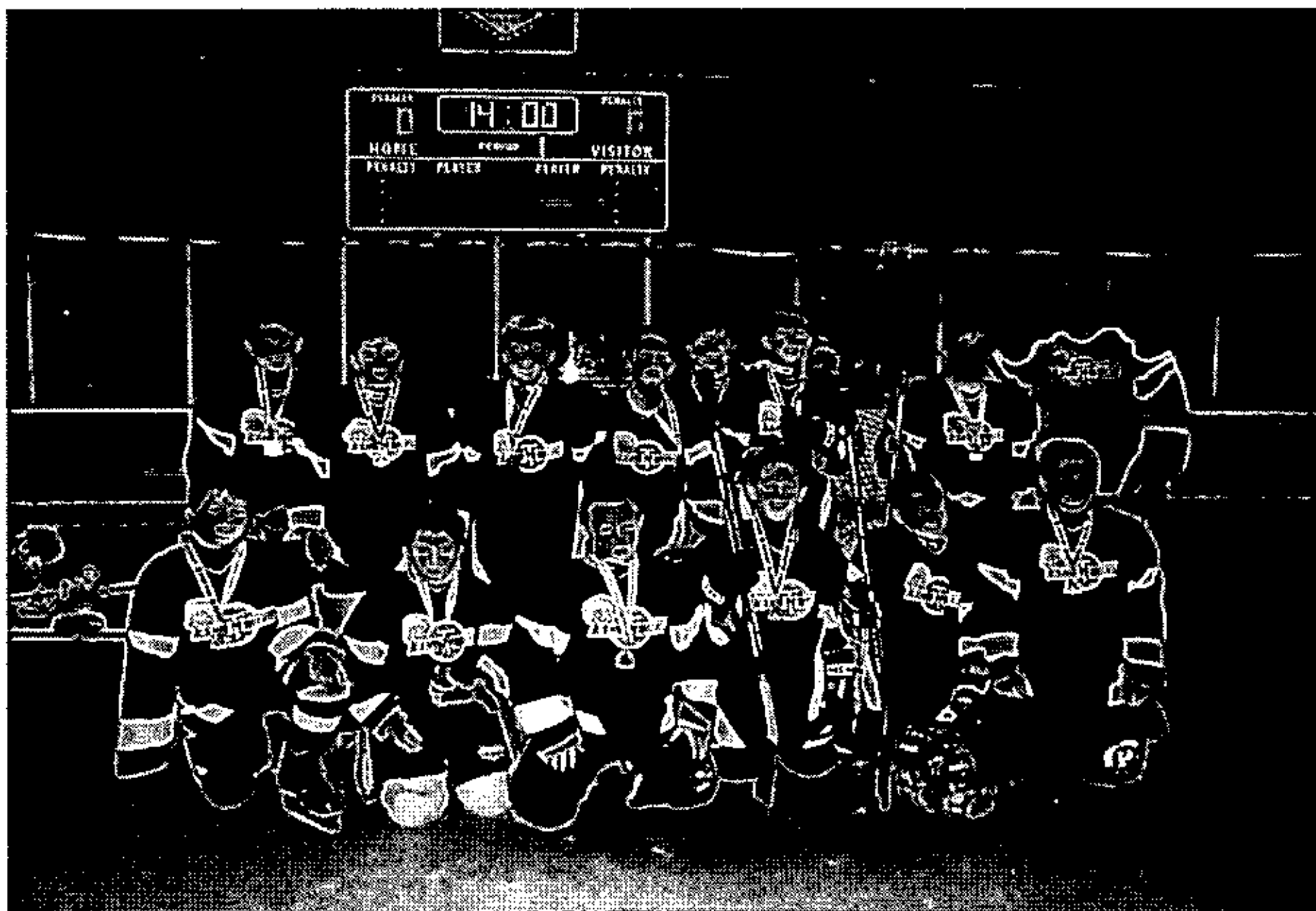
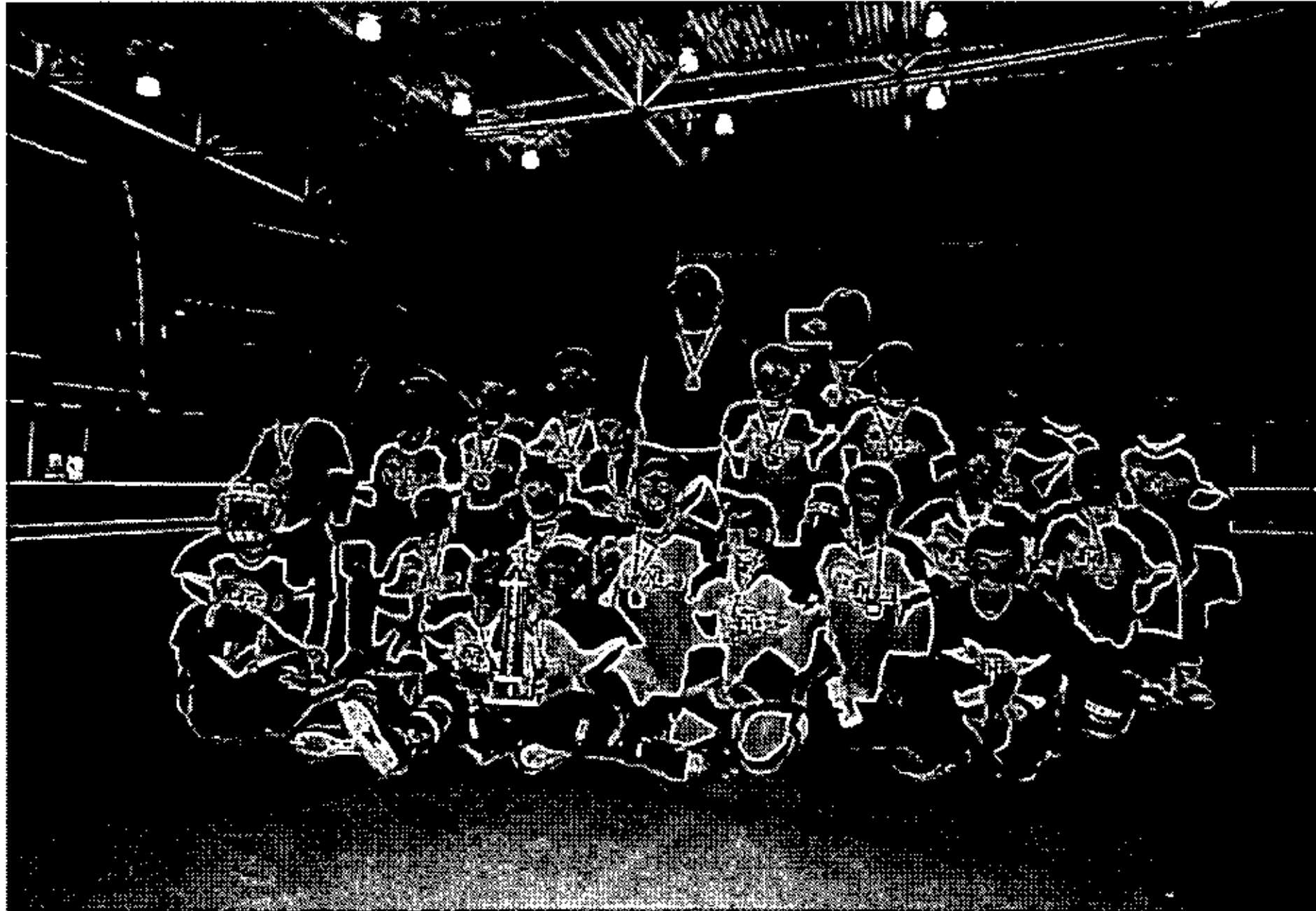
1999 - 2000 PeeWees



Carroll, Sean	12	Hickman, Dustin	17
Clark, Brian	7	Lewis, Matthew	16
Del Sol, David	14	Nelson, Kerry	9
Dunlap, Luke	11	Nightengale, Collis	10
Felker, Andrew	3	Pfau, Steve	13
Freeman, Dustin	15	Phalen, Thomas	24
Hearth, Alan	5	Raff, Gene	6
		Skinner, Jared	19

Coach: Pat Carroll, Russ Wills
Manager: Franni Pilgrim

1999-2000 Squirts



Squirts Team Roster

Archambault, Zach	12
Bragg, Cody	35
Bruce, Michael	28
Burkhead, Matt	25
Butler, Josh	27
Cheval, Michael	26
Clark, Wells	32
Frederking, Austin	42
Haley, Oliver	15
Little, Jarod	40
Longville, Kevin	31
Manthe, Teddy	44
Marx, Steven	22
McBryde, Brandon	34
McGaugh, Shelton	2
Reither, Cody	54
Robertson, Austin	41
Salazar, Jeremy	47
Shackleford, Colton	33
Sullivan, Daniel	11
Sullivan, Kyle	8
Swaffer, Chase	39
Walker, Ashton	9
Walker, Preston	36
Wynn, Aaron	30

Coaches: Yves Archambault, Doug Manthe
Manager: Sandy Walker

1999-2000 Mites



Couture, Andrew	17	Nilsson, Alex	
Crouch, Austin	16	Parsons, Marcus	56
Fuller, Race	23	Shoulders, Patrick	37
Glenn, Tyler	43	Sullivan, Asa	20
Henry, Jared	5	Sullivan, Kyle	8
Holtgrewe, Colton	21	Sullivan, Nathan	1
Krenning, Kolin	6	Wakefield, Chase	7
Lodwick, Caleb	53	White, Cody	24
McCarthy, Michael	3	Young, Luke	13
Montgomery, Kenton	4		

Coaches: Jakob Nilsson, Brian Krenning, Bill Henry, Mike Couture
 Manager: Paula Lodwick



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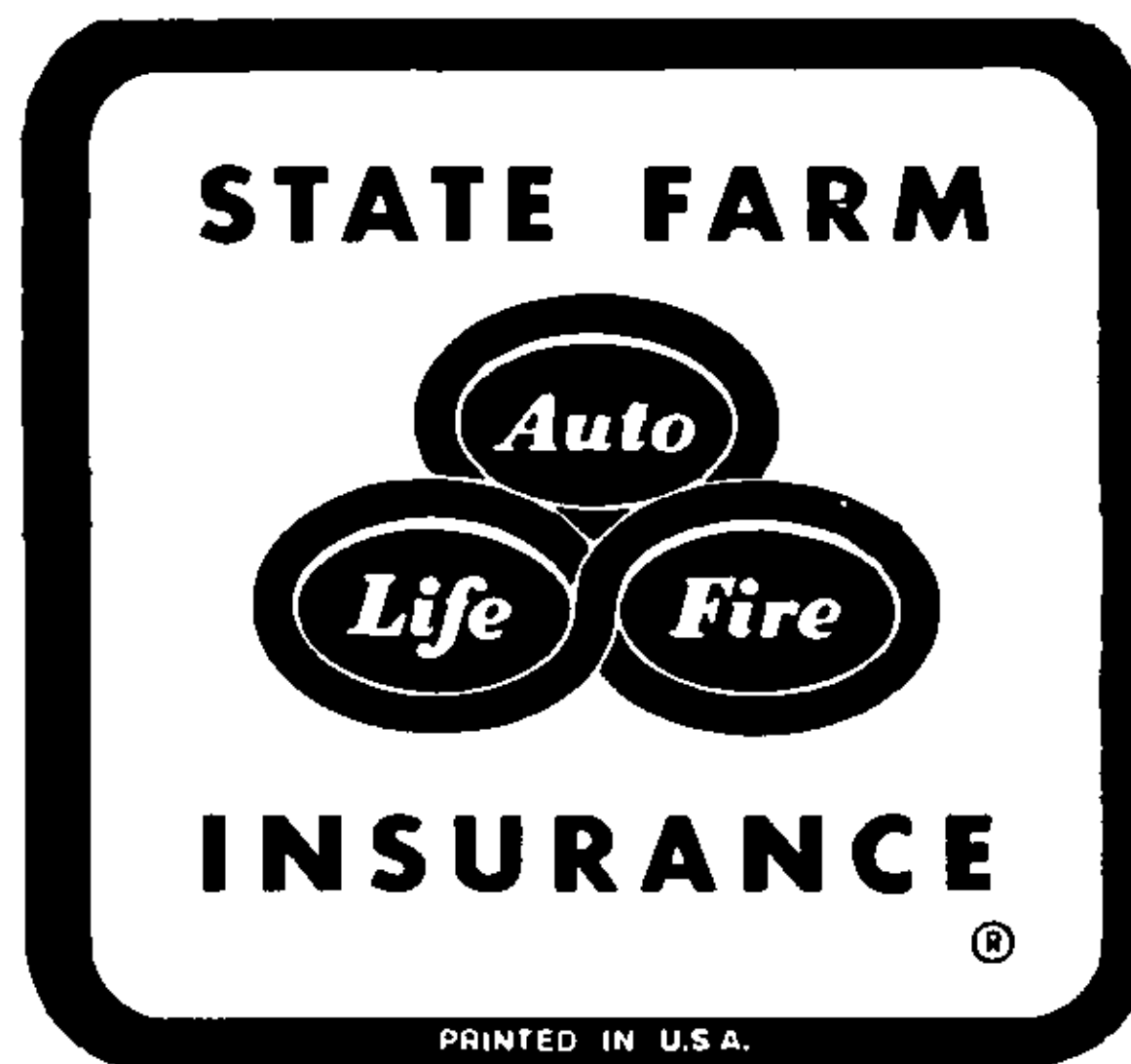
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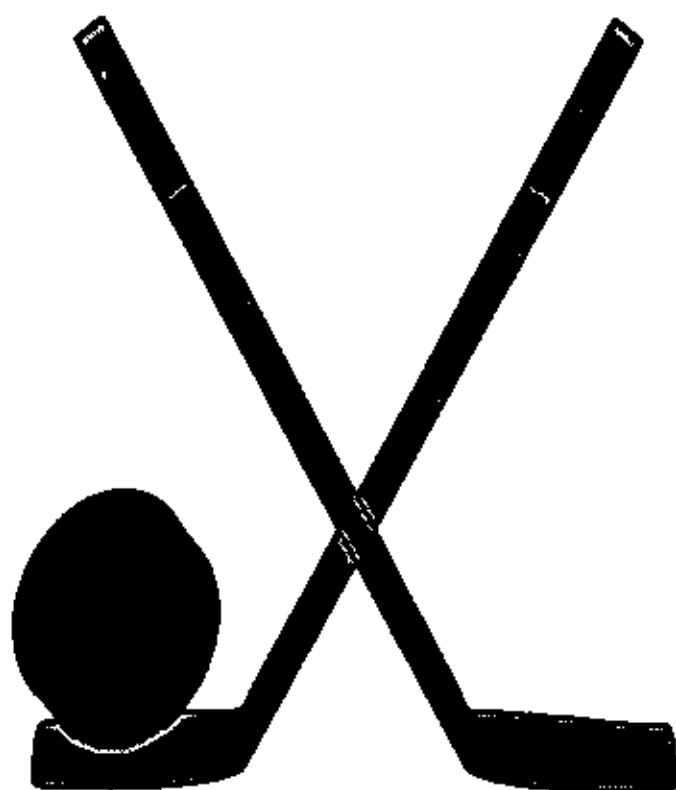
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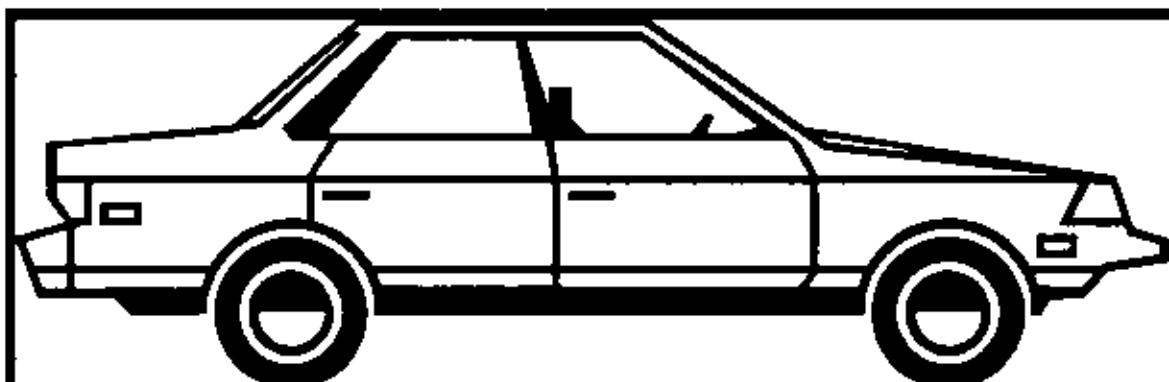
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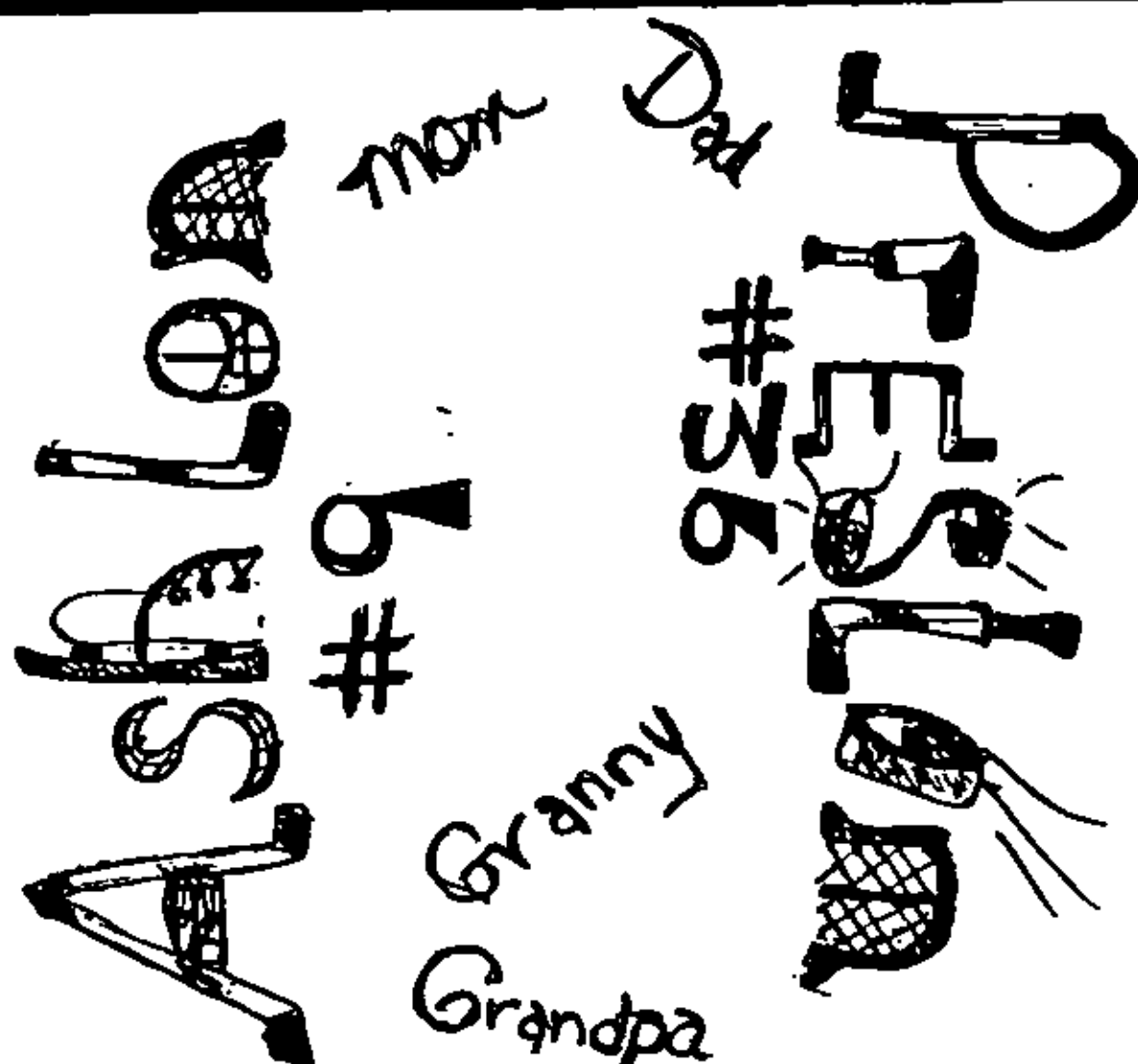
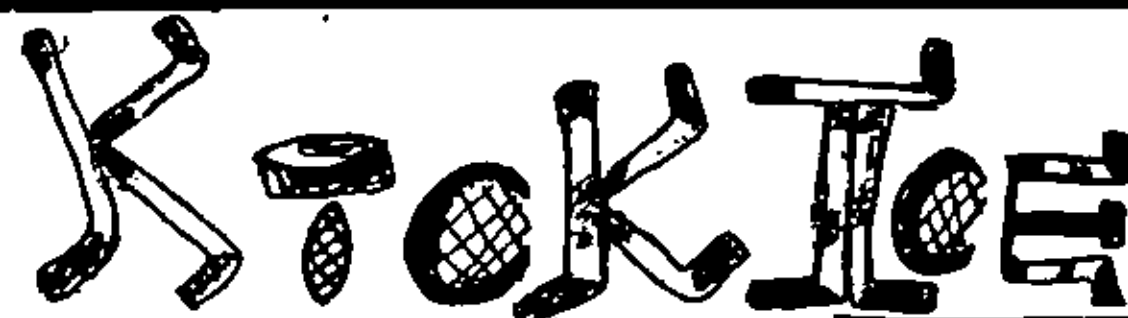
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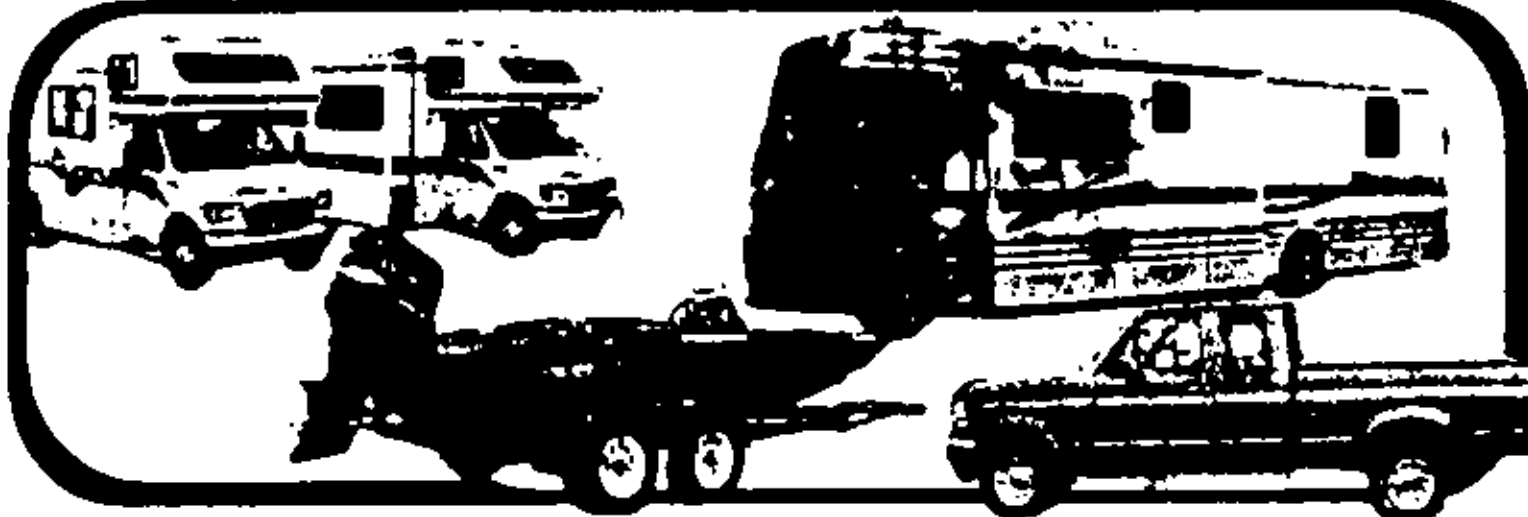
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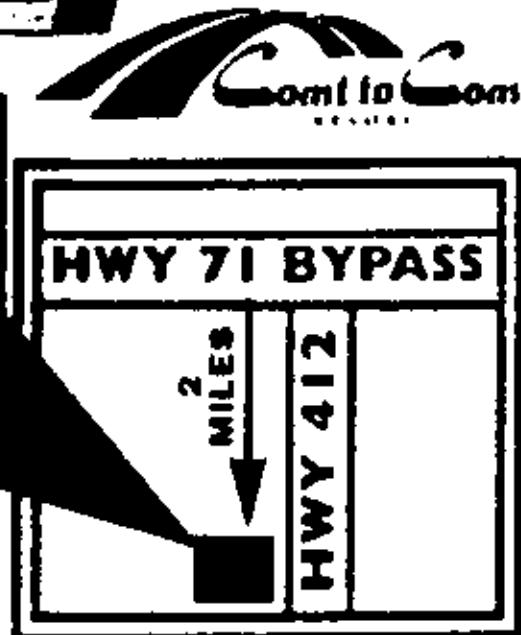
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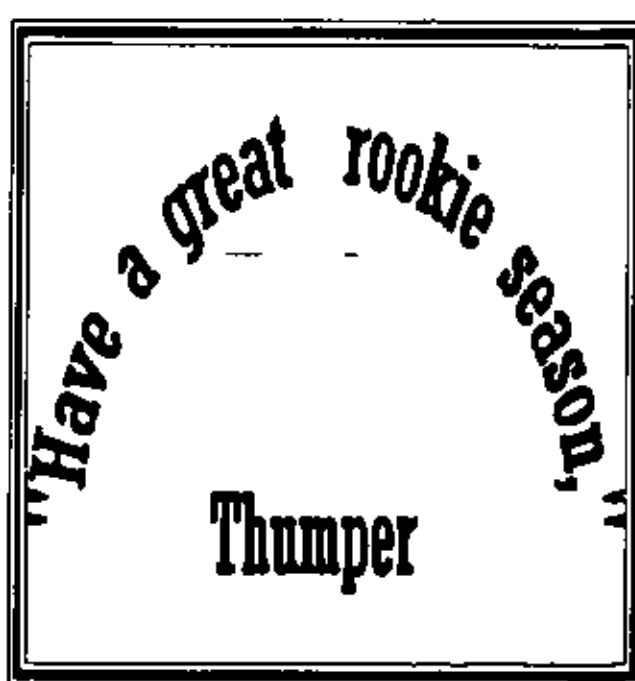
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BODY CHECKING - Intentional use of the body or part of the body to hinder an opponent. Body checking is prohibited in ice hockey for boys 10 years and younger, all girls and women classifications, and in roller hockey.

BREAKAWAY - A scoring opportunity that exists when players with full control of the puck have no opposing players between themselves and the opposing goal.

CROSS-CHECKING - An infraction resulting from a player, holding the stick with both hands, checking any opponent by using the shaft of the stick with no part of the stick on the surface.

DEKE - A fake accomplished by moving the puck or part of the body to one side, then moving in the opposite direction.

HOOKING - An infraction resulting from a player using the stick blade in a *pulling or tugging* motion to impede the progress of an opponent.

ICING - A stoppage of play that occurs when a team sends the puck down the length of the ice from its side of the red line.

OFFSIDES - An infraction resulting from players of an attacking team preceding the puck into the attacking zone. (crossing the blue line before the teammate with the puck does.)

POWER PLAY - A situation in which one team gains a numerical player advantage, usually because of a penalty by the other team.

SLASHING - An infraction resulting from a player hitting an opponent with the stick while holding the stick with one or both hands. A player who swings the stick at an opponent without making contact is still guilty of slashing.

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Just A Boy

HE STANDS AT THE BLUE LINE WITH HIS HEART
PUMPING FAST.

THE SCORE IS TIED; THE DIE HAS BEEN CAST.
MOM AND DAD CANNOT HELP HIM; HE STANDS ALONE.
A GOAL AT THIS MOMENT COULD SEND THE TEAM
HOME.

THE PUCK NEARS THE GOAL, HE SHOOTS AND HE
MISSES.

THERE'S A GROAN FROM THE CROWD, WITH SOME
BOOS AND SOME HISSES.

A THOUGHTLESS VOICE CRIES, "THROW OUT THE
BUM."

TEARS FILL HIS EYES; THE GAME IS NO LONGER FUN.
REMEMBER, HE'S JUST A BOY WHO STANDS ALL ALONE.
SO OPEN YOUR HEART AND GIVE HIM A BREAK.
FOR IT'S MOMENTS LIKE THIS, A MAN YOU CAN MAKE.
KEEP THIS IN MIND WHEN YOU HEAR SOMEONE FORGET.
HE'S JUST A BOY AND NOT A MAN YET.

-A COACH FROM Y.T.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 2485 OF THE CITY OF
FAYETTEVILLE, ARKANSAS, AS AMENDED, TO AUTHORIZE THE
FAYETTEVILLE PUBLIC FACILITIES BOARD TO ISSUE REVENUE BONDS TO
FINANCE CONSTRUCTION OF RECREATIONAL AND TOURIST FACILITIES AND
RESIDENTIAL APARTMENTS FOR PERSONS OF LOW AND MODERATE INCOME**

WHEREAS, the City of Fayetteville, Arkansas has created a Public Facilities Board, and, pursuant to the Arkansas Public Facilities Board Act, Ark. Code Ann. §§14-¹³⁷~~13~~-101, *et seq.*, has authorized the Public Facilities Board to issue revenue bonds to finance construction of residential housing, health care and related facilities provided said facilities are owned by non-profit corporations or associations; and,

WHEREAS, the Arkansas Public Facilities Board Act authorizes a public facilities board created by a municipality to issue revenue bonds for the purpose of financing construction of recreational and tourist facilities and privately-owned residential housing facilities; and,

WHEREAS, the Fayetteville City Council has determined that it is in the best interest of the economic welfare for the City of Fayetteville to authorize the Fayetteville Public Facilities Board to issue revenue bonds to provide an alternative method of financing for the construction of recreational and tourist facilities and residential apartments for persons of low or moderate income.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville, Arkansas:

Section 1. That Section 4 of Ordinance No. 2485, of the City of Fayetteville, Arkansas, as amended, is hereby amended by adding the following:

The Board is expressly authorized to issue revenue bonds for the purpose of financing construction of recreational and tourist facilities and residential apartments for persons of low or moderate income.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Mayor

ATTEST:

City Clerk

RESOLUTION

A RESOLUTION EXPRESSING THE INTENT OF THE FAYETTEVILLE PUBLIC FACILITIES BOARD (THE "ISSUER") TO MAKE REIMBURSEMENT FOR PRELIMINARY COSTS AND TO AUTHORIZE THE PREPARATION OF CERTAIN DOCUMENTATION FOR THE SUBSEQUENT APPROVAL OF THE ISSUER RELATED TO THE ISSUANCE OF THE ISSUER'S MULTIFAMILY HOUSING REVENUE BONDS (GREENFIELD COMMONS APARTMENTS PROJECT), TAX-EXEMPT SERIES 1999A AND TAXABLE SERIES 1999B (COLLECTIVELY, THE "BONDS") FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MULTIFAMILY HOUSING FACILITY TO BE LOCATED IN THE CITY OF FAYETTEVILLE, ARKANSAS; SPECIFYING THAT THE BONDS SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE TO BE PROVIDED IN A TRUST INDENTURE; AUTHORIZING PREPARATION FOR THE MARKETING OF THE BONDS; DESIGNATING THE UNDERWRITER, BOND COUNSEL AND ISSUER COUNSEL FOR THE ISSUANCE OF THE BONDS; PROVIDING FOR THE EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the Fayetteville Public Facilities Board (the "Issuer") has been organized by ordinances (collectively, the "Ordinance") of the City of Fayetteville, Arkansas (the "City"), and exists under the laws of the State of Arkansas, including particularly Arkansas Code Annotated Sections 14-137-101 *et seq.* (Repl. 1998) (the "Act"), as a public facilities board; and

WHEREAS, the Issuer is authorized by the Act to issue its bonds to provide financing for multifamily housing projects for moderate income persons and families within the City as may be provided under the provisions of financing documents as authorized under the provisions of the Act; and

WHEREAS, the Issuer has determined that the Borrower, hereinafter named, is required to make certain expenditures for acquisition, design and site preparation related to the Project, as hereinafter defined, and in order to do so, the Borrower must incur certain costs prior to the issuance of the Bonds, as hereinafter defined, by the Issuer; and

WHEREAS, the Issuer has determined that the economic interests and public purposes of the Issuer are served by adopting a resolution expressing the intent of the Issuer to reimburse the Borrower, as hereinafter defined, for preliminary costs incurred prior to the issuance of its Multifamily Housing Revenue Bonds (Greenfield Commons Apartments Project), Tax-Exempt Series 1999A, in an aggregate principal amount not to exceed \$6,500,000, and Taxable Series 1999B, in an aggregate principal amount not to exceed \$4,000,000 (collectively, the "Bonds"), for the purpose of providing funds to acquire, construct and equip a multifamily housing facility for moderate income persons and families within the City (the "Project"), to be owned and

operated by Fayetteville Greenfield 1999 Limited Partnership, a California limited partnership (the "Borrower"), to pay the costs of issuance of such Bonds and for purposes related thereto, including compliance with the terms of Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended, for the purpose of the Borrower receiving reimbursement from Bond proceeds for preliminary costs incurred prior to the issuance of the Bonds and related to the financing, acquisition, construction and equipping of the Project; and

WHEREAS, the Bonds shall not constitute debt or liability or a moral obligation of the State, the City, the Issuer or any political subdivision of the State or the City, or a pledge of the faith and credit or taxing power of the State, the City, the Issuer or any political subdivision of the State or the City, but shall be a special obligation payable solely from the revenues pledged under the provisions of the Bond documents and other amounts payable thereunder by the Borrower; and

WHEREAS, the Issuer herein expresses the intent of the Issuer to reimburse preliminary costs related to the Project pursuant to Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended, and to consider the issuance of the Bonds subject to the final approval of the Issuer and authorizes the Bond Counsel and the Underwriter, hereinafter designated in Section 5 and Section 6 hereof, with the advice and assistance of the Chairman and Secretary of the Issuer, to take certain actions to prepare for the approval of the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE FAYETTEVILLE PUBLIC FACILITIES BOARD THAT:

Section 1. Authorization To Prepare Documents Related to the Issuance of the Bonds. The Bond Counsel, as hereinafter defined, with the advice and assistance of the Chairman of the Issuer, may prepare documents relating to the issuance of the Bonds, provided however, the Issuer shall first adopt an authorizing resolution before any such documents are binding upon the Issuer. After preparation of such documents, the Chairman shall present such documents to the Issuer for approval. The Chairman of the Issuer is hereby authorized to take such other actions as may be required to prepare for the final approval of the sale of the Bonds at a subsequent meeting of the Issuer. The adoption of this Resolution is intended as official action evidencing the Issuer's intent to issue the Bonds and to authorize the use of Bond proceeds to reimburse the Borrower for preliminary costs incurred with respect to the Project in compliance with the provisions of Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended.

Section 2. Authorization of a Preliminary Official Statement. The preparation and use of a Preliminary Official Statement to market the Bonds is hereby in all respects authorized, approved and confirmed, and the Chairman of the Issuer is hereby empowered to authorize the dissemination of a Preliminary Official Statement in the name and on behalf of the Issuer in such form as shall be deemed necessary to market the Bonds.

Section 3. *Bonds Shall be Limited Obligations.* The Bonds shall be limited obligations of the Issuer payable from amounts to be received from the Borrower pursuant to the terms of a financing agreement and from other funds pledged to the payment of the Bonds pursuant to the terms of a trust indenture. The financing agreement(s) and the trust indenture to be utilized in conjunction with the issuance of the Bonds shall be presented for the approval of the Issuer at such time as the issuance of the Bonds is finally approved.

Section 4. *Authority To Prepare and Deliver Additional Documents.* The Chairman may in his sole discretion direct the Bond Counsel to prepare additional documents as he may deem necessary or appropriate for preparation for the issuance of the Bonds, and may present any such documents for the approval and execution of the Issuer.

Section 5. *Designation of Bond Counsel and Issuer Counsel.* The firm of Kutak Rock is hereby designated as bond counsel to the Issuer (the "Bond Counsel") in connection with the issuance of the Bonds and the preparation of the documents to be entered into among the Issuer, the Borrower, the Trustee, if any, and the Underwriter hereinafter named. James N. McCord, Esq., with the firm of Hall, Estill, Hardwick, Gable, Golden & Nelson, is hereby designated as counsel to the Issuer in connection with the issuance of the Bonds.

Section 6. *Designation of Underwriter.* The firm of Stephens Inc. is hereby designated as underwriter (the "Underwriter") for the purpose of marketing the Bonds and advising the Issuer concerning financial matters relating to the financing of the Project. The sale of the Bonds to the Underwriter will be accomplished pursuant to the terms of a bond purchase agreement to be presented for the approval of the Issuer at such time as the issuance of the Bonds is finally approved.

Section 7. *Notice of Public Hearing.* The Issuer authorizes, upon the advice and assistance of the Bond Counsel, the preparation and publication of a notice of public hearing regarding the issuance of the Bonds to be conducted by the Mayor or City Council of the City in compliance with the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Arkansas Revenue Bond Act, Act Number 852 of the 1987 Acts of the Arkansas General Assembly.

Section 8. *Severability.* If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 9. *Repeal of Resolutions in Conflict.* All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

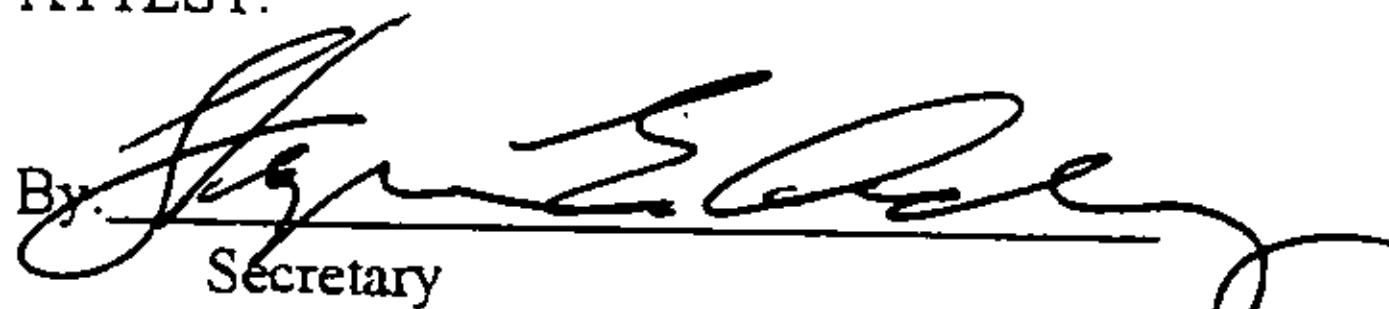
Section 10. *Effective Date.* This Resolution shall be in full force and effective immediately upon its passage and approval.

Passed and approved this 7th day of ~~April~~ ^{MAY}, 1999.

FAYETTEVILLE PUBLIC FACILITIES
BOARD

By: 
Chairman

ATTEST:

By: 
Secretary

(SEAL)

chapter, then the holder of any of the bonds and of any of the interest coupons applicable thereto and the trustee under any indenture, or any one (1) or more of them:

(1) May either at law or in equity, by suit, action, mandamus, or other proceeding, compel performance of all duties of the officers and directors of the corporation with respect to the use of funds for the payment of the bonds and for the performance of the agreements of the corporation contained in the proceedings under which they were issued, and compel performance of the duties of all officials of the city with respect to payment of the rentals provided to be paid under any lease made by the municipality pursuant to the provisions of this chapter and pledged as security for the bonds; and

(2) Regardless of the sufficiency of the security for the bonds and as a matter of right, shall be entitled to the appointment of a receiver to administer and operate the project out of the revenues from which the bonds issued with respect thereto are payable, with power to make leases with any public or private lessee including, without limitation, leases with a term running to the last maturity of the bonds, and fix and collect rents sufficient to provide for the payment of the principal of and interest on the bonds and any other obligations outstanding against the project or the revenues therefrom and for the payment of the expenses of operating and maintaining the project, and with power to apply the income therefrom in accordance with the provisions of the proceedings under which the bonds were authorized to be issued.

(b) The remedies specified in this section shall be cumulative to all other remedies which may otherwise be available for the benefit of the holders of the bonds and the coupons applicable thereto. (A.C.A. 14-138-122)

27-3.23. Dissolution.—(a) At any time when the corporation does not have any bonds outstanding, the board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the corporation shall be dissolved. Upon the filing for record of a certified copy of the resolution in the office of the county clerk of the county in which the municipality is located, the corporation shall thereupon stand dissolved. At the time of its dissolution, the title to all its property shall thereupon vest in the lessee.

(b) When the principal of and the interest on all bonds payable, in whole or in part, from the revenues derived from any project shall have been paid in full, title to that project shall thereupon vest in the lessee, but such vesting of title in the lessee shall not affect the title of the corporation to any other project, the revenues from which are pledged for the payment of any other bonds then outstanding.

(c) The formation and dissolution of one (1) or more corporations under the provisions of this chapter shall not prevent the subsequent formation under this chapter of other corporations in the same municipality. (A.C.A. 14-138-123)

CHAPTER 4. PUBLIC FACILITIES BOARDS

Section	Title.	Section	
27-4.1.	Title.	27-4.6.	Creation—Purposes.
27-4.2.	Legislative determination and purpose.	27-4.7.	Creating ordinance—Authority.
27-4.3.	Definitions.	27-4.8.	Board members.
27-4.4.	Provisions supplemental and controlling.	27-4.9.	Officers—Executive director.
27-4.5.	Construction.	27-4.10.	Meetings—Records.
		27-4.11.	Powers generally.

Section		Section	
27-4.12.	Acquiring and transferring facilities.	27-4.17.	Refunding bonds.
27-4.13.	Post-secondary education or occupational training facilities.	27-4.18.	Investment of public funds in bonds.
27-4.14.	Tax exemption of properties.	27-4.19.	Bonds—Tax exemption.
27-4.15.	Use of funds and revenue—Bonds.	27-4.20.	Obligations on bonds.
27-4.16.	Issuance, sale, and execution of bonds.	27-4.21.	Mortgage liens—Enforcement.
		27-4.22.	Receivership upon default on bonds.
		27-4.23.	Annual reports.

27-4.1. Title.—This chapter may be referred to and cited as the "Public Facilities Boards Act." (A.C.A. 14-13-101)

27-4.2. Legislative determination and purpose.—(a) It is determined by the General Assembly that adequate:

- (1) Facilities for health care;
- (2) Decent, safe, and sanitary residential housing;
- (3) Off-street parking facilities;
- (4) Facilities for recreation and to develop tourism;
- (5) Waterworks facilities;
- (6) Sewer facilities;
- (7) Facilities for securing or developing industry;
- (8) Energy facilities;
- (9) Educational facilities; and
- (10) Hydroelectric power projects

are essential to the physical and mental health, safety, and physical and economic welfare of the people of this state. In order to meet these public needs, it is essential that public financing be provided for the facilities. It is the purpose of this chapter to provide an alternative method of financing for the facilities.

(b) The General Assembly finds that:

- (1) The State of Arkansas is confronted with a severe energy crisis;
- (2) The demand for fuels has outstripped the available supplies;
- (3) The cost to the consumer for energy usage continues to increase at an accelerated rate;

(4) A great and growing number of residents of this state can no longer afford basic energy needs;

(5) The energy crisis has adversely affected the growth and stability of agriculture, commerce, and industry within the state, producing widespread unemployment;

(6) The energy crisis will be perpetuated by a continued dependence on depletable energy resources which are subject to rapid increases in price and uncertain availability, and by the wasteful and inefficient use of available energy supplies;

(7) These conditions are inimical to the economic security of the state and the health, welfare, and prosperity of its citizens.

(c) It is declared to be the public policy and responsibility of this state to encourage energy conservation and to promote the development and use of renewable energy resources in order to alleviate the undesirable social and economic conditions created by the energy crisis.

(d) The General Assembly finds that the public policy and responsibility of the state as set forth in this section cannot be fully attained without the use of public financing, and it is the the purpose of this chapter to

make such financing available for energy facilities which will reduce energy consumption and make use of renewable energy resources in residential, agricultural, commercial, or industrial applications.

(e) It is found that the providing of health care through establishment of health care facilities in many cities and counties in Arkansas has been facilitated by the availability of assistance by public facilities boards created by counties and cities; that it is in the best interest of the citizens of the State of Arkansas that assistance be provided, in the discretion of local public facilities boards, for all forms of health care for the citizens in such counties and cities; and that confusion exists regarding whether certain facilities are properly qualified under the terms of this chapter, and amendment thereof is necessary for the clarification of the facilities comprehended within the term "health care facilities" within the meaning of this chapter. (A.C.A. 14-137-102)

27-4.3. Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Public facilities board" or "board" means any board organized pursuant to the provisions of this chapter;

(2) "State" means the State of Arkansas;

(3) "Municipality" means any incorporated city or town in this state;

(4) "County" means any county in this state;

(5) "Governing body" means the council, board of directors, or other like body in which the legislative functions of a municipality are vested, or the quorum court of the county as it shall have been duly constituted and acting as the legislative body of the county pursuant to the provisions of Arkansas Constitution, Amendment 55, or if not so constituted and acting, the county court of the county;

(6) "Facilities" means real property, personal property, or mixed property of any and every kind including, without limitation, right-of-way, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, buildings, and other improvements of every kind;

(7) "Health care facilities" means facilities for furnishing physical or mental health care including, without limitation, hospitals, nursing homes, rest homes, long-term care facilities, and offices and clinics of doctors of medicine, dentists, optometrists, podiatrists, chiropractors, and related facilities;

(8) "Residential housing facilities" means facilities for single and multifamily residential housing units of any and all kinds and such other facilities as are incidental or appurtenant thereto;

(9) "Off-street parking facilities" means facilities for the off-street parking of motor vehicles on, above, or below ground level including, without limitation, lots, garages, decks, and such other facilities as are incidental or appurtenant thereto;

(10) "Recreational and tourist facilities" means facilities for the securing and developing of athletics, recreation, relaxation, travel, entertainment, cultural development, and other recreational and tourism activities including, without limitation, hotels, motels, inns, lodges, camping centers, folklore facilities, cultural development facilities, auditoriums, convention facilities, restaurants in connection with other facilities for the securing and developing of recreation or tourism, parks, scenic roadways and walkways, stadiums, arts and crafts centers, museums, marinas, swimming pools, tennis courts, golf courses, gymnasiums, transportation facilities, park facilities, and tourist information and assistance centers, and recreation areas;

(11) "Waterworks facilities" means facilities for the furnishing of water for domestic, commercial, agricultural, and industrial purposes including, without limitation, mains, hydrants, meters, valves, standpipes, storage tanks, pumping tanks, intakes, wells, impounding reservoirs, purification plants, and lakes, watercourses, or water supplies pertaining thereto;

(12) "Sewer facilities" means facilities for the collection, treatment, and disposal of sewage, liquid and solid waste, and industrial waste;

(13) "Acquire" means to obtain, at any time by gift, purchase, or other arrangement, any project or any portion of a project, whether theretofore constructed and equipped, theretofore partially constructed and equipped, or being constructed and equipped at the time of acquisition, for such consideration and pursuant to such terms and conditions as the board shall determine;

(14) "Construct" means to acquire or build, in whole or in part, in such manner and by such method, including contracting therefor, and if the latter, by negotiation or bidding upon such terms and pursuant to such advertising as determined by the board, under the circumstances existing at the time, as will most effectively serve the purposes of this chapter;

(15) "Equip" means to install or place in or on any building or structure equipment of any and every kind, whether or not affixed, including, without limitation, building service equipment, fixtures, heating equipment, air conditioning equipment, machinery, furniture, furnishings, and personal property of every kind;

(16) "Lease" means to lease for such rentals, for such periods, and upon such terms and conditions as the board shall determine and the granting of such extension and purchase options for such prices and upon such terms and conditions as the board shall determine;

(17) "Sell" means to sell for such price, in such manner, and upon such terms as the board shall determine including, without limitation, public or private sale, and if public, pursuant to such advertisement as the public facilities board shall determine, for cash or on credit payable in lump sum or in such installments as the board shall determine, and if on credit, with or without interest and at such rate as the board may determine;

(18) "Ordinance" means, as to counties in which the quorum court of the county is not at the time duly constituted and acting as the legislative body of the county pursuant to the provisions of Arkansas Constitution, Amendment 55, an order of the county court of the county;

(19) "Lend" means to extend credit, make a loan to, acquire the obligations of, and generally, without limitation, engage in the financing of any facilities which the board shall have authority to construct, acquire, or equip pursuant to this chapter, upon such terms and with such security as the board deems suitable;

(20) "Energy facilities" means facilities in residential, agricultural, commercial, or industrial applications which:

(A) Reduce the amount of energy required to perform desired tasks; or

(B) Utilize renewable energy resources to supply energy needs;

(21) "Renewable energy resources" means any technology or source of energy which:

(A) Does not depend on the use of depletable fossil fuels such as oil, natural gas, and coal, or nuclear fuels; and

(B) Makes use of nondepletable supplies of energy including, without limitation, solar, wind, bioconversion, falling or flowing wa-

ter, geothermal deposits, or municipal, commercial, industrial, agricultural, or individual waste products; or make use of cogeneration technology for the production of energy;

(22) "Educational facilities" means real, personal, and mixed property of any and every kind intended for use by an educational institution in furtherance of its educational program including, but not limited to, dormitories, classrooms, laboratories, athletic fields, administrative buildings, utilities, equipment, and other property for use therein or thereon;

(23) "Emergency medical health care facilities" means real, personal, and mixed property of any and every kind used to furnish emergency medical health care and emergency medical services including, but not limited to:

(A) Ambulances or vehicles specifically designed, equipped, and licensed for transporting the sick or injured;

(B) Emergency medical equipment and supplies;

(C) Dispatching and other communication systems;

(D) Computers for billing, collections, and system design and control; and

(E) Training and administrative facilities;

(24) "Hydroelectric power project" means any facilities intended to be employed in the generation of electrical energy by the use of water as the source of generating power, whether standing, running, or falling, and facilities incidental or related thereto. (A.C.A. 14-137-103)

COURT DECISION

Educational Facilities.

"Educational facilities" includes a private college and a project to be financed there. *Cortez v. Independence County*, 287 Ark. 279, 698 S.W.2d 291 (1985).

27-4.4. Provisions supplemental and controlling.—(a) This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws.

(b) The construction of facilities for public facilities projects by or on behalf of a public facilities board under the provisions of this chapter need not comply with the requirements of any other law applicable to the construction of public works or facilities.

(c) Notwithstanding any other provisions of state law or ordinance of any municipality or county to the contrary, except as otherwise expressly provided in this chapter, none of the powers granted to a board under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of the state, or of any commission, board, body, bureau, official, or agency of the state or any municipality, county, or political subdivision. (A.C.A. 14-137-104)

27-4.5. Construction.—This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes of it. (A.C.A. 14-137-105)

27-4.6. Creation—Purposes.—(a) Any municipality or any county is authorized to create one (1) or more public facilities boards and to empower each board to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of health care facilities, emergency medical health care facilities, residential housing facilities, off-street parking facilities, recreational and tourist facilities, waterworks facilities, sewer facilities, facilities for securing or developing industry, energy facilities, hydroelectric power projects, education facilities, other capital improvement facilities, or any combination of such facilities, or any interest in

such facilities including, without limitation, leasehold interests in and mortgages on such facilities.

(b) The boards may be further empowered to make loans to mortgage lenders, defined as all banks or trust companies, industrial loan institutions, credit unions, mortgage banking firms, national banking associations, savings and loan associations and investment banking firms that maintain a principal office or place of business in the state, and all insurance companies authorized to do business in the state, on condition that the mortgage lenders use the proceeds of each loan to provide financing for either health care facilities, emergency medical health care facilities, residential housing facilities, off-street parking facilities, recreational and tourist facilities, waterworks facilities, sewer facilities, facilities for securing or developing industry, energy facilities, educational facilities, hydroelectric power projects, other capital improvement facilities, or any combination of such facilities.

(c) Any such undertaking by a board will be sometimes referred to in this chapter as a "public facilities project" or "project."

(d) As used in this section, the term "other capital improvement facilities" means any of the following: City or town halls, courthouses, and administrative, executive, or other public offices; court facilities; jails; police and sheriff stations, apparatus, and facilities; fire fighting facilities and apparatus; public health facilities and apparatus; hospitals, nursing homes, and similar extended-care facilities; residential housing for low and moderate income, elderly or handicapped persons and families; parking facilities and garages; educational and training facilities for public employees; auditoriums; stadiums, convention, meeting, or entertainment facilities; ambulance and other emergency medical service facilities; civil defense facilities; air and water pollution control facilities; drainage and flood control facilities; storm sewers; arts and crafts centers; museums; libraries; public parks, playgrounds, or other public space; marinas; swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities; tourist information and assistance centers; historical, cultural, natural, or folklore sites; fair and exhibition facilities; streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts; airports, passenger or freight terminals, hangars and related facilities; barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services, slack water harbors, water resource facilities, waterfront development facilities, and navigational facilities; public transportation facilities; public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights, sewer collection systems, and treatment plants; maintenance and storage buildings and facilities; incinerators; garbage and solid waste collection disposal, compacting, and recycling facilities of every kind; and social and rehabilitative service facilities. (A.C.A. 14-137-106)

27-4.7. **Creating ordinance—Authority.**—(a) Each public facilities board shall be created by ordinance of the governing body. The ordinance:

(1) Shall give the board a name which:

(A) Shall include the name of the creating municipality or county;

(B) Shall be descriptive of the powers granted to the board; and

(C) Shall be distinctive from the name given to any other board created by the municipality or county;

(2) (A) Shall specify the powers granted to the board; and

(B) May place specific limitations on the exercise of the powers granted, including limitations on the board's area of operations, the use of public facilities projects of the board, and the board's authority to issue bonds.

(b) Unless limited by the creating ordinance, each board created by a municipality shall be authorized to accomplish public facilities projects within or near or partly within and partly near the municipality. Each board created by a county shall be authorized to accomplish public facilities projects within or partly within and partly without the county. (A.C.A. 14-137-107)

27-4.8. Board members.—(a) Each public facilities board shall consist of five (5) members unless there is an expansion of the board to provide services outside the boundaries of the governmental unit from which it obtains power.

(b) (1) The initial members shall be appointed by the mayor of the creating municipality or the county judge of the creating county for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively.

(2) Successor members shall be elected by a majority of the board for terms of five (5) years each.

(3) Each member shall serve until his successor is elected and qualified.

(4) A member shall be eligible to succeed himself.

(c) Each member shall qualify by taking and filing with the clerk of the municipality or county creating the board his oath of office in which he shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas and to discharge faithfully his duties in the manner provided by law.

(d) In the event of a vacancy in the membership of the board, however caused, a majority of the board shall elect a successor member to serve the unexpired term.

(e) The members of the board shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses incurred in the performance of their duties.

(f) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty, by the mayor of the municipality or the county judge of the county, as the case may be, which created the board after reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal.

(g) (1) (A) If the jurisdiction of a board, pursuant to interlocal agreements, expands to provide services outside the boundaries of the governmental unit from which it obtains power, then not more than two (2) additional members per governmental unit may be added pursuant to the terms of any relevant interlocal agreement.

(B) These members shall initially be appointed by the mayor of the newly participating municipality, or the county judge of the newly participating county, and shall serve for a term agreed upon in the interlocal agreement, provided that the term shall not exceed five (5) years.

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(2) The other provisions of this section shall apply to these additional members, provided that no additional member shall be eligible to serve as chairman of the board. (A.C.A. 14-137-108)

27-4.9. Officers — Executive director.—(a) (1) The members of each public facilities board shall meet and organize by electing one of their number as chairman, one as vice-chairman, one as secretary, and one as treasurer, and such officers shall be elected annually thereafter in like manner.

(2) The duties of secretary and treasurer may be performed by the same member.

(b) The board may also appoint an executive director who shall not be a member of the board and who shall serve at the pleasure of the board and receive such compensation as shall be fixed by the board. (A.C.A. 14-137-109)

27-4.10. Meetings — Records.—(a) (1) Each public facilities board shall meet upon the call of its chairman, or a majority of its members, and at such times as may be specified in its bylaws for regular meetings. A majority of its members shall constitute a quorum for the transaction of business.

(2) The affirmative vote of a majority of the members present at a meeting of the board shall be necessary for any action taken by the board.

(3) Any action taken by the board may be authorized by resolution, and such resolution shall take effect immediately unless a later effective date is specified in the resolution.

(4) No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(b) (1) The secretary of the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and of the minute book or journal of the board and of its official seal.

(2) The secretary may cause copies to be made of all minutes and other records and documents of the board. He may give certificates under the official seal of the board to the effect that the copies are true copies, and all persons dealing with the board may rely upon the certificates. (A.C.A. 14-137-110)

27-4.11. Powers generally.—Each public facilities board is authorized and empowered:

(1) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) To adopt an official seal and alter it at pleasure;

(3) To maintain an office at such place in the municipality or county creating the board as it may designate;

(4) To sue and be sued in its own name;

(5) To fix, charge, and collect rents, fees, and charges for the use of any public facilities project;

(6) To employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(7) To accomplish public facilities projects as authorized by this chapter and the ordinance creating the board;

(8) To do any and all other acts and things in this chapter authorized or required to be done, whether or not included in the powers mentioned in this section;

(9) To lend money, directly or indirectly, for the financing of the construction, acquisition, and equipment of all or a portion of a public facilities project;

(10) To invest money, including a major portion of the proceeds of any issue of bonds for the term of the bonds or a shorter period, in consideration of a contract to make payment or payments to provide for the payment of the principal, premium, if any, and interest on the bonds when due;

(11) In the acquisition, construction, and equipment of, and in the operation of, hydroelectric power projects:

(A) To contract with any regulated public utility for the supplying of electrical energy produced by any such project, upon terms acceptable to the board;

(B) To apply to the appropriate agencies of the state, the United States, or any state thereof, and to any other proper agency for such licenses, permits, certificates, or approvals as may be necessary, and to obtain, hold, and use the licenses, permits, certificates, and approvals. However, nothing contained in this subdivision shall be construed to require a board to obtain any license, certificate, permit, or approval from the Arkansas Public Service Commission; and

(12) To do any and all other things necessary or convenient to accomplish the purposes of this chapter. (A.C.A. 14-137-111)

27-4.12. Acquiring and transferring facilities. — (a) Any municipality or county may acquire facilities for a public facilities project, or any portion thereof, including a project site, by gift, purchase, lease, or condemnation, and may transfer any such facilities to a public facilities board created by the municipality or county by sale, lease, or gift.

(b) Transfer may be authorized by ordinance of the governing body without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. (A.C.A. 14-137-112)

27-4.13. Post-secondary education or occupational training facilities.—Any public facilities board organized under the provisions of this chapter is authorized and empowered to include in the public facilities projects granted to the board, facilities for postsecondary education and occupational training programs, unless the ordinance creating the board placed specific limitations on the exercise of the powers granted or, from and after the passage of this section, the governing board limits by ordinance the public facilities projects in which the board is empowered to accomplish. (A.C.A. 14-137-113)

27-4.14. Tax exemption of properties. — It is declared that each public facilities board created pursuant to this chapter will be performing public functions and will be a public instrumentality of the municipality or county creating the board. Accordingly, all properties at any time owned by the board and the income therefrom shall be exempt from all taxation in the State of Arkansas. (A.C.A. 14-137-114)

27-4.15. Use of funds and revenue—Bonds.—(a) Public facilities boards are authorized to use any available funds and revenues for the

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accomplishment of all or a portion of public facilities projects and may issue bonds, as authorized by this chapter, for the accomplishment of all or a portion of public facilities projects, either alone or together with other available funds and revenues.

(b) Bonds may be issued in principal amounts as shall be sufficient to pay the costs of issuing bonds, the amount necessary for a reserve, if deemed desirable, the amount necessary to provide for debt service until revenues for the payment thereof are available, the amount necessary to acquire a contract providing for payments to the board at a rate or rates at least sufficient to provide for, alone or with any other revenues that may be pledged, debt service on the bonds, if deemed desirable, and to pay any other costs and expenditures of whatever nature incidental to the accomplishment of all or a portion of the public facilities project involved and the placing of it in operation. (A.C.A. 14-137-115)

27-4.16. Issuance, sale, and execution of bonds.—(a) (1) The issuance of bonds shall be by resolution of the public facilities board.

(2) As the resolution authorizing their issuance may provide, the bonds may:

(A) Be coupon bonds payable to bearer, but subject to registration as to principal or as to principal and interest;

(B) Be exchangeable for bonds of another denomination;

(C) Be in such form and denominations;

(D) Be made payable at such places within or without the state;

(E) Be issued in one (1) or more series;

(F) Bear such date or dates, and mature at such time or times, not exceeding forty (40) years from the respective dates;

(G) Bear interest at such rate or rates;

(H) Be payable in such medium of payment;

(I) Be subject to such terms of redemption; and

(J) Contain such terms, covenants, and conditions including, without limitation, those pertaining to:

(i) The custody and application of the proceeds of the bonds;

(ii) The collection and disposition of revenues;

(iii) The maintenance of various funds and reserves;

(iv) The nature and extent of the security and pledging of revenues;

(v) The rights, duties, and obligations of the board and the trustee for the holders and registered owners of the bonds; and

(vi) The rights of the holders and registered owners of the bonds.

(3) There may be successive bond issues for the purpose of financing the same public facilities project, and there may be successive bond issues for financing the cost of reconstructing, replacing, constructing additions to, extending, improving, and equipping public facilities projects already in existence, whether or not originally financed by bonds issued under this chapter, with each successive issue to be authorized as provided by this chapter.

(4) Priority between and among issues and successive issues as to security of the pledge of revenues and lien on the public facilities project involved may be controlled by the resolution authorizing the issuance of the bonds.

(5) Subject to the provisions of this section pertaining to registration, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas.

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(6) Without limiting the generality of the foregoing, the resolution may provide for the investment of a major portion of the proceeds of the bonds in consideration of a contract to make payment or payments at least sufficient, alone or with other revenues pledged, to provide for principal, premium, if any, and interest on the bonds, as due.

(b) (1) The resolution authorizing the bonds may provide for the execution by the board of an indenture which defines the rights of the holders and registered owners of the bonds and provides for the appointment of a trustee for the holders and registered owners of the bonds.

(2) The indenture may control the priority between and among successive issues and may contain any other terms, covenants, and conditions that are deemed desirable including, without limitation, those pertaining to:

(A) The custody and application of proceeds of the bonds;

(B) The maintaining of rates and charges;

(C) The collection and disposition of revenues;

(D) The maintenance of various funds and reserves;

(E) The nature and extent of the security and pledging of revenues;

(F) The rights, duties, and obligations of the board and the trustee; and

(G) The rights of the holders and registered owners of the bonds.

(c) The bonds may be sold at public or private sale for such price including, without limitation, sale at a discount, and in such manner as the board may determine by resolution.

(d) (1) The bonds shall be executed by the manual or facsimile signature of the chairman and by the manual or facsimile signature of the secretary of the board.

(2) The coupons attached to the bonds may be executed by the facsimile signature of the chairman of the board.

(3) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of the bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. (A.C.A. 14-137-116)

27-4.17. Refunding bonds.—(a) Bonds may be issued for the purpose of refunding any obligations issued under this chapter. Such refunding bonds may be combined with bonds issued under the provisions of A.C.A. 14-137-116 into a single issue.

(b) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof either at maturity or upon any authorized redemption date.

(c) (1) All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this chapter and shall have all the attributes of such bonds.

(2) The resolution under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded thereby. (A.C.A. 14-137-117)

27-4.18. Investment of public funds in bonds.—Any municipality or any board, commission, or other authority duly established by ordinance

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nance of any municipality, or the boards of trustees, respectively, of the
firemen's relief and pension fund and the policemen's pension and relief
fund of any municipality, or the board of trustees of any retirement
system created by the General Assembly of the State of Arkansas, may,
in its discretion, invest any of its funds not immediately needed for its
purposes in bonds issued under the provisions of this chapter. Bonds
issued under the provisions of this chapter shall be eligible to secure the
deposit of public funds. (A.C.A. 14-137-118)

27-4.19. Bonds—Tax exemption.—Bonds issued under this chap-
ter and the income therefrom shall be exempt from all state, county, and
municipal taxes. This exemption includes income and estate taxes.
(A.C.A. 14-137-119)

27-4.20. Obligations on bonds.—(a) It shall be plainly stated on
the face of each bond that it has been issued under the provisions of this
chapter, that the bonds are obligations only of the public facilities board,
and that in no event shall they constitute an indebtedness for which the
faith and credit of the creating municipality or county or any of its reve-
nues are pledged.

(b) No member of the board shall be personally liable on the bonds
or for any damages sustained by anyone in connection with any contracts
entered into in carrying out the purpose and intent of this chapter unless
he shall have acted with a corrupt intent.

(c) The principal of and interest on the bonds shall be payable from:

(1) Revenues derived from the public facilities project acquired,
constructed, reconstructed, equipped, extended, or improved, in whole or
in part, with the proceeds of the bonds;

(2) Obligations of:

(A) The owners of public facilities projects; or

(B) Any person with whom the proceeds of the bonds, or a
portion thereof, are invested by contract or otherwise;

(3) Any other funds or sources of funds of the board specifically
pledged and which are set aside as a special fund or source, other than
taxes or assessments for local improvements, for the purpose of paying
the principal of and interest on the bonds; or

(4) Any combination of subdivisions (1), (2), and (3) of this sub-
section.

(d) The board is authorized to pledge those revenues, obligations,
other special funds or sources to pay the principal of and interest on the
bonds. (A.C.A. 14-137-120)

27-4.21. Mortgage liens—Enforcement.—(a) The resolution or in-
denture referred to in A.C.A. 14-137-116 may, or may not, impose a fore-
closable mortgage lien upon or security interest in all or any portion of
the lands, buildings, or facilities acquired, constructed, reconstructed,
extended, equipped, or improved, in whole or in part, with the proceeds
of bonds issued under this chapter, and the nature and extent of the
mortgage lien or security interest may be controlled by the resolution
or indenture including, without limitation, provisions pertaining to the
release of all or part of the lands, buildings or facilities from the mort-
gage lien or security interest and the priority of the mortgage lien or
security interest in the event of successive bond issues as authorized by
A.C.A. 14-137-116.

(b) Subject to such terms, conditions, and restrictions as may be
contained in the resolution or indenture authorizing or securing the bonds,

any holder or registered owner of bonds issued under the provisions of this chapter, or a trustee, on behalf of all holders and registered owners, may, either at law or in equity, enforce the mortgage lien or security interest and may, by proper suit, compel the performance of the duties of the members and employees of the issuing board as set forth in this chapter, the ordinance creating the board, and the resolution or indenture authorizing or securing the bonds. (A.C.A. 14-137-121)

27-4-22. Receivership upon default on bonds.—(a) (1) In the event of a default in the payment of the principal of or interest on any bonds issued under the provisions of this chapter, any court having jurisdiction may appoint a receiver to take charge of the public facilities project upon or in which there is a mortgage lien or security interest securing the bonds in default.

(2) The receiver shall have the power and authority to operate and maintain the public facilities project in receivership and to charge and collect payments, fees, rents, and charges sufficient to provide for the payment of any costs of receivership and operating expenses of the project in receivership and to apply the revenues derived from the project in receivership in conformity with this chapter and the resolution or trust indenture securing the bonds in default.

(3) When the default has been cured, the receivership shall be ended and the project returned to the public facilities board.

(b) The relief provided for in this section shall be construed to be in addition and supplemental to the other remedies provided for in this chapter and the remedies that may be provided for in the resolution or trust indenture authorizing or securing the bonds, and shall be so granted and administered as to accord full recognition to priority rights of bondholders as to the pledge of revenues from and mortgage lien on or security interest in projects as specified in and fixed by the resolution or trust indenture authorizing or securing successive issues of bonds. (A.C.A. 14-137-122)

27-4-23. Annual reports.—(a) Within the first ninety (90) days of each calendar year, each public facilities board shall make a written report to the governing body of the municipality or county which created the board concerning its activities for the preceding calendar year.

(b) Each reports shall set forth a complete operating and financial statement covering its operation during the year. (A.C.A. 14-137-123)

CHAPTER 5. LOCAL GOVERNMENT BOND ACT OF 1985

Section		Section	
27-5.1.	Title.	27-5.12.	Bonds generally—Trust indenture.
27-5.2.	Legislative intent.	27-5.13.	Bonds generally—Contents.
27-5.3.	Definitions.	27-5.14.	Bonds generally—Execution.
27-5.4.	Construction.	27-5.15.	Bonds generally—Sale.
27-5.5.	Subchapter supplemental.	27-5.16.	Bonds generally—Pledge of taxes generally.
27-5.6.	Venue.	27-5.17.	Bonds generally—Pledge and collection of ad valorem taxes.
27-5.7.	Financing of facilities for industry.	27-5.18.	Bonds generally—Successive issues.
27-5.8.	Bonds generally—Authorizing ordinance.	27-5.19.	Bonds generally—Mortgage lien.
27-5.9.	Bonds generally—Election to authorize issuance.	27-5.20.	Bonds generally—Liability.
27-5.10.	Bonds generally—Terms and conditions.	27-5.21.	Bonds generally—Tax exemption.
27-5.11.	Bonds generally—Interest rates.		

ORDINANCE NO. 2485

AN ORDINANCE CREATING THE CITY OF FAYETTEVILLE,
ARKANSAS RESIDENTIAL HOUSING FACILITIES BOARD
PURSUANT TO THE PROVISIONS OF ACT NO. 142 OF
THE ACTS OF ARKANSAS OF 1975; PROVIDING FOR THE
APPOINTMENT OF THE INITIAL MEMBERS THEREOF;
PRESCRIBING OTHER MATTERS RELATING THERETO;
AND DECLARING AN EMERGENCY.

WHEREAS, the City of Fayetteville, Arkansas (the "City"),
pursuant to the provisions of Act No. 142 of the Acts of the
General Assembly of the State of Arkansas for the year 1975
(the "Act"), is authorized to establish public facilities boards
for the purposes set forth in the Act, which include assisting
in the financing of residential housing facilities within or
near the City; and

WHEREAS, the providing of decent, safe and sanitary
residential housing facilities will be aided by the creation of
a public facilities board to assist in the financing of residential
housing facilities; and

WHEREAS, funds may be obtained by a public facilities
board on such terms and under such conditions as will materially
assist persons of low and moderate income to obtain financing of
residential housing facilities under conditions more favorable
than would otherwise be available;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS
OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. Findings. The City hereby finds and
determines:

(a) There exists within and near the City, including
the City's projected growth areas and the City's
extra-territorial planning areas, a shortage of
decent, safe and sanitary residential housing
facilities available for rehabilitation, con-
struction or purchase on terms that persons and

families of low and moderate income can afford to pay.

(b) Existing economic conditions including high rates of interest on residential mortgage loans, and a shortage of funds within lending institutions in the State of Arkansas for residential mortgage loans are operating (i) to further restrict the rehabilitation, construction and purchase of residential housing by persons of low and moderate income at reasonably affordable costs, (ii) to create unemployment and hardship within the residential construction industry, adversely affecting residents of the City and (iii) to reduce and limit the value of property within the City, all of which adversely affect the City's tax revenues and which, if not alleviated, will lead to further urban blight and decay and result in disproportionately large expenditures for services by the City.

(c) The availability of mortgage financing to assist such persons and families in the rehabilitation, construction or purchase of decent, safe and sanitary residential housing facilities will be aided by the providing of funds for mortgage financing of residential housing facilities by the creation of a public facilities board pursuant to the provisions of the Act.

(d) The providing of financial assistance in order to enable persons and families of low and moderate income to finance the costs of decent, safe and sanitary residential housing facilities is a proper public purpose as declared by the Act, and by this determination of the Board of Directors of the City.

(e) The public purpose of financing residential housing facilities may best be served by establishing a public facilities board to purchase mortgages on such residential housing facilities or make loans to mortgage lenders to provide financing for residential housing facilities as provided in the Act.

Section 2. Creation of Board. Pursuant to the authority of the Act there is hereby created and established the "City of Fayetteville, Arkansas Residential Housing Facilities Board" ("Facilities Board") with authority as hereinafter provided to accomplish, finance, contract or purchase mortgage loans concerning, and otherwise act in such manner as may be permitted by the Act to provide decent, safe and sanitary residential housing facilities within or near the City, including the City's projected growth areas and the City's extra-territorial planning areas.

Section 3. Members of the Board; Term of Office; Duration of the Board. The Facilities Board shall consist of five persons. The initial members shall, as provided in the Act, be appointed by the Mayor of the City to serve for terms of one, two, three, four and five years, respectively. The members of the Facilities Board shall be residents of the City and shall take and file with the City Clerk the oath of office prescribed by the Act. The duration of the Board shall be for the life of any such bonds issued hereunder as provided in Section 7.

Section 4. Powers. The Facilities Board is empowered, from time to time, to loan, acquire, construct, reconstruct, extend, equip, improve, sell, lease, and contract concerning (which shall include the purchase of mortgage loans and the making of loans to mortgage lenders) residential housing facilities as shall be determined by the Facilities Board to be necessary to effect the purposes of this Ordinance to provide decent, safe and sanitary residential housing facilities within or near the City,

including the City's projected growth areas and the City's extra-territorial planning areas. In addition, the Facilities Board shall have each of the powers set forth in Section 7 of the Act, as amended, and appropriate to the purposes for which the Board is created unless otherwise restricted herein. The Board may enter into such contractual or cooperative agreements with such persons as may, in its discretion, be advisable to accomplish the purposes of this Ordinance, including without limitation, departments, agencies or instrumentalities of the United States of America, the State of Arkansas, or the City, for example, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration and the Arkansas Housing Development Agency. Prior to the issuance of any such bonds, the Facilities Board must submit to the City Board of Directors for its approval the following information:

(a) the size of the proposed bond issue and all related details, including, but without limitation:

- (i) principal amount;
- (ii) date of the bonds;
- (iii) interest payment dates;
- (iv) principal payment dates;
- (v) numbers
- (vi) denominations;
- (vii) rates of interest;
- (viii) a schedule reflecting the annual principal maturities;
- (ix) the semi-annual interest requirements and the total requirements; and
- (x) applicable redemption provisions.

(b) Recommendations for person or persons to serve as underwriter or underwriters, trustee, and custodian for any

such bonds and the mortgage lenders and servicing institutions with which the Facilities Board shall contract, which the Board of Directors reserves the right to select or approve. The trustee and the custodian shall be institutions located within the City, if such institutions are qualified and such appointments do not otherwise adversely affect the rating of the bonds (if submitted for rating).

Section 5. Bond Proceeds. Any agreements made by the Facilities Board with mortgage lenders must contain a provision to the effect that such mortgage lenders may only loan the proceeds provided to them to finance housing located within the City's corporate limits and to finance housing located within the City's projected growth area and extra-territorial planning area. A minimum of seventy-five percent (75%) of the bond proceeds shall be available to finance housing located within the City's corporate limits; and a maximum of twenty-five percent (25%) of the bond proceeds shall be available to finance existing housing located within the City's projected growth area and extra-territorial planning area. The Facilities Board shall have the authority, after prior approval of the City Board of Directors, to reallocate such percentages.

Section 6. Investment of Bond Proceeds. The Facilities Board shall offer bond proceeds not otherwise required to be deposited with the custodian to financial institutions which have their principal place of business located within the City and which are qualified for such investments.

Section 7. Issuance of Bonds. The Facilities Board is authorized and is limited to issue this initial series of revenue bonds, in accordance with the conditions set forth in Section 4 hereof, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the Facilities Board is created as the same relates to the providing of decent, safe and sanitary residential housing facilities.

Such revenue bonds shall be obligations only of the Facilities Board and shall not constitute an indebtedness for which the faith and credit of the City or any of its revenues are pledged, and the principal and interest on the bonds shall be payable from and secured by a pledge of revenues derived from residential housing facilities financed, in whole or in part, from bond proceeds and as authorized by, and in accordance with the provisions of the Act, together with such other collateral as may properly be pledged under the Act and as the Facilities Board in its discretion may determine.

Section 8. Organization; Reports. As soon as practicable after the adoption of this Ordinance the Facilities Board shall meet and elect such officers as shall be required by the Act. The Facilities Board may adopt such by-laws and other rules and regulations as shall be necessary for the conduct of its business and consistent with the provisions of the Act. The Facilities Board shall cause to be filed with the City Clerk of the City the annual report described in Section 18 of the Act.

Section 9. The law firm of Friday, Eldredge & Clark, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City and the Facilities Board in connection with the issuance and sale of the Bonds.

Section 10. Severability. If any provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

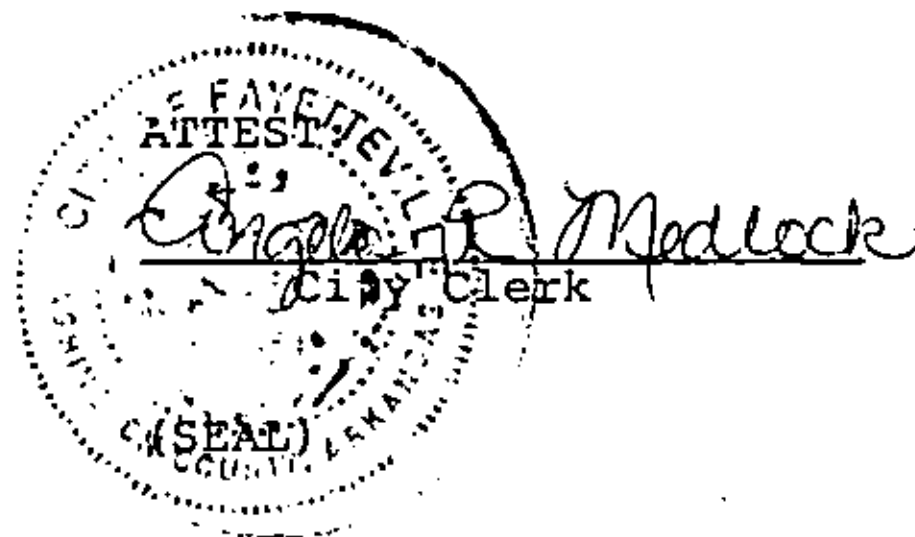
Section 11. General Repeal. All Ordinances of the City, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 12. Emergency. It is hereby found and determined that there is an immediate and urgent need for the providing of decent, safe and sanitary housing for persons of low and moderate income in or near the City, including the City's projected growth areas and the City's extra-territorial planning areas, and the providing of financial assistance to such persons, and that creation of the Facilities Board and the exercise of the duties and powers provided in this Ordinance are necessary to the preservation of the public peace, health and safety. Therefore, an emergency is declared to exist and this Ordinance shall be in full force and effect from and after its passage.

PASSED: November 21, 1978.

APPROVED:

John Todd
Assistant- Mayor



CERTIFICATE OF RECORD

OF ORIGINAL
I, Angela R. Medlock, Clerk and Ex-Officio Recorder for
Washita County, do hereby certify that the annexed foregoing
instrument was filed for record in my office on the 13 day
of Dec, 1978, at 11:30 A.M. and the same is
duly recorded in Book 980, at page 74.

Witness my hand and seal this 14 day of Dec, 1978.

Angela R. Medlock
Clerk and Ex-Officio Recorder
By [Signature]
Deputy Clerk

CERTIFICATE OF RECORD

State of California ED
City of Los Angeles

I, Angela R. Medlock, Clerk and Ex-Officio Recorder for the City of Los Angeles, do hereby certify that the foregoing instrument is of record in my office and the same appears in Book 980, at page 74.

Witness my hand and seal this 30th day of

November, 1978.
Angela R. Medlock
City Clerk and Ex-Officio Recorder

ORDINANCE NO. 2708

AN ORDINANCE AMENDING ORDINANCE NUMBER 2485 TO DESIGNATE THE FAYETTEVILLE, ARKANSAS, RESIDENTIAL HOUSING FACILITIES BOARD AS THE FAYETTEVILLE PUBLIC FACILITIES BOARD; TO EMPOWER SAID BOARD TO OWN, ACQUIRE, CONSTRUCT, RECONSTRUCT, EXTEND, EQUIP, IMPROVE, OPERATE, MAINTAIN, SELL, LEASE, CONTRACT CONCERNING, LAND FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING OR EQUIPPING OR OTHERWISE DEAL IN OR DISPOSE OF HEALTH CARE FACILITIES; TO AUTHORIZE SAID BOARD TO ISSUE BONDS TO FINANCE HEALTH CARE FACILITIES; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Fayetteville, Arkansas (the "City"), pursuant to the provisions of Act No. 142 of the Acts of the General Assembly of the State of Arkansas for the year 1965 (the "Act"), is authorized to establish public facilities boards for the purposes set forth in the Act; and

WHEREAS, the Fayetteville Board of Directors on November 21, 1978 adopted Ordinance No. 2485 which created such a board to assist in the financing of residential housing facilities within or near the City and designated said board as the Fayetteville Residential Housing Facilities Board and authorized said board to issue bonds for the purpose of providing residential housing; and

WHEREAS, the Fayetteville Board of Directors has determined that the City of Fayetteville is in immediate need of health care facilities and that the aforesaid board should be authorized to issue bonds to finance the construction and equipping of said facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Ordinance No. 2485 is hereby amended by changing the name of the Fayetteville Residential Housing Facilities Board created by said ordinance to The Fayetteville Public Facilities Board.

Section 2. That the Fayetteville Public Facilities Board is hereby authorized to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, land for the purpose of constructing, acquiring or equipping, or otherwise deal in or dispose of health care facilities as well as residential housing facilities.

Section 3. That the Fayetteville Public Facilities Board is hereby authorized to issue bonds in accordance with the procedure prescribed by Act No. 142 of 1975 for the purpose of financing health care facilities.

Section 4. It is hereby found and determined that there is an immediate and urgent need for the providing of health care facilities in the City of Fayetteville to preserve the public health and that the exercise of the powers provided in this ordinance are necessary to provide health care facilities and thereby preserve the public health. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the public health shall be in full force and effect from and after its passage.

PASSED AND APPROVED this 3rd day of March, 1981.

APPROVED:

John Todd
MAYOR

ATTEST:

Janice Heston
CITY CLERK

ORDINANCE NO. 2991

AN ORDINANCE AMENDING ORDINANCE NO. 2485, AS AMENDED, TO AUTHORIZE THE FAYETTEVILLE PUBLIC FACILITIES BOARD TO ISSUE REVENUE BONDS TO FINANCE THE CONSTRUCTION OF HEALTH CARE AND RESIDENTIAL FACILITIES FOR ELDERLY PERSONS.

WHEREAS, the Board of Directors of the City of Fayetteville, Arkansas, has established a public facilities board pursuant to Act No. 142 of the Acts of the General Assembly of the State of Arkansas for the year 1975 (the "Act"), as amended, for the purpose of providing assistance in the financing of residential and health care facilities; and

WHEREAS, said board was established by Ordinance No. 2485 adopted and approved November 21, 1978, as amended by Ordinance No. 2708, adopted and approved March 3, 1981; and

WHEREAS, the Fayetteville Public Facilities Board proposes to issue revenue bonds to assist in the financing of residential, health care, and related facilities for elderly persons; and

WHEREAS, the Fayetteville Board of Directors has determined that there is a need for said facilities as manifested by the substantial number of elderly persons residing within the City; and

WHEREAS, the Fayetteville Board of Directors has determined that Ordinance No. 2485, as amended, should be amended to expressly authorize the issuance of revenue bonds to assist in financing the construction of residential housing, health care, and related facilities for elderly persons.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Section 1 of Ordinance No. 2485 is hereby amended by adding the following:

(f) The development of housing, health care, and related facilities for elderly persons serves a substantial public purpose and there is a significant need in the City for such facilities.

Section 2. That Section 3 of Ordinance No. 2435 is hereby amended by deleting the last sentence in said section.

Section 3. That Section 4 of Ordinance No. 2485 is hereby amended by adding the following:

The Board is expressly authorized to issue revenue bonds for the purpose of financing residential housing, health care, and related facilities to serve elderly persons, provided said facilities are owned by

non-profit corporations or associations. The issuance of such revenue bonds shall be accomplished by resolution duly adopted by the Fayetteville Public Facilities Board and ratified by the Fayetteville Board of Directors.

Section 4. That Section 5 of Ordinance No. 2485 is hereby amended by adding the following:

This section shall apply only to bonds issued for the purpose of financing owner-occupied housing.

Section 5. That Section 6 of Ordinance No. 2485 is hereby amended by adding the following:

This section shall apply only to the proceeds of bonds issued for the purpose of financing owner-occupied housing.

Section 6. That Section 7 of Ordinance No. 2485 is hereby amended by adding the following:

This section shall apply only to the issuance of bonds for the purpose of financing owner-occupied housing. The Board is expressly authorized to issue bonds for the purpose of financing housing, health care, and related facilities to serve elderly persons, provided said facilities are owned by non-profit corporations or associations.

Section 7. As amended hereby, Ordinance No. 2485 as amended by Ordinance No. 2708, is hereby ratified and affirmed.

Section 8. All ordinances, or parts thereof, in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 9. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 10. It is hereby found and determined that there is an immediate and urgent need for the providing of decent, safe and sanitary housing, health care and related facilities for elderly persons residing in or near the City of Fayetteville and that the immediate passage of this ordinance is necessary to provide such facilities. Therefore, an emergency is declared to exist, and this ordinance being necessary for the public health and welfare shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 20th day of March, 1984.

APPROVED:

By: Paul R. Roland
Mayor

ATTEST:

By: Marjorie C. Kennedy
City Clerk

CERTIFICATE OF RECORD

State of Arkansas ()
City of Fayetteville () SS

I, Marjorie C. Kennedy, City Clerk and
Deputy Recorder for the City of Fayetteville,
do hereby certify that the annexed or here-
after attached is a true and correct copy of the
same as it appears in the records of the City of Fayetteville.

_____ at page _____. Witness my
hand and seal this 20th day of

April 1984
Marjorie C. Kennedy
City Clerk and Deputy Recorder

LED FOR REC Sports Arena
C. 2. Page 31
'89 SEP 6 PM 4 04

WASHINGTON CO AR
A. KOLLMEYER

ORDINANCE NO. 3427

AN ORDINANCE APPROVING THE ISSUANCE OF REVENUE BONDS BY THE FAYETTEVILLE PUBLIC FACILITIES BOARD; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, by Ordinance No. 2485, adopted and approved November 21, 1978, as amended by Ordinance No. 2708, adopted and approved March 3, 1981, and Ordinance No. 2991, adopted and approved March 20, 1984, the Board of Directors of the City of Fayetteville, Arkansas (the "City"), created The Fayetteville Public Facilities Board (the "Board"); and

WHEREAS, the Board currently proposes to issue not to exceed \$35,000,000 of its Refunding and Improvement Revenue Bonds (the "Bonds") for the purpose of refunding the Board's Revenue Bonds, Series 1984 (Butterfield Trail Village Project), dated September 1, 1984, and financing certain costs associated with Butterfield Trail Village; and

WHEREAS, Butterfield Trail Village is a retirement community consisting of 248 residential units, a nursing care center with forty beds and related dining and commons areas, located on Joyce Street in the northeastern part of the City, and is owned by Butterfield Trail Village, Incorporated, an Arkansas nonprofit corporation; and

WHEREAS, a public hearing on the question of the issuance of the Bonds has been held before the Board of Directors of the City on this day following the publication of a notice of such hearing in a newspaper of general circulation within the City, on April 29, 1989 and May 1, 1989; and

WHEREAS, the Board of Directors of the City has determined that the public purposes for which the Bonds are to be issued serve a proper need;

NOW, THEREFORE, be it ordained by the Board of Directors of the City of Fayetteville, Arkansas:

Section 1. That the issuance of the Bonds by the Board described in the notice of public hearing is hereby authorized and is in all respects approved.

Section 2. That by the adoption of this Ordinance the City assumes no liability or responsibility for the repayment of the Bonds.

LIBER 1333 PAGE 01

FAYETTEVILLE CITY CLERK

Section 3. That the provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

Section 4. That it is hereby ascertained and declared that the refunding and the financing approved by this Ordinance will result in economic benefits to Butterfield Trail Village, commencing with the date that the Bonds are issued. Therefore, this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in force from and after its passage.

PASSED AND APPROVED this 16th day of May,
1989.

William J. Martin
Mayor

ATTEST:

Guzanne M. Kelly
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Fayetteville, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 3427, adopted at a regular session of the Board of Directors of the City held at the regular meeting place in the City at 7:30 o'clock p.m., on the 16th day of May, 1989, and that the Ordinance is of record in Ordinance Record Book No. , Page , now in my possession.

GIVEN under my hand and seal on this 22nd day of May, 1989.


City Clerk



1333-002A

CITY OF FAYETTEVILLE, ARKANSAS
RESIDENTIAL HOUSING FACILITIES BOARD
BY-LAWS

ARTICLE I - THE BOARD

Section 1.1. Name of the Board. The name of the Board is the "City of Fayetteville, Arkansas Residential Housing Facilities Board."

Section 1.2. Seal of the Board. The seal of the Board shall be circular in form with the wording "City of Fayetteville, Arkansas Residential Housing Facilities Board" and the year of its creation inscribed thereon.

Section 1.3. Office of the Board. The offices of the Board shall be in the City of Fayetteville, Arkansas, but the Board may hold its meetings at such other place or places as it may from time to time designate.

ARTICLE II - MEETINGS

Section 2.1. Annual Meeting. The annual meeting of the Board shall be held in the month of January in each year and shall be held at the regular meeting place of the Board.

Section 2.2. Regular Meetings. Regular meetings shall be held at the office of the Board, at such times as may be designated by resolution adopted by the Board.

Section 2.3. Special Meetings. The Chairman of the Board may, when he deems it expedient, or shall, upon the written request of two members of the Board, call a special meeting of

the Board for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Board or may be mailed to the business or home address of each member of the Board at least three days prior to the date of such special meeting. Such notice shall be effective when deposited in the United States Mail, with sufficient postage affixed. Receipt of such notice may be waived in writing by any member of the Board. At such special meeting, no business shall be considered other than as designated in the call, but if all the members of the Board are present at a special meeting any and all business may be transacted at such special meeting.

Section 2.4. Quorum. The powers of the Board shall be vested in the members thereof in office from time to time. Three Board members shall constitute a quorum for the purpose of conducting Board business and exercising Board powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Board upon an affirmative vote of a majority of the members present.

Section 2.5. Manner of Voting. The voting on all questions coming before the Board shall be by yeas and nays and the vote of each Board member present shall be announced by the Chairman and entered upon the minutes of such meeting.

Section 2.6. Order of Business. At the regular meetings of the Board, the following shall be the order of business:

1. Roll Call
2. Approval of Minutes of Previous Meeting
3. Report of the Secretary
4. Reports of Committees
5. Unfinished Business
6. New Business
7. Adjournment

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Board. In all other respects not otherwise specially provided for in these By-Laws concerning procedural matters, Robert's Rules of Order shall govern the conduct of all meetings of the Board.

Section 2.7. Freedom of Information. In all proceedings, the Board shall follow rules set forth in Act No. 93 of the Acts of Arkansas of 1967, as amended, governing "Freedom of Information." All meetings of the Board, formal or informal, special or regular, shall be public meetings. The time and place of each regular meeting shall be furnished to anyone who requests the information, and the time and place of each special meeting shall be at least two hours before such special meeting announced to representatives of newspapers, radio stations, and television stations requesting notification. Executive session will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any

officer or employee. No resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal unless following the executive session the Board reconvenes in public session and presents and votes on such resolution, ordinance, rule, contract, regulation, or motion.

ARTICLE III - BOARD MEMBERS

Section 3.1. Number and Qualification. The Board shall consist of five (5) members. Each member shall qualify by taking and filing with the Clerk of the City of Fayetteville, Arkansas, an oath of office in which he shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas and to discharge faithfully his duties in the manner provided by law.

Section 3.2. Election of Successors. Until otherwise provided by law, upon the expiration of the term of any Board member a successor member shall be elected by a majority of the Board for a term of five (5) years. A member shall be eligible to succeed himself. Each member shall serve until his successor is elected and qualified.

Section 3.3. Vacancies. In the event of a vacancy in the membership of the Board, however caused, a majority of the Board shall elect a successor member to serve the unexpired term.

Section 3.4. Compensation. The members of the Board shall receive no compensation for their services to the Board as either members or officers but shall be entitled to reimbursement of all expenses incurred in the performance of their duties. All such reimbursements shall be authorized by resolution of the Board.

ARTICLE IV - OFFICERS

Section 4.1. Chairman. The Chairman shall be the principal executive officer of the Board and, subject to the control of the members of the Board, shall in general supervise and control all of the business and affairs of the Board. He shall, when present, preside at all meetings of the Board. He may sign, with the Secretary or any other proper officer of the Board thereunto authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Board, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board from time to time.

Section 4.2. Vice-Chairman. In the absence of the Chairman or in event of his death, inability or refusal to act, the Vice-Chairman shall perform the duties of the Chairman, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. The Vice-Chairman shall perform such other duties as from time to time may be assigned to him by the Chairman or by the Board.

Section 4.3. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Board in one or more books

provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the records and of the seal of the Board and see that the seal of the Board is affixed to all documents the execution of which on behalf of the Board under its seal is duly authorized; (d) keep a register of the business address of each member which shall be furnished to the Secretary by such member; (e) sign with the Chairman, any deeds, mortgages, bonds, contracts or other instruments, the issuance of which shall have been authorized by resolution of the Board; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Chairman or by the Board.

Section 4.4. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Board; (b) receive and give receipts for moneys due and payable to the Board from any source whatsoever, and deposit all such moneys in the name of the Board in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article IV of these By-Laws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Chairman or by the Board.

Section 4.5. Election. The Chairman, Vice-Chairman, Secretary and Treasurer shall be elected at the initial meeting of the Board and at each annual meeting of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. They shall hold office for one year, or until their successors are elected and qualified. Only the offices of the Secretary and Treasurer may be held by the same person.

Section 4.6. Vacancies. Should the office of the Chairman, Vice-Chairman, Secretary or Treasurer become vacant, the Board shall elect a successor from their members within thirty days, and such election shall be for the unexpired term of said office.

ARTICLE V - CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 5.1. Contracts. The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Board, and such authority may be general or confined to specific instances.

Section 5.2. Loans. No loans shall be contracted on behalf of the Board and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority shall be confined to specific instances.

Section 5.3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Board, shall be signed by such officer or officers, agent or agents of the Board and in such manner as shall from time to time be determined by resolution of the Board.

Section 5.4. Deposits. All funds of the Board not otherwise employed shall be deposited from time to time to the credit of the Board in such banks, trust companies or other depositaries as the Board may select.

ARTICLE VI - EMPLOYEES OF BOARD

Section 6.1. Employment and Compensation. The Board may employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, technical advisors on the subject of residential housing, and such other employees and agents as may be necessary in its judgment, and may fix their compensation.

ARTICLE VII - MISCELLANEOUS

Section 7.1 Fiscal Year. The fiscal year of the Board shall commence on January 1 and end on December 31.

ARTICLE VIII - AMENDMENTS

Section 8.1. Amendments to By-Laws. The Board shall have the power to adopt, make, alter, amend, suspend, and repeal By-Laws of the Board by a vote of not less than three members at a special meeting of the Board called therefor, or at any annual or regular meeting of the Board.

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STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

RECEIVED
FEB 04 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

For the Fayetteville City Council meeting of February 15, 2000

FROM:

Ron Petrie
Name

Engineering
Division

Public Works
Department

ACTION REQUIRED: Approval of a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch (2") waterline and an eight inch (8") waterline along Mally Wagnon Road.

COST TO CITY:

\$ 26,380.00 (Estimated)
Cost of this Request

\$ 80,000.00
Category/Project Budget

Water & Sewer Improvements
Category/Project Name

5400-5600-5803-00
Account Number

\$ 0.00
Funds Used To Date

Cost Share
Program Name

97021
Project Number

\$ 80,000.00
Remaining Balance

Sales Tax
Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

Budget Manager

1/24/2000

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marilyn G. Kramer
Accounting Manager

1-25-00
Date

Yolanda Fields
Internal Auditor

1-31-00
Date

City Attorney

1-29-00
Date

ADA Coordinator

Date

Purchasing Officer

1-31-00
Date

STAFF RECOMMENDATION: Approval of action items listed above.

Jim Beavers
Division Head

1/24/00
Date

Cross Reference

Department Director

1-31-00
Date

New Item: Yes ☒ No ☐

Administrative Services Director

2-1-00
Date

Prev Ord/Res #: _____

Mayor

2/1/00
Date

Orig Contract Date: _____

STAFF REVIEW FORM

Description James Martin Waterline Cost Share Meeting Date February 15, 2000

Comments:

Reference Comments:

Budget Coordinator

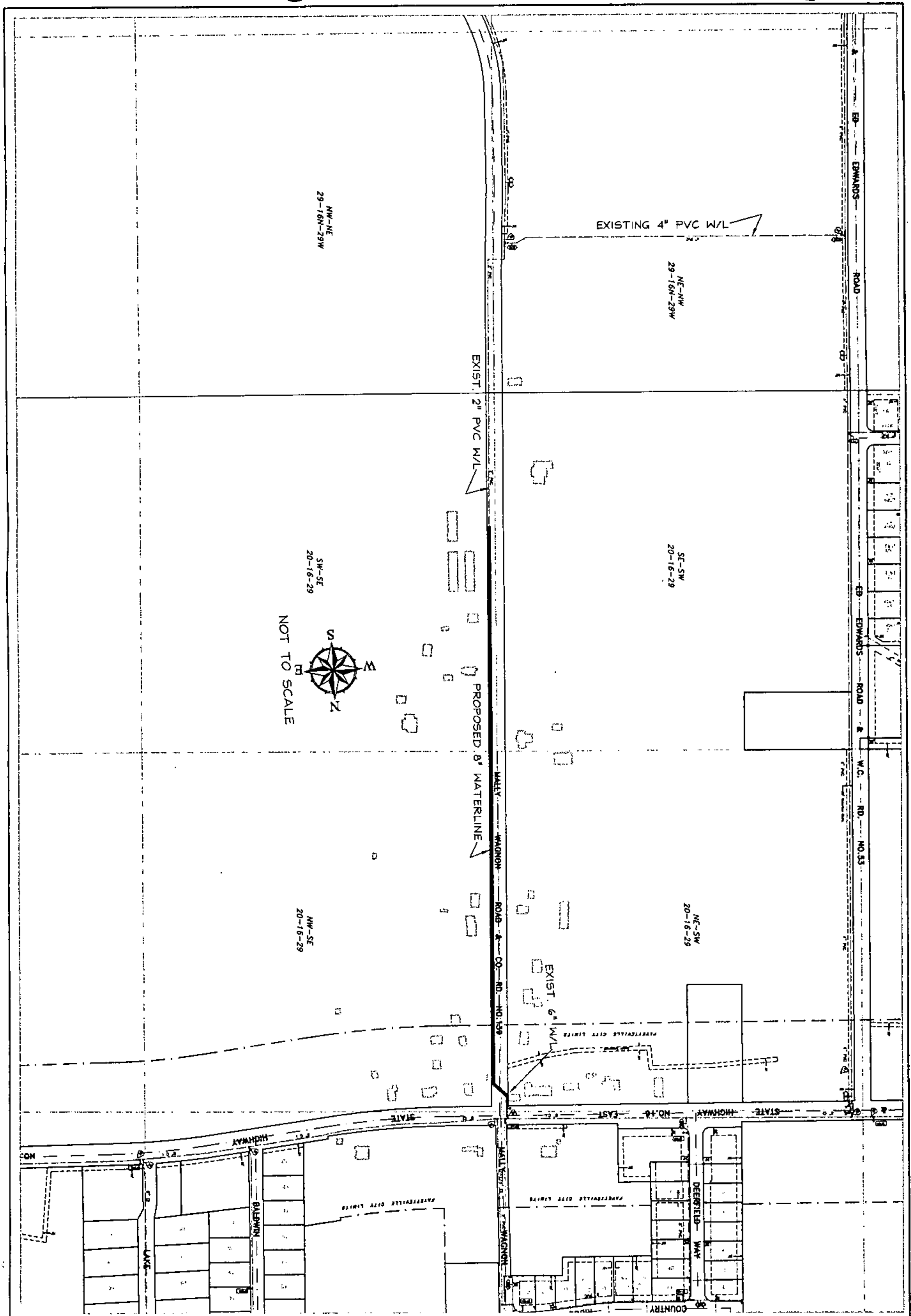
Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor



DEPARTMENTAL CORRESPONDENCE

To: Mr. Fred Hanna, Mayor

Thru: Charles Venable, PW Director
Don Bunn, Asst. PW. Director
Jim Beavers, City Engineer *JB*

From: Ron Petrie, Staff Engineer

Date: January 21, 2000

Re: Agenda Request - City Council Meeting on February 15, 2000
Proposed Bid Waiver and Cost-Share in the amount of \$26,380.00 with James Martin for the construction of an eight inch (8") waterline along Mally Wagnon Road.

A resident located on Mally Wagnon Road, Mr. James Martin, submitted plans to extend a two inch waterline along Mally Wagnon Road in order to receive City water. The Engineering Division and the Water/Sewer Superintendent both agree that this line should be upgraded to an eight inch (8") diameter waterline to provide for growth along this road in the future and to provide a looped waterline for the existing residents along both Ed Edwards Road and Van Hoose Drive. If this cost-share agreement were to fail, Mr. James Martin would only be responsible for the construction of a two (2") waterline.

Therefore, the City is requested to pay the difference to construct an eight inch (8") waterline in lieu of a two inch (2") waterline. Jorgensen & Associates has estimated these costs as follows:

City	\$26,380.00
Mr. Martin	\$13,000.61
Total	\$39,380.61

Based upon the information provided by the Budget & Research Division, there is a remaining balance of \$80,000.00 in the Water & Sewer Cost Share Account.

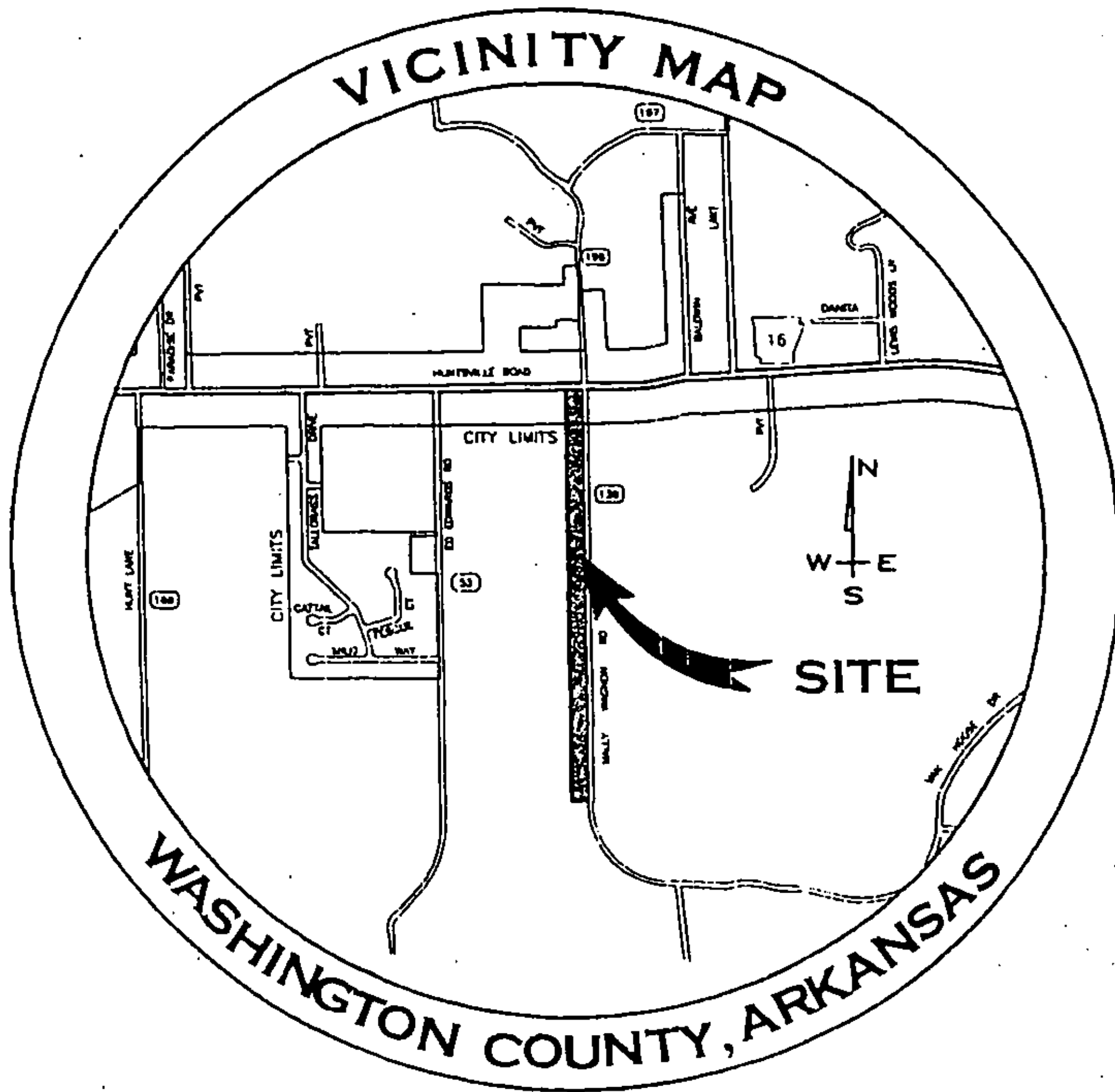
Mally Wagnon
C. 3. Page 4

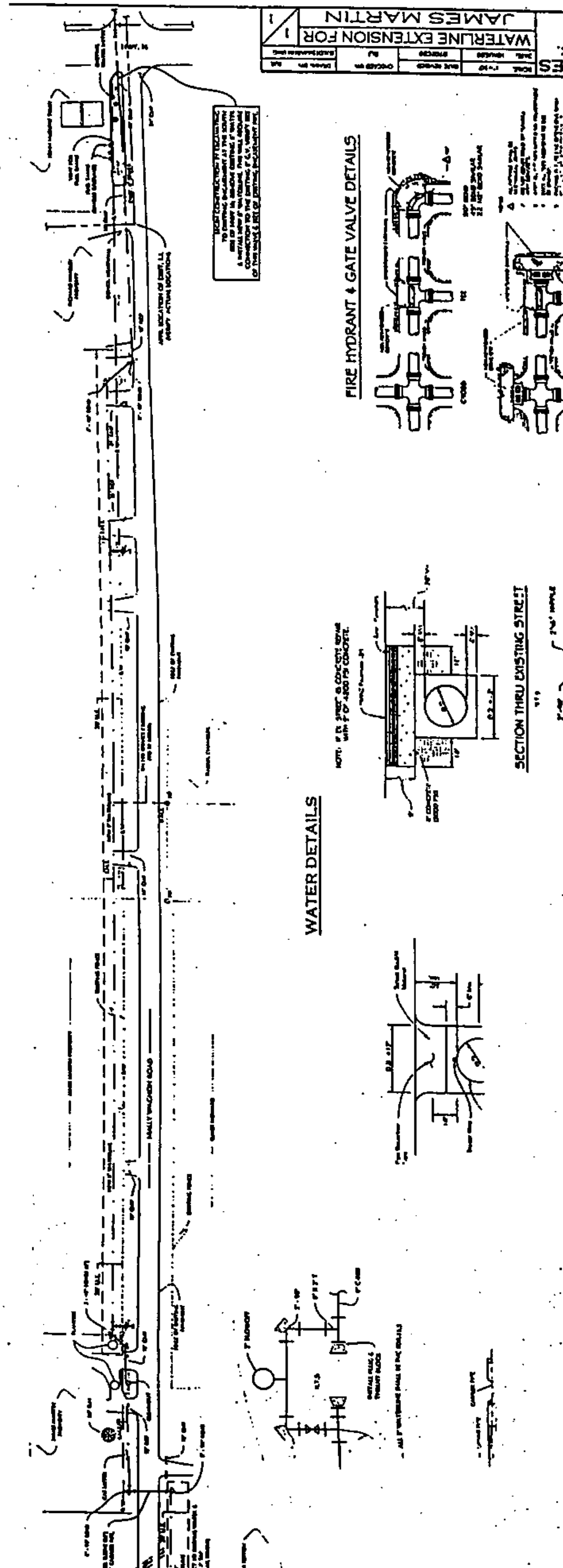
Mr. Fred Hanna, Mayor
October 7, 1999
Page Two (2)

The final costs to the City will be based upon actual costs as documented by Jorgensen & 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
Construction Drawing
Cost Estimates from Jorgensen & Associates
Cost-Share Agreement with Mr. James Martin
Purchase Requisition





JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.

James Martin
Waterline Extension

Estimate of cost for 2" waterline:

1)	1160' of 2" SDR-13 @8.00/LF	\$ 9,280.00
2)	2 x 2 Tap	\$ 800.00
3)	2 Single meter sets @ 222.35/ each	\$ 444.70
4)	1 Double meter set @ 292.20	\$ 292.20
5)	1 Blow-off	\$ 298.60
6)	35' of 4" Steel Encasement @ 25/LF	\$ 875.00
7)	4- 2"-90° Bends @ 52.60/each	\$ 210.40
8)	2 - 2"-45° Bends @ 50/each	\$ 100.00
9)	Clean and test	\$ 500.00
10)	Bond	\$ 200.00
	Sub-Total	\$13,000.90
	Engineering	\$ 2,000.00 RSP
	TOTAL	\$ 15,000.90 RSP

FACTORS BID
(CHARLES HANEY)

WATERLINE EXTENSION
For
James Martin
Unit Price Schedule

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT	
1.	100%	Connect to existing water at HWY 16 (see note below)	100%	\$ 1000.00	
2.	1693	Linear feet 8" C-900 waterline	\$15.00 LF	\$25395.00	
3.	2	Each Firehydrant Assembly	\$1329.70	\$2659.40	
4.	3	Single Meter Set	\$222.35	\$667.05	
5.	1	Double Meter Set	\$292.20	\$292.20	
6.	100%	Bore & Install 3/4" Water Service	100%	\$2000.00	
7.	100%	Bore & Install 35' of 16" Encasement	100%	\$2275.00	
8.	X 4	8" - 45° Bend	\$73.80	\$147.60	295.20 Dog
9.	X 2	8" - 90° Bend	\$80.98	\$323.92	161.96 Dog
10.	2	8" x 6" Tee	\$104.50	\$209.00	
11.	100%	2" Tap of existing line	100%	\$800.00	
12.	2	2" - 90° Bends	\$52.60	\$105.20	
13.	1	8" x 2" Tee	\$99.00	\$99.00	
14.	1	2" Blowoff	\$298.60	\$298.60	
15.	100%	Bond waterline installment	100%	\$373.00	
16.	100%	Sawcut & Repair concrete Drive south of station	100%	\$1000.00	
			Total	\$37646.77	37,630.61 Dog

NOTES

- 1.) Price of pipe installation shall include bedding, thrust blocks and trace wire and detection tape.
- 2.) Excavate to existing encasement and waterline, remove existing 6" and install 8" (Will require excavation at existing valve north of HWY 16)

ADDITIONAL \$1750.00 ENGINEERING FEES TO CONSTRUCT & INSPECT 8"
IN LIEU OF 2" WATERLINE.

AGREEMENT

This shall serve as a formal agreement between James Martin and the City of Fayetteville in order for the City of Fayetteville to participate in a cost share to upgrade the proposed waterline from 2" to 8" along Molly Wagnon Road and to provide two (2) fire hydrants with James Martin.

The City agrees to pay for the upgrade up to a maximum City cost of \$26,379.71 as was estimated by Jorgensen & Associates. This includes \$1,750.00 for additional engineering and construction inspection. Mr. James Martin and his Engineer agree to provide the necessary and normal project management, inspection and testing as necessary for a complete and accepted water line and appurtenances.

It is understood that the contract for construction is between James Martin and his Contractor & Engineer and that the City has no contractual obligation with both the Contractor and Engineer. The City's only obligation shall be to participate in a cost share not-to-exceed amount of \$26,379.71 maximum cost to the City.

It is further understood that upon acceptance of the water line system, James Martin will provide, to the City, a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor. Within thirty (30) days after receipt of the invoice(s) and lien waiver, the City will remit the agreed upon cost share amount to James Martin.

If you agree with these provisions please sign this agreement in the space provided and return to the City.

Approved City of Fayetteville

Date



James Martin

1-19-00

Date

RECEIVED STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FEB 04 2000

CITY OF
CITY CLERK'S OFFICE

For the Fayetteville City Council meeting of February 15, 2000

FROM:

Ron Petrie Engineering Public Works
Name Division Department

ACTION REQUIRED: Approval of a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hays, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch (8") waterline and a twelve inch (12") waterline within this development.

COST TO CITY:

\$ 33,205.00 (Estimated) Cost of this Request	\$ 80,000.00 Category/Project Budget	Water & Sewer Improvements Category/Project Name
5400-5600-5808-00 Account Number	\$ 24,380.00 Funds Used To Date	Cost Share Program Name
97021 Project Number	\$ 53,620.00 Remaining Balance	Sales Tax Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marion J. Kramer Accounting Manager	1-25-00 Date	Yolanda D. Dicks Internal Auditor	1-31-00 Date
[Signature] City Attorney	1-29-00 Date	ADA Coordinator	Date
P. Vice Purchasing Officer	1-31-00 Date		

STAFF RECOMMENDATION: Approval of action items listed above.

[Signature] Division Head	1/24/00 Date
[Signature] Department Director	1-31-00 Date
[Signature] Administrative Services Director	2-1-00 Date
[Signature] Mayor	2/1/00 Date

Cross Reference

New Item: Yes ☒ No ☐

Prev Ord/Res #: _____

Orig Contract Date: _____

STAFF REVIEW FORM

Description Summersby Subdivision Waterline Cost Share Meeting Date February 15, 2000

Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Reference Comments:

DEPARTMENTAL CORRESPONDENCE

To: Mr. Fred Hanna, Mayor

Thru: Charles Venable, PW Director
Don Bunn, Asst. PW. Director
Jim Beavers, City Engineer *JB*

From: Ron Petrie, Staff Engineer

Date: January 21, 1999

Re: Agenda Request - City Council Meeting on February 15, 2000
Proposed Bid Waiver and Cost-Share in the amount of \$33,205.00 with the developers of
Summersby Subdivision for the construction of a twelve inch (12") waterline.

The Preliminary Plat for the Summersby Subdivision was approved by the Planning Commission on June 24, 1999. The engineer for the subdivision planned to construct an eight inch (8") waterline from Manor Drive northward through the proposed subdivision and connect to an existing waterline located to the east of Broadview Subdivision. Due to frequent waterline failures in this area and the proximity to a recommended waterline as shown on the Master Water Plan, the Engineering Division and the Water/Sewer Superintendent have agreed that a 12" waterline should be installed in lieu of an eight (8") waterline. If such agreement were to fail, the developer would only be responsible for constructing an eight inch (8") waterline.

Therefore, the City is requested to pay the difference to construct a twelve inch (12") waterline in lieu of an eight inch (8") waterline. Jorgensen & Associates has estimated these costs as follows:

City	\$ 33,205.00
Developer	\$ 36,145.00
Total	\$ 69,350.00

Based upon the information provided by the Budget & Research Division, there is a remaining balance of \$80,000.00 in the Water & Sewer Cost Share Account.

Summersby
C. 4. Page 4

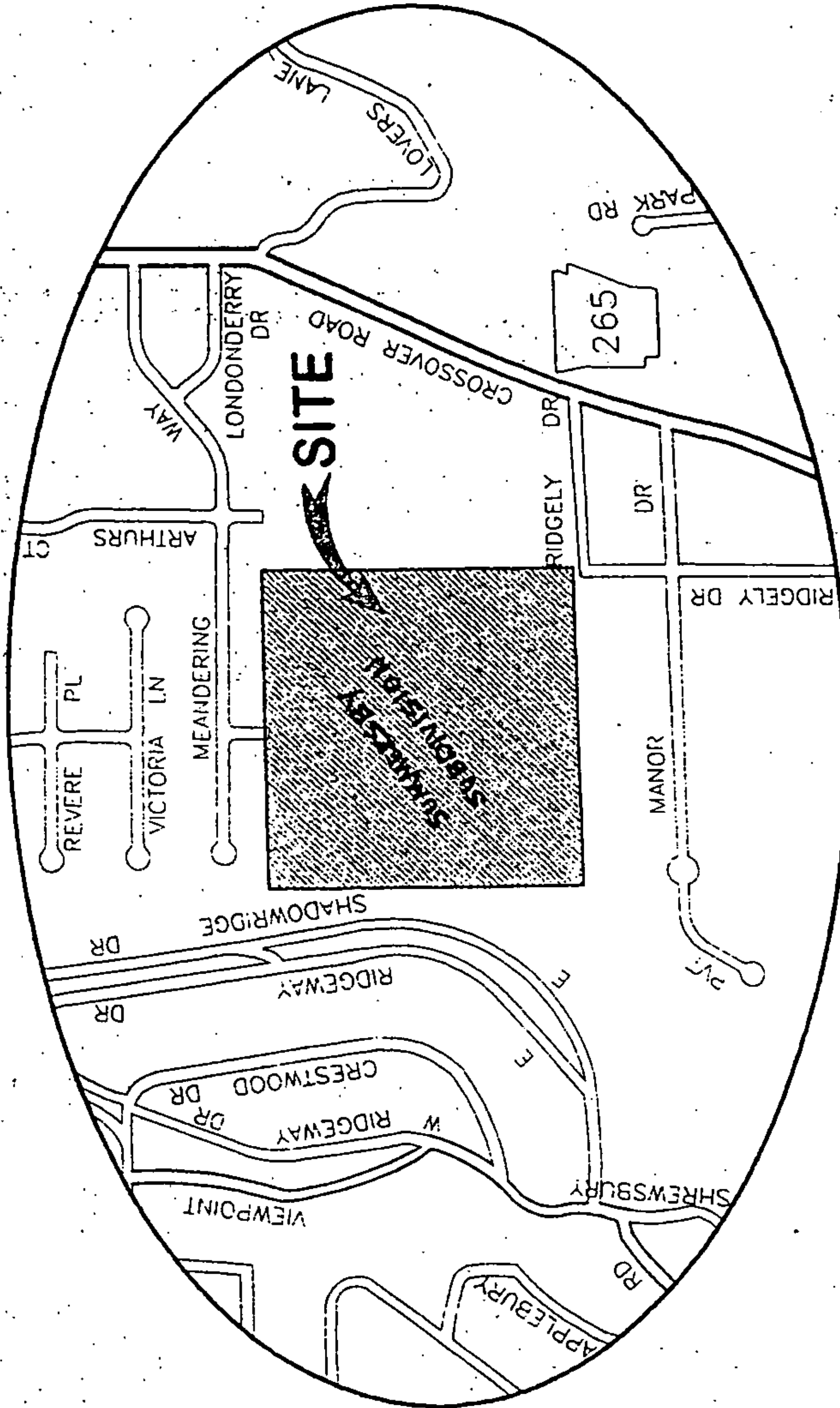
Mr. Fred Hanna, Mayor
October 7, 1999
Page Two (2)

The final costs to the City will be based upon actual costs as documented by Jorgensen & 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.

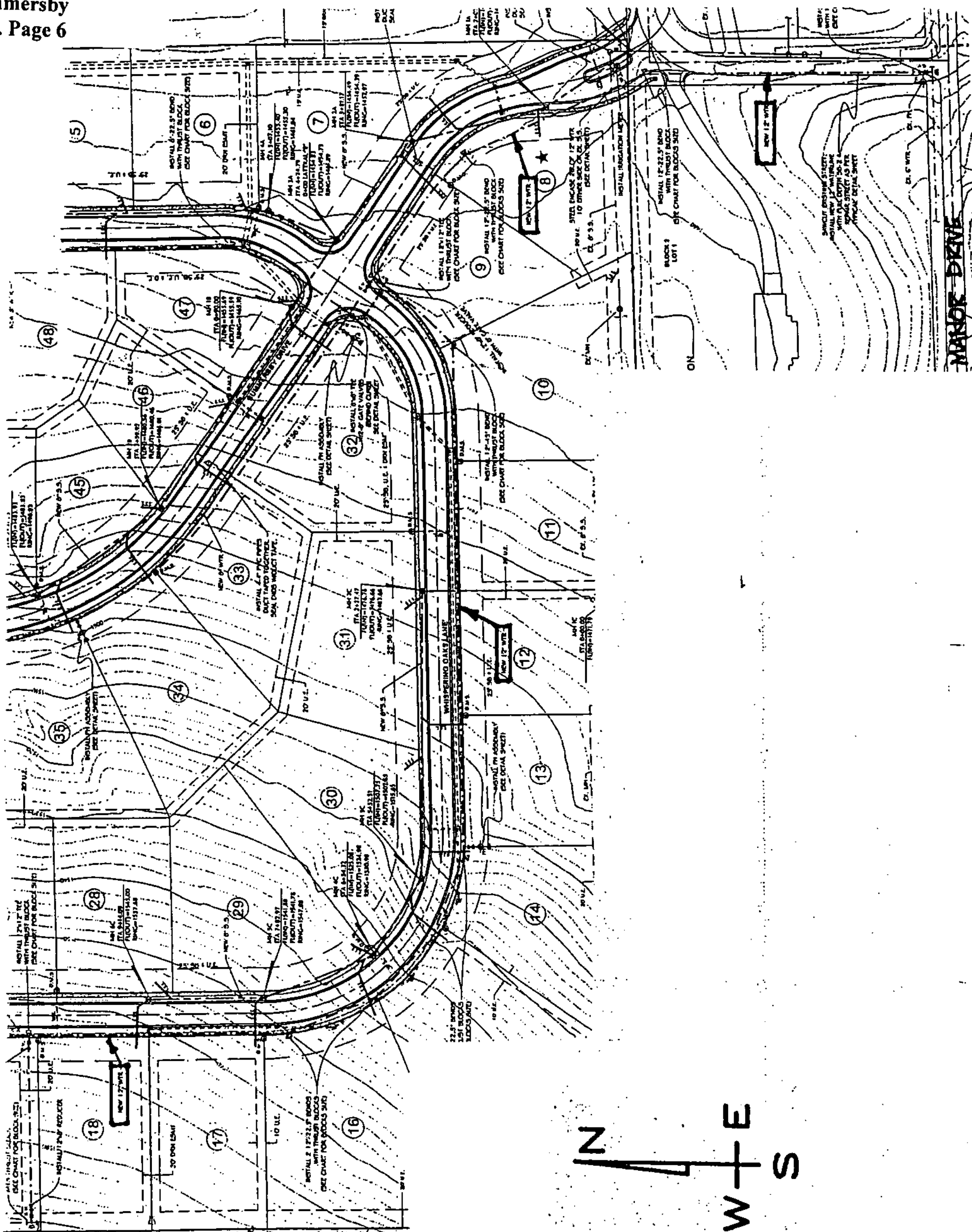
Enclosures:

Vicinity Map
Construction Drawing
Cost Estimate from Jorgensen & Associates
Cost-Share Agreement with Mark Foster & J.B. Hays
Purchase Requisition

VICINITY MAP



FAYETTEVILLE, ARKANSAS



JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.SUMMERSBY SUBDIVISION

8" WATER vs. 12" WATER

8" WATER

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1.	1	8" Tap	\$ 0	\$ 1,900.00
2.	2230	LF 8" Water	\$ 14.00	\$ 31,220.00
3.	6	8" 22 1/2° Bend	\$ 175.00	\$ 1,050.00
4.	1	8" 45° Bend	\$ 175.00	\$ 175.00
5.	1	8" G.V.	\$ 400.00	\$ 400.00
6.	4	8" T	\$ 350.00	\$ 1,400.00
				<u>\$ 36,145.00</u>

12" WATER

1.	1	8" Tap	\$	\$ 1,900.00
2.	2230	LF, 12" Water	\$ 25.00	\$ 55,750.00
3.	6	12", 22 1/2° Bend	\$ 250.00	\$ 1,500.00
4.	1	12", 45° Bend	\$ 250.00	\$ 250.00
5.	2	12" Butterfly Valve	\$ 1,500.00	\$ 3,000.00
6.	3	12 x 8 Reducer	\$ 300.00	\$ 900.00
7.	3	12" T	\$ 450.00	\$ 1,350.00
8.	100%	20'-24" Steel Encasement	\$ 100%	<u>\$ 1,500.00</u>
				\$ 66,150.00

Difference in Cost = \$30,005.00

Extra Engineering = \$ 3,200.00

TOTAL \$ 33,205.00

AGREEMENT

This shall serve as a formal agreement between the developers of the Summersby Subdivison, Mark Foster and J.B. Hays, and the City of Fayetteville in order for the City of Fayetteville to participate in a cost share to upgrade a portion of the proposed waterline from 8" to 12" within this development.

The City agrees to pay for the upgrade up to a maximum City cost of \$33,205.00 as was estimated by Jorgensen & Associates. This includes \$3,200.00 for additional engineering and construction inspection. Mark Foster, J.B. Hays, and their Engineer agree to provide the necessary and normal project management, inspection and testing as necessary for a complete and accepted water line and appurtenances.

It is understood that the contract for construction is between Mark Foster and J.B. Hays and their Contractor & Engineer and that the City has no contractual obligation with both the Contractor and Engineer. The City's only obligation shall be to participate in a cost share not-to-exceed amount of \$33,205.00 maximum cost to the City.

It is further understood that upon acceptance of the water line system, Mark Foster and J.B. Hays will provide, to the City, a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor. Within thirty (30) days after receipt of the invoice(s) and lien waiver, the City will remit the agreed upon cost share amount to Mark Foster and J.B. Hays.

If you agree with these provisions please sign this agreement in the space provided and return to the City.

Approved City of Fayetteville

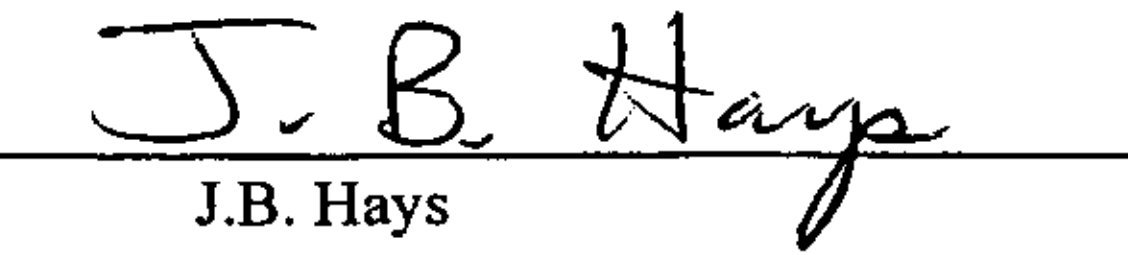
Date



Mark Foster

1-18-2000

Date



J.B. Hays

1-18-2000

Date

(not a purchase order)

Mark Foster and J. B. Hays, Attn: Mark Foster

Mark Foster and J. B. Hays, Attn: Mark Foster

FOB Point

72703

Ron Petrie, P.E., Staff Engineer

tended

5400-5600-5800.00

07-T7016

1

SHIPPING/HANDLING

Special instructions:

Please return P0 to Engineering

Subtotal:

Taxi

TOTAL: \$33,205.00

Approvals:

Department Director:

(for purchasing office use only)

Mayor:

Department Director:

1

Admin. Services Director:

Budget Coordinator: _____

Table 1. Continued

RECEIVED

JAN 24 2000
STAFF REVIEW FORM

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of JAN. 18
February 1, 2000
FROM:

Bert Rakes
Name

Inspection
Division

Public Works
Department

ACTION REQUIRED:

Review and act on proposed Sign Ordinance Revision.

COST TO CITY:

\$ N/A
Cost of this Request

\$
Category/Project Budget

Category/Project Name

N/A
Account Number

\$
Funds Used To Date

Program Name

N/A
Project Number

\$
Remaining Balance

Fund

BUDGET REVIEW: N/A Budgeted Item N/A Budget Adjustment Attached

[Signature]
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager

12-29-99
Date ADA Coordinator

Date

[Signature]
City Attorney

12-29-99
Date Internal Auditor

Date

[Signature]
Purchasing Officer

12-29-99
Date

STAFF RECOMMENDATION:

Approval of Revision.

[Signature]
Division Head

01/03/00
Date

Cross Reference

[Signature]
Department Director

1-3-00
Date

New Item: Yes No

[Signature]
Administrative Services Director

1-4-00
Date

Prev Ord/Res #:

[Signature]
Mayor

1/4/00
Date

Orig Contract Date:

STAFF REVIEW FORM

Description Sign Ordinance Revision Meeting Date Feb. 1, 2000

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

December 23, 1999

TO: FAYETTEVILLE CITY COUNCIL
TH: MAYOR HANNA
FR: BERT RAKES, INSP. DIV. DIR.
RE: PROPOSED SIGN ORDINANCE REVISIONS

Attached you will find an Agenda Request and proposed revision to the Sign Ordinance. The purpose of the proposed revisions is to eliminate the conflict of Monument Signs negotiated by the Planning Commission and developers and also to define and clarify the use of Joint Identification and Area Signs.

Monument Signs have become more popular since recognized in the Overlay District Ordinance. When a developer requests a sign permit for a Monument Sign that has been approved by the Planning Commission a variance must be granted by the Board of Sign Appeals because the Sign Ordinance does not recognize a Monument Sign. The proposed revisions will allow a developer to substitute a Monument Sign with display area restricted by district as indicated for a conforming Freestanding Sign.

The existing Sign Ordinance permits a four square foot Freestanding Sign in a R-2, R-3, and R-0 District. The proposed revision will allow a Monument Sign up to sixteen square feet.

The section on Joint Identification Sign has been revised to clarify some troublesome language and to permit a Joint Identification Monument Sign up to thirty-two square feet in a R-0 District. A Joint Identification Sign is typically used to identify several business within a subdivision.

An Area Sign typically used to identify subdivisions can now be permitted up to thirty-two square feet for a tract of five acres or more. The proposed revision will provide a choice of a single sign with display on both sides or two signs with display on one side. Also, signs at two entrances can be permitted when a subdivisions has more than one entrance. The maximum display area in C and I Districts is proposed to increase to 75 square feet.

Freestanding, Joint Identification, and Area Signs cannot be commingled. Only one Freestanding Sign can be permitted on one lot. It is proposed that Joint Identification and Area Signs be permitted at an approved location at no more than two entrances.

Simmemr l

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 151, DEFINITIONS, AND 174, SIGNS, THE CODE OF FAYETTEVILLE, TO DEFINE AND PROVIDE FOR THE REGULATION OF MONUMENT SIGNS; AND, DEFINE AND CLARIFY THE USE OF JOINT IDENTIFICATION AND AREA SIGNS.

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

Section 1. That Chapter 151, Definitions, of the Code of Fayetteville, is hereby amended to delete the definitions of Area Identification Sign and Joint Identification Sign.

Section 2. That Chapter 151, Definitions, of the Code of Fayetteville, is hereby amended to add the following definitions:

Area Sign. (Signs) A sign to identify a common area containing a group of structures, or a single structure on a minimum site of five acres, such as a residential subdivision, residential office, commercial or industrial subdivision, apartment complex, mobile home park, or shopping center located at the entrance or entrances of the area, and consisting of fence or wall or archway with letters or symbols affixed thereto or other supporting structure as approved by the Building Inspector.

Joint Identification Sign. (Signs) A sign which serves as common or collective identification for a group of persons or businesses operating in the same subdivision or lot in a residential office, commercial or industrial district (e.g., shopping center, office complex, etc.) Such sign may name the persons or businesses included but carry no other advertising matter.

Monument Sign. A freestanding sign with a maximum height of six feet above the surrounding finish grade and whose entire base is in contact with and supported by the ground.

Section 3. That Chapter 174, Signs, § 174.10, Freestanding Signs, Subsection C.4., of the Code of Fayetteville, is hereby deleted and the following shall be inserted in its stead:

§174.10. FREESTANDING SIGNS.

C. C Districts.

4. Joint Identification Sign. The display surface area of joint identification signs may be increased to one square foot per 500 square feet of gross leaseable building area over 37,500 square feet, located, as approved by the Building Inspector, at no more than two remote entrance locations. The permit applicant shall provide a recorded legal document as approved by

PASSED AND APPROVED this _____ day of _____, 1999.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

the Building Inspector indicating ownership and responsibility for maintenance of sign and subject to the following:

- a. R-1, R-1.5, R-2 and R-3 District. Prohibited.
- b. R-O District. Monument sign permitted with a maximum display surface area of thirty-two square feet.
- c. C and I District. Display surface area shall not exceed 300 square feet.
- d. Joint Identification Sign Display. A freestanding sign or monument sign greater than thirty-two square feet for a person or business with display on a joint identification sign shall not be allowed.

Section 4. That Chapter 174, Signs, §174.10, Freestanding Signs, of the Code of Fayetteville, is hereby amended to add the following:

§174.10. FREESTANDING SIGNS.

G. Area Signs.

1. **Size/Location.** The size and location of the fence, wall, or other structure which will contain the area identification sign must be approved by the Building Inspector, who will approve such structure upon the criterion of traffic safety sight lines.

- a. Areas with more than one entrance may not have a sign at more than two locations.
- b. An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides.

2. Display Surface Area.

- a. A, P, R and R-O Districts. Display area shall not exceed 32 square feet.
- b. C and I Districts. Display area shall not exceed 75 square feet.

H. Monument Signs. A monument sign shall be set back a minimum of ten feet from the street right-of-way and may be substituted for a freestanding sign permitted by §174.10, provided the display surface area meets the following:

1. R-1 and R1.5 Districts. Prohibited on individual lots.
2. A and P Districts. The display surface area shall not exceed thirty-two square feet.
3. R-2, R-3 and R-O Districts. The display surface area shall not exceed sixteen square feet.
4. C and I Districts. The display surface area shall not exceed the maximum permitted by §174.10.

Section 5. That Chapter 174, Signs, §174.13, Area Signs, of the Code of Fayetteville, is hereby deleted.

CHAPTER 174: SIGNS

§174.01 GENERAL REGULATIONS.

A. Permit Required. It shall be unlawful for any person to erect, repair, alter, relocate or keep within the City any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the Building Inspector.

B. Illuminated Signs. All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.

(Code 1991, §158.20; Code 1965, §17B-3(a); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76)

C. Fees. Every applicant, before being granted a permit hereunder, shall pay to the building inspector's office the permit fee set forth in Chapter 159.

(Code 1991, §158.22; Code 1965, §17B-3(c); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Ord. No. 3925, §4, 10-3-95)

D. Maintenance of Premises. All free standing signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(Code 1991, §158.05; Code 1965, §17B-4(b); Ord. No. 1893, 12-19-72; Ord. No. 2790, 1-18-82)

E. Privilege. All rights and privileges acquired under the provisions of this chapter

or any amendments thereto are mere licenses revocable at any time by the City Council and all such permits shall contain this provision.

(Code 1991, §158.24; Code 1965, §17B-3(e); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76)

§174.02 PERMIT APPLICATION/ ISSUANCE.

A. Application. Application for initial sign permits shall be made upon blanks provided by the Building Inspector and shall contain or have attached thereto the following information:

1. Applicant Identification. Name, address and telephone number of the applicant.

2. Location. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.

3. Position. Position of the sign or other advertising structure in relation to nearby buildings or structures.

4. Blueprints/Drawings. Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.

5. Person Erecting Structure. Name of person, firm, corporation or association erecting structure.

6. Consent of Owner. Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.

7. Electrical Permit. Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.

8. Other Information. Such other information as the Building Inspector shall require to show full compliance with Code of Fayetteville.

(Code 1991, §158.21; Code 1965, §17B-3(b); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76)

B. Issuance of Sign Permit. It shall be the duty of the Building Inspector, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all the requirements of this chapter and all other laws and ordinances of the City, he shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six months after date of issuance, the said permit shall become null and void.

(Code 1991, §158.23; Code 1965, §17B-3(d); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76)

§174.03 EXEMPTIONS. Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with certain applicable provisions

of this chapter. The exemptions shall apply to the requirement for sign permit only, and no sign permit shall be required for the erection of the following signs:

A. Professional Nameplates. Professional nameplates erected flat on walls of building and not exceeding four square feet of display surface area.

B. Building Construction Signs. One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight square feet or less in R Zoning Districts; 32 square feet or less in other zoning districts.

C. Real Estate Signs. On a lot in any district, there may be erected one on-site unanimated real estate sign; provided, when a lot is listed simultaneously with two real estate firms, one such sign per firm shall be permitted. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and, freestanding signs or platform signs shall be set back a minimum of ten feet from the street. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:

District	Permitted Illumination	Area (Square Feet)
A	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Nonflashing	32

D. Home Occupation Signs. Home occupation signs erected flat against the wall and not exceeding three square feet.

E. Memorial Signs, Name Signs. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

F. Traffic Signs, Etc. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.

G. Posting Bills, Repainting Signs. Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were legally erected and maintained for such purposes.

H. Election Campaign Signs. Political signs are permitted to be placed on private property in any district, subject to the following conditions:

1. Districts Where Signs Not Otherwise Permitted. In districts where signs are not otherwise permitted, a political sign may be erected but said sign shall be removed within 72 hours following the final election to which it applies; the owner of the property on which said sign is placed shall be responsible for its removal.

2. Sign Permitted. In districts where signs are otherwise permitted, political signs shall meet those requirements.

I. Time and Temperature Displays. Time and temperature displays without advertising matter, providing all clearances

prescribed herein for signs similarly located are maintained.

J. Banners.

1. Public/Private Events.

Banners shall be exempted when used in conjunction with public and private events as follows:

a. Election Campaigns. Election campaign banners when said banners are not placed more than ten days prior to and removed within 72 hours following the election to which the banner applies.

b. Public Events. Public event banners shall be removed within 72 hours following the event to which the banner applies.

c. Private Sales Events. Banners placed on private property for advertising a special sales event.

2. Advertising. Banners bearing advertising matter shall be considered wall or freestanding signs, depending upon mounting, and shall meet all regulations pertaining thereto.

K. Signs Located in Buildings. All signs located within a building that are not visible to the public outside said building.

L. Signs on Windows. Signs painted on, or affixed to, glass surfaces of windows or doors and pertaining to the lawful business conducted therein.

M. Directional Identification and Informational Signs. Directional, identification and informational signs; provided, such signs shall be limited to wall and freestanding signs with a maximum of four square feet of display surface area. Notwithstanding the restrictions on the

location and number of freestanding signs prescribed by §174.10, one freestanding sign not exceeding four square feet in display surface area shall be permitted at each entrance or exit on a lot or parcel to identify such entrance or exit and to encourage the use of motor vehicle seatbelts, subject to the following restrictions:

1. Traffic Hazard. No such sign shall be erected which would create a traffic hazard.

2. Seat Belt Sign. Any words or symbols encouraging the use of seatbelts shall face the interior of the lot or parcel on which the sign is located and shall not face the street unless the City's official seatbelt sign is used.

N. Collection Boxes. Collection boxes for charitable or nonprofit organizations containing no commercial advertising and located on private property in any C or I Zoning District.

O. Subdivision Signs. In any district, one temporary subdivision identification sign indirectly illuminated, not to exceed 50 square feet in area per surface may be erected at any principal entrance to a subdivision, provided that in no event shall such sign remain for more than six months within 50 feet of a dwelling in a R District occupied as a dwelling.

P. Freestanding Bulletin Boards. A freestanding bulletin board shall be set back a minimum of 15 feet from street right-of-way; and any bulletin board having a display surface area in excess of ten square feet shall be set back from street right-of-way an additional one-foot for each two square feet of display surface area in excess of ten square feet.

Q. Fuel Price Informational Signs. In any district, signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premises shall be permitted, subject to the following conditions:

1. Price. Only one fuel price informational sign shall be permitted per fuel pump.

2. Size. Fuel price informational signs shall be limited in size to an area of 216 square inches.

3. Stationary. Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.

4. Other Locations. Nothing herein shall be construed as to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this chapter.

5. Sign Faces. Only one two-faced, or two one-faced, self service/full service signs not exceeding four square feet in display surface area shall be permitted at each pump island.

R. Fences and Scoreboards in City Parks. Signs may be permitted on baseball/softball fences and scoreboards in city parks as provided for in §97.088 (B).

(Code 1991, §158.08; Code 1965, §17B-6; Ord. No. 1893, 12-19-72; Ord. No. 3294, 9-15-87; Ord. No. 3307, 10-20-87; Ord. No. 3313, 11-17-87)

§174.04 SIGN IDENTIFICATION. Every sign or other advertising structure hereafter registered shall show in a conspicuous place thereon which is visible to the Inspector and is

readable by the Inspector from the ground, the permit number.

(Code 1991, §158.04; Code 1965, §17B-4A; Ord. No. 1893, 12-19-72; Ord. No. 2790, 1-18-82)

§174.05 SIGN REMOVAL. In the event a business ceases operation for a period of time in excess of 60 days, the sign owner or lessee, or the property owner, shall immediately remove any sign identifying or advertising said business or any product sold thereby; provided, however, this requirement shall not apply where under the provisions of this chapter an existing conforming sign may be altered to advertise a new business to be in operation on the premises within 60 days.

Cross Reference: Enforcement, Chapter 153.

(Code 1991, §158.35; Code 1965, §17B-7(a); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

§174.06 NONCONFORMING SIGNS. For the purpose of this section, a nonconforming sign shall be defined as a sign existing on or before January 19, 1973, which could not be built under the terms of this chapter or under the terms of Zoning, Chapter 160-165.

A. On-Site, Nonconforming Signs.
All on-site, nonconforming signs not otherwise prohibited by the provisions of this chapter shall be removed or shall be altered to conform to the provisions of this chapter when the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend, or when the name of the business changes and the sign is changed or modified either in

shape, size, or legend, or on or before January 19, 1980, whichever occurs sooner.

B. Off-Site, Nonconforming Signs.
Off-site, nonconforming signs not otherwise prohibited by the provisions of this chapter shall be removed or shall be altered so as to conform with the provisions of this chapter on or before January 19, 1977. Off-site nonconforming signs not otherwise prohibited by this chapter shall be removed or shall be altered so as to conform with the provisions of this chapter within four years from January 19, 1973.

C. Enlarge/Alter. No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity.

D. Damage/Replace. Should any nonconforming sign be damaged by any means to an extent of more than 50% of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this chapter.

(Code 1991, §158.07; Code 1965, §17B-5; Ord. No. 1893, 12-19-72; Ord. No. 2109, 6-3-75; Ord. No. 2255, 7-20-76)

§174.07 PLACING SIGNS ON PUBLIC AND PRIVATE PROPERTY.

A. Placing Signs on Public Property.

1. Agencies of Government.
No signs other than signs placed by agencies of government shall be erected on any public property; provided, directional signs may be erected upon the City's street name signposts, or upon traffic signposts under the following conditions:

a. Public Facility/Out of Town Patrons. The signs direct the reader

to the location of a public facility attended principally by out-of-town patrons, to a facility operated by a nonprofit entity and attended principally by out-of-town patrons, to a facility relating to the public health, safety or welfare, or to scenic or historic trails;

b. Traffic Department.

The signs are fabricated, erected and maintained by the City Traffic Department;

c. Cost. The entire cost of the signs is borne by the entity requesting the signs;

d. Installation. The signs are installed at locations where they would not constitute a traffic hazard;

e. Traffic Control Devices. The signs conform to the manual on uniform traffic-control devices; and

f. Directional Signals. The maximum number of directional signs permitted under this section shall be seven for each entity; provided, the limitation provided hereby shall not apply to signs directing the reader [thereof] to scenic or historic trails.

2. Nonprofit Organizations.

Nonprofit organizations shall be allowed to place temporary signs of a noncommercial nature on public property for the purpose of directing the general public to the location of an event or activity which promotes the general public welfare. The placement of such temporary signs shall be subject to the following conditions:

a. Display Surface Area. The maximum display surface area of each sign shall not exceed six square feet;

b. Number of Signs. No more than three signs directing the general public to such an event or activity shall be placed on public property at the same time by one such organization;

c. Organization Name. Each such sign shall identify the nonprofit organization by name;

d. Temporary Sign.

No such temporary sign shall be placed on public property for more than five successive days;

e. Location/Approval.

The location of each such sign shall be approved by the Sign Inspector and Traffic Superintendent to ensure that the signs will not constitute a traffic hazard;

f. Permit/Number of Signs. The organization applies for, and is issued, a sign permit; one permit may authorize installation of up to three signs pursuant to the provisions of this division; and

g. Temporary Signs. No such organization shall install, or be issued a permit to install a temporary sign on public property pursuant to the provisions of this division more often than six times within a 12-month period.

B. Placing Signs on Private Property. No signs shall be placed on any private property without the consent of the owner thereof.

C. Placing Signs on Trees or Rocks. No signs shall be placed or painted on any tree or rock.

D. Placing Signs on Utility Poles. No signs shall be placed on any utility pole except for utility identification or similar purposes.

(Code 1991, §158.37; Code 1965, §17B-7(c); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Ord. No. 3677, §1, 3-2-93)

§174.08 PROHIBITED SIGNS.

A. Spot Lights and Beacons. It shall be unlawful for any person to continue in

operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.

(Code 1991, §158.39; Code 1965, §17B-7(e); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

B. Fluctuating Illumination. It shall be unlawful for any person to erect additional attraction devices or signs or to continue in operation an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the City that fluctuates in light intensity shall be prohibited.

(Code 1991, §158.40; Code 1965, §17B-7(f); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

C. Portable Swinger or Temporary Attraction Sign Boards. It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich or temporary attraction sign board in the City.

(Code 1991, §158.41; Code 1965, §17B-7(g); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

D. Revolving, Rotating, or Moving Signs. It shall be unlawful for any person to erect or to continue using any sign the exterior of which revolves, rotates or otherwise moves, in whole or in part.

(Code 1991, §158.44; Code 1965, §17B-7(j); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

E. Windblown Signs. It shall be unlawful for any person to display any windblown sign; provided, windblown signs may be displayed on a lot, at a shopping center, or at a mall one time per year for a period not to exceed 72 hours if a temporary sign permit is first obtained from the Building Inspector upon payment of a the appropriate fee; provided further, one company flag shall be permitted on a lot, at a shopping center, or at a mall.

(Code 1991, §158.45; Code 1965, §17B-7(k); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

F. Signs that Constitute a Traffic Hazard. No sign or other advertising structure as regulated by this chapter shall be erected or continued to be displayed at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words, "STOP," "LOOK," "DRIVE-IN," "DANGER," or any other word, phrase, symbol or character in such manner as to interfere with, mislead, or confuse traffic.

(Code 1991, §158.36; Code 1965, §17B-7(b); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

G. Use of Vehicle as Sign. It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this chapter.

(Code 1991, §158.42; Code 1965, §17B-7(h); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

H. Roof Signs. Roof signs shall not be permitted except on appeal to the Board of Sign Appeals.

(Code 1991, §158.46; Code 1965, §17B-8; Ord. No. 1893, 12-19-72; Ord. No. 2262, 8-3-76)

Cross Reference: Variance, Chapter 156.

I. Restrictions Along Controlled Access Highways. No off-site sign shall be permitted within 660 feet of the right-of-way of any controlled access highway.

(Code 1991, §158.43; Code 1965, §17B-7(i); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

§174.09 SIGN ILLUMINATION. Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at 25 watts or less.

(Code 1991, §158.38; Code 1965, §17B-7(d); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87)

§174.10 FREESTANDING SIGNS. It shall be unlawful to erect any freestanding sign which total height is greater than 30 feet above the level of the street upon which the sign faces. Freestanding signs located on property which abuts both a controlled access highway and a State or Federal numbered highway may not be erected where the total height of said sign is greater than 30 feet above the plane of the pavement of the highest road at the intersection. For any sign located closer to street right-of-way than 40 feet the maximum height shall be reduced one-half

foot for each foot of setback less than 40 feet. Freestanding signs shall be permitted to be erected in the city subject to the following:

A. A-1 District.

1. Off-Site. Off-site freestanding signs shall be prohibited.

2. On-Site. On-site freestanding signs subject to the following:

a. Number of Signs. Only one on-site freestanding sign shall be permitted on a lot or at a business operating on two or more adjoining lots.

b. Display Surface Area. Display surface area shall not exceed 16 square feet.

c. Illumination. Sign may be illuminated by indirect illumination only.

d. Setback from Right-of-Way. Sign shall be set back 35 feet from existing street right-of-way and 25 feet from any R or R-O District.

B. R and R-O Districts. Freestanding signs shall be prohibited and no freestanding signs shall be erected in any R or R-O District of the city; provided, one freestanding bulletin board per lot shall be permitted, subject to the restrictions on bulletin boards prescribed by §174.03 P.; provided further, one on-site freestanding sign shall be permitted on a lot or parcel zoned R-2, R-3, or R-O subject to the following restrictions:

1. Display Surface Area. The maximum display surface area shall not exceed four square feet;

2. Setback from Right-of-Way. The sign shall be set back a minimum of 15 feet from street right-of-way;

3. Height. The height of the sign shall not be greater than six feet above the level of the street upon which the sign faces;

4. Setback from R District. The sign shall be set back a minimum of 25 feet from the boundary of any R District;

5. Adjoining Property. The sign shall be erected a minimum of ten feet from adjoining property;

6. Illumination. The sign may be illuminated by indirect illumination only.

C. C Districts.

1. Number of Signs. Only one on-site freestanding sign shall be permitted on a lot, at a shopping center, or at a mall; provided, only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.

2. Off-Site. Only one off-site freestanding sign shall be permitted on any vacant property of one ownership.

3. Freestanding Signs. Freestanding signs shall be subject to the following:

a. Display Surface Area. Display surface area shall not exceed ten square feet; provided, the display surface area may be increased two square feet for each one foot the sign is set back from street right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which is set back from street right-of-way 40 feet or more shall be 75 square feet; provided further, the maximum display surface area for an on-site freestanding sign located on property which abuts a controlled access highway shall be 200 square feet.

b. Setback from Right-of-Way. Set back shall be a minimum of 15 feet from street right-of-way; provided, an on-site freestanding sign located on property which abuts a controlled access highway shall be set back a minimum of 40 feet from street right-of-way of the service road.

c. Adjoining Property. May be erected a minimum of one foot from adjoining property.

d. Illumination. Signs may be illuminated by direct or indirect illumination.

e. Setback from R or RO District. Set back shall be a minimum of 25 feet from the boundary of any R or R-O District.

~~**4. Joint Identification Sign.** The display surface area of joint identification signs may be increased to one square foot per 500 square feet of gross leaseable building area, with a maximum display surface area of 300 square feet.~~

D. I Districts.

1. Number of Signs. Only one on-site freestanding sign shall be permitted on a lot, at a shopping center, or at a mall; provided, only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.

2. Off-Site. Off-site freestanding signs shall be prohibited.

3. Freestanding Signs. Freestanding signs shall be subject to the following:

a. Display Surface Area. Display surface area shall not exceed ten square feet; provided, the display surface area may be increased two square feet for each

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one foot the sign is set back from street right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which is set back from street right-of-way 40 feet or more shall be 75 square feet; provided further, the maximum display surface area for an on-site freestanding sign located on property which abuts a controlled access highway shall be 200 square feet.

b. Setback from Right-of-Way. Set back shall be a minimum of 15 feet from street right-of-way; provided, an on-site freestanding sign located on property which abuts a controlled access highway shall be set back a minimum of 40 feet from street right-of-way of the service road.

c. Adjoining Property. Signs may be erected a minimum of one foot from adjoining property; provided, however, said signs must be set back 25 feet from the boundary of any R or R-O District.

E. P Districts. Freestanding signs other than those permitted in §174.10 shall be prohibited and no freestanding sign shall hereafter be erected in the P Districts.

F. Space of Off-Site, Freestanding Signs. No two off-site, freestanding signs shall be spaced less than 200 feet apart; provided, the minimum spacing provided hereby shall not apply to signs separated by buildings or other obstructions in such a manner that only one sign is visible from the street or highway at any one time.

(Code 1991, §158.47; Code 1965, §17B-9; Ord. No. 1893, 12-19-72; Ord. No. 3008, 5-1-84; Ord. No. 3029, 8-21-84; Ord. No. 3294, 9-15-87)

G. ADD

H. ADD

SEE PROPOSED

§ 174.11 PROJECTING SIGNS.

A. Sidewalks. It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six feet from the wall of the building upon which it is erected.

B. Location. Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear grade level below the sign by a minimum of eight feet.

C. Display Surface Area. The display surface area of a projecting sign shall not exceed 16 square feet. Only one projecting sign per business shall be permitted and a projecting sign shall not be permitted on property which has a freestanding sign.

D. Off-Site. Off-site projecting signs shall be prohibited in all zoning districts.

E. On-Site. On-site projecting signs shall be prohibited in A-1 and R zoning districts.

(Code 1991, §158.48; Code 1965, §17B-10; Ord. No. 1893, 12-19-72; Ord. No. 2255, 7-20-76)

§174.12 WALL SIGNS.

A. Projection.

1. General. Wall signs shall not project more than 18 inches from the surface upon which they are mounted.

2. **Mansard Roof.** The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

B. Number of Signs.

1. **Multiple Tenants.** Where a building houses more than one business, wall signs shall be limited in number to one wall sign per business on each wall with a limit of four wall signs per business per building.

2. **Single Tenant.** Where a building houses only one business, a maximum of four wall signs may be placed on one wall, but no more than four wall signs may be placed on the building.

C. Display Surface Area.

1. **Number of Signs.** The display surface area of all wall signs on any one wall shall not exceed 150 square feet or 20% of the area of the wall on which they are located, whichever is greater.

2. **Multiple Tenants.** In the event a building which houses multiple tenants does not front on the street or highway from which principal access to the building is obtained, the display surface area of each sign on a wall shall not exceed 150 square feet or 20% of the area of the wall and the display surface area of all wall signs on the wall facing said street or highway shall not exceed the area of the wall.

D. Off-Site Wall Signs. Off-site wall signs shall be prohibited in all zoning districts.

E. Limitations in R and RO Districts. In R and R-O zoning districts, the following limitations shall apply:

1. **Number of Signs.** Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

2. **Display Surface Area.** Display surface area shall not exceed 16 square feet.

(Code 1991, §158.49; Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87)

§174.13 AREA SIGNS.

~~A. **Size/Location.** The size and location of the fence, wall, or other structure which will contain the area identification sign, must be approved by the Building Inspector, who will approve such structure upon the criterion of traffic safety sight lines.~~

~~B. **Display Surface Area.** The maximum display surface area of area identification signs shall not exceed 32 square feet.~~

(Code 1991, §158.50; Code 1965, §17B-11.1; Ord. No. 1996, 4-16-74)

Cross Reference: General Provisions, Chapter 150; Definitions, Chapter 151; Enforcement, Chapter 153; Fees, Chapter 159; Variances, Chapter 156; Boards and Commissions, Chapter 33; Appeals, Chapter 155.

DELETE

CHAPTER 151: DEFINITIONS

Definitions. For the purpose of Title XV: Unified Development Ordinance, the following definitions shall apply to the divider sections, chapters, sections or subsections, unless the context clearly indicates or requires a different meaning.

Accessory Community Structures. (Mobile Homes and Parks Opened or Expanded after 4-20-72) A structure or a portion of a structure for commercial use that is located in a mobile home park and which is intended solely for the convenience of the residents or occupants of the mobile home park.

Accessory Structures. (Mobile Homes and Parks Opened or Expanded after 4-20-72) Any structural addition to the mobile home such as awnings, cabanas, carports, Florida rooms, porches, patio covers, and similar additions.

Accessory Use or Structure. (Zoning Regulations) A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Active Open Space. (Development) An area intended for rigorous activity such as tennis, baseball, badminton, and other games requiring physical exertion.

Adult Arcade. (Zoning) Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image producing devices are maintained to show images to five or fewer viewers at one time, and where the images so

displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

Adult Bookstore or Adult Video Store. (Zoning) A commercial establishment whose principal business purpose is to offer for sale or rental for any form of consideration any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas".

Adult Cabaret. (Zoning) A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

A. Persons who appear in a state of nudity; or

B. Live performances which are characterized by the exposing of "specified sexual activities" or "specified anatomical areas"; or

C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas".

Adult Motion Picture Theater. (Zoning) A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown, excluding those which are rated by the

Motion Picture Association of America, which emphasize "specified sexual activities".

Adult Theaters. (Zonings) A theater, concert hall, auditorium, or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".

Airport. (Airport Zone) Fayetteville Airport.

Airport Elevation. (Airport Zone) One thousand two hundred fifty-one feet above mean sea level.

Alley. (Development) A minor public way dedicated to public use for utility easements and vehicle access to the back or the side of properties abutting a street.

Approach Surface. (Airport Zone) A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. In a plane the perimeter of the approach surface coincides with the perimeter of the approach.

Approach, Transitional, Horizontal and Conical Zones. (Airport Zone) Those zones as set forth in §165.01.

Approval. (Physical Alteration of Land) A written authorization by the City Engineer.

Area Identification Sign. (Signs) A sign to identify a common area containing a group of structures, or a single structure on a minimum site of five acres, such as a

residential subdivision, apartment complex, industrial park, mobile home park, or shopping center, located at the entrance or entrances of the area, and consisting of fence or wall or archway with letters or symbols affixed thereto.

As-Graded (Physical Alteration of Land). The surface condition on completion of grading.

Banner. (Signs) Any sign printed or displayed upon cloth or other flexible material, with or without frames.

Base Flood. (Stormwater Management, Drainage and Erosion Control) The flood having a 1% chance of being equalled or exceeded in any given year, also referred to as the 100 year storm event.

Beacon. (Signs) A stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Agency or similar agencies.

Bed and Breakfast Facility. (Zoning) A permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast to paying customers.

Board of Adjustment. (Airport Zone) The Board of Adjustment established by Chapter 33.

Buildable Area. (Zoning) The portion of a lot remaining after required yards have been reserved.

generating occupation, profession or avocation conducted in a dwelling unit by one or more members of the family occupying the premises shall be considered a residential use and not a commercial use. The term home occupation shall include a child care facility handling not more than six children at one time.

Horizontal Surface. (Airport Zone)

A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plane coincides with the perimeter of the horizontal zone.

Horsepower. (Building Regulations)

The equivalent to 746 watts.

Housing Board. (Mobile Homes and Parks)(Mobile Homes and Parks Opened or Expanded after 4-20-72) The housing board established by the City.

House, Lodging or Rooming. (Zoning) A dwelling or building where lodging is provided for two or more persons for compensation, pursuant to previous arrangements, but which is not available to transients and with which no table board is furnished.

Hydroseed. (Physical Alteration of Land) A machine blown mixture of mulch, seed and sometimes fertilizer.

Illuminated Sign. (Signs) Any sign which has characters, letters, figures, designs

or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Illumination, Direct. (Signs) Illumination which is so arranged that the light is directed into the eyes of the viewer from the light source.

Illumination, Indirect. (Signs)

Illumination so arranged that the light is reflected from the sign to the eyes of the viewer.

Independent Mobile Home. (Mobile Homes and Parks)(Mobile Homes and Parks Opened or Expanded after 4-20-72) A mobile home which has a flush toilet and a bath or shower.

Impervious Surface. (Stormwater Management, Drainage and Erosion Control)

A surface that has been compacted or covered so that it is highly resistant to infiltration by water.

Improvements. (Development)

Physical changes made to property to prepare it for development such as street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges and similar items.

Intermittent Stream. (Stormwater Management, Drainage and Erosion Control)

A stream that carries water part of the year is dry another part but receives flow from the groundwater table when it is high enough.

Joint Identification Sign. (Signs) A sign which serves as common or collective identification for a group of persons or businesses operating on the same zone lot (e.g., shopping center, office complex, etc.). Such sign may name the persons or businesses included but carry no other advertising matter.

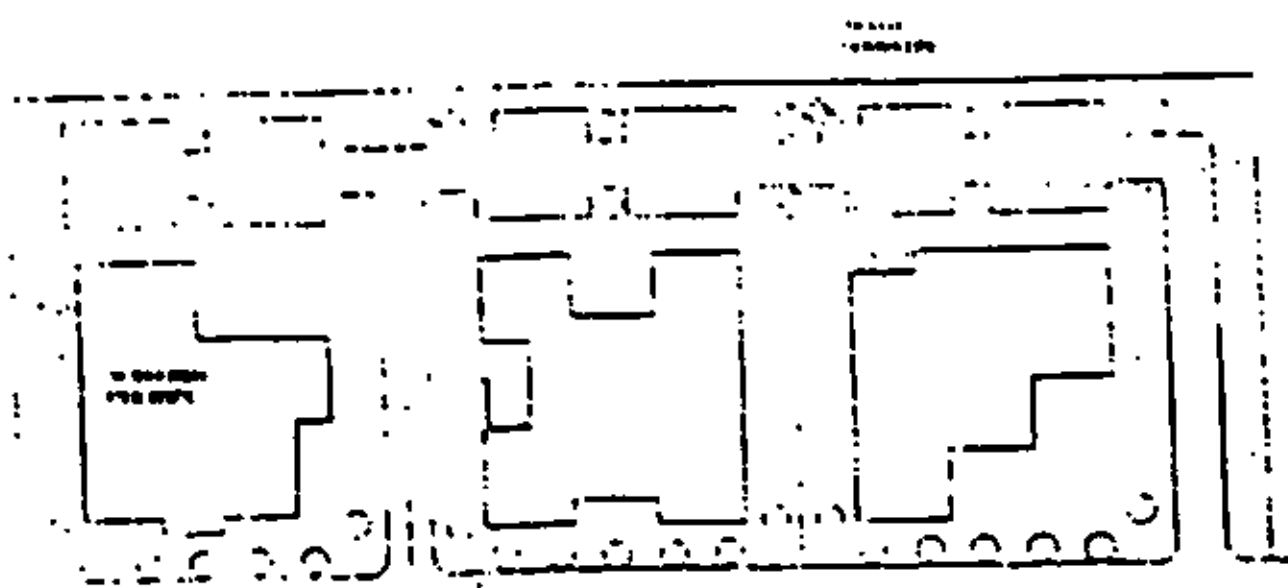
Land Disturbance. (Tree Protection and Preservation) Clearing, scraping, grubbing, or otherwise removing or destroying the vegetation of a site, or adding, removing, exposing, excavating, leveling, grading, digging, tunneling, trenching, burrowing, dumping, piling, dredging or application of

b. Chain Link. Chain link fence is prohibited if closer to the street than the front of the building in zoning districts C-1, C-2, C-3, C-4 and R-O. Residential uses are exempt from this requirement.

c. Height of Fences in Front Buildings. Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.

4. Site Coverage. A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Zoning districts C-3, C-4 and the design overlay district are exempt from this requirement.

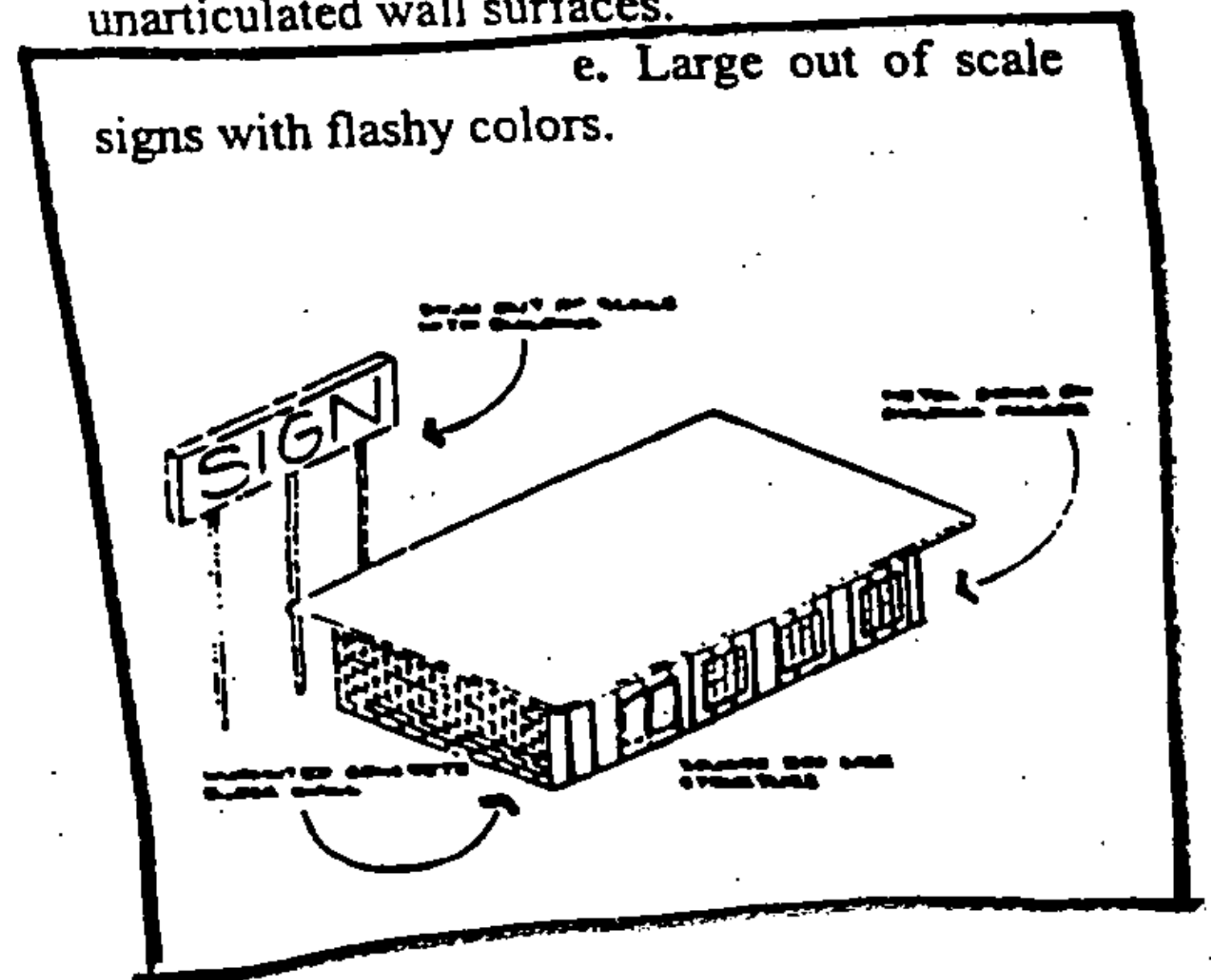
5. Driveways. Shared drives and cross access between properties shall be encouraged to developed and undeveloped properties, except in C-3 and C-4 zones.



D. Design Elements Guidelines for Commercial Structures.

1. The elements to avoid or minimize include:

- a. Unpainted concrete precision block walls.
- b. Square "boxlike" structures.
- c. Metal siding which dominates the main facade.
- d. Large blank, unarticulated wall surfaces.
- e. Large out of scale signs with flashy colors.



2. Construction and appearance design standards for commercial structures.

a. A commercial structure or development shall be designed to avoid or minimize the elements set forth in D.1. above.

b. A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site.

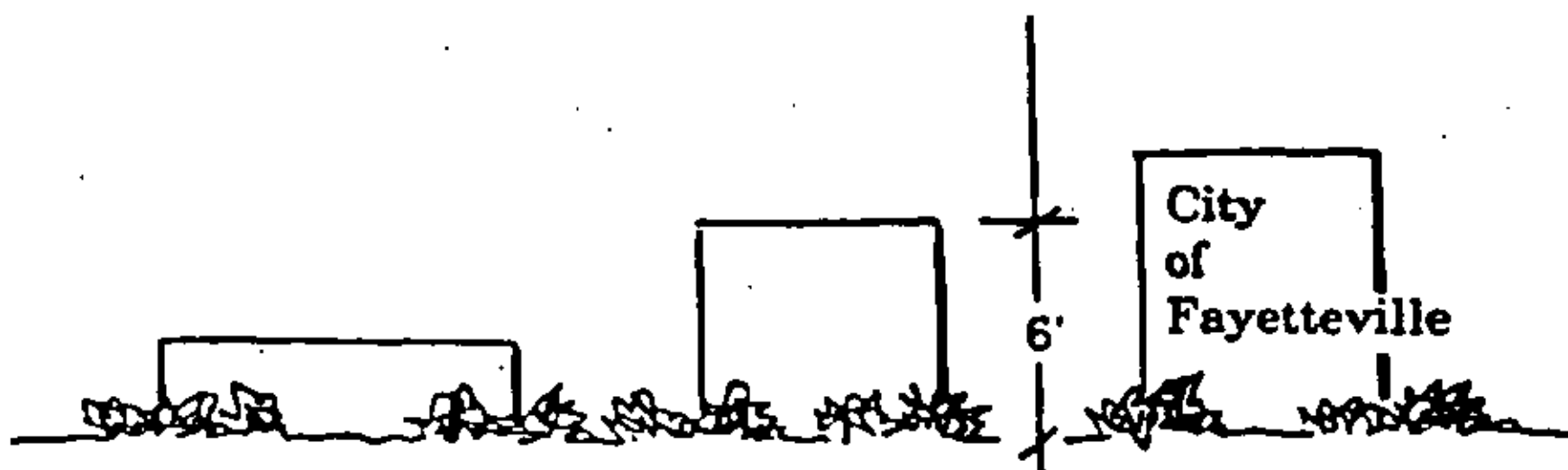
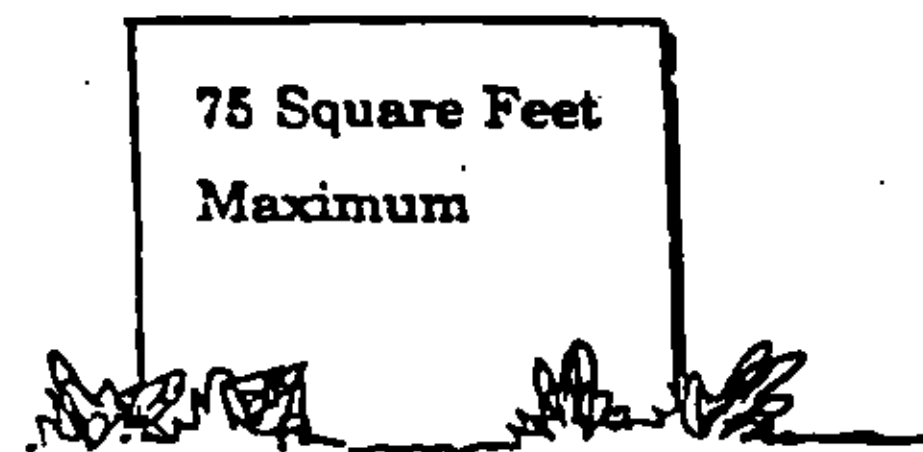
5. Signage.

OVERLAY DISTRICT

a. Nonresidential Free

Standing Signs.

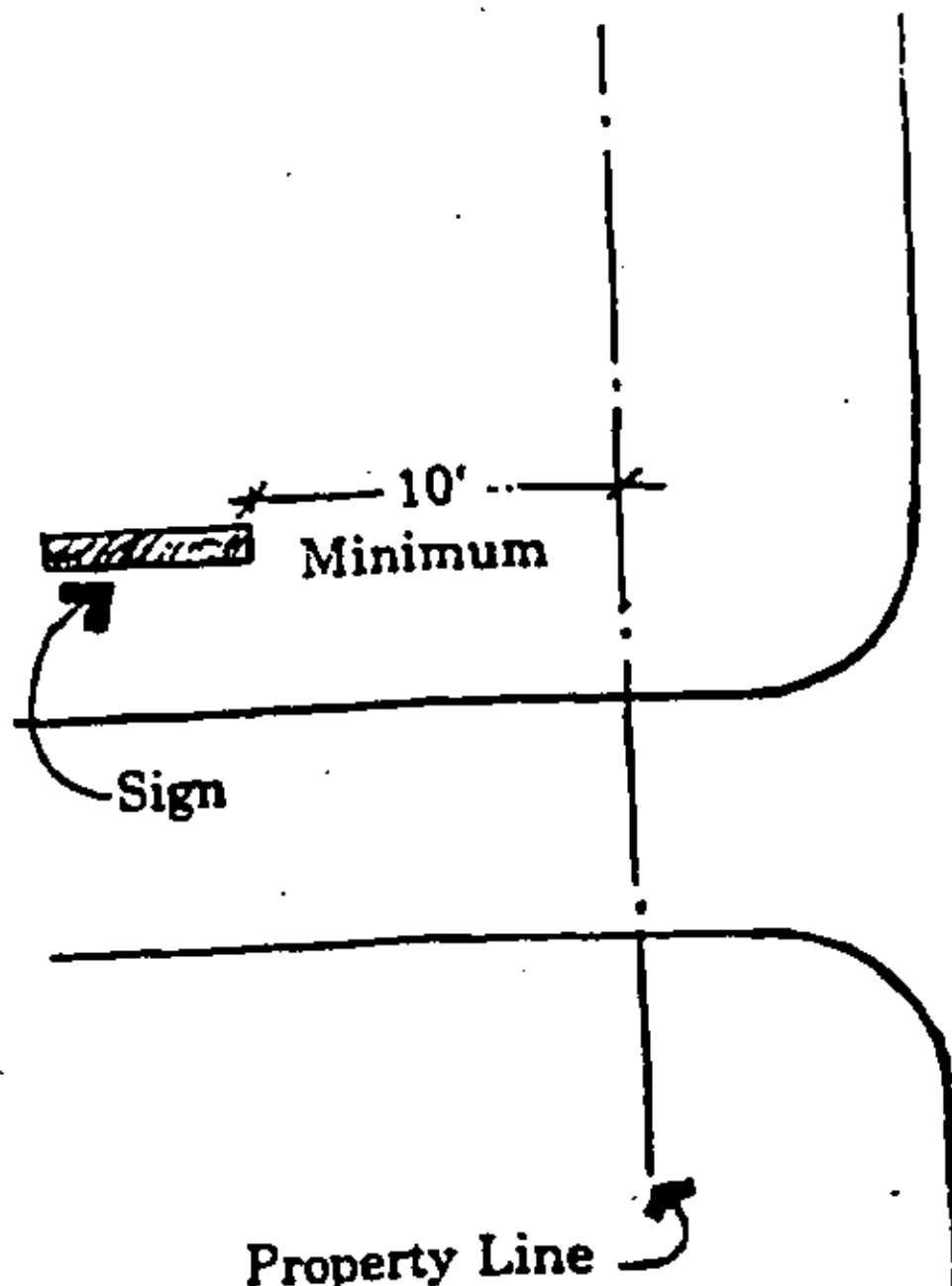
(1). Each separate nonresidential lot will be allowed a single ground-mounted (monument) sign located on the building site. In the case of lots with double frontage, two ground-mounted (monument) signs shall be allowed.



Do This

Don't Do This

(2). The sign shall be a maximum of six feet high, 75 square feet in area, and set back a minimum of 10 feet from the property line.



b. Wall Signs. One wall sign may be installed per business. Sign area shall not exceed 20% of that wall area or 200 square feet, whichever is less. A second sign may be allowed if it is determined that the structure has more than one front facing a street or highway right-of-way.

c. Illumination. Only indirect lighting may be used for illumination of all signs.

d. Multiple Tenants. The owner of the building shall be responsible for the provision of one monument sign with sign area for multiple tenants.

e. Sign Content. Content of monument and wall signs shall be limited to the name of the business. Advertising shall not be permitted on the structure, wall sign or monument.

CHAPTER 155: APPEALS

§155.01 CIRCUIT COURT. Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Sign Appeal, and the Board of Adjustment shall be taken to the Circuit Court of Washington County.

(A.C.A. §14-56-425; Code 1991, §160.175; Code 1965, App. A, Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Ord. No. 3925, §7, 10-3-95)

§155.02 FORM/TIME/PLACE. Unless an appeal is filed with the Court, the following requirements shall be met:

A. Form. All appeals shall be submitted in writing referencing the applicable UDO section(s) and setting out the reasons the applicant contends the decision was in error.

B. Time.

1. Appeals. Appeals shall be submitted within 10 working day from the date of the final action taken.

2. Hearings. The entity hearing the appeal shall fix a reasonable time for hearing an appeal.

C. Place. Appeals shall be filed with the following:

1. City Clerk. Appeals made to the City Council shall be filed with the City Clerk.

2. City Planner. Appeals made to the Planning Commission; Board of Adjustment, for zoning matters; and Board of Sign Appeals shall be filed with the City Planner.

3. Inspection Division Director. Appeals made to the Board of Adjustment shall be filed with the Inspection Division Director.

§155.03 STAY. An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the Chapter certifies that a stay would, in their opinion cause imminent peril to life or property.

(Code 1991, §160.173; Code 1965, App. A, Art. 13(3); Ord. No. 1747, 6-29-70)

§155.04 ALDERMAN APPEAL ON BEHALF OF RESIDENT. An alderman may bring an appeal on behalf of any resident of the City on actions which are appealable to the City Council as set forth below.

§155.05 APPEALS FROM PLANNING COMMISSION DECISIONS.

A. Appeals to City Council. The following Planning Commission decisions may be appealed to the City Council:

1. Rezoning Request. Owners of record may appeal the decision to deny a rezoning request.

made in the administration of Airport Zone, Chapter 165, may appeal.

(Code 1991, §160.172; Code 1965, App. A, Art. 19(2); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Ord. No. 3716 §2, 6-15-93; Ord. No. 3925, §7, 10-3-95)(Code 1991, § 159.65; Code 1965, App. C., Art. V, §A; Ord. No. 1750, 7-6-70)(Code 1991, §160.176 (A)&(B); Code 1965, App. A, Art. 10(6); Ord. No. 1747, 6-29-70; Ord. No. 2252, 7-6-76) (Code 1991, §150.03; Code 1965, App. B, §III, Ord. No. 2697, 1-20-81)

C. Appeals to the Board of Sign Appeals. The following Staff Interpretations/Decisions may be appealed to the Board of Sign Appeals:

Building Inspector. A person aggrieved by an interpretation or decision of the Building Inspector regarding signs may appeal.

(Code 1991, §158.67(B); Code 1965, §17B-11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2585, 12-4-79; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88) (Code 1991, §158.68(A)&(B); Code 1965, §17B-11.2(d); Ord. No. 2109, 6-3-75; Ord. No. 2585, 12-4-79; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Ord. No. 3587, §1, 1-7-92)

D. Appeals to the Planning Commission. The following Staff Interpretations/Actions may be appealed to the Planning Commission:

1. Floodplain Administrator.

Any person aggrieved may appeal the decision of the Floodplain Administrator.

2. City Planner / Development. Owners of Record may appeal

the interpretation of the development requirements by the City Planner.

3. City Engineer/Grading Requirements. Any person aggrieved may appeal the decision of the City Engineer related to grading requirements.

4. Landscape Administrator. Any person aggrieved may appeal the decisions of the Landscape Administrator related to landscape and tree preservation and protection requirements.

(Code 1991, §162.03 (B)&(C); Ord. No. 3699, §3, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §9, 4-16-96)

E. Appeals to the Construction Board of Adjustment and Appeals. When the administrative authority under Chapter 173. shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the applicant may appeal the decision to the Construction Board of Adjustment and Appeals.

§155.07 APPEALS FROM BOARD OF SIGN APPEALS.

Appeals to City Council. Board of Sign Appeals Decisions may be appealed to the City Council by any member of the City Council. Following such hearing, the City Council may affirm, modify, or reverse any finding and decision of the Board of Sign Appeals, or may refer the matter back to the Board of Sign Appeals for additional findings.

(Code 1991, §158.67; Code 1965, §17B-11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3340, 3-15-88)(Code 1991, §158.67; Code 1965, §17B-11.2(e); Ord. No. 2109, 6-3-

§156.04 STORMWATER, DRAINAGE AND EROSION CONTROL. Certain variances of the Stormwater Management, Drainage and Erosion Control regulations may be applied for as follows:

Criteria. A variance may be granted from any requirement of the Stormwater Management, Drainage and Erosion Control regulations using the following criteria:

A. Special Circumstances. There are special circumstances applicable to the subject property or its intended use; and

B. Results. The granting of the variance will not result in:

1. Surface Water Runoff.

An increase in the rate or volume of surface water runoff;

2. Adjacent Property.

An adverse impact on any adjacent property, wetlands, watercourse, or water body;

3. Water Quality.

Degradation of water quality; or

4 Objectives.

Otherwise impairing attainment of the objectives of Chapter 170.

such action will be in keeping with the spirit and intent of the Sign regulations.

1. Prohibited. The Board shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by Chapter 174.

2. Strict Enforcement Unreasonable. The Board may grant a variance from the provisions of Chapter 174 where strict enforcement would be unreasonable.

3. Unique circumstances. To hear requests for variances from the literal provisions of Chapter 174 for the erection of a new sign in instances where strict enforcement would cause practical difficulties due to circumstances unique to the individual sign under consideration, and grant such variance only when it is demonstrated that such action will be in keeping with the spirit and intent of Chapter 174.

a. The Board shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by §§ 174.05, 174.07, 174.08 A., B., C., D., E., F., G., and I., 174.09, and 174.03 R. The Board may grant a variance from the provisions of §174.06 A., B., and D. where strict enforcement would be unreasonable.

b. The Board may impose reasonable conditions in the granting of a variance to ensure compliance and to protect adjacent property. A violation of such conditions shall constitute a violation.

Cross Reference: Enforcement, Chapter 153.

c. In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make

§ 156.05 SIGN REGULATIONS.

Consideration by the Board of Sign Appeals. Certain variances of the Sign regulations may be applied for as follows:

A. General. The Board of Sign Appeals shall consider requests for variances from the literal provisions of the Sign regulations for the creation of a new sign in instances where strict enforcement of the Sign regulations would cause practical difficulties due to circumstances unique to the individual sign under consideration, and granting such variance only when it is demonstrated that

such order, requirement, decision, or interpretation as ought to be made.

d. A concurring vote of a majority of the members present shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation in Chapter 174.

e. Any variance granted by the Board of Sign Appeals shall automatically be revoked if the applicant does not comply with the terms of the variance within 30 days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of Chapter 174.

B. Roof Signs. The Board of Sign Appeals may grant a variance for a roof sign only in those cases where the applicant demonstrates practical difficulties in utilizing a wall sign and demonstrates that the variance will be in keeping with the spirit and intent of the Sign regulations.

§156.06 AIRPORT ZONE.

A. Board of Adjustment. The Board of Adjustment shall have the authority to grant variances from the height limits prescribed in Chapter 165. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth, in excess of the heights prescribed, must apply in writing to the Board of Adjustment for a variance. Such variance shall be allowed upon a showing of practical difficulty or unnecessary hardship, together with a showing that the structure or object of natural growth in question will not cause an undue hazard to aircraft operations at the airport.

B. Determination from Federal Aviation Administration. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of a proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for a variance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for comment as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt thereof, the Board of Adjustment may grant or deny said application.

C. Marking and Lighting. In granting any application for any permit or variance, approval may be conditioned as to require the owner of the structure or object of natural growth in question to install and maintain obstruction markings or lights.

D. Findings of Fact. Written findings of fact and conclusions of law shall be made by the Board of Adjustment based upon the evidence offered at the public hearing.

Cross Reference: Chapter 156, Notification and Public Hearings

RESOLUTION NO. _____

A RESOLUTION REQUESTING THE DIRECTOR OF THE SOLID WASTE DIVISION TO CONSIDER THE POSSIBILITY THAT CITIZENS WILL NOT HAVE USED THEIR ENTIRE ALLOTMENT OF 104 30-GALLON TRASH BAGS IN THE PROPOSED REVISION OF THE SOLID WASTE COLLECTION RATE STRUCTURE FOR THE YEAR 2001.

WHEREAS, in order to save landfill space and promote recycling, the Four County Solid Waste Management District of Benton, Carroll, Madison and Washington Counties has mandated that cities under its jurisdiction implement a system of volume-based rates for solid waste collection, and

WHEREAS, the Fayetteville City Council has adopted a residential solid waste collection rate system for the year 2000 under which each household pays \$9.25 per month for solid waste collection and is issued 104 30-gallon trash bags in which solid waste must be discarded, for a total of 3,120 gallons of bags, with additional 30-gallon bags available at a cost of \$1.50 each, and

WHEREAS, many households in the City of Fayetteville generate far less than 3,120 gallons of solid waste per year and therefore will have some city-issued trash bags left over at the end of the years 2000, and

WHEREAS, there is currently no mechanism in the City's rate structure that reflects the economic and environmental benefits of using less than the 104 30-gallon bags during the years, and

WHEREAS, the Mayor and the Director of the Solid Waste Division have stated that the solid waste collection rate structure will likely be revised to some extent for the year 2001, and

WHEREAS, any such revision in rate structure will be submitted to the City Council for its consideration by the end of the year 2000.

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

Section 1. That in developing proposed revisions to the solid waste collection rate structure for the year 2001, the director of the Solid Waste Division is hereby requested to consider the possibility that citizens will have part of their 104 bag allotment left over from the year 2000, and to suggest a program through which this possibility may be incorporated into a financially equitable rate structure for the year 2001 and subsequent years.

Section 2. That such proposal may include, but will not necessarily include:

- A. A system whereby the City agrees to buy back citizens' unused bags at a specified price, and/or;

- B. A system whereby citizens may decide how many bags their household will be issued in 2001 and subsequent years, and their monthly collection rates will be increased or decreased from a base rate accordingly.

PASSED AND APPROVED this ____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

**A RESOLUTION REQUESTING THE DIRECTOR
OF THE SOLID WASTE DIVISION TO CONSIDER THE POSSIBILITY
THAT CITIZENS WILL NOT HAVE USED THEIR ENTIRE ALLOTMENT OF 104
30-GALLON TRASH BAGS IN THE PROPOSED REVISION OF THE SOLID WASTE
COLLECTION RATE STRUCTURE FOR THE YEAR 2001.**

WHEREAS, in order to save landfill space and promote recycling, the Four County Solid Waste Management District of Benton, Carroll, Madison and Washington Counties has mandated that cities under its jurisdiction implement a system of volume-based rates for solid waste collection, and

WHEREAS the Fayetteville City Council has adopted a residential solid waste collection rate system for the year 2000 under which each household pays \$9.25 per month for solid waste collection and is issued 104 30-gallon trash bags in which solid waste must be discarded, for a total of 3,120 gallons of bags, with additional 30-gallon bags available at a cost of \$1.50 each, and

WHEREAS many households in the City of Fayetteville generate far less than 3,120 gallons of solid waste per year and therefore will have some city-issued trash bags left over at the end of the year 2000, and

WHEREAS there is currently no mechanism in the city's rate structure that reflects the economic and environmental benefits of using less than the 104 30-gallon bags during the year, and

WHEREAS the Mayor and the director of the Solid Waste Division have stated that the solid waste collection rate structure will likely be revised to some extent for the year 2001, and

WHEREAS any such revision in rate structure will be submitted to the City Council for its consideration by the end of the year 2000,

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE**

Section 1. That in developing proposed revisions to the solid waste collection rate structure for the year 2001, the director of the Solid Waste Division is hereby requested to consider the possibility that citizens will have part of their 104 bag allotment left over from the year 2000, and to suggest a program through which this possibility may be incorporated into a financially equitable rate structure for the year 2001 and subsequent years.

Section 2. That such proposal may include, but will not necessarily include,

- A. A system whereby the City agrees to buy back citizens' unused bags at a specified price, and/or
- B. A system whereby citizens may decide how many bags their household will be issued in 2001 and subsequent years, and their monthly collection rates will be increased or decreased from a base rate accordingly.



CITY OF FAYETTEVILLE CITY COUNCIL FINAL AGENDA

A meeting of the Fayetteville City Council will be held on February 15, 2000 at 5:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

- STATE OF THE CITY ADDRESS
- NOMINATING COMMITTEE REPORT
- EMPLOYEE OF THE MONTH

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the February 1, 2000 City Council minutes.
2. **SURVEY SERVICES:** A resolution approving a contract in the amount of \$29,735.00 to Garver Engineers to provide surveying service for the City's use to design three trails (Joyce, Mud Creek, and Mud Creek Tributary) "in-house".
3. **PILOT TROLLEY ROUTE:** A resolution approving a contract amendment in the amount of \$37,500 with Jones Transportation to initiate a pilot trolley route from south Fayetteville. An additional \$12,000 is requested for fuel, maintenance and other expenses.
4. **CLEVELAND SIDEWALK:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton Anchor Division in the amount of \$114,025.00; approval of a contract contingency funding of \$17,104.00 (15%); approval of \$20,000.00 for contract administration, construction inspection and materials testing; and approval of a budget adjustment.
5. **WIMBERLY DRIVE:** A resolution not requiring the dedication of 10 feet of additional right-of-way based on the Master Street Plan for Wimberly Drive classified as a collector street. The request was submitted by Crafton, Tull, and Associates on behalf of Danny Smith for property located at 3380 Wimberly Drive as LSD 99-27.

B. OLD BUSINESS

1. **RZA 99-5.00:** An ordinance approving annexation request RZA 99-5.00 submitted by Engineering Design Associates on behalf of Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is in the planning growth area and contains approximately 13.39 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the second reading at the February 1, 2000 City Council Meeting.
2. **RZ 99-35.00:** An ordinance approving RZ 99-35 submitted by Engineering Design Associates on behalf of Arkansas Oaks, Inc. for property located at the southeast corner of Bridgeport Drive and Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 13.39 acres. The request is to rezone the property to R-1, Low Density Residential. The ordinance was left on the second reading at the February 1, 2000 City Council Meeting.
3. **PARKING REGULATIONS:** An ordinance amending Chapter 72, Parking Regulations, of the Code of Fayetteville, to amend the rates for parking meter zones and rates for parking in city parking garages; to define the term "Parking Meter Zones"; and allow the parking meter zones to be described, established and altered by the Mayor or his duly authorized representative. The ordinance was left on the second reading at the February 1, 2000 City Council Meeting.
4. **WATER AND SEWER RECONNECT FEES:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to amend the fee for service reconnections; provide for a minimum billing; and amend the charge for broken locks and couplings. The ordinance was left on the second reading at the February 1, 2000 City Council Meeting.

C. NEW BUSINESS

1. **H & H CARRIAGE COMPANY:** A resolution approving a Certificate of Public Convenience and Necessity for H & H Carriage Company.
2. **MULTI-PURPOSE SPORTS ARENA:**
 - A. Approval of an ordinance awarding a contract to Questec Corporation for preparation of a business plan, waiving competitive bidding, and appropriating up to \$200,000 for preparation of business plan.
 - B. Approval of an ordinance to expand the role of the Public Facilities Board to include recreational facilities and multi-family housing as provided by state law.
3. **MALLY WAGNON ROAD:** An ordinance approving a cost share and bid waiver in the amount of \$26,380.00 with James Martin for the cost difference to construct a two inch water line and an eight inch water line along Mally Wagon Road.
4. **SUMMERSBY SUBDIVISION:** An ordinance approving a cost share and bid waiver in the amount of \$33,205.00 with Mark Foster and J.B. Hayes, the developers of the Summersby Subdivision, for the cost difference to construct an eight inch water line and a twelve inch water line within this development.
5. **SIGN ORDINANCE:** An ordinance amending Chapter 151 of the Code of Fayetteville to define and provide regulation of monument signs; and define and clarify the use of joint identification and area signs.
6. **SOLID WASTE EXTRA TRASH BAGS:** A resolution requesting the Director of the Solid Waste Division to consider the possibility that citizens will not have used their full allotment of 104 - 30 gallon trash bags in his proposed revisions of solid waste collection structure for the year 2001.

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.

Northwest Arkansas TIMES

Monday, February 14, 2000