FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
OCTOBER 5, 1999

A meeting of the Fayetteville City Council will be held on October 5, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Items to be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes of the September 21, 1999 City Council meeting.

2. **YVONNE RICHARDSON COMMUNITY CENTER:** A resolution approving an offer and acceptance contract to acquire property at 153 E. Mountain for future expansion of the Yvonne Richardson Community Center.

3. **VETERANS MEMORIAL PARK:** A resolution approving a budget adjustment in the amount of $35,201 for overlaying entryway and parking area at Veterans Memorial Park.

4. **DISPATCH TRAINER:** A resolution approving three new dispatch trainer positions for the Central Dispatch Center, and also approval of a budget adjustment.

5. **US ABLE LIFE:** A resolution approving the purchase of employee group policies from US Able Life to provide Life, AD&D, and LTD coverage plus contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account. The contract's effective date is January 1, 2000 for a one-year term with four one-year options for renewal by agreement of both parties.

6. **REIMBURSEMENT / WASTEWATER TREATMENT PROJECT:** A resolution allowing the City of Fayetteville to reimburse itself certain expenditures paid directly from the operating and capital budgets of the city for the Wastewater Treatment Project from tax-exempt bond proceeds once the project has proceeded to that point. This will allow the City to be reimbursed if we so choose at the time we structure a financing plan.

7. **LIBRARY OPTION TO PURCHASE:** A resolution authorizing the Mayor and City Clerk to execute the Option to Purchase negotiated by representatives of Washington Regional MediCorp. for the proposed site for the new public library. Terms would include: payment of $1000 for a 3-year option, to be applied toward the purchase price at closing; purchase price not to exceed $268,000; and use limited to library.

8. **OMI CONTRACT RENEWAL:** A resolution giving notice of renewal of the OMI contract for Operations, Maintenance and Management Services for an additional 5-year term beginning January 1, 2000 subject to and contingent upon yearly budget approval by the City of Fayetteville.

B. OLD BUSINESS

1. **RZ 99-26:** An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on Zion Road. The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. This item was left on the first reading.

2. **RZ 99-27:** An ordinance approving rezoning request RZ 99-27 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property west of Double Springs Road. The property is in the planning growth area and contains approximately 47.98 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. This item was left on the first reading.

3. **RZ 99-25:** An ordinance approving rezoning request RZ 99-25 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for property located west of Rupple Road and east of Meadowlands Subdivision. The property is zoned A-1, Agricultural, and contains 17.10 acres. The request is to rezone the property to R-1.5, Moderate Density Residential. This item was left on the second reading.

C. NEW BUSINESS

1. **GREATHOUSE PARK:** Discussion of new information and possible action on Greathouse Park Bridge and the tree removal required due to flood prevention for its construction.

2. **RZ 99-28.00:** An ordinance approving rezoning request RZ 99-28 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

3. **1999 MILLAGE:** An ordinance adopting real and personal property tax rates for 1999 for the Police and Fire Pension Funds. The rate to be adopted is 0.5 mils for real property and 0.5 mils for personal property. There is no millage proposed for general government operations.

4. **LIBRARY DESIGN:** A resolution approving an architectural agreement with Meyer, Scherer and Rockcastle, Ltd. of Minneapolis, MN for the design of the City's proposed library (Phase I). And approval of a budget adjustment in the amount of $160,000.

5. **INDUSTRIAL PARK - PROPOSED DEVELOPMENT:** A resolution authorizing the sale of 14 acres of Lot 13 in the Fayetteville Industrial Park to a proposed development.

6. **LAND POSSESSION - HIGHWAY 265:** An ordinance authorizing the City Attorney to seek possession of certain land located along Highway 265 by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocations. The total offer amount for this property would be $1,595.00; such property is owned by Richard L. Mayes and Ethel L. Mayes (Parcel No. 765-02253-000).

7. **CITY COUNCIL CONDUCT:** A resolution establishing the City's lead in exemplifying an attitude of professionalism and consideration of others in its business sessions as shown by speaker recognition, concise language, and discussion length.

CITY COUNCIL -- OCTOBER 5, 1999

Present					
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA	✓				
Consent Agenda	HD, BD				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA					
RZ99-26	RA, TT				
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
AUSTIN	✓	✓			
DAVIS	✓	✓			
TRUMBO	✓	✓			
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	✓			
MAYOR HANNA					

CITY COUNCIL -- OCTOBER 5, 1999

RZ99-27	TT, HD				
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
AUSTIN	✓	✓			
DAVIS	✓	✓			
TRUMBO	✓	✓			
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	✓			
MAYOR HANNA					

RZ99-25					
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA					

Greathouse Park	KS, BD				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA					

CV, David Todd, FH, Todd, TT, Todd, TT, Todd, CV, FH, CV, CV, KR, FH, motion KS, BD
BR, Todd, RA, HD

CITY COUNCIL -- OCTOBER 5, 1999

RZ 99-28	put on second reading				
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
YOUNG					
MAYOR HANNA	(motion) HD, KS, Rose, TT, RA, KR, Harrington, Lindsey + Assoc rep				

Jeff Whitmer?, KS Harrington, FH, Richard Maynard (18 hands approx), FH, BD, Conklin, RA
Conklin, RA, MH, 1999, Maynard, KS, Conklin, Santos, CY

Millage	TT, BD	KR, TT			
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	✓	A	✓		
SANTOS	✓	✓	✓		
YOUNG	✓	✓	✓		
MAYOR HANNA					

TT, FH, KR.

Library Design	TT, RA				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA					

TT, CV, CY, CV, FH

CITY COUNCIL -- OCTOBER 5, 1999

Industrial Park	RA				
RUSSELL	✓				
REYNOLDS	✓ Absent				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
MAYOR HANNA					

Jim Crider (Ian Becker Brady) CV, FH, Crider, RA, BD, CV, FH, TT
KS, KR, Crider, KR, Crider, KS, KR, FH, HD, Crider, KR, FH, Crider, TT, FH, Rose, Becker-Brady
KR, Crider, Rose, FH, CV, Jeff Erf

Hwy 265 Possession	HD, BD	KS, KR			
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	✓	✓	✓		
SANTOS	✓	✓	✓		
YOUNG	Absent	Absent	✓		
MAYOR HANNA					
HD, RA, CV, HD, RA, FH	7-1	7-1	8-0		

City Council Conduct					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
YOUNG					
MAYOR HANNA					

TT, FH, BD, RA - withdrawn, KR

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
OCTOBER 5, 1999

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Items to be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes of the September 21, 1999 City Council meeting.

122-99
2. **YVONNE RICHARDSON COMMUNITY CENTER:** A resolution approving an offer and acceptance contract to acquire property at 153 E. Mountain for future expansion of the Yvonne Richardson Community Center.

123-99
3. **VETERANS MEMORIAL PARK:** A resolution approving a budget adjustment in the amount of $35,201 for overlaying entryway and parking area at Veterans Memorial Park.

124-99
4. **DISPATCH TRAINER:** A resolution approving three new dispatch trainer positions for the Central Dispatch Center, and also approval of a budget adjustment.

125-99
5. **US ABLE LIFE:** A resolution approving the purchase of employee group policies from US Able Life to provide Life, AD&D, and LTD coverage plus contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account. The contract's effective date is January 1, 2000 for a one-year term with four one-year options for renewal by agreement of both parties.

126-99
6. **REIMBURSEMENT / WASTEWATER TREATMENT PROJECT:** A resolution allowing the City of Fayetteville to reimburse itself certain expenditures paid directly from the operating and capital budgets of the city for the Wastewater Treatment Project from tax-exempt bond proceeds once the project has proceeded to that point. This will allow the City to be reimbursed if we so choose at the time we structure a financing plan.

127-99 Approved ~~Passed~~

7. **LIBRARY OPTION TO PURCHASE:** A resolution authorizing the Mayor and City Clerk to execute the Option to Purchase negotiated by representatives of Washington Regional MediCorp. for the proposed site for the new public library. Terms would include: payment of $1000 for a 3-year option, to be applied toward the purchase price at closing; purchase price not to exceed $268,000; and use limited to library.

128-99

8. **OMI CONTRACT RENEWAL:** A resolution giving notice of renewal of the OMI contract for Operations, Maintenance and Management Services for an additional 5-year term beginning January 1, 2000 subject to and contingent upon yearly budget approval by the City of Fayetteville.

B. OLD BUSINESS

4188 Passed

1. **RZ 99-26:** An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on Zion Road. The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. This item was left on the first reading.

4189 Passed

2. **RZ 99-27:** An ordinance approving rezoning request RZ 99-27 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property west of Double Springs Road. The property is in the planning growth area and contains approximately 47.98 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. This item was left on the first reading.

Passed 4190

3. **RZ 99-25:** An ordinance approving rezoning request RZ 99-25 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for property located west of Rupple Road and east of Meadowlands Subdivision. The property is zoned A-1, Agricultural, and contains 17.10 acres. The request is to rezone the property to R-1.5, Moderate Density Residential. This item was left on the second reading.

C. NEW BUSINESS

Approved ~~Passed~~ 129-99

1. **GREATHOUSE PARK:** Discussion of new information and possible action on Greathouse Park Bridge and the tree removal required due to flood prevention for its construction.

Put on 2nd reading

2. **RZ 99-28.00:** An ordinance approving rezoning request RZ 99-28 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

Passed 4191

3. **1999 MILLAGE:** An ordinance adopting real and personal property tax rates for 1999 for the Police and Fire Pension Funds. The rate to be adopted is 0.5 mils for real property and 0.5 mils for personal property. There is no millage proposed for general government operations.

130-99R approved

4. **LIBRARY DESIGN:** A resolution approving an architectural agreement with Meyer, Scherer and Rockcastle, Ltd. of Minneapolis, MN for the design of the City's proposed library (Phase I). And approval of a budget adjustment in the amount of $160,000.

approved 131-99

5. **INDUSTRIAL PARK - PROPOSED DEVELOPMENT:** A resolution authorizing the sale of 14 acres of Lot 13 in the Fayetteville Industrial Park to a proposed development.

passed 4192

6. **LAND POSSESSION - HIGHWAY 265:** An ordinance authorizing the City Attorney to seek possession of certain land located along Highway 265 by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocations. The total offer amount for this property would be $1,595.00; such property is owned by Richard L. Mayes and Ethel L. Mayes (Parcel No. 765-02253-000).

withdrawn

7. **CITY COUNCIL CONDUCT:** A resolution establishing the City's lead in exemplifying an attitude of professionalism and consideration of others in its business sessions as shown by speaker recognition, concise language, and discussion length.

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
SEPTEMBER 21, 1999**

A meeting of the Fayetteville City Council was held on September 21, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Alderman Trumbo requested that the agenda item for the Greathouse Park Change Order be removed from the Consent Agenda and placed under Old Business.

CONSENT AGENDA

WATER / SEWER RELOCATION HWY 265

A resolution approving a construction contract with Basic Construction Co. for Highway 265 widening (Highway 45 to Highway 16) -- Water and Sewer Relocations in the amount of $1,301,170.00; a project contingency in the amount of $130,000 (10%); and a budget adjustment.

RESOLUTION 119-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PASSENGER FACILITY CHARGE

A resolution approving the implementation and collection of a Passenger Facility Charge application #3 from eligible passengers at Drake Field, the amendment of existing applications #1 and #2, and the closure of application #1. The resolution is a Federal Aviation Administration FAR Part 158 requirement for the application process. As with applications #1 and #2, a $3.00 PFC Charge is being requested in application #3. The Airport Board approved this PFC application and amendments at their August meeting.

RESOLUTION 120-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Russell moved to approve the Consent Agenda. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

GREATHOUSE PARK CHANGE ORDER

A resolution to amend the contract with CEI Engineering Associates, Inc. for the purpose of conducting additional analyses to see if there is anyway to avoid major channel improvements to alleviate additional flooding that could be caused by building the park access bridge over Town Branch creek.

Alderman Trumbo had requested the item to be removed from the Consent Agenda. He explained he wanted to discuss the money which had been budgeted for the project. They were going to need additional money to carry out additional studies that the Council was wanting them to do. He thought they had gone the extra mile.

Ms. Connie Edmonston, Parks and Recreation Department Superintendent, explained some of the money was needed to add on alternatives. They had CEI look at the most feasible method for this project. They had looked at the economics and the cost of the project, at the park access and all the other things they had discussed. The request did entail additional meetings which had eaten up all the time they had budgeted. They were paying the engineers by the hour to come to special meetings to help explain the project to other people. They had used a lot of the construction supervision time already in their original contract.

Alderman Trumbo stated he was for this if this was to get the project moving. He was against the change order if it was to fund more studies.

Ms. Edmonston replied some the money was for looking at other alternatives.

Alderman Austin asked if they did not approve the amendment to the contract to increase the funding, what would happen.

Ms. Edmonston answered they would go on with the project as is. They might need some extra funding for the construction supervision at the project for CEI.

Ms. Brenda Theil, Parks and Recreation Advisory Board member, stated it had been the Parks Board's understanding that they were to look at other methods.

Mr. Todd, CEI Engineering, stated the contract amendment as it was presented a series of lump sum items that they would do in priority order. The last two items could not be done without specific authorization from the Parks Department. The analysis would include constructing an ADA ramp. They might be able to reduce the amount of channeling by changing to a more expensive type of construction for the ramp. They might also be able to change the dirt level in the park on the south side and create an overbank relief channel so the trees were higher than the park side. It was a matter of computer modeling if they could do that without destroying their park. If they lowered it too much they would take a lot of land from the park.

Alderman Daniel asked if changing the specifications on the bridge would still depend on them getting ingress and egress from the west side.

Mr. Todd replied it would still require ingress and egress for park equipment, but not for public access. All their public access would be able to come from the north side. They were only going to look at ADA alternatives for the bridge. They could not have separate but equal access. They could not put the handicapped off to one side. They needed to be co-located.

Alderman Young, referring to the change order, stated that if they found a good solution in the beginning they would not have to do the rest of them.

Mr. Todd replied that Alderman Young was correct. He added that he believed that any alternative they came up with would be more expensive than what they had now. He would be very surprised if they came up with a lower cost solution. He thought they came up with the lowest cost solution the first time.

Alderman Santos did not believe Mr. Todd was correct about the ADA requirements. He noted that at the City Administration Building and at the Bank of Fayetteville neither one had their ADA access together with the general access.

Mr. Venable replied these buildings had been retrofitted and had been grandfathered in.

Alderman Young asked if the City's equipment could go across a breakaway bridge.

Mr. Todd replied if would depend on the bridge. He knew the bridge would be more expensive than a fixed bridge. He added that, the larger the breakaway bridge, the more likelihood there was that the City would need special equipment to put it back in place after a flood. That would need to be a part of their analysis so they would not have to hire an outside contractor to put the bridge back in place.

Alderman Russell commented that the change order was what he had been expecting. He did not believe it was a lot of money.

Ms. Edmonston added that the details of an alternative design had not been included in this change order. There would be design costs necessary to change the bridge.

Mr. Todd explained they would not know what to design until they had evaluated the alternatives.

Alderman Trumbo asked Ms. Edmonston if they needed to consider more options. He thought they had done a good job.

Ms. Edmonston replied she thought they had done a great job. Their engineers had told them from day one that for the amount of money they had to spend on this project, looking at the feasibility of the plan, they had a good design. The neighborhood wanted that bridge. She felt very strongly that they had to provide ADA access for the north side of the park. And that had been expressed by that neighborhood very strongly.

Alderman Russell stated it was his understanding that no one understood the extent of the project until after they had approved the original contract. It was his opinion that they needed to spend the additional money to make sure they had considered all the options.

Alderman Russell moved to approve the change order as presented and recommended by the Parks Board. Alderman Young seconded the motion.

Ms. Fran Alexander, an area resident, stated that she thought that removing this item from the Consent Agenda was detrimental to the process for the citizens. She stated she had counted all the trees and there were over a hundred trees. She urged them to vote for the change order.

Alderman Reynolds state there had been several people walking the neighborhood. Some of the residents had lived there for over 54 years. They had never had anyone refuse to sign the petition. They explained to them that the trees would have to be removed to put the original bridge in. Everyone in the neighborhood wanted the original contract done for the park. He thought they needed to go along with the people who lived there and had to put up with it every day, rather than having people come from other parts of the city and trying to ram something down their throats that they did not want.

Alderman Austin added thirty to forty people in the area had signed the petition. There had not been one person they talked to that was not for the original project. When he had run for City Council in the area, he had gone to those people's houses. They had asked him to represent them on things that were close to them. That park was close to them, it was in their backyard. He tended to listen to those people.

Upon roll call the motion failed by a vote of 4-5-0. Austin, Davis, Trumbo, Reynolds voting nay. Mayor Hanna broke the tie by voting nay.

WASTEWATER TREATMENT PLANT REPORT

A report from Burns and McDonnell on the existing wastewater treatment plant.

Mr. Jerry Sonderegger and Mr. David Hauser of Burns & McDonnell and Dr. James Moore, Professor Emeritus of the University of Arkansas, explained how they planned to proceed with the City. They had worked with the City on the scope of the project and on what needed to be included in the study. The purpose of the study had been to determine how much wastewater could flow through the wastewater plant. They did not evaluate the operation of the plant or the life of the plant. They did not compute the original design. They had not been asked to comment on the design assumptions they had made in 1984. He explained the basic design and function of the plant, and the process and criteria they had used in evaluating the plant. Their recommended average daily flow was 12.6. They had applied this flow rate to the basins to make sure they could handle that flow and still be within the standards. He added the plant was approximately at 91% or 92% of capacity at this point. It was his opinion that the City was correct in preparing to more forward towards relief for this plant.

Alderman Trumbo stated there had been some question as to whether or not the plant was actually at this capacity level. Their report was showing that they were at approximately 93% of capacity. He added that when this plant had been designed, they had not taken into consideration the explosive growth rate Fayetteville had been experiencing.

Alderman Young asked Mr. Sonderegger if he had seen the original resolution approving the study. The study had not been passed to get a study of what the plant was currently doing. The study had been intended to determine how much flow the plant should be able to treat.

Mr. Sonderegger replied that he had gone by two items in undertaking this study, one being the RFP which stated the need to review the scope of the 201 Facility Plan. He had reviewed all the construction documents and the facility.

Alderman Young asked, based on the 201 Facility Plan, what were their recommendations for the plant.

Mr. Sonderegger replied about 11.4 million gallons per day. The design capacity was a total different term. He could not tell them what CH2M Hill had used as their design standard. He took it to be the average daily flow, which was a general term used in the industry. They had been asked to review the plans. The contract stated they were to perform an engineering evaluation of the hydraulic capacity of the plant and to recommend to the City the capacity rate of design average flow and peak flow. And they had accomplished that.

Alderman Young questioned the statement "conform to construction drawing."

Mr. Sonderegger answered that "conform to construction record" was a term that engineering companies used. When a plant was constructed they would find things that they did not anticipate or a better way to do something or there were change orders to the original design.

The resident engineers in the field keep track of any changes in the log book, noting any changes which were made. At the end of that time those were put onto "conform to construction records" which was a legal term indicating which of the records show how the structure was made. He had not read through the daily logs. They had not been asked to see if the construction records matched the daily log.

Alderman Trumbo thanked Mr. Sonderegger and stated their firm had done an excellent job in fulfilling the contract.

Mr. Rose asked Alderman Young if his contention was that the plant was not constructed the way it was supposed to be. He asked what made him think that it had not been.

Alderman Young stated there had been questions from the public and former workers. He thought it might show up in the daily logs.

Alderman Austin asked what it would cost them to overlay a growth rate chart and a rainfall chart over the flow rate chart to see if the rainfall chart was the same as the peak flow chart.

Mr. Sonderegger replied that he did not know if that information was readily available.

Alderman Austin stated they needed to be dealing with their growth rate and serving their people. They needed to make allowances for infiltration and avoid those things. He was not in favor of spending more money to do more studies. He was satisfied with the work done by these engineers.

Alderman Trumbo stated that Burns and McDonnell had shown them where they were. He asked Mr. Venable if he was satisfied with the report.

Mr. Venable stated he was satisfied and the contract had followed the four items which had been issued in the resolution. Everyone had a chance to review that contract and to improve the contract. He thought they had done a good job.

Alderman Young questioned the permit. They were limited to the volume going to Mudd Creek, but they were not limited to that going to the White River as long as they met the mass loadings.

Mr. Sonderegger replied that was correct. He explained the condition of the permit now, and what was allowed.

Alderman Reynolds explained that when that plant was constructed, the original contract went belly up. The insurance company had to send in contractors to finish the plant. He thought they were really lucky to have twelve years use of a trouble-free plant. They needed to be thankful.

In response to questions, Mr. Sonderegger stated that at his office, when they had completed a project and the design to conform documents had been made, the original design documents were discarded. Sometimes an office engineer did not have a good handle on the conditions they were going to find in the field. There could be rock, bad soil, or any number of things. The original documents only served to confuse the issue after the project has been completed. It was their policy and most engineers' policy, once the project has been constructed to discard the correspondence files and the mark-ups, because they were no longer relevant. The only thing relevant was what had been built.

In response to concerns from aldermen regarding a potential lawsuit, Mr. Rose stated that if there were any design faults in the plant that they were not aware of, there was a thing called *laches and estoppel* which meant if they had not discovered something after this long a period of time, they probably could not go back and sue someone. None of what he had heard tonight would give him reason to believe that the City, by staff or Council decision, had in any way been involved in any wrong doing. He could not chase a phantom.

CELL TOWER SITE

A resolution approving an agreement with MSA Limited Partnership (Alltel Communications) for lease of tower space on the Gulley Road water tank for the purpose of installing radio communications equipment and appurtenances (building and antenna).

Alderman Santos stated he had looked at the letter presented to the City Council at the first of the meeting from the residents in the area listing their changes to the contract. He thought some of the requests were reasonable. Some of them were the responsibility of the county. He did not think they needed to agree with some of the items at all.

Alderman Russell thought there were some valid points. He understood that the neighbors wanted assurances.

Mayor Hanna thought they needed to consider the resolution approving the agreement. The other things were suggestions. They had spoken with the person who had written the letter a couple of times. He thought they would try and do what was right for the neighbors in the area. At the present time they did not have any plans to do anything. Each plan they would do would be brought back before the council.

Alderman Davis agreed that they did not need to try and solve every problem tonight.

Alderman Russell stated some of the requests on the letter had to do with the current agreement which was on the table, such as approving the lease without satisfying some of these items which seemed amendable to everyone.

Mr. Jim Smith, General Manager for Alltel in western Arkansas, stated he did not know what the residents wanted, but he was willing to consider them.

Mayor Hanna stated this was rather late. If they were not satisfied with the resolution as they had it drawn up, then the aldermen could vote against it.

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

Mr. Jeff Erf, an area resident, questioned the dollar amount of the lease and how that amount was arrived at.

Mr. Smith answered that amount was the standard amount offered in a co-location. One thousand dollars was pretty much the standard cost across the board.

Mr. Erf stated the early draft of the cell tower ordinance required an independent appraisal. He asked if the City was comfortable with taking Alltel's word about the growing rate. He asked if they had negotiated the price.

Ms. Alyssa Coffield, Alltel, stated she handled all the site acquisitions for the central market, including Fayetteville. They were currently co-located on another one of the City's water tanks, which they had negotiated several years ago. They had doubled that rental payment and upped their amount. They used field agents and a site acquisition company to negotiate most of their contracts for them. She noted this contract had gone through several months of negotiations with the City and this was what they had agreed upon.

Mr. Erf noted the contract tied the City to the lease for ten years. He questioned whether that was what the City wanted to do since the technology was changing so fast.

Alderman Davis replied the time period was for two five-year periods. If the antenna is abandoned, they would have to remove it. Most contracts were based on five years with the option to renew.

Ms. Colleen Gaston, 3270 Rom Orchard Road, had written the letter to which they had referred earlier. She explained that Alltel did not submit their rendition of the site until yesterday. She asked how they could have reached a conclusion any more quickly than they had. She thought there were some legitimate concerns about the agreement.

Alderman Austin stated the City wanted to do the right thing. They were not under any obligation to make a contract with county residents, but they wanted to do the right thing. Most of her requests fell into the category of doing the right thing.

Alderman Russell thought the residents wanted assurances in writing because of what had happened in the past. He thought they needed to make a special effort on the front end to the neighbors that could not vote them out.

Mayor Hanna stated this was the time to vote on the agreement, not the time to change the agreement. The City would try and work to protect the residents in the area.

Ms. Gaston stated there had been only two weeks since this had been brought to the public's attention.

Ms. Coffield stated some of Ms. Gaston's concerns were valid about the exhibits. She explained the exhibit would be provided within 180 days after the complete execution of the contract. She had supplied the accurate legal description to Mr. Don Bunn, Assistant Public Works Director, along with the drawings and construction plans.

Ms. Gaston stated as a practice of good business they should see what they were getting before they signed a lease.

Mr. Smith stated they wanted to do what was right for the residents. He also lived in town.

Alderman Trumbo noted that Alltel had a better site located.

Mr. Smith replied there was some compromise. They did have another site located. They could have already built on that site. They had decided to wait because they felt this was a better solution for everyone involved.

Alderman Davis stated he had spoken with four people in the area and they had all told him to go ahead and vote for the lease. He had not seen any other opposition to the antenna.

Alderman Santos added that Alltel has shown a good faith effort for co-location, which was in the ordinance.

Mr. Smith added they had capacity issues in that area now.

Alderman Austin stated he would be voting for the resolution, with the understanding and the expectation that the City would do what they said they were going to do.

Upon roll call the resolution passed by a vote of 5-3-0. Russell, Trumbo, and Santos voted nay.

RESOLUTION 121-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 98-22
An ordinance approving an amendment to the Bill of Assurance of RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company and successor owner Clem Johnson for property located at 1798 E. Huntsville Road. Ordinance 4175 rezoned this property from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial. This request is for an amendment to the Bill of Assurance to allow automobile restoration and repair in addition to used car sales.

Mr. Rose read the ordinance for the first time.

Mayor Hanna stated the only neighbors that had contacted him had been concerned about the restoration and repair. The owner had promised to screen the area.

Alderman Reynolds stated he also had received phone calls. All of them had been for the approval of this project. All of them wanted to make sure that if something did happen to this business that the property would revert back to C-1.

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

Mr. Rose read the ordinance for the second time.

Alderman Young moved to amend the ordinance to add the wording "classic." Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Conklin did not believe the owner would object to the addition.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Austin seconded the motion.

Alderman Russell added the Bill of Assurance was only a gesture of good faith. Anyone who bought the property could do what ever they wanted to. The City had to be the watch dog.

Mr. Erf, an area resident, encouraged to Council to vote against the ordinance. The use specified was out of character for the neighborhood.

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

Upon roll call the motion carried unanimously.

ORDINANCE 4184 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

VA 99-11
An ordinance approving vacation request VA 99-11 as submitted by Curtis and Kathryn Coleman for property located at 2922 Whippoorwill Lane. The property is zoned R-1, Low Density Residential, and contains approximately .29 acres. The request is to vacate a portion of a 20-foot utility easement along the north property line.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Austin 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 4185 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 99-2
An ordinance approving annexation request RZA 99-2 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on County Road 92 (Zion Road). The property is in the planning growth area and contains approximately 34.72 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 Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

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

Alderman Young asked Ms. Harrington if her client recognized and understood that because of the sewer capacity problem that they were not guaranteed sewer hook-up.

Ms. Harrington replied they were.

ORDINANCE 4186 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-26
An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property located on County Road 92 (Zion Road). The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion failed by a vote of 4-4-0. Young, Russell, Daniel, and Santos voted nay.

THE ITEM WAS LEFT ON THE FIRST READING.

RZA 99-3
An ordinance approving annexation request RZA 99-3 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property located west of Double Springs Road. The property is in the planning growth area and contains approximately 47.98 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 Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

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

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

Alderman Young asked Ms. Harrington if her client was aware of the sewer capacity problem and they could not be guaranteed sewer hook-up.

Ms. Harrington replied yes.

Alderman Santos added that although this looked like urban sprawl, this guaranteed that the development would be up to standard and not be substandard development at the edge of the City.

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

ORDINANCE 4187 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-27
An ordinance approving rezoning request RZ 99-27 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property west of Double Springs Road. The property contains approximately 47.98 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential.

Mr. Rose read the ordinance for the first time.

THE ITEM WAS LEFT ON THE FIRST READING..

RZ 99-25
An ordinance approving rezoning request RZ 99-25 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for property located west of Rupple Road and east of Meadowlands Subdivision. The property is zoned A-1, Agricultural, and contains 17.40 acres. The request is rezone the property to R-1.5, Moderate Density Residential.

Mr. Rose read the ordinance for the first time.

Alderman Daniel moved to suspend the rules and move to the second reading. Alderman Reynolds 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.

Meeting adjourned at 8:45 p.m.

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the City Council Meeting of October 5th, 1999

From:

James Nicholson	Community Development	Admin Services
Name	Division	Department

ACTION REQUESTED:
Agenda Request. Consideration of an Offer and Acceptance Contract to acquire property at 153 E Mountain for future expansion of the Yvonne Richardson Community Center.

COST TO THE CITY:

$16,000	$59,000	SE Commmunity Center Improvement
Cost of this request	Project Budget	Category/Project Name
2180.4990.5390.24	$21,813	Public Facilities / Improv
Account Number	Funds used to date	Program Name
99003	$37,187	Community Development
Project Number	Remaining Budget	Fund

BUDGET REVIEW:

X Budgeted Item ___ Budget Adjustment Attached

Steph Sain
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Grantor Agency:

Marilyn J Cramer 9-14-99
Accounting Manager Date

Yolanda Fields 9-14-99
Internal Auditor Date

9-14-99
City Attorney Date

ADA Coordinator Date

9-14-99
Purchasing Manager Date

STAFF RECOMMENDATION:
Staff requests approval of purchase

James Nicholson 9-15-99
Division Head Date

15 Sep 99
Admin Svcs Director Date

Department Director Date

Fred Hanna 9/15/99
Mayor Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

From: Kevin Crosson, Administrative Services Director

Date: September 13, 1999

Re: Offer and Acceptance Contract - Community Development Division

The Offer and Acceptance Contract submitted for your consideration is to acquire property located at 153 East Mountain, Fayetteville. The property will be used for future expansion of the Yvonne Richardson Community Center facilities. The parcel is one lot approximately 44.5 x 99 ft and has a defunct residential building. The structure is badly damaged due to fire and will be razed.

The City Council approved the purchase of an adjacent parcel, 151 E Mountain, in June of this year. This recently purchased essentially identical parcel was appraised for $16,000 by Belote & Associates, and is the basis of the offer for 153 E Mountain.

BUDGET CONSIDERATIONS

The expansion of the Yvonne Richardson Community Center is included in the 1999 Capital Improvements Program and Community Development Block Grant (CDBG) funds in the amount of $59,000 are allocated this year. This amount represents the costs pertaining to the purchase of available parcels and demolition & removal of the dilapidated structures.

STAFF RECOMMENDATIONS

A map is attached that shows the Community Center and surrounding area. Staff recommends approval of the Contract as acquisition of this property will nearly complete City ownership of the parcels adjacent to the Community Center. Only two smaller parcels remain to be acquired to complete the acquisitions needed to accommodate the expansion.

Please let me know if you have additional questions. Thank you for your attention to this matter.

Attachments: Offer and Acceptance Contract
Map

OFFER AND ACCEPTANCE CONTRACT

1. **The City of Fayetteville, Arkansas**, a municipal corporation, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property from **Ernestine Carr,** hereinafter referred to as Seller:

   A part of the NW/4 of the SW/4 of Section 15, T-16-N, R-30-W, of the 5th P.M., County of Washington, State of Arkansas, and being more particularly described as follows, to wit: Beginning at a point which is 599.5 feet East and 266 feet South of the N/W Corner of the SW/4 of said Section 15; thence East 44.5 feet; thence South 99 feet; thence West 44.5 feet; thence North 99 feet to the point of beginning.

2. **Purchase Price**: Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **$16,000**.

3. **Contingencies/Conditions:** This offer of purchase is contingent upon approval by the City Council of the City of Fayetteville, Arkansas. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, this contract becomes null and void. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the Seller may assert legal or equitable rights which he or she may have because of breach of this contract. This offer is contingent on the condition that no tenant will occupy or have the right to occupy at the time of closing.

4. **Conveyance:** Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.

5. **Abstract or Title Insurance:** The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. Buyer shall pay for the costs of the title insurance upon closing.

6. **Buyers Right To Survey Property:** Seller agrees to allow Buyer to survey the property if Buyer so desires and at Buyer's expense. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.

7. **Prorations:** Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, and special assessments payments shall be prorated as of closing.

OFFER AND ACCEPTANCE CONTRACT

8. **Closing:** The closing date is designated to be **October 15, 1999**. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. **Possession:** Possession of the property shall be delivered to the Buyer on the date of closing.

10. **Fixtures and Attached Equipment/Condition of Property:** Unless specifically excluded herein, all fixtures, improvements and attached equipment are included in the purchase price.

11. **Risk of Loss:** Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.

12. **Inspections and Repairs:** Buyer has inspected the property and is not relying upon any warranties, representations, or statements by Seller or Seller's agent(s) as to age or condition of improvements, other than those specified herein.

13. **Contract Limits:** This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

14. **Expiration:** This contract expires, if not accepted on or before **September ~~10~~ 13, 1999.** E.G.

15. **NOTICE:** **BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY OF FAYETTEVILLE CITY COUNCIL AND THAT THE FAILURE TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID.**

OFFER AND ACCEPTANCE CONTRACT

SELLER:

Ernestine Carr   Date: 9/13/99

Ernestine Carr

AGENT OR WITNESS:

Windy Carr   Date: 9-13-99

BUYER:

City of Fayetteville, Arkansas,
a municipal corporation

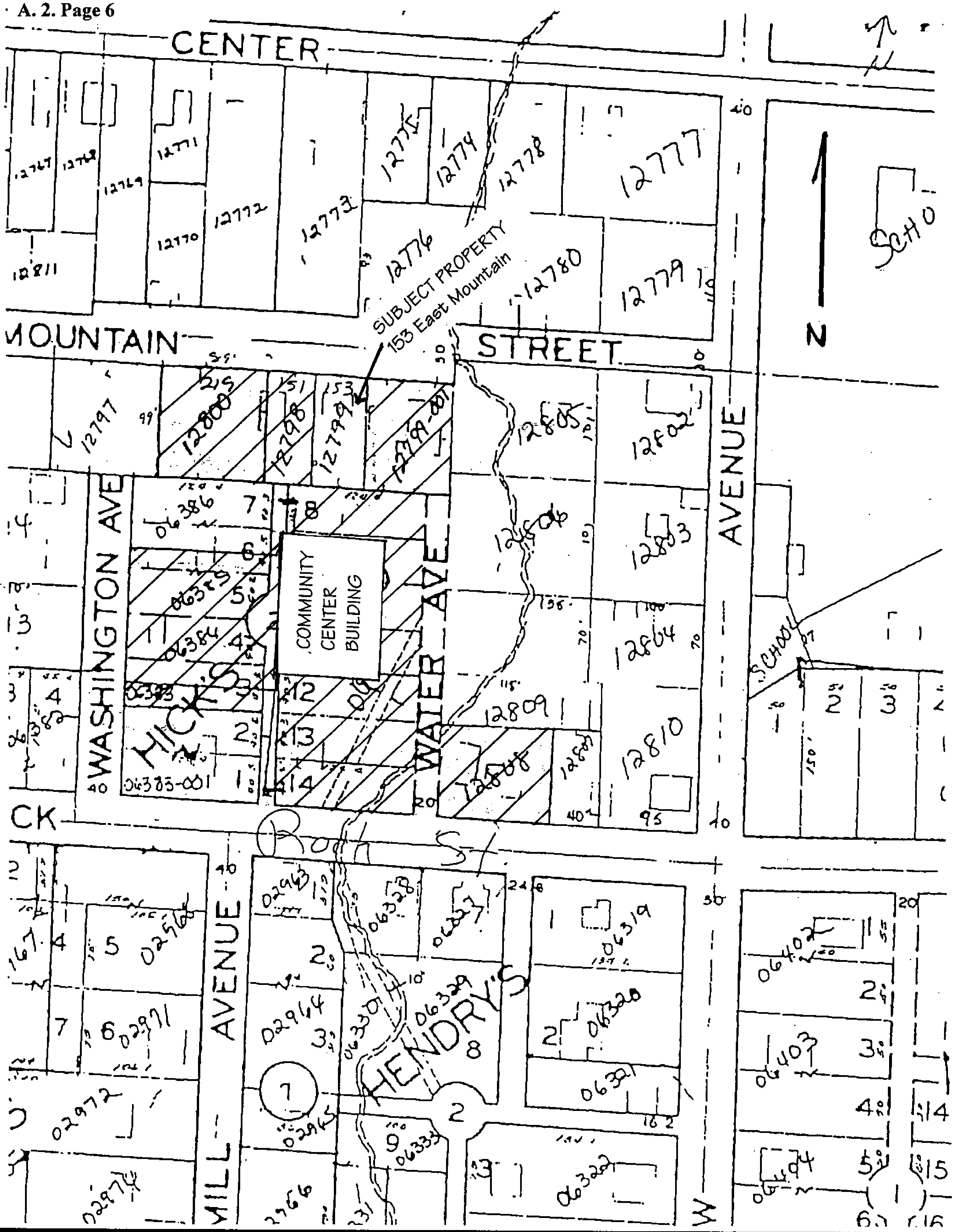
____________________   Date: __________

Fred Hanna, Mayor

____________________   Date: __________

Heather Woodruff, City Clerk

(SEAL)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153 East Mountain
COMMUNITY CENTER BUILDING
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Veterans Mem. Park
A. 3. Page 1

STAFF REVIEW FORM

xx _ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Connie Edmonston	Parks & Recreation	Public Works
Name	Division	Department

ACTION REQUIRED:

Approval of Budget Adjustment in the amount of $35,201 for overlaying entryway and parking area at Veterans Memorial Park.

COST TO CITY:

$51,071 Cost of this Request	$172,629 Category/Project Budget	Lake Fay S Restrooms/Parking Category/Project Name
4470-9470-5806-00 Account Number	$156,759 Funds Used To Date	____ Program Name
96034 Project Number	$15,870 Remaining Balance	Sales Tax Fund

BUDGET REVIEW: __xx_ Budgeted Item __xx_ Budget Adjustment Attached

9-16-99
Budget Manager ____ Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ____

Marilyn J. Cramer
Accounting Manager 9-16-99 Date
Internal Auditor ____ Date

City Attorney 9-16-99 Date
ADA Coordinator ____ Date

Purchasing Officer 9-16-99 Date

STAFF RECOMMENDATION:

Approval of budget adjustment

Connie Edmonston
Division Head 9-15-99 Date

Department Director 9-16-99 Date

Administrative Services Director Date

Fred Hanna
Mayor 9/17/99 Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: __

Orig Contract Date:_

Orig Contract Number: ____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Hanna and City Council

THRU: Charlie Venable, Public Works Director *Acv*

FROM: Connie Edmonston, Parks & Recreation Superintendent *C.E.*

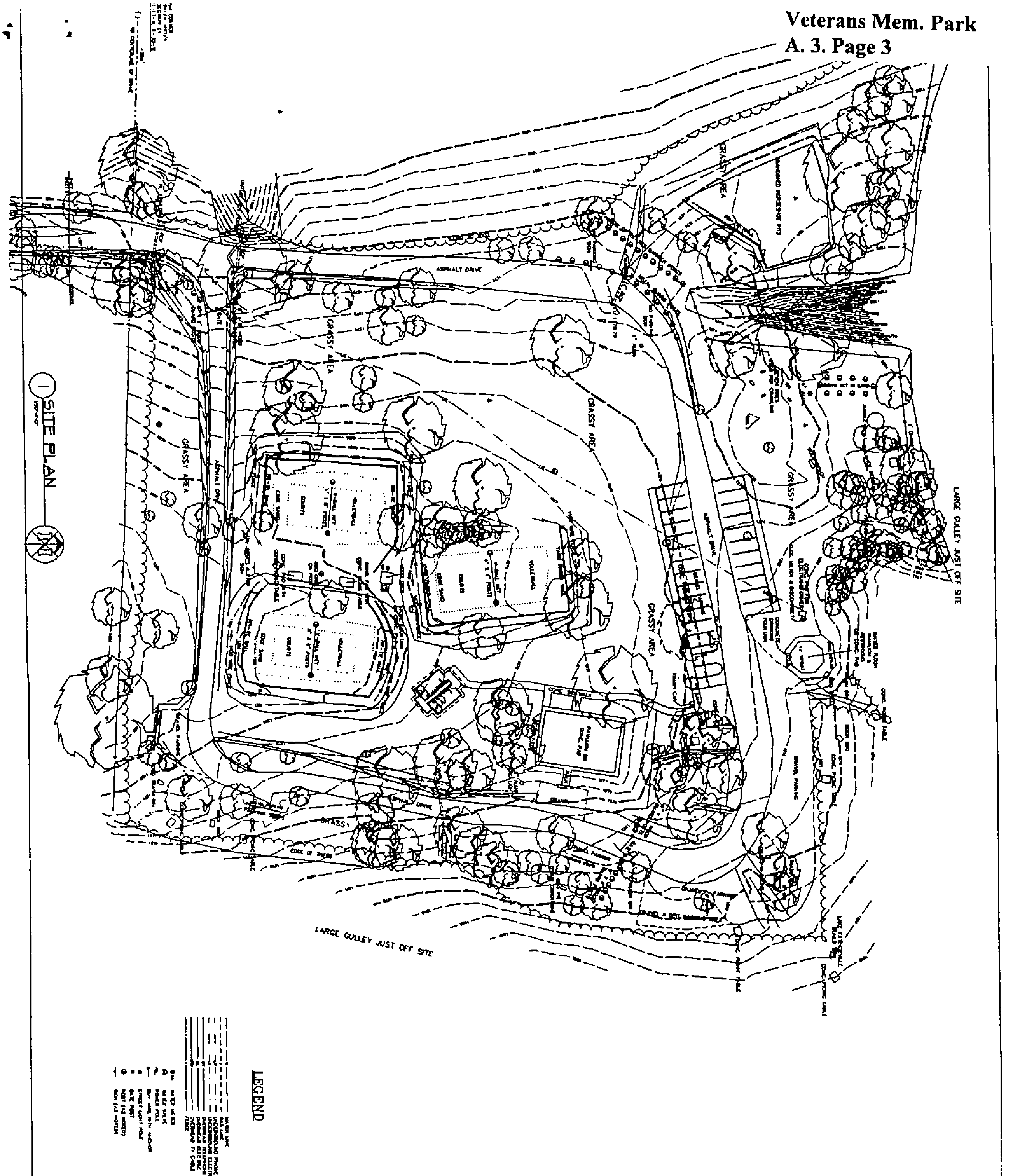
DATE: September 15, 1999

RE: Budget Adjustment for Veterans Memorial Park Entryway/Parking Overlay

Overlaying the entryway and parking area at Veterans Memorial Park has been in the Park's CIP since 1996. With the completion of the new restroom facility, there was $15,870 left to overlay the entryway and parking area. Additional funds for this project would be obtained from money remaining in the Parks Maintenance Complex project.

The entryway is in terrible shape with many potholes. Over the past few years, Veterans Memorial Park has been upgraded with the addition of the large pavilion and restrooms. It is used by many large groups because of the physical amenities of the large pavilion, restrooms, playground equipment, large open area, fishing pier, trails, sand volleyball courts, and the proximity to Lake Fayetteville. The City Street Division would perform the work at a cost of $51,071. Please call me at 444-3473 if you have any questions concerning this project.

Veterans Mem. Park
A. 3. Page 3



6/23/98 98013	SITE PLAN	VETERAN'S PARK PARKING & RESTROOM PROJECTS FAYETTEVILLE, ARKANSAS

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvement Fund	Date Requested	Adjustment #
1999	Division:	09/16/99	
	Program:		

Project or Item Requested:
Additional funding is requested for the Veterns Park project.

Project or Item Deleted:
None. Funding for this request is from the Pqarks Maintenance Complex project.

Justification of this Increase:
The funds are requested to make improvements to the park enrtyway and to overlay the parking lot.

Justification of this Decrease:
The entryway and parking lot overlay project is a higher priority project.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Parks Improvements	35,201	4470	9470		5806	00	96034	1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Parks Improvements	35,201	4470	9470		5806	00	97019	10

Approval Signatures

	Date
Requested By	
Budget Manager	9-16-99
Department Director	9-16-99
Admin. Services Director	16 OCT 99
Mayor	9/17/99

Budget Office Use Only

Type: A B C D E

Date of Approval ______

Posted to General Ledger ______ ______

Posted to Project Accounting ______ ______

Entered in Category Log ______ ______

Blue Copy: Budget & Research / Yellow Copy: Requester

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STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Richard L. Watson	Police	Police
Name	Division	Department

ACTION REQUIRED: Approve three new Dispatch Trainer positions for the Central Dispatch Center, and also approve the budget adjustment.

COST TO CITY:

$20,100.00	543,345.00	Personnel
Cost of this Request	Category/Project Budget	Category/Project Name
See attached	365,459.00	Central Dispatch
Account Number	Funds Used To Date	Program Name
	177,886.00	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Manager ___ Administrative Services Director

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

Marilyn J Cramer	9-16-99		
Accounting Manager	Date	Internal Auditor	Date
	9-16-99		
City Attorney	Date	ADA Coordinator	Date
	9-16-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approval of the three additional Dispatch Trainer positions and the budget adjustment.

Division Head	Date	Cross Reference
	9-16-99	New Item: **Yes No**
Department Director	Date	
	16 OCT 99	Prev Ord/Res #: ___
Administrative Services Director	Date	
	9/17/99	Orig Contract Date: ___
Mayor	Date	

Dispatch Trainer
C. 1. Page 2

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Police	Date Requested	Adjustment #
1999	Division:	Communications		
	Program:	Central Dispatch Center	09/16/99	

Project or Item Requested:	Project or Item Deleted:
Funding to implement the three Dispatch Trainer positions.	None

Justification of this Increase:	Justification of this Decrease:
These positions will reduce the work load of the Lead Dispatchers and form a streamlined training program. They will also act as dispatchers during personnel shortages.	N/A

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Salaries and benefits (multiple)	$20,100.00	1010	2600	5100	.00			

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
911 Salary reimbursement	$20,100.00	1010	0001	4401	01			

Approval Signatures

	Date
Requested By	9-16-99
Budget Coordinator	9-16-99
Department Director	9-16-99
Admin. Services Director	16Sep99
Mayor	9/17/99

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Fred B. Hanna, Mayor

From: Richard L. Watson, Chief of Police R. Watson

Subject: Agenda Request & Budget Adjustment - Dispatch Trainer Positions

Date: September 16, 1999

Attached you will find an Agenda Request and Budget Adjustment for creation of 3 new Dispatch Trainer positions. The City Personnel committee recently met and approved job descriptions and pay grades for these new positions. The Police Department has been discussing staffing and turnover with Mr. Don Bailey of the Personnel Division for some time and creation of the new positions has been the outcome of those discussions.

Our Dispatch center has been understaffed for several years even when it is at full authorized strength. However we have not been at full strength for a couple of years. Due to the competitive job market in Northwest Arkansas we are in a constant mode of trying to retain our current dispatchers and at any given time we are training new dispatchers. One problem we have is the length of time it takes to train a new dispatcher. Because of the various equipment, computers, procedures, protocol, etc., to be learned, it usually takes about six months for a dispatcher to be trained. We are also constantly trying to explain to our dispatchers why the City of Springdale has 24 dispatch slots and we have only 17. Although we have constantly worked with the Personnel Division to try and keep the pay competitive with area agencies, we still can't explain to our staff why other agencies have more people to do the job and our Center has the biggest workload of any city in Northwest Arkansas..

Recently our workload in the Dispatch Center increased because of new technology with cellular phones. We are now the only County in a 4 state area that actually routes cellular 911 calls to the dispatch center to which the cellular tower is located closest. In the past, all cellular 911 calls automatically went to the Springdale Police Department and they then transferred them to the appropriate police, fire or ambulance service. We have seen our average daily 911 calls we answer increase almost 70% in the past month.

We currently train new dispatchers by putting them with a Lead Dispatcher (supervisor) who then tries to systematically go over training material during the six month training period. However, because of continuous shortages of personnel, the Lead Dispatchers are constantly interrupted and spend the majority of their time actually filling in for shifts and working as a dispatcher. When they do this, training suffers, their other supervision duties suffer, and we get further behind.

We have been working with Mr. Bailey of the Personnel Division to examine ways to retain our personnel, provide more job satisfaction and reduce the stress level in the Dispatch Center. We propose to add 3 new positions to the Dispatch Center and these positions would be "Dispatch Trainers". We would shift the responsibility from the Lead Dispatchers for training new personnel and have the Trainers be responsible. One Trainer would work on each of the 3 shifts and our current training program would be even more closely examined to find ways to accelerate the training process as much as possible without a corresponding loss of quality.

Salaries of all dispatch personnel are offset 25% by a fee collected through the 911 phone system. Because of the recent change to the cellular service we have also begun to receive additional funding through the new Commercial Mobile Radio Service (CMRS) fee. We expect to receive a minimum of $ 44,000 annually from this fee and as cell phones increase, this number could increase as well. By law, we are only allowed to spend this money for 911 purposes and dispatch salaries are an approved expenditure. The City will only have to pay for 75% of the total salaries for the new positions and this amount will be further offset by the expected $ 44,000 from the new annual fee.

The total cost of creating these new positions for the remainder of 1999 will be $ 20,100. As stated earlier, 25% of that amount will be paid by the 911 fee and we expect to receive approximately $ 22,000 (and possibly the entire $ 44,000) before the end of the year from the new CMRS fee. Of course these new positions will impact the 2000 City budget which you will review later this year. Just for your information, the total cost of these new positions in the 2000 budget year will be $ 102,250. However, because of the 25% salary reimbursement we will receive from 911 and the expected $ 44,000 to be received from the CMRS fee, the total impact to next year's budget will be $ 32,687.

Creating and funding these new positions will accomplish several things in our Dispatch Center. Overall staffing will increase and better service will be provided. Training will become even more standardized and hopefully training time may be shortened. Lead Dispatchers will be able to devote more time to actual supervision duties on their shifts. Because the Trainer position will be a grade higher than a dispatcher, employees will have another avenue of upward mobility. All of these improvements will have a positive effect on job satisfaction, workload, stress levels and we hope to see our turnover rate stabilized.

cc:
Mr. Don Bailey

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of October 5, 1999.

FROM:

Tim Conklin	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZ 99-28.00 submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

COST TO CITY:

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

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator — Administrative Services Director

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

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	9-17-99 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and the Planning Commission approved the rezoning request with a vote of 5-2-0. Commissioners Estes and Hoover voted against the rezoning.

Division Head	9-16-99 Date	**Cross Reference**
Department Director	9-20-99 Date	New Item: **Yes** **No**
Administrative Services Director	20 Sept 99 Date	Prev Ord/Res#: ________
Mayor	9/21/99 Date	Orig Contract Date: ______

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Brent Vinson, Associate Planner
DATE: September 13, 1999

RZ 99-28.00: Rezoning (Realty Resources, pp 364) was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

RECOMMENDED MOTION:

Staff recommends approval of the proposed R-2 zonings based on the findings included as part of this report.

PLANNING COMMISSION ACTION: YES **Required**
_____**Approved** _____**Denied**

Date: September 13, 1999

Comments:

____

____

CITY COUNCIL ACTION: YES **Required**
_____**Approved** _____**Denied**

Date: __/__/__

BACKGROUND :

The applicant requests the rezoning of five adjacent properties off of Deane Street from R-1 (Single Family Residential) to R-2 (Medium Density Residential) in order to develop multi-family housing targeting the needs of students (12-14 units per acre.) Four properties are owned by William M. Weatherford and one property is owned by Larry and Brenda Swain.

ADJACENT LAND USE AND ZONING:

North: The University of Arkansas experimental station has vacant pastureland to the north.

South: There is vacant pastureland to the south.

East: Duplexes exist to the west on Linda Jo Place and Deane Street.

West: To the west on Sang Avenue are single family residences, duplexes, apartments, and a mobile home park.

INFRASTRUCTURE:

Streets: Deane Street is a Minor Arterial with 90' of R.O.W. (45' from the centerline.)

Water: There is a 12" waterline existing on the south side of Deane Street.

Sewer: There is a 6" sewer line along Sang Avenue and off of Porter Road going east to Linda Jo Place.

LAND USE PLAN:

The General Plan 2020 shows this area as Residential north of a school (Asbell Elementary.) There is flood plain existing on the property.

RZ 99.00-6.00 FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The Land Use Plan (General Plan 2020) shows this area as residential. The proposed zoning of R-2 (Medium Family Residential) is consistent with the plan.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning R-2 is justified and needed at this time.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning would not create or appreciably increase traffic danger and congestion in this area.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zonings would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities. On-site and off-site improvements including sewer will be required at the time of Large Scale Development and Preliminary Plat approval.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Proposed Change to Zoning
Deane Street
Fayetteville, Arkansas

August 2, 1999

Written Statement

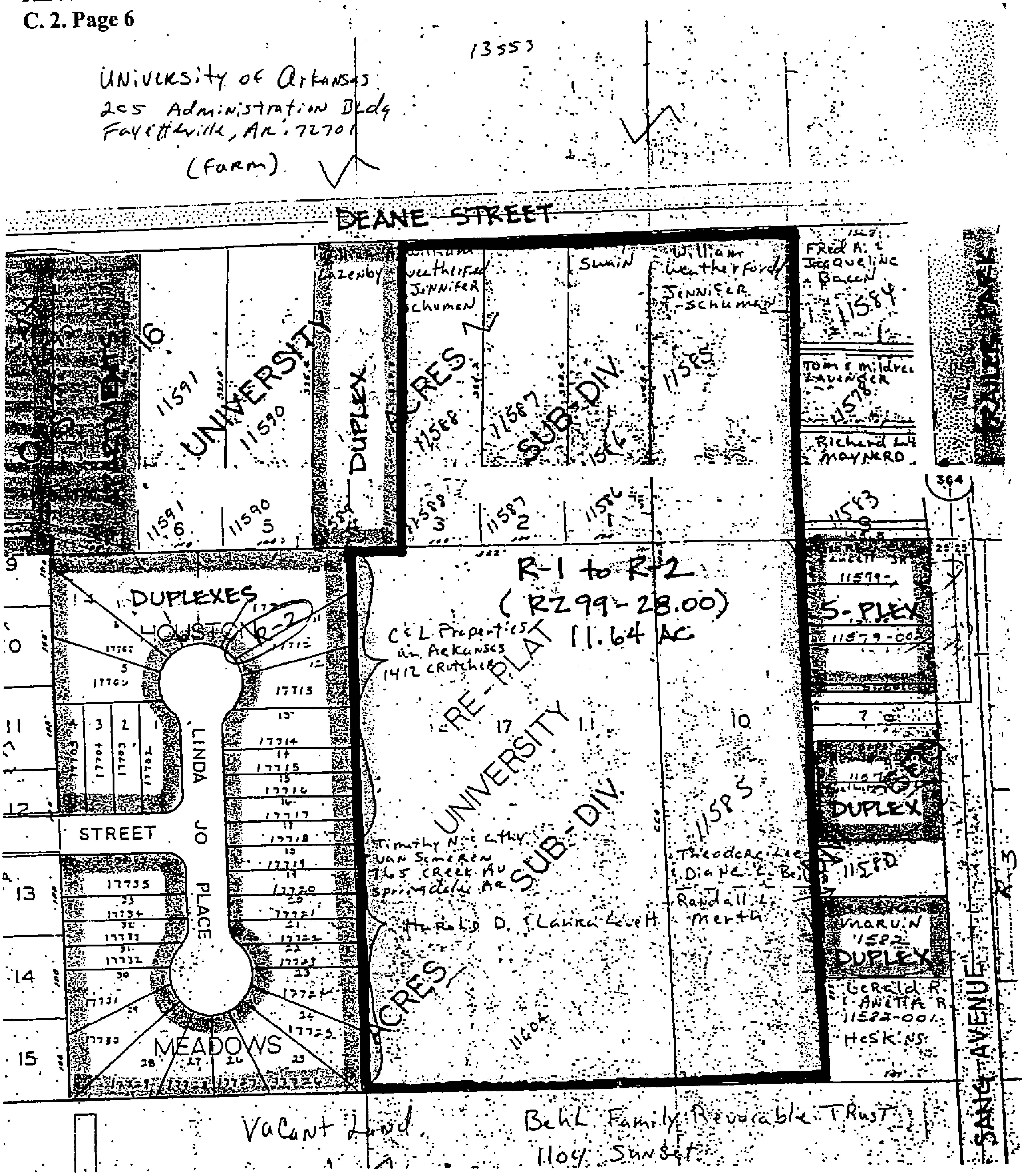
Pursuant to Section 5 of the Application for Rezoning:

a. The proposed hange is from R-1 to R-2 on parcels of land map 765 – 11585,11586, 11587, and 11588. Parcel 11586 is currently owned by Larry and Brenda Swain; remaining parcels are currently owned by William M. Weatherford. All parcels are under agreement to Realty Resources, Chtd.

b. We propose to develop the subject parcels as a multifamily development which will be targeted to the needs of students; density will be 12 – 14 units per acre.

c. 1. The completed development will be residential in nature. Surrounding properties include R-2 and R-3 developments as well as single family. The proposed use will be an infill situation, and will serve to reduce sprawl by increasing density of land use slightly from existing zoning.
   2. Traffic generated is estimated to be on a par with current zoning due to target market and because of its access to public transportation which will reduce traffic impacts.
   3. The completed development will be architecturally designed and will compliment other housing in the area. The property will be professionally managed.
   4. Signage will be limited to project identifications at entrances per ordinances.

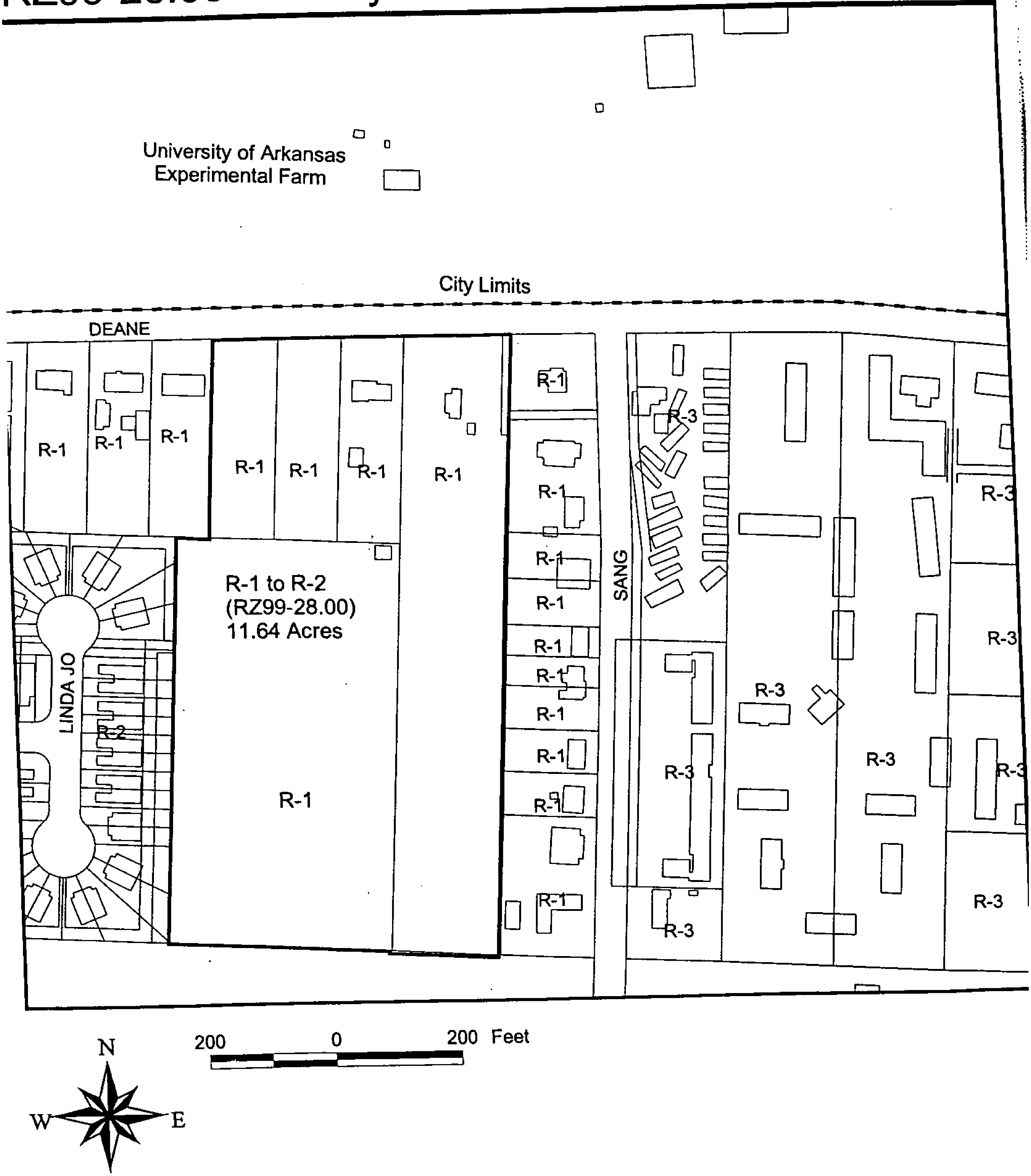
d. The site is serviced by a 12" water main on Deane St. Sewer stubs, 6" in size exist into the property from Porter St. and Sang Ave. A sketch of the property and the locations of utilities is attached.



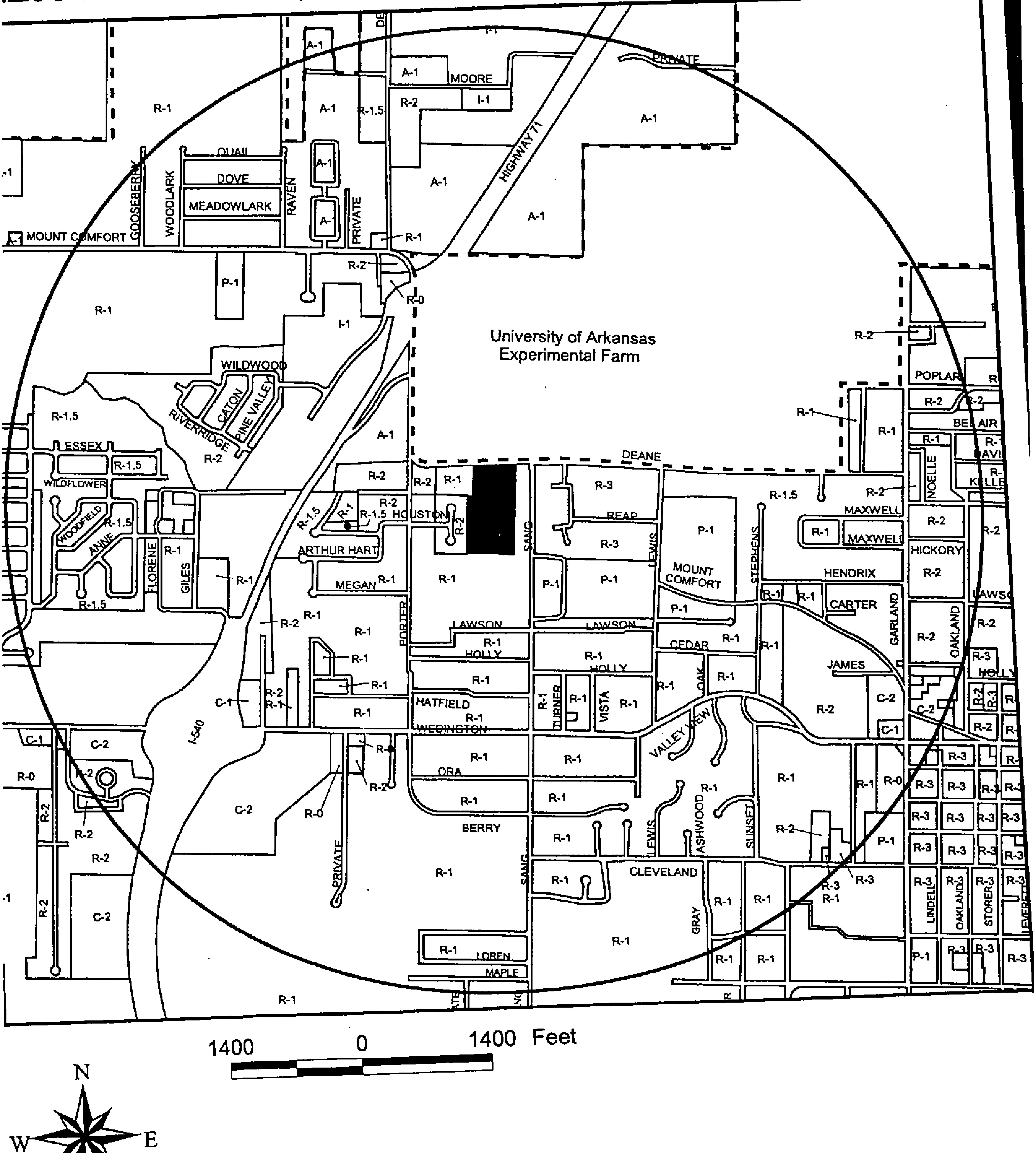
USES IN THE IMMEDIATE VICINITY
(Information provided by applicant)

NORTH
(not to scale)

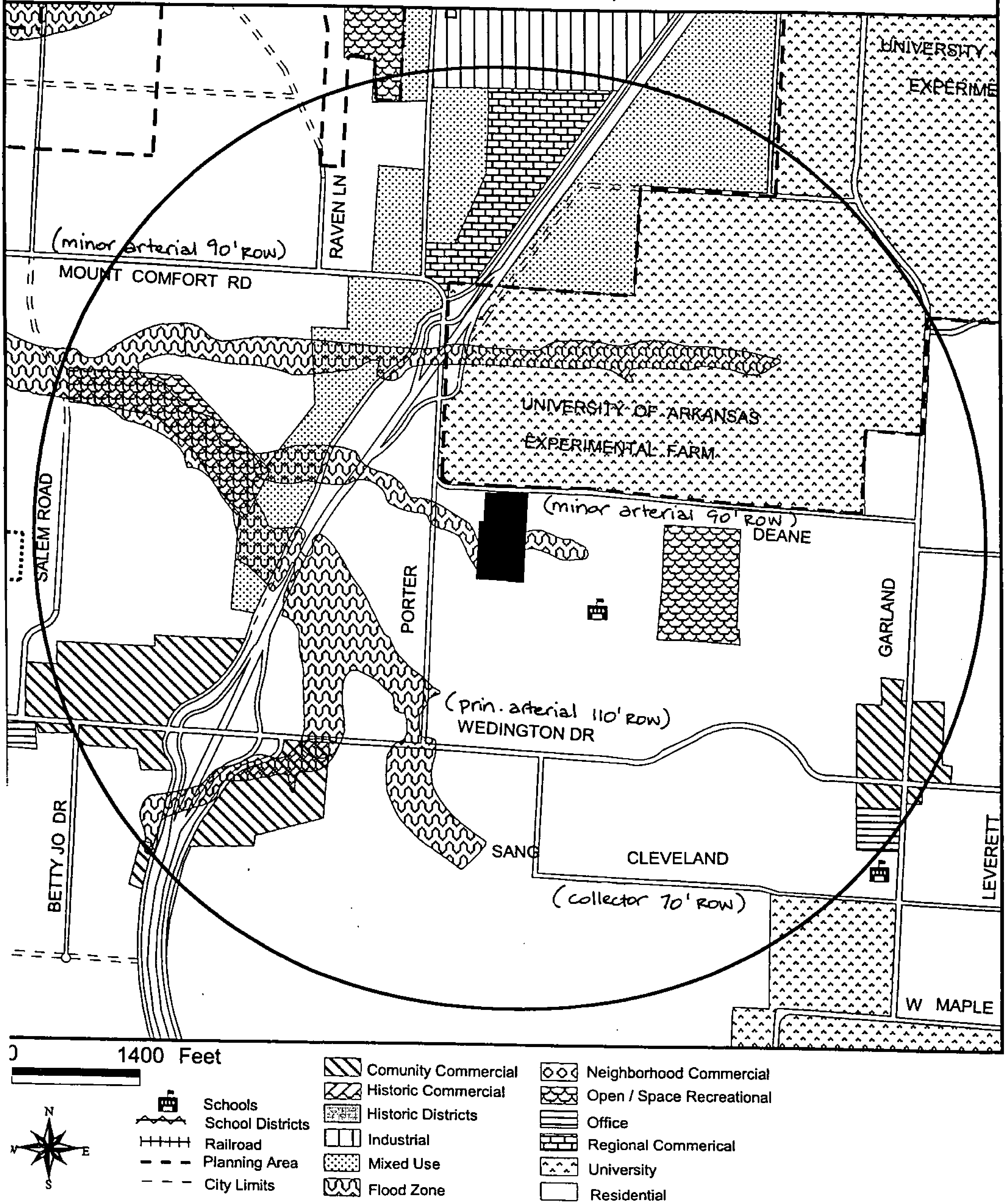
RZ99-28.00 - Realty Resources, Chtd - Close Up



RZ99-28.00 - Realty Resources, Chtd. - One Mile Diameter



RZ99-28.00 - Realty Resources, Chtd - 2020 Plan



RZ99-28: REZONING
REALTY RESOURCES, PP364

This item was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200 and 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

Michelle Harrington and William Hahn were present on behalf of the request.

Staff Recommendation

Staff recommended approval of the proposed R-2 zoning.

Committee Discussion

Johnson: Staff, could you give us your explanation of this recommendation on this rezoning.

Conklin: Staff did recommend approval of the rezoning. This site is located on Deane Street to the north is the University of Arkansas Experimental Farm. It does adjoin R-1 zoning on the east boundary. However, four of the structures on Sang Avenue are duplexes and one structure is a 5-plex. On the west boundary line, it does adjoin R-1 zoning and R-2 zoning. If you'll refer to page 2.6 in the agenda, Linda Jo Place on the western boundary has developed with townhouses and it's zoned R-2. Staff has recommended approval based on the findings in this report that additional multi-family residential dwellings in this area are appropriate and consistent with the 2020 Plan. If you have any other questions, I'll be happy to answer them at this time.

Johnson: Commissioners, any additional questions of staff? Ms. Harrington?

Harrington: My name is Micki Harrington. I'm here tonight representing Realty Resources, Chartered and Mr. Hahn, the representative, is here with me tonight. We are requesting as Tim indicated, approval of R-2 zoning on this property. We believe that it is a good location for R-2 zoning because of what is around it and across from it. It is an infill situation in an area that is very appropriate for it and it's serviced by the University of Arkansas bus system which hopefully will allow a lot of transportation needs to be met with the bus system and not require more cars to the University because the bus system is right there. We think it is a good place to put an R-2 development but we're happy to answer questions and help with details as you need.

Johnson: Do you have any questions of Ms. Harrington at this time?

Ward: How many units do you plan on putting on this?

Harrington: It's not certain yet but they're talking roughly 120 to 140 depending on the site needs and demands.

Johnson: Any other Commissioners with initial questions.

Estes: Staff, how many units would an R-2 zoning accommodate?

Conklin: R-2 zoning does allow up to 24 units per acre. This would allow 275.

Estes: Thanks.

Johnson: So, the maximum that you're contemplating, although, of course, you're not bound to this would be about half.

Harrington: About 12 to 15 units per acre.

Public Comment

Richard Maynard, residing at 1717 N. Sang was present in opposition to the rezoning.

Maynard: I'm here with my neighbors today. Should I introduce them?

Johnson: No. If they wish to speak individually, they may. Otherwise, if they merely want to let us know that they support your position, they can do that through a show of hands.

Maynard: I own the property at 1717 N. Sang. First, I want to make it clear that we do not object to Mr. Weatherford's selling of his property. We sit on Sang Avenue which is on the east side. We've all enjoyed that little bucolic pasture for a long time. We know it isn't going to last forever. We certainly don't want to interfere with his right to sell his property. Nor do we object to Mr. Hahn developing that property. In fact, in a way, I would welcome it. What we do object to is this drastic change to that neighborhood and to our quality of life and to our investments. I moved here about 5 years ago and I looked around quite a bit in Fayetteville to find a place that I thought I would be happy with and that I could build a home. I did find a really nice piece of property. Ms. Lavender, one of my neighbor's here, her husband built it about 40 years ago but it hadn't been kept up. One of the first things that I was a little bit nervous about was there was a mobile home park across from me and as Tim said, there were several duplexes going south of me to Ms. Hoskin's home. She lives by the Baptist church there and she is here with us tonight. There's a 5-plex right to the south of me. It made me nervous. I came down to this office to find out exactly what the zoning was and it all said R-1. I didn't know what R-1 meant and I asked them about that and the reason those were R-1, they can say there are duplexes there now and

they can say there's a quad-plex there and there's a mobile home across the street. The mobile home may be different zoning but those were still R-1. Those were there before the city limits expanded so they were grandfathered in. Right now, that neighborhood that we are talking about is primarily R-1. It is primarily designed for low density residential. I can only think that your predecessors, the City Planners that came before, had a reason if those duplexes were there and that mobile home was there to call it R-1 and not see in the future that as R-2. What's over there on the west that is R-2 on Linda Joe Place and as Tim said, they are duplexes. In fact, until very recently because I don't have any real cause to go over there, I didn't know that they weren't single family homes. I don't know if they are rentals over there or if they are owned. Those are nice places there. They don't adversely add to the population density. I came down here last Thursday, just to get some clarification of what Mr. Hahn had in mind here and I did talk to Brent and he helped me out quite a bit on some things. The main thing that we were concerned with was what exactly did he have in mind. Did he have in mind what is over at Linda Jo Place? Those nice, well kept duplexes or did he have something else in mind. Brent told me he didn't really know. We really couldn't ask that. Once you rezone that, it seems like as I read this, you have quite a bit of latitude as to what you're going to put in there. As I look at 12 to 14 units, in an 11 acre space of land, I'm not quite sure how Mr. Hahn is going to that and keep the parking regulations and keep the green ordinance and by the way, I have a question on that --

Johnson: You're several steps ahead of where we are in this process. Tonight, we're only looking at the issue of rezoning. We can't get into green space issues and development issues. We'll look at that if and when this ever gets rezoned.

Maynard: The only thing that I can see that he can probably do is go up and that means 2 story townhouses probably 8 units per building. That is going to be a drastic change. That is going to add so much population to that small area of land. Also, Ms. Doege knows more about this than I do and I'll let her speak to that, part of this is on flood plain. Again, I don't know what Mr. Hahn has in mind. How is he going to rectify that? Is he going to build up the land and if so, where is that water going to go inside of our own back yards? I realize maybe this isn't an issue that I can talk about tonight but we live there and these are concerns of ours. Access is another problem I have. The only access I see is on Deane Avenue. So, we have lots of concerns that maybe I can't address tonight or maybe you can't answer but that's a problem that we have. We would like to see something like Linda Jo Place, like something that is going to add to the quality of the neighborhood then we would be okay with that. We knew that property was going to be sold and developed at some point. We're not going to keep things as they are but we are trying to protect our quality of life because we live there and we own property there. In my own particular case, because it was R-1, over the past 5 years I have spent a lot of time, a lot money, I've taken out a second mortgage and worked a second job to make this into a home that I would be happy with. Now, you're going to change the rules on me. I don't quite understand what compelling need there is. If I can refer and I think this is something I can talk about, is on the final pages of this, the findings of the staff. I'm not going to comment on number 1. I don't know that much about it to comment on it. I will comment on number 2:

> "A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed."

The finding of the staff was that yes, it was justified and yes, it is needed. Our question is why? Why is it needed? I can only think of 2 reasons. If you're putting apartments in there for college students, the only reason that I can think of is that there's a dearth of college housing available now which is an interesting thing because I teach in a special program at the University. When I was on my way to the office yesterday, I went by the College Park Apartments. There's a big, red sign out there with apartments available $199 and up. I got an idea and I started calling other places. I called Faucette Properties. They have apartments available. I called Washington Plaza, just a half a block over from us on Deane and Lewis and they had apartments available. The program I work at is an English program for international students. They come to us before they go into the University. One thing we do get for them is housing. I talked to our housing coordinator today and asked how much trouble they had finding apartments for our students and she said none at all. There can always be more college housing. I understand that. We are a growing university. What concerns me is when that starts to take prevalence over the people who live and work in this city. There are houses available and there are places to put more college housing. What we have there in this property that he's asking to rezone and you're considering tonight is primarily residential. You don't have anything like you have to the east of us. You don't have anything like you have at College Park Apartments. As I said before, it's going to be a drastic change to that neighborhood. It's going to be change that will dictate how that neighborhood will be for now and forever. Like I said, we moved in there with an understanding and we know situations change. We understand that. I don't buy this that there is a compelling need to build affordable college housing at least right there. There are other places to do it. We'll always need some. The only other need I can see and I'm sorry to say it. This is a very valuable property. I wish I owned it myself. Somebody does stand a change to make a lot of money off this. It's a much more valuable property than mine is but mine is an investment, too. I'm not just talking about a dollar investment. Although, we're all concerned about that. We're very concerned about how this college housing is going to effect our property investment. More importantly, we're talking about our investment and our quality of life that we have there. Number 3:

> "A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion."

Again, there is a bus line on Deane Street. It runs once an hour. Maybe, the University will increase that. Again, we live there. There's a lot of traffic going down Sang now. I guess I can't ask what the access plans are for this idea that Mr. Hahn has. I can tell you there is a lot of traffic now. If you've ever come down on the bypass and gone off onto Porter Road about 8:00 in the morning, you will sit there for a few minutes. I've made that mistake. I visit my mother sometimes up in Bella Vista and once in a while I'll stay over and I'll forget and not take the cloverleaf onto Garland but I'll go to Porter out of habit. You can sit there for awhile as people

are coming off of Mt. Comfort and then as it goes under the bypass it ells around into Deane. About an eighth of a mile which I'm sure there will be an access, we're going to have students coming out. Of course, not all of them. It will take them about 1 day to figure out the shortest route to the University is down Sang. That's a straight shot. There's no stoplight from Deane to Wedington and people speed down there. We put up with it all the time. We've called and complained and nothing ever really gets done about it. There is a school there. There is a trailer park right across from me. Kids play out there. They shouldn't but they do and that's a fact. There is Asbell School. If you can imagine for a second that kind of added traffic going down there. I don't know how you're going to change that. Are you going to put a stoplight there and back up traffic more? Or put a stop sign there? If you ever drive down there, pay attention. Right past the Baptist church, it kind of crests and right over that crest there's a cross walk. If you're going the 20 to 25 mph speed limit, there is no chance to stop. There's none. I'm not trying to say somebody didn't do their job. I'm just saying that I think if you took another look at that and imagine what the effect of the density of population that you're adding there. We're talking about 12 to 14 units or 120 to 140 new units. There will be at least a couple of people in each unit and we're talking about an increase of population of about 300 to 400 people and all of them have cars. We were all students at one time. We know what happens when we rush to get to school. When we get older, we become a little bit more responsible and you think about it. I cannot believe that this is not going to add adversly to traffic. It doesn't have anywhere to go except down Sang and over to Garland. This is going to add heavy traffic. I don't care if the University puts in 5 buses. Finally, I want to mention one thing about number 4. To me, it seems this zone was recommended primarily on number 4 as the best explanation. There may be water lines. There may be enough sewage capacity. We have a concern about the flood plain as I mentioned before. It seems like this is based pretty much on finding number four. The most important point, I saved for last and it's the last thing you have in your criteria which is 5.a:

> "It would be impractical to use the land for any of the uses permitted under its existing zoning classification."

Why? That's my question. Why would that be impractical. That is a residential neighborhood. I don't care if people are renting there or people like myself and my neighbors own and live there. That is a residential area. It would be a beautiful spot for a home. It would be a beautiful spot for home for people of middle income and who could afford $60,000 or $70,000 homes. I know people and you do, too, who cannot find that kind of home in Fayetteville. They're to moving West Fork. They're moving to Farmington. They're moving to Springdale. I feel that is what you might be asking me to do because I can't afford a $90,000 home or a $100,000 home either. I have a home and I'd like to keep my home. I teach college students and I don't have anything against them but I know what I was like 25 years ago. I was a pretty good kid but I wouldn't want me then living behind me now. If homes are impractical, we don't care. More expensive homes or duplexes if you want but something that is going to fit in the nature of what that neighborhood is. What kind of bothers me about this whole thing is that it seems like the burden to keep things R-1 is put on my neighbors and me. It's R-1 now and we're up here

having to convince you to keep it R-1 or at least get more specifications as to what he has in mind instead of leaving it up to him to give a compelling reason why they need to change this outside of making a great business deal. I hope to God that isn't your consideration tonight on the amount of money somebody has to make. If that's it, then we don't stand a chance because our properties don't come anywhere near that value. At the very least, I would ask you if you would -- what you decide here to tonight is going to have a tremendous effect on us and the neighborhood. It will change the nature of that neighborhood forever. Before you rush into a decision, at least give it a second look. You're welcome to come onto my property through the back gate. I have a good panorama of that view. Imagine what that neighborhood could look like. Also, try to imagine what it's going to look like with 300 or 400 college age students in there. We have to live there, ladies and gentlemen. You don't. Mr. Hahn doesn't. Mr. Weatherford doesn't. We are the ones that have to live there. Thank you.

Johnson: Thanks, Mr. Maynard. Are there others who would address us on this proposed rezoning?

Faye Doege residing with her mother at 1745 N. Sang was present in opposition to the proposed rezoning.

Doege: I'm going to address one problem which is a little complicated. When those houses were first built on Sang Avenue, there were no apartment houses or anything across the street. There was no trailer park. My dad built those houses. Then they developed the Washington Plaza apartment house. That was fine. We needed low cost apartments for people. Unfortunately, one thing they did was to bring in 20 tons of fill and they raised the level of the land there. That wasn't too bad because that water had places to go. It went east and it went west and it went south. We had some natural absorbing areas there and one of the places that used to collect most of the water from Washington Plaza was a place where they decided to build this new apartment house, The Encore apartments which is across the street from our place now. Now, they have concreted all that land that used to absorb the water that ran off of Washington Plaza. Now that water from Washington Plaza washes through there onto Sang and across Sang into our property which has been causing a little bit of a problem but we have been able to get by. One of the reasons we have been able to get by is the kind of soil that we have over there. The soil on the west side of Sang is Captina silt loam. It has a slow percolation rate but it has moderately good drainage so when we have a lot a rain, it will puddle a little bit but it will eventually soak in and you can't say that about every place in Fayetteville because there are a lot of places where it puddles and it will not soak in after a long, hot summer but it will eventually sink in. The place where most of the water goes from across the street and from our place and from the University Farm where it drains down Sang, is into this property where they want to build the apartments. That soil there is Pembroke silt loam and it has good drainage. Not only that, that whole area has excellent drainage because it used to be a vineyard about 50 years ago. A man named Rudolph had a vineyard there. That was low property there and he came in and put in drain tiles under all that property there. He used clay tiles with holes in them and he

buried them deep and planted his grapes on top of them. That not only helped him but it helps us now. We're getting all this extra water from the east and it is absorbing because we have this wonderful drainage system there. They're going to bring in these apartment houses and they're going to do like the apartment houses at Washington Plaza and Encore. They're going to put concrete and buildings and they're going to cover all that wonderful absorbing soil. They're probably going to raise it, too. If they go ahead and bring in all this fill and they raise this up a foot or two, the water will go back on us. Our soil isn't as absorbent as that and we're lucky we have that land next door but it isn't going to absorb it. It's going to be up to us and up to the people on the west side of Porter. I drove over there today and saw a woman who lives in one of the units on Linda Jo and I asked her if her unit had ever flooded. She said, no, it had gotten very close but it had never flooded. The unit 2 doors down from her had flooded this year. They actually had water in the building. That happened with the wonderful drainage system that we have on Mr. Weatherford's land. When they cover that up with concrete and they will cover it up with concrete and that's the way you build apartment buildings anymore to provide these wonderful places to park. They are going to flood. Are the engineers going to come and lift our houses off the foundation? I know we are not going to be able to live in our house if they completely pave all that property over there. Who is going to buy our houses when they flood every year? We're sunk. There's nothing we can do. The only answer I can see is for a reasonable person to put in either single dwelling or duplexes that continue to allow most of that land to be lawn which will continue to absorb all this rain. That way, we're not going to get their runoff and the people over on Porter aren't going to get their runoff. I know they have all these wonderful culverts planned and they'll have water running underneath. All that does is just shunt it off somewhere else and we're still going to have it in spite of whatever they plan.

Further Commission Discussion

Johnson: Several of those comments really go to issues that we would have to address and address very carefully but not at this stage. The drainage issues are very serious. I think you'll find that the city, every year, does more and more to assure that new developments don't create new drainage problems. In a place such as this, one of the best ways that you can keep up if this gets rezoned, once this development is proposed, is to follow it through the process and see what is being done about the drainage plan because it is my experience since I've been on the Commission that much more care is taken in '99 on drainage issues than even was 4 or 5 years ago. This is not the time when we have any authority to deal with that rather that is at the development stage. The other thing I would observe is there are 2 adjacent properties that in the foreseeable future, won't be developed in anyway other than as they now exist. The University Experimental Farm across Deane Street; I've not heard of any plan to do anything other than leave that for the foreseeable future as farm which helps the adjacent area in terms of intense development. The same is true on the smaller tract to the south which, I believe, has 2 churches on it.

Harrington: I wanted to take a brief opportunity to make a couple of comments. With all due respect to Mr. Maynard and the neighbors over there. I don't believe that the impact is going to be as large as they think. I turned onto Sang and turned around in a large apartment building directly across the street from all of these houses. I'm afraid that this R-1 area is really no longer R-1. In reality it has not been for many, many years because of the number of duplex, triplex, 5-plex apartments, etc. I would like to think of this as a true R-1 but there is very little R-1 left in this area and has not been for some time especially with a mobile home park right there and the apartments that are already in existence. If this is done nicely as this developer intends to do and he does, of course, intend to comply with all the city regulations and there are many as Ms. Johnson has mentioned regarding the drainage. If there is a chance that it's not going to work, this project will not go in and that will be discovered at the development stage when the drainage is evaluated. The reason that R-2 is being looked at here is because it would be a very difficult property to develop as R-1 given the surrounding mixed uses across the street where there's a grain elevator, etc. It's not terribly conducive to R-1 and even with very small R-1 as you all know, you have many bitter battles in here about the lower price home and the small lot R-1 for the same reason that apartments are opposed. I believe that this developer intends to find a way to do to this in such a way that it will not be a negative impact on the area and will provide much needed housing. The need for housing continues to go up and maybe there are apartments available today but that doesn't mean next year and the year after. There is very little, if any, R-2 on this entire side of town available at this point. So, I wanted to briefly address those items. I have the realtor here who has explored the market very seriously and can certainly address your concerns about what the needs of the market are. I don't know if you want to take the time with that so I'll just look for direction on whether you would like to have some comments from him or from Mr. Hahn.

Johnson: Commissioners are certainly free to raise questions to the people Ms. Harrington has made available.

Estes: I have several questions for staff. The status quo is R-1. We must make 4 specific findings of fact to grant the applicant's request. The first finding regards the 2020 Plan which lists this property as residential. That finding is met. The second finding of fact that we must make is that the proposed zoning is needed. That's the first question I have for staff. Do we truly have a shortage of R-2 property? As I ask that question, I think about the Lindsey Development that is going in to the northwest of this. I think of all the vacant apartment ads I see in the Northwest Arkansas Times each morning. Is there truly a shortage of R-2 property in the City of Fayetteville?

Conklin: Trying to answer your question accurately, as staff, we don't have a detailed market analysis to determine how much R-2 land is available in this community. We do know that there is not much R-2 land existing which is undeveloped in Fayetteville. When we looked at this recommendation and whether or not to recommend additional multi-family, this is an area where the existing land use is very mixed. It was on the U of A bus route and it was possible to

build additional apartments east of the bypass instead of on the other side of the bypass. As staff, we felt like it was justified at this time.

Estes: The third finding of fact that we must make is that it does not appreciably increase traffic congestion. As I listened to the applicant's presentation, 140 units, 2 cars per unit, 2 day trips, that makes 560 trips. Upon what basis was the finding made that the proposed zoning would not increase traffic?

Conklin: At this time, Deane Street, in my opinion does not have any traffic problems. If this does have students that live in these apartments, these students are not going to all be leaving at 8:00 in the morning. Looking at other apartments in this area, this morning there was little or no traffic when we were out there, even in the R-3 zone directly to the east on the east side of Sang Avenue.

Estes: The fourth finding of fact is the determination that the proposed zoning will not alter population density. Listening to the applicant's presentation, I make the finding as a matter of fact that it will increase population density. How did staff reach the conclusion the proposed zoning would not alter the population density?

Conklin: Let me clarify that the finding states that the proposed zonings would not alter the population density and *thereby undesirably increase the load on public services including schools, water, and sewer facilities.* With regard to schools, I contacted the school district. The school district has told me that they will accommodate future growth and student population in Fayetteville. With regard to water and sewer facilities, at the time of development, our City Engineering Division, does sit down and make recommendation on what improvements are needed on site and off site to be able to handle the additional load. Therefore, as staff, we believe that finding can be met.

Estes: I have no further questions.

Ward: We were talking about the number of units they are proposing and with R-2 zoning, you can put in duplexes on this property kind of like the site to the west. It looks to me, quickly calculating, they could do 125 units of duplexes on this property with the density that we allow on duplexes. If the units themselves are not going to be any more than what is allowable as far as duplexes, I'm not sure that there is that much difference or would change that much as far as apartment complexes.

MOTION

Ward: I will recommend approval of RZ99-28.

Johnson: Is there a second.

Marr: Second.

Johnson: We have the motion by Commissioner Ward, seconded by Commissioner Marr to approve RZ99-28. I remind you that a rezoning requires 5 positive votes and then if the rezoning passes at this level, it goes to the City Council for finalizing.

Roll Call

Upon roll call, the motion passed with a vote of 5-2-0. Commissioners Estes and Hoover voted against the motion.

U S Able Life
C. 3. Page 1

STAFF REVIEW FORM

XX Agenda Request
____ Contract Review
____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October 5, 1999

FROM:

Don Bailey	Personnel	Admin. Services
Name	Division	Department

ACTION REQUESTED: Purchase employee group policies from U S ABLE LIFE to provide Life, AD&D, and LTD coverage plus contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account. The contracts effective dates are 1-1-2000 for a one year term with four one year options for renewal by agreement of both parties.

COST TO THE CITY:

$155,117 Est. Year 2000	$203,277 Est. Year 2000	Life/AD&D, LTD Ins.
Cost of this request	Category/Project Budget	Category/Project Name
Various	0	City Wide
Account Number	Funds used to date	Program Name
	$203,277	City Wide
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marilyn J. Cramer	9-21-99	Yolanda Fields	9-22-99
Accounting Manager	Date	Internal Auditor	Date
	9-21-99		
City Attorney	Date	ADA Coordinator	Date
P Vice	9-21-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approve request.

Don Bailey	9-15-99	**Cross Reference**
Division Head	Date	
Department Director	Date	New Item: Yes No
	23 Sept 99	
Administrative Services Director	Date	Prev Ord/Res #:
	9/23/99	
Mayor	Date	Orig. Contract Date:

STAFF REVIEW FORM

Description____ Meeting Date____________

Comments:
Budget Coordinator

Reference Comments:

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Fred Hanna and The City Council

THRU: Kevin Crosson, Administrative Services Director KC

FROM: Don Bailey, Personnel Director DB

DATE: September 13, 1999

SUBJECT: Employee Group life, AD&D, LTD Voluntary AD&D and Cancer Coverage Policy Renewal

The expiration date for each of the above listed employee group insurance policies is 12-31-99. Periodically the City elects to re-bid its coverages to take advantage of either more favorable pricing or to improve its employee benefits. An RFP requesting bids on the above coverages plus the addition of an IRC Section 125 Flexible Spending Account Proposal (Cafeteria plan) was sent to selected insurance companies and advertised on July 18, 1999. The RFP permitted bids to be submitted on the insurance plans, or the Flexible Spending Account Plan or both. Our group insurance RFP specified a one year contract with four one year options to renewal. Five proposals were received and evaluated by the Selection Committee on September 2, 1999.

US Able Life was the clear choice of the Committee by having met the RFP requirements for coverage to be provided and offering the best rates with a two year rate guarantee. A comparison of our 1999 rates and the year 2000 rates follows:

		1999	2000
LIFE	(per $1,000 coverage)	.31	.21
AD&D	(per $1,000 coverage)	.07	.05
LTD	(per $100 of covered payroll)	.46	.46
Vol. AD&D*	(per $25,000 coverage)	3.75	1.50 employee only
"	"	4.00	2.00 family
Cancer*		Various	No change
Cafeteria Plan		-0-	No cost

* Employer pays for $25,000 of Voluntary AD&D coverage on each employee. The employee pays 100% of premium for coverage above $25,000 or for family coverage. The employee pays 100% of premium for Cancer coverage he or she may elect.

Based on August 1999 enrollments a conservative estimate of annualized premium reduction for the year 2000 as compared to 1999 is $35,000.

Note also that reduction in Voluntary AD&D rates apply to any amount the employee has elected over the $25,000 employee coverage paid by the City. This provides a significant savings in premium cost to the employee.

Enhancements have also been incorporated in the Life policy. Coverage provisions will now permit full payment of the coverage amount to age 67. Previously, a reduction occurred at age 65. A Group Life Accelerated Benefits Rider has been added to make an advance payment of 50% of the eligible benefit in the event of a terminal illness. Also, an Accidental Death Seat Belt Benefit Rider has been included into the AD&D Policy. This rider will pay an additional benefit equal to the lesser of the employees full AD&D benefit or $25,000 in the event of a vehicle accident causing death if the seat belt was in use at the time of the accident.

US Able, in consideration of employee participation in two of their voluntary group plans (Cancer and Voluntary AD&D) , will at no cost establish and serve as a third party administrator for a Section 125 Cafeteria Plan. Internal Revenue regulations permit group premiums, employee and dependent unreimbursed medical care expense, deductibles and co-payments and dependent care for eligible children and other dependents to be incurred on a pre-tax basis through payroll contributions to a flexible spending account. These expenses are reimbursed to the employee as projected expenses occur. A pre-tax limit of $2,000 on unreimbursed medical expenses for each participant account has been set for the initial plan year.

Employees must make an annual calendar year election as to expense categories and amounts to be contributed pre-tax. The initial group presentations and enrollments must be completed by November 14 to effect a January 1, 2000 enrollment. Thus to permit installation of this plan on January 1, the Group Renewal/Cafeteria Plan Agenda item has been moved forward to the October 5 meeting in order to allow a 4-5 week enrollment period.

Further information pertaining to each of the plans is contained in policy resumes attached hereto.

2000 Budget Summary By Account - Estimated

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

Fund	LTD Budget	ADD Budget	Life Insurance Budget
General (1010)	$ 52,050	$ 17,142	$ 78,075
Street (2100)	3,458	1,440	5,187
Community Development (2180)	606	203	909
Parks Development (2250)	710	315	1,065
Drug Law Enforcement (2930)	414	149	621
Water & Sewer (5400)	7,757	3,309	11,636
Solid Waste (5500)	3,470	1,530	5,206
Airport (5550)	1,020	363	1,530
Shop (9700)	1,775	675	2,662
	$ 71,260	$ 25,126	$ 106,891

Enhanced Benefit Option

Group Term Life/AD&D

Proposal

Presented to

City of Fayetteville

by

Barbara Lovin

August 11, 1999

USAble Life

USAble Life is Rated "A-" (Excellent) by the A.M. Best Company

Presented to: City of Fayetteville

USAble Life Facts

USAble Life was originally chartered in December of 1980 as *Life of Arkansas* to write Life and Accident and Health insurance.

During the past 18 years, USAble Life has grown to be a highly successful insurance company involved in both group and individual payroll deduction products.

Highlights

- The company insures over 500,000 individuals
- The company has more than $4.4 billion of insurance in-force
- The company has extensive experience in the implementation and enrollment of voluntary payroll deduction products and administration of Section 125 Cafeteria Plans in commercial accounts and educator groups.

We offer a complete innovative choice of products, from employer-sponsored group plans to employee-paid supplemental coverage, all at competitive rates. Our portfolio of products includes:

- Group and Individual Life
- Group AD&D
- Short Term and Long Term Disability
- Dependent Life
- Voluntary Term Life
- Universal Life
- Supplemental Hospital Benefits
- Cancer coverage and Accident coverage
- Voluntary Disability Coverages, both Short Term and Long Term

Management and key staff have years of experience working with employers and employees. This experience, along with our state of the art administration system, enables smooth enrollments and administration for all product lines.

USAble Life is rated "A-" (Excellent) by the A.M. Best Company and stands behind a strong commitment to superior products and customer service.

COMPANY HEADQUARTERS:

USAble Life
USAble Corporate Center
320 W. Capitol, Suite 700
P.O. Box 1650 (72203)
Little Rock, Arkansas 72201

Toll Free: 800-648-0271 Telephone: (501) 375-7200 Fax: (501) 378-3333

Presented to: City of Fayetteville

A Plan of Group Insurance

Schedule of Benefits

Classification of Employees	Amount of Life	Amount of AD&D
Class I All full time employees who customarily work at least 40 hours per week	1.5 Times Salary, Maximum $150,000	1.5 Times Salary, Maximum $150,000
Class II Any employees previously employed full time who is a designated staged retiree and who works an average of 20 hours per week on a regular basis	1.5 Times Salary, Maximum $150,000	1.5 Times Salary, Maximum $150,000

Rates, Life Insurance Volume and Monthly Premium Calculations

Rates for Group Insurance

Life per $1,000.......... $0.24
AD&D per $1,000.......... $0.05

Volume of Insurance

Life Insurance.......... $21,689,000
AD&D Insurance.......... $21,689,000

Monthly Premium

Life Insurance.......... $5,205.36
AD&D Insurance.......... $1,084.45

TOTAL MONTHLY COST.......... $6,289.81

Reductions, Terminations and Assumptions

Reductions and Terminations

Class I- Life and Accidental Death and Dismemberment benefits will reduce 33 1/3 percent of the pre-age 67 amount at age 67 and at age 70. Benefits terminate at retirement.
Class II- Life and Accidental Death and Dismemberment benefits will reduce 33 1/3 percent of the pre-age 67 amount at age 67 and at age 70. Benefits terminate the earlier of age 75 or retirement.

Assumptions

Eligible Employees: 528

The foregoing rates are based on employee data submitted with respect to the number of employees listed above in the assumptions section. Actual rates will be based on enrollment. The final rates will be guaranteed for 2 year(s) from the group's effective date.

Proposal prepared: August 11, 1999; and expires November 11, 1999 unless renewed.

Life Insurance

Death Benefit

The face amount of the policy, as determined by the schedule, is payable to the employee's beneficiary in the event of his death from any cause. The life insurance will be paid in a lump sum or in installments as specified by the employee or the beneficiary.

Active Work or Actively at Work

The Insured reports for work at his usual place of employment and is able to perform all the duties of his regular occupation for the entire normal work day.

Beneficiary

Each employee may name anyone he desires, except the employer, as the beneficiary or beneficiaries to whom the insurance is to be paid. This designation may be changed by the employee at any time.

Right of Conversion

The employee's life insurance automatically ceases 31 days after termination of employment. During this 31-day period and subject to the terms of the group policy, he may convert his group life insurance without evidence of insurability to an individual life insurance policy (except term insurance) without disability benefits.

Total Disability Benefit

If the employee becomes totally disabled from any cause before reaching age 60, the life insurance is continued, subject to the terms of the group policy, for the duration of his total disability without payment of further premiums. If the employee dies before the total disability ceases, the face amount of the life insurance is payable to his beneficiary.

Suicide

If an Insured Person, whether sane or insane, dies by suicide within one year of his effective date of insurance, the death benefit will be limited to the amount of premiums paid for this insurance.

With respect to employees insured on the effective date of this policy:

(1) If this policy replaces another group life policy, the one-year limitation for death by suicide shall be reduced by the number of months an insured employee was continuously insured by the prior plan; and

(2) The benefit payable shall be the lesser of the amount otherwise payable under this policy or the amount provided by the prior policy.

Presented to: City of Fayetteville

Life Insurance

Termination of Insurance

Insurance will terminate automatically on the earliest of the following dates:

(a) the last day of the period for which a premium payment is made, if the next payment is not made;

(b) the date the insured becomes a member of the armed forces;

(c) the date the policy or a specific benefit terminates;

(d) the date the insured ceases to be a member of an eligible class; or

(e) the date the insured ceases to be actively at work.

Presented to: City of Fayetteville

Group Accidental Death & Dismemberment

Benefit

An amount, as determined by the Schedule of Benefits, is payable in the event of loss of life or dismemberment through accidental means, Accidental Death and Dismemberment Insurance provides protection for losses occurring on or off the job. Payment will be made if the loss is suffered within 365 days of the date of the accident. However, we will pay no more than the full amount shown on the Schedule of Benefits for losses resulting from any one injury. The amounts payable are as follows:

FULL AMOUNT OF INSURANCE FOR ACCIDENTAL LOSS OF:

Life (in addition to any amount of Group Life Insurance).
Both Hands or Both Feet.
Sight of Both Eyes.
One Hand and One Foot.
One Hand and Sight of One Eye.
One Foot and Sight of One Eye.

ONE HALF AMOUNT OF INSURANCE FOR ACCIDENTAL LOSS OF:

One Hand.
One Foot.
Sight of One Eye.

Limitations

We will not pay a benefit for loss caused directly or indirectly by disease, bodily or mental infirmity of infection (except bacterial infection of a visible injury); suicide or intentionally self-inflicted injury, whether sane or insane; participation in a riot or insurrection, or commission of an assault or felony; war or any act of war, declared or undeclared; or use of any drug, hallucinogen, controlled substance or narcotic unless prescribed by a physician. Also not covered are losses caused by travel or flight in, or descent from, any aircraft unless as a fare paying passenger on a commercial airline flying between established airports on (a) a scheduled route; or (b) a charter flight seating 15 or more people; or losses caused by participation in parachute or hang gliding sports, or any organized race or speed contest.

Presented to: City of Fayetteville

Accidental Death Seat Belt Benefit

We will pay an additional Accidental Death benefit equal to the lesser of the insured employee's full amount of AD&D coverage or $25,000. We will pay this benefit if an insured employee suffers loss of life as the result of a covered accident which occurs while he is driving or riding in a Private Passenger Car, if:

1. the car is equipped with seat belts; and
2. the seat belt was in actual use and properly fastened at the time of the accident; and
3. the position of the seat belt is certified in the official report of the accident or by the investigating officer. A copy of the police accident report must be submitted with the claim.

If such certification is not available, and it is unclear whether the insured person was properly wearing a seat belt, we will pay a fixed benefit of $1,000 to the designated beneficiary.

"Private Passenger Car" means a validly registered four-wheel private passenger car (including Policyholder-owned car), station wagons, jeeps, pick-up trucks and van-type cars.

"Seat Belt" means those belts that form an occupant restraint system.

Presented to: City of Fayetteville

Special Education Benefit

We will pay "Special Education Benefits" if the insured employee:
1. is covered under the Plan; and
2. dies as a result of a covered accident; and
3. is survived by a spouse and/or one or more dependent children.

CHILD BENEFIT

"Dependent Child" means a child insured under the Plan who has not attained the maximum age stated in the Dependent definition of the policy at the time of the insured employee's death.

A "Special Education Benefit" will be payable for each child who qualifies as follows:
1. is enrolled at the time of the insured employee's death, or enrolls within one year of the insured employee's death as a full-time student at a school above the twelfth grade level before reaching age 23 ; and
2. incurs expense for tuition, fees, books, room and board, transportation, and any other costs payable directly to, or approved and certified by such school.

We will pay the cost of such incurred expense for not more than:
1. 4 straight years after enrollment begins; and
2. 3% of the insured employee's Voluntary Accidental Death and Dismemberment full benefit or $3,600 whichever is less, each year per child.

SPOUSE BENEFIT

A "Special Education Benefit" will be payable for the insured employee's surviving spouse who:
1. enrolls within one year after the insured employee's death in any accredited school for the purpose of retaining or refreshing skills needed for employment; and
2. incurs expenses payable directly to, or approved and certified by such school. We will pay the cost of such incurred expense for not more than:

1. 4 straight years after enrollment begins; and
2. 3% of the insured employee's Voluntary Accidental Death and Dismemberment full benefit or $3,600 whichever is less.

If, at the time of accident, Family Plan coverage is in force but there is no dependent or dependent child who is or could become eligible for "Special Education Benefits," we will pay an additional benefit of $1,500 to the insured employee's designated beneficiary.

Payment will be in addition to all other policy benefits.

If the City of Fayettevile elects this coverage, the rider will be filed with the Department of Insurance. No coverage will be available until the rider is approved by the Department of Insurance.

Presented to: City of Fayetteville

Accelerated Benefits Rider

Accelerated Benefit Plan

The accelerated benefit is advance payment of the insured's amount of life insurance under the group policy, subject to the maximum and minimum benefit requirements stated below. An insured may request payment of an accelerated benefit in the event that he is diagnosed with a terminal illness which is expected to result in his death within 6 months, and from which he is not expected to recover.

The receipt of accelerated benefit payments may adversely affect the insured's eligibility for Medicaid or other government benefits or entitlements.

Notice of possible Tax Consequences

The payment of an accelerated benefit may result in a taxable event. The insured should consult a tax advisor before requesting such benefit payment.

Cost of Providing the Accelerated Benefit

The accelerated benefit amount will be discounted to reflect the cost of providing the benefit. The discount will be based on the current yield on a 90 day Treasury Bill. We will calculate the discount on the date we receive the request for payment of the accelerated benefit in our Home Office.

Illustration of Cost Calculation Assumptions

- An employee is insured for $30,000 of group term life insurance
- On the date of the request for payment of the accelerated benefit, the current yield on a 90 day Treasury Bill is 5.4%.

Calculation:

$30,000	the employee's life insurance amount
x .50	the accelerated benefit %
$15,000	the accelerated benefit for which the employee is eligible
x(1 - .027)	the discount factor calculated on the basis of a 5.4%[1] Treasury Bill calculated for a 6 month period on a simple interest basis.
$14,595	the accelerated benefit to be paid

[1] Due to fluctuation of the current yield on a 90 day Treasury Bill, the discount factor on the date of request may be different from that shown in the illustration. Interest for the discount factor will be calculated for a 6 month period.

If death occurs more than 6 months after the date of calculation, an additional[2] interest charge, based on this same rate of interest, will be deducted from the balance of the proceeds.

[2] Difference between 6 months and actual number of months policy remained in force following payment of accelerated benefit, not to exceed 24 months

Accelerated Benefits Rider (Continued)

Amount of Accelerated Benefit

The accelerated benefit will be paid once and in one lump sum to the insured. The maximum accelerated benefit will be the lesser of:

1. 50% of the insured's life insurance amount as shown in the Schedule of Benefits of the certificate, less the discount; or
2. $150,000 less the discount.

If the insured's life insurance amount is scheduled for a reduction within 6 months after the date he requests the payment of the accelerated benefit, the maximum accelerated benefit will be limited to the lesser of:

1. 50% of the life insurance amount which will be in effect after the scheduled reduction, less the discount; or
2. $150,000 less the discount.

The minimum accelerated benefit for the insured member or insured dependent will be $7,500 less the discount.

Effect of Payment of An Accelerated Benefit Payment On Group Policy Provisions

The amount of life insurance under the group policy will be reduced by the amount of an accelerated benefit paid to you, plus the discount. As a result, the following will be based on such reduced life insurance amount:

1. the amount of insurance payable to the beneficiary when the insured dies;
2. the amount of life insurance you can convert under the group policy; and
3. the premiums payable for the insured's life insurance under the group policy after an accelerated benefit is paid, if such premiums are not waived.

The payment of an accelerated benefit **will not** affect the amount of your Accidental Death and Dismemberment Benefits under the group policy, if any.

Exclusions

We will not pay an accelerated benefit if:

1. The insured has made an absolute assignment of your life insurance under the group policy;
2. all or part of the life insurance under the group is to be paid to the insured's child(ren) or former spouse as part of a court approved divorce agreement;
3. we do not receive written consent by an irrevocable beneficiary; or
4. the terminal illness is a result of intentional self-inflicted injury or attempted suicide.

Date Insurance Ends Under The Rider

Insurance will end at the earliest of:

1. the date the accelerated benefit is paid to the insured or on his behalf;
2. the date the insured's life insurance ends under the group policy; or
3. the policy anniversary on which the insured is age 70.

Presented to: City of Fayetteville

General Provisions

Master Policy and Individual Certificates

The complete terms of the insurance are contained in a Master Policy issued to the Policyholder. Each employee receives a Certificate which outlines his benefits under the plan.

Eligible Employee

All permanent, active, full-time employees who have completed the waiting period established by the Policyholder are eligible unless limited by conditions pertaining to their employment. The term "employees" includes all persons who work for the Policyholder at least the minimum number of hours per week shown on the group application.

No director or officer of the Employer will be considered an Employee unless he meets the above conditions.

Eligible Dependents

(If Dependent's Life included) An employee's spouse and unmarried children under 19 years of age (or age 23 if the dependent is a full-time student).

Effective Date of Coverage

EMPLOYEES - All eligible employees actively at work on the effective date of the plan may be insured immediately. New employees will become insured following completion of the waiting period specified on the group application. If an Employee is not actively working on the date his insurance or any increase in insurance is scheduled to take effect, it will take effect on the day he returns to active work. If the Employee's insurance is scheduled to take effect on a non-working day, his active work status will be based on the last working day before the scheduled effective date of his insurance.

DEPENDENTS - Insurance on dependents will not become effective until the employee's insurance is effective. Dependents who are totally disabled on the effective date will be insured when the disability ceases and the dependent resumes normal activities.

If the employee pays part of the premium and does not apply for insurance within 31 days after becoming eligible, satisfactory evidence of insurability is required.

Word About Compliance

We are all well aware that many federal laws and regulations affect the structure and provisions of employee fringe benefit programs. Applicable federal laws include the Age Discrimination in Employment Act ("ADEA"), Section 79 of the Internal Revenue Code ("Code") and other Code provisions, and the Employee Retirement Income Security Act of 1974 ("ERISA") to name a few. There are many potential problems created by failure to comply with these laws including adverse tax consequences, penalties and other sanctions.

The ADEA appears to require that older employees continue to be covered by insurance plans as long as they remain in employment, on the same basis as other employees. However, it does appear that employers may reduce benefits to the extent justified by the increased cost of covering the older employees. ADEA regulations provide that reductions can be based upon cost comparisons of adjacent five year age brackets.

Code Section 79 prohibits discrimination in favor of key employees as defined in the Code. While the IRS will not give pre-approval to any plan, it has indicated that schedules providing benefits based on a uniform percentage of salary or a level benefit for all employees will not be considered discriminatory.

ERISA contains several requirements concerning reporting and disclosure of benefits to employees as well as requirements that a plan be in writing and employees be advised of changes which are made. We will provide you with annual financial information which you may use in filing financial reports if you are required to do so.

USAble Life cannot serve as your tax or legal advisor and does not represent that the plan provisions described in this proposal will satisfy all requirements of these complex laws and regulations. Your plan should be reviewed by your tax and legal advisors for their opinion as to whether your plan is in compliance with applicable laws and regulations.

Current Benefits

LONG TERM DISABILITY

Proposal

presented to

City of Fayetteville

by

Barbara Lovin

August 11, 1999

USAble Life

USAble Life is Rated "A-" (Excellent) by the A.M. Best Company

WHY BUY GROUP LONG TERM DISABILITY?

Imagine...your employees have plenty of protection for medical, life, home and auto insurance. Their life insurance provides for last expenses, the family's future income needs, their home mortgage and even the kids' education.

With everything in order, they might settle back into their everyday lives, forgetting the foremost threat...***disability***.

At age 32, disabilities lasting three months or longer are more likely to occur than death.

Loss of income due to sudden disability is often overlooked. Without the proper protection, the consequences can be devastating to the employee and the employer. For example, 45-50% of all mortgage foreclosures result from disabilities.

Group Long Term Disability coverage, provided by you as the employer is especially designed to replace a portion of an employee's income. this surprisingly affordable protection will help you or your employees maintain your standard of living even under the most difficult of circumstances.

Today, there's no need to be without Long Term Disability coverage. Select the plan that best suits the needs of you and your employees and add it to your insurance portfolio. **Then settle back and relax.**

--- Advantages of Group LTD ---

*Eases the often difficult decisions regarding how to handle disabled employees.

*Valuable recruiting tool

*Maintains and rewards long term key employees and valuable staff

*Tax deductible benefit

*Low cost/budgetable/easy to administer

*Fills in the large gap in social security Disability Benefits

*Protects your firm against the loss of a key employee

*In most cases physical and health questions are not required

Group LTD: *the solution to a tough problem.*

*American Society of Actuaries

Features of This Plan

* * ACCUMULATION OF ELIMINATION PERIOD
* * COST OF LIVING FREEZE
* * MATERNITY
* * PARTIAL DISABILITY
* * PRIOR INSURANCE CREDIT
* * RECURRENT DISABILITY
* * 3-MONTH SURVIVOR BENEFIT

OPTIONS AVAILABLE UNDER THIS PLAN (If "yes" is not indicated these options do not apply)

	INCLUDED
*C.O.L.A.	NO
*DEFINITION OF DISABILITY:	
36 Month Own Occupation	YES
Extensive Own Occupation	NO
*MENTAL ILLNESS LIMITATION WAIVED	NO
*PARTIAL DISABILITY BENEFITS BENEFIT CALCULATION METHODS:	
Employee Disability Group Enhancement	NO
Employee Disability Group Enhancement I	NO
Progressive Partial Disability	YES
*PENSION CONTRIBUTION BENEFIT	NO
*SURVIVOR INCOME BENEFIT:	
1 Year Survivor Benefit	NO
2 Year Survivor Benefit	NO
* 401(K) CONTRIBUTION BENEFIT	NO

Schedule Of Benefits And Cost Summary

PREPARED FOR: City of Fayetteville

PRESENTED BY: Barbara Lovin

Eligibility:	All Full-Time Active Employees
Number of Employees Rated:	528
Employer Contribution Required:	100%

Benefit Replacement Percentage	60%
Maximum Monthly Benefit	$6,000
Elimination Period	180 DAYS
Benefit Duration	RBD
Integration Approach	Primary/Family
Minimum Benefit	$50
Pre-existing Conditions	3/6/12
Total Monthly Covered Payroll	$1,190,582
Premium Rate	$0.46
Monthly Premium	$5,476.68

The final rate will be guaranteed for 2 year(s) from the group's effective date.

Proposal August 11, 1999; expires November 11, 1999, unless renewed.

Assumptions and Underwriting

This Proposal is conditional on the following:

*If the plan is contributory on the part of the employees, at least 75 % of those eligible must participate.

*All eligible employees must be covered if the plan is noncontributory. (Employer pays all premiums.)

*This proposal is intended to summarize certain portions of the group LTD plan. It does not constitute a contract. Your group contract will be the binding and authoritative document.

*This proposal is based on census data received. Final costs and rates for the employees to be insured under this plan on the effective date must be approved and accepted by the Home Office.

*Only permanent full-time employees are eligible for insurance. "Full-time" means working 40 hours a week during the regular work week.

General Provisions

Accumulation of Elimination Period

During the Elimination Period, a total disability can temporarily cease for up to seven days and not require the beginning of a new elimination period for plans with a 90 day elimination period or less. On plans with elimination periods of more than 90 days, we will allow up to 14 days of temporary cessation of total disability. The days worked will not count toward the satisfaction of the elimination period.

Basic Monthly Earnings or Pre-Disability Earnings

Basic monthly earnings means that the Insured's monthly rate of earnings from the employer in effect immediately prior to the date total disability begins. Basic monthly earnings include all earnings before any deductions. It does not include bonuses, overtime pay or other extra compensation other than commissions. Commissions will be averaged over the 12 month period prior to the date total disability begins.

Benefits

When the company receives proof that the insured is totally disabled due to sickness or injury and requires the regular attendance of a physician, the company will pay the insured a monthly benefit in accordance with the **Schedule of Benefits** page of this proposal.

General Provisions

Benefit Duration

Reducing Benefit Duration

Age at Disability	*Maximum Benefit Period*
Less than age 60	To age 65
60	60 months
61	48 months
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69 and older	12 months

This benefit duration is in compliance with ADEA.

Note: Employees who remain at work full-time at age 70 and beyond will continue to be eligible for coverage.

Benefit Reductions

LTD is a relatively low cost employee benefit. The intent of LTD is to replace a reasonable portion of a disabled employee's salary, not to make being disabled more attractive than working. In order to prevent overinsurance, which increases the chance for malingering, certain offsets must be taken. LTD benefits will be reduced by any disability benefits that the claimant is entitled to receive from the following sources: U.S. Social Security and Canada and Quebec Pension Plan payments, Workers Compensation Benefits, State Disability Plan payments (U.C.D., D.B.D., T.D.B., etc.), and other employer-sponsored group disability income plans, and any disability benefits or retirement benefits received by the employee from any pension plan provided through his employer.

LTD benefits are not reduced by: individual disability income plans, distributions from profit sharing plans, 401 (K) plans, IRA's, TSA's, stock ownership plans or nonqualified plans of deferred compensation, military disability benefits, professional franchise or association plans not purchased through the employer, or no-fault automobile insurance benefits.

General Provisions

Cost of Living Freeze

After the initial deduction for each of the respective other income benefits reflected previously under BENEFIT REDUCTIONS, the monthly LTD benefit will not be further reduced due to any cost of living increases payable under any of these other income benefits. This provision does not apply to increases received from partial disability employment.

Definition of Total Disability

Total disability means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of his regular occupation, and after benefits have been paid for 36 months, the insured cannot perform all of the material duties of any gainful occupation for which he is reasonable fitted by training, education, experience, age and physical and mental capacity.

With respect to employees employed as pilots, co-pilots and crew of aircraft, "total disability" means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of any gainful occupation for which he is reasonable fitted by training, education or experience. The loss of a pilot's license for any reason, does not in itself, constitute total disability.

General Provisions

Definition of Total Disability

The provision checked below applies to this proposal (as indicated in the **"Optional Provisions"**).

✓ 36 Month Own Occupation

All Full-time Active Employees

Total disability means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of his/her regular occupation.

After benefits have been paid for 36 months, Total Disability means that the insured cannot perform all of the material duties of any gainful occupation for which he/she is reasonably fitted by training, education, experience, age and physical and mental capacity.

General Provisions

Exclusions

Disabilities which arise from intentionally self-inflicted injuries, war or participation in a riot, or committing a felony are excluded from coverage.

Integration with Primary and Family Social Security

The total disability Benefit will be directly reduced by Primary and Family Benefits the employee is eligible to receive from Social Security. Primary Benefits are those Social Security benefits which the employee is eligible to receive because of disability and/or retirement. Family benefits are those Social Security benefits which the insured employee's spouse, child or children are eligible to receive as a result of the insured employee's eligibility for Social Security benefits.

Also see: **Benefit Reductions**

General Provisions

Maternity

Total disability caused by pregnancy or complications of pregnancy will be covered on the same basis as any other illness.

Mental Illness Limitations

Benefits for a disability due to mental illness will be payable for up to 24 months. After 24 months of benefit payments, benefits will be payable if the insured satisfies one of the following situations:

1. If the insured is in a hospital or institution at the end of the 24 month period, the monthly benefit will be payable during the confinement.

   If the insured is still disabled when discharged, the monthly benefits will be payable for a recovery period of up to 90 days.

   If the insured becomes reconfined during the recovery period for at least 14 days in a row, benefits will be payable for the confinement and another recovery period up to 90 more days.

2. If after 24 months of benefit payments, the insured continues to be disabled and becomes confined for at least 14 days in a row, the monthly benefit will be payable during the confinement.

The monthly benefit will not be payable beyond the maximum benefit period.

"Hospital" or "institution" means facilities licensed to provide care and treatment for the condition causing your disability.

"Mental illness" means mental, nervous or emotional diseases or disorders of any type.

General Provisions

Minimum Benefit

Disabled employees will never receive less than $50 per month under the plan regardless of income received from other sources.

Partial Disability

Many employees who receive total disability benefits desire to return to work but are not able to resume all of their former duties on a full-time basis. This benefit is designed to assist partially disabled employees to return to work by providing financial security during this difficult period.

Employees will be able to qualify for this benefit if they are:

1. able to perform one or more, but not all, of the material and substantial duties of his/her own or any other occupation on a full-time basis, or

2. able to perform all of the material and substantial duties of their own or any occupation on a part-time basis.

To qualify for the benefit, the insured must be earning less than 80% of his/her pre-disability income at the time partial disability employment begins.

The Partial Disability Benefit will be the lesser of:

1. the benefit percentage multiplied by the insured's pre-disability income, or

2. 100% of the insured's pre-disability income less other income benefits, which include earnings from partial employment.

The Partial Disability Benefits are payable to the end of the benefit duration or until the disabled employee's partial earnings exceed 85% of his/her pre-disability earnings.

Progressive Partial Disability

With the inclusion of Progressive Partial Disability, an insured can receive a partial disability benefit after satisfying the elimination period which consists of a period of total disability, or a combination thereof.

General Provisions

Pre-existing Condition Limitation

This policy will not cover any total disability:

1. which is caused or contributed to by, or results from a pre-existing condition; and
2. which begins in the first 12 months after the insured's effective date, unless no treatment was received for 6 consecutive months after the insured's effective date.

"Treatment" means consultation, care or services provided by a physician including diagnostic measures and taking prescribed drugs and medicines.

"Pre-existing Condition" means a diagnosed sickness or injury for which the insured received treatment within 3 months prior to the insured's effective date.

Prior Insurance Credit

In order to prevent loss of coverage for an employee because of a transfer of insurance carriers, this policy will provide coverage for certain employees as follows:

Failure to be in active employment due to injury or sickness

This policy will cover, subject to premium payments, employees:

1. insured with the prior carrier at the time of transfer; and
2. who are not in active employment due to injury or sickness.

The benefit payable will be that which would have been paid by the prior carrier had coverage remained in force, less any benefit for which the prior carrier is liable.

Disability due to a pre-existing condition

Benefits may be payable for a total disability due to a pre-existing condition for an employee who:

1. was insured by the prior carrier at the time of transfer; and
2. was in active employment and insured under this policy on its effective date.

The benefits will be determined as follows:

1. USAble Life will apply this policy's pre-existing condition exclusion. If the employee qualifies for benefits, he/she will be paid according to this policy's benefit schedule.
2. If the employee cannot satisfy this policy's pre-existing exclusion, the prior carrier's pre-existing condition exclusion will be applied.
   a. If the employee satisfies the prior carrier's pre-existing condition exclusion, giving consideration towards continuous time insured under both policies, he/she will be paid according to the prior carrier's benefit schedule.
   b. If he/she cannot satisfy the pre-existing condition exclusion of this policy or that of the prior carrier, no benefit will be paid

General Provisions

Recurrent Disability	Recurrent Disability means a disability which is related to or due to the same cause or causes of a prior disability for which a monthly benefit was payable. A recurrent disability will be treated as part of the prior disability if, after receiving disability benefits under this policy, an insured returns to his regular occupation on a full-time basis for less than six months and performs all the material duties of his occupation. Benefit payments will be subject to the terms of this policy for the prior disability.
Survivor Benefit	If an employee dies after having been disabled for a minimum of 180 days and was receiving benefits under the policy, we will pay the eligible survivor a lump sum benefit equal to three times the last monthly LTD benefit.
Waiver of Premium	Premium payments for an employee who is totally disabled are waived during any period for which benefits are payable.

PROPOSAL

CITY OF FAYETTEVILLE

VOLUNTARY ACCIDENTAL DEATH AND DISMEMBERMENT

Current Benefits

Voluntary Accidental Death and Dismemberment (VAD&D) is available either as an Employee Plan or Family Plan in Benefit Amounts of $25,000 units to a maximum of $100,000.

The plan provides full 24-hour protection against accidents anywhere in the world. It also provides coverage while flying as a passenger in any licensed civilian aircraft or in military transport aircraft operated by the Military Aircraft Command or similar foreign service.

Monthly Cost

Employee Plan:	$1.50 per $25,000 Benefit Amount
Family Plan:	$2.00 per $25,000 Benefit Amount

Benefit

Loss of Life	Full Benefit Amount
Loss of Two or More Members	Full Benefit Amount ("Member" means hand, foot or eye)
Loss of One Member	One-Half Benefit Amount
Loss of Thumb and Index Finger of same hand	One-Quarter Benefit Amount

"Member" means hand, foot or eye.

Family Plan

Spouse and Children may also be insured for covered losses under a VAD&D Family Plan. The amount of insurance applicable under the Family Plan is based on the Employee's Benefit Amount and the composition of the family at the time of loss as follows:

Composition of Family At Time of Loss

1) Employee, Spouse and Children

Employee	100% of Employee's Benefit Amount
Spouse	40% of Employee's Benefit Amount
Each Child	5% of Employee's Benefit Amount

City of Fayetteville
Voluntary Accidental Death and Dismemberment
Page Two

Family Plan (Cont'd)

2) Employee, Spouse and No Children

Employee	100% of Employee's Benefit Amount
Spouse	50% of Employee's Benefit Amount

3) Employee, Dependent Children but NO Spouse

Employee	100% of Employee's Benefit Amount
Each Child	10% of Employee's Benefit Amount

Reductions

The Benefit Amount reduces 35% at age 70, a further 20% at age 75 and an additional 15% each at ages 80 and 85. Reductions are based on the pre-age 70 Benefit Amount. Monthly rates are based on the VAD&D Plan selected and Employee's Benefit Amount:

August 11, 1999

- Voluntary Cancer Coverage

Premium: Employee paid by payroll deduction

Response: **USAble Life's CancerCare Policy is offered as an employee paid product by payroll deduction.**

Coverage: Benefits paid directly to the insured to include but not Limited to:

(1) Multiple levels of coverage for hospital confinement due to cancer.

Response: **USAble Life's CancerCare Policy offers the following levels of coverage for daily hospital confinement:**

BASIC	SELECT	ULTRA
$100 Per Day 1 thru 60th Day $200 Per Day After the 60th Day Children $200 Per Day 1 thru 60th Day $400 Per Day After the 60th Day	$250 Per Day 1 thru 60th Day $500 Per Day After the 60th Day Children $500 Per Day l thru 60th Day $1,000 Per Day After the 60th Day	$300 Per Day 1 thru 60th Day $600 Per Day After the 60th Day Children $600 Per Day 1 thru 60th Day $1,200 Per Day After the 60th Day

(2) Cancer Diagnosis Benefit Rider, multiple levels of coverage.

Response: **USAble Life's CancerCare Policy offers the following levels of coverage:**

$1,000
$2,000
$3,000
$4,000
$5,000

(3) Coronary Care or Intensive Care Benefit Rider, multiple levels of coverage.

Response: **USAble Life's CancerCare Policy offers**

the following levels of ICU/CCU coverage.

$200
$400
$600

(4) Cancer Disability Benefit Rider

Response: **USAble Life's CancerCare Policy offers the following levels of disability.**

$250 Monthly
$500 Monthly

Eligible Class: All regular full time employees

Response: **All regular full time employees are eligible to apply for the CancerCare.**

Waiting Period: First day of the month following 90 days of employment or eligibility.

Response: **USAble Life's CancerCare Policy does not have a waiting period.**

CancerCareSeries
Monthly Premiums

Policy Benefits:	Individual	1 Parent Family	Full Family
Basic	$10.44	$12.40	$19.08
Select	19.84	23.80	36.44
Ultra	26.24	31.60	48.94
Cancer Diagnosis Rider:			
$1,000	$1.00	$1.14	$1.60
$2,000	2.00	2.28	3.20
$3,000	3.00	3.42	4.80
$4,000	4.00	4.56	6.40
$5,000	5.00	5.70	8.00

	Individual	1 Parent Family	Full Family
Daily CCU/ICU Rider *(Not available in Tennessee or Idaho)*:			
$200	$2.00	$2.40	$ 3.74
$400	4.00	4.80	7.50
$600	6.00	7.20	11.24
Monthly Disability Rider for 1 year:			
$250	$1.44	$1.44	$2.64
$500	2.88	2.88	5.28

Agreement for Administrative Services

This agreement specifies the services to be provided to City of Fayetteville hereinafter referred to as "Company" in the ongoing administration of the Company's Section 125 Cafeteria Plan, and the specified responsibilities of the Company.

Administrator

City of Fayetteville shall be the Plan Administrator and USAble Life, hereinafter referred to as the "Third Party Administrator", shall be engaged as a subcontractor in the performance of administrative services for the plan.

Administrative services to be provided by USAble Life:

1. Design a Cafeteria Plan Document, Dependent Care Assistance Plan and Medical Reimbursement Plan to be reviewed by the Company and Company's legal counsel.
2. Design a Prototype Summary Plan Description. City of Fayetteville is responsible for printing the plan description and distributing it to employees.
3. Conduct informational seminars to explain the Cafeteria Plan to the employees if flexible spending accounts are involved.
4. Provide participant election forms to be used during the enrollment process.
5. Process initial enrollment forms and revocation forms to initiate the administration function.
6. Provide an employee list to payroll once all elections have been received and keyed into administration software for verification of elections and amounts.
7. Provide claim for reimbursement forms to be used to claim flexible spending account elections.
8. Provide reimbursement checks to employees on a bi-weekly basis.
9. Provide a check register for all checks printed (or to be printed) on a bi-weekly basis.
10. Provide each participant a Statement of Account on a quarterly basis for the first, second and third quarters, and monthly for the fourth quarter.
11. Provide discrimination reports on a semi-annual basis.
12. Provide forms to the Company for use by the Company in communicating participant termination's and changes of family status.
13. Provide quarterly Company statements of participation by plan by participant.
14. Provide annual preparation of Form 5500 for City of Fayetteville to review, sign and mail to the IRS.
15. Provide participant election forms at the end of each year for use in making elections for the following year.

16. Provide guidance to the Company as to the operation of the Plan and to maintaining the tax qualification of the Plan as set by the Internal Revenue Code of 1986, as amended from time to time, and successor tax laws.
17. Maintain all Cafeteria Plan documents and files for six months following the end of each plan year, which after that time will be returned to the Company .

<u>Communication services to be provided by USAble Life:</u>

1. Present informational seminar to the employee group.
2. Survey the group and analyze for individual savings.
3. Meet with each employee to discuss their individual savings and personal needs.

<u>Responsibilities of the City of Fayetteville:</u>

1. Report participant termination's and changes of family status to Administrative Firm to be effective 2 weeks after receipt.
2. Reconciliation of payroll amount redirected to the Cafeteria Plan based on reports provided each month by USAble Life.
3. Distribution of participant statements of account to Company employees.
4. Initiate any action required in the event plan(s) become discriminatory.
5. Secure legal review of the Cafeteria Plan Document and Summary Plan Description from Company's legal counsel.
6. Review, sign and mail the annual Form 5500 to the IRS.
7. Maintain all Cafeteria Plan documents following the end of each plan year in the event the Plan is audited.

Fees and Terms of Payment

The Schedule of Services/Fees is to be attached and made a part of this Agreement. USAble Life has the right to change the Schedule of Services/Fees by giving at least 60 days notice to the Company.

Reports and Data

All reports and data remain the property of the Company. USAble Life will provide the Company all data, upon request, used by USAble Life in its administration procedures.

Terms of this Agreement

This Agreement will be effective from the date both parties execute this agreement until it is terminated. Either party may terminate this Agreement with 30 days written notice.

By______________________________ Date:__________________

By______________________________ Date:__________________
Julie Marshall, Senior Vice President

City of Fayetteville
Section 125 Cafeteria Plan
Schedule of Fees

The fees for City of Fayetteville have been waived. This waiver will remain with the continual enrollment of USAble Life products. If product solicitation is terminated, then USAble Life will re-evaluate the fee structure at that time.

One time set-up fee:	$ 0.00
Monthly fee for Premium Only Participant:	$ 0.00
Monthly fee for Flexible Spending Participant:	$ 0.00
Minimum Monthly Charge:	$ 0.00

STAFF REVIEW FORM

XX AGENDA REQUEST
__ CONTRACT REVIEW
__ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Stephen Davis	Budget & Research	Admin. Services
Name	Division	Department

ACTION REQUIRED : Council Action is requested to adopt real and personal property tax rates for 1999 for the Police and Fire Pension funds. The rate to be adopted is 0.5 mils for real property and 0.5 mils for personal property. There is no millage proposed for general government operations.

COST TO CITY:

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

BUDGET REVIEW: XX Budgeted Item __ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:________

Marilyn A Cramer Accounting Manager	9-20-99 Date	Internal Auditor	Date
City Attorney	9-21-99 Date	ADA Coordinator	Date
P Vice Purchasing Officer	9-21-99 Date		

STAFF RECOMMENDATION: Staff recommends adoption of millage rates.

Division Head	9-20-99 Date	Cross Reference
Department Director	Date	New Item: Yes No
Administrative Services Director	21 SEPT 99 Date	Prev Ord/Res #:_______
Mayor	Date	Orig Contract Date:______

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Kevin Crosson, Administrative Services Director

From: Budget & Research

Re: 1999 Millage Levy

Date: September 20, 1999

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 1999.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of September 13, 1999, is approximately $563 million. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract.

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Fire and Police Pension Funds. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 1999.

The millage levied by this ordinance for the Fire Pension and Relief Fund and the Police Pension fund is 0.5 mils for real property and 0.5 mils for personal property. Any increase in millage rate for either the Fire Pension and Relief Fund and Police Pension must be approved by the voters.

City of Fayetteville
Property Tax Revenue per Mil
September 20, 1999

Millage	Approximate Revenue
0.10	$52,000
0.20	$103,000
0.30	$155,000
0.40	$207,000
0.50	$259,000
0.60	$310,000
0.70	$362,000
0.80	$414,000
0.90	$466,000
1.00	$517,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County assessments for the Year 1999 dated September 13, 1999 and excludes real and personal property for Utilities. The current millage rate for operations is set at 0.0 mils. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 1999 amount to approximately $545 million excluding real estate and personal property for utilities.

The change in assessed value, for real estate, from 1998 to 1999 is approximately $12 million or 3.0%. The change in assessed real estate value is due to newly discovered, newly constructed property and increases in personal property.

The following tables illustrate how each city divides its portion of the Real Estate and Personal Property Taxes.

REAL ESTATE TAXES									
CITY	GENERAL	POLICE PENSION	FIRE PENSION	POLICE VOL	FIRE VOL	LIBRARY	G.O. BONDS	YOUTH CENTER	**TOTAL**
FAYETTEVILLE	0.0	0.5	0.5						**1.0**
SPRINGDALE	5.0	0.5	0.5					0.5	**6.5**
FARMINGTON	5.0								**5.0**
ELKINS	2.3								**2.3**
WINSLOW	3.0								**3.0**
PRAIRIE GROVE	5.0			1.0	0.5		3.0		**9.5**
LINCOLN	5.0			1.0	0.5				**6.5**
GREENLAND	3:0								**3.0**
WEST FORK	5.0								**5.0**
JOHNSON	5.0								**2.4**
ELM SPRINGS	2.0								**5.0**
TONTITOWN	2.0								**2.0**
FORT SMITH	5.0	1.0	1.0			1.0	0.5		**8.0**
ROGERS	3.0	0.5	0.5			0.9			**4.9**

PERSONAL PROPERTY TAXES									
CITY	GENERAL	POLICE PENSION	FIRE PENSION	POLICE VOL	FIRE VOL	LIBRARY	G.O. BONDS	YOUTH CENTER	**TOTAL**
FAYETTEVILLE	0.0	0.5	0.5						**1.0**
SPRINGDALE	5.0	0.5	0.5					0.5	**6.5**
FARMINGTON	5.0								**5.0**
ELKINS	2.3								**2.3**
WINSLOW	3.0								**3.0**
PRAIRIE GROVE	5.0			1.0	0.5		3.0		**9.5**
LINCOLN	5.0			1.0	0.5				**6.5**
GREENLAND	3.0								**3.0**
WEST FORK	5.0								**5.0**
JOHNSON	5.0								**2.4**
ELM SPRINGS	2.0								**5.0**
TONTITOWN	2.0								**2.0**
FORT SMITH	5.0	1.0	1.0			1.0	0.5		**8.0**
ROGERS	3.0	0.5	0.5			0.9			**4.9**

Washington County
Preliminary Summary Report of County Assessments for the Year 1999

City Totals

	1998	1999	%change
Elkins	8,091,360	8,829,812	9
Elm Springs	6,770,104	6,921,132	2
Farmington	21,457,022	23,744,586	11
Fayetteville	541,040,341	563,437,269	4
Goshen	5,508,377	5,986,005	9
Greenland	5,210,069	5,446,775	5
Johnson	13,142,249	15,857,516	21
Lincoln	10,230,008	10,989,181	7
Prairie Grove	18,671,715	19,311,879	3
Springdale	382,706,776	414,468,995	8
Tontitown	9,663,712	10,520,133	9
West Fork	11,402,333	11,934,860	5
Winslow	2,123,449	2,113,037	(0)

Washington County
Preliminary Summary Report of County Assessments for the Year 1999

09/13/99

		Real Estate					Utilities RE			Personal Property			Utilities PP		
		1998	1999	NDP	%change	%ch-NDP	1998	1999	%change	1998	1999	%change	1998	1999	%change
Fayetteville	010	41,154,710	42,334,340	1,179,630	3	0	41,190	41,190	0	6,269,340	7,099,133	13	3,753,114	8,898,503	137
Fayetteville	011	364,136,727	374,873,539	10,736,812	3	0	2,290,050	2,939,920	28	99,642,268	108,747,167	9	15,466,722	15,629,584	1
Johnson	012	6,365,030	6,349,400	(15,630)	(0)	0	490	490	0	1,505,596	1,617,554	7	397,407	467,101	18
Farmington	013	1,652,770	1,650,430	(2,340)	(0)	0	0	0		233,839	382,168	63	32,976	29,185	(11)
Elkins	014	2,191,400	2,399,730	208,330	10	0	0	0		373,224	364,566	(2)	16,183	17,486	8
Goshen	015	4,067,360	4,646,310	578,950	14	0	0	0		639,235	612,913	(4)	90,972	104,376	15
Total		419,567,997	432,253,749	12,685,752	3	0	2,331,730	2,981,600	28	108,663,602	118,823,501	9	19,757,374	26,146,235	27
Farmington	060	23,856,810	24,664,570	807,760	3	0	2,660	2,660	0	4,885,676	5,462,241	12	1,119,349	1,220,441	9
Farmington	061	16,030,060	17,789,660	1,759,600	11	0	183,020	183,020	0	2,875,961	3,282,564	14	448,376	427,539	(5)
Fayetteville	062	3,733,300	4,075,130	341,830	9	0	0	0		346,150	393,771	14	610	577	(5)
Total		43,620,190	46,529,360	2,909,190	7	0	185,680	185,680	0	8,107,787	9,138,576	13	1,568,335	1,648,557	5
Elkins	100	13,288,220	13,550,090	261,870	2	0	297,700	304,250	2	3,437,770	3,737,878	9	1,944,943	1,940,915	(0)
Elkins	101	4,165,950	4,462,740	296,790	7	0	19,630	19,630	0	918,773	1,139,611	24	406,200	426,049	5
Total		17,454,170	18,012,830	558,660	3	0	317,330	323,880	2	4,356,543	4,877,489	12	2,351,143	2,366,964	1
Winslow	200	3,788,230	3,834,890	46,660	1	0	27,260	27,260	0	1,268,005	1,159,860	(9)	1,607,125	1,603,531	(0)
Winslow	201	1,445,130	1,485,060	39,930	3	0	11,080	11,080	0	453,242	414,151	(9)	213,997	202,746	(5)
Total		5,233,360	5,319,950	86,590	2	0	38,340	38,340	0	1,721,247	1,574,011	(9)	1,821,122	1,806,277	(1)
Benton County	210	4,654,040	4,970,180	316,140	7	0	0	0		1,022,635	1,101,363	8	438,344	440,073	0
Total		4,654,040	4,970,180	316,140	7	0	0	0		1,022,635	1,101,363	8	438,344	440,073	0
Prairie Grove	230	16,115,040	16,733,000	617,960	4	0	1,880	1,880	0	4,599,046	5,257,097	14	1,961,864	2,181,672	11
Prairie Grove	231	14,744,080	15,116,740	372,660	3	0	54,190	54,190	0	3,068,136	3,529,067	15	805,309	611,882	(24)
Total		30,859,120	31,849,740	990,620	3	0	56,070	56,070	0	7,667,182	8,786,164	15	2,767,173	2,793,554	1
West Fork	410	10,313,930	10,742,660	428,730	4	0	94,240	94,220	(0)	6,455,533	4,536,524	(30)	1,501,104	1,781,182	19
West Fork	411	8,259,413	8,530,583	271,170	3	0	43,900	43,900	0	1,753,936	1,879,463	7	615,976	663,646	8
Total		18,573,343	19,273,243	699,900	4	0	138,140	138,120	(0)	8,209,469	6,415,987	(22)	2,117,080	2,444,728	15
Lincoln	480	18,283,540	18,871,080	587,540	3	0	32,980	32,980	0	5,443,478	6,088,867	12	1,733,609	1,840,889	6
Lincoln	481	7,730,903	8,068,943	338,040	4	0	3,530	3,530	0	2,103,361	2,545,977	21	392,214	370,731	(5)
Total		26,014,443	26,940,023	925,580	4	0	36,510	36,510	0	7,546,839	8,634,844	14	2,125,823	2,211,620	4
Springdale	500	57,767,180	59,711,620	1,944,440	3	0	517,270	519,110	0	10,463,270	12,796,255	22	4,247,319	7,671,064	81
Springdale	501	265,182,760	285,774,960	20,592,200	8	0	548,910	560,620	0	107,860,398	118,393,056	10	9,124,705	9,750,357	7
Elm Springs	502	5,569,070	5,738,870	169,800	3	0	31,170	31,170	0	868,970	875,063	1	300,894	276,029	(8)
Tontitown	503	6,918,590	7,312,590	394,000	6	0	27,010	27,430	2	2,152,083	2,442,610	13	586,029	737,503	26
Fayetteville	504	31,924,050	32,878,751	954,701	3	0	0	0		13,518,643	14,169,483	5	86,302	115,278	34
Johnson	505	4,509,550	6,489,250	1,979,700	44	0	29,310	402,710	1,274	295,996	478,662	62	38,870	52,148	34
Goshen	506	657,980	588,830	(69,150)	(14)	0	0	0		52,830	53,576	1	0	0	
Total		372,529,180	398,474,871	25,945,691	7	0	1,153,670	1,531,040	33	135,202,090	149,208,907	10	14,384,122	18,602,370	29
Greenland	950	10,514,480	10,925,410	410,930	4	0	500	500	0	2,394,816	2,694,985	13	1,243,744	1,307,127	5
Greenland	951	4,261,430	4,435,870	174,440	4	0	2,320	2,320	0	675,854	706,550	4	270,465	303,035	12
Fayetteville	952	2,147,360	2,165,400	18,040	1	0	0	0		7,657,134	7,348,995	(4)	91,125	99,674	9
West Fork	953	625,390	686,660	61,270	10	0	0	0		98,928	126,422	28	4,790	4,266	(11)
Total		17,548,660	18,213,340	664,680	4	0	2,820	2,820	0	10,826,732	10,876,932	0	1,610,124	1,714,122	6
All Districts		956,054,603	1,001,837,306	45,782,683	5	0	4,260,290	5,294,060	24	293,324,626	318,436,784	9	48,940,640	59,174,600	21

STAFF REVIEW FORM

Library Design
C. 5. Page 1

X Agenda Request
___ Contract Review
___ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October 5, 1999

FROM:

Name	Division	Department
Charles Venable		Public Works

ACTION REQUESTED: Approval of an Architectural Agreement with Meyer, Sherer and Rockcastle, LTD of Minneapolis, Mn, for the design of the City's proposed library. The work will be split into 2 phases, with Phase 1 being the preliminary design sufficient in detail to obtain information necessary to develop fund raising methologys and the actual raising of these funds required to construct the building. Phase 1 costs is $113,551 plus expenses estimated to cost no more than $15,000. Phase 2 is for the actual design and construction of the building and appurtenances. The architect will be authorized to begin work only on Phase 2 subject to acquiring satisfactory funding for the construction. Approval of a budget adjustment in the amount of $130,000 is also included.

COST TO THE CITY:

Phase 1 - $113,551 plus expenses up to $15,000
Phase 2 - $1,520,965
Total Expenses - $110,000

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

STAFF RECOMMENDATION: Recommend approval of Phase 1

Division Head	Date	**Cross Reference**
Charles Venable Department Director	9-21-99 Date	New Item: Yes No
Administrative Services Director	Date	Prev Ord/Res #:
Mayor	Date	Orig. Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Hanna and Members of the City Council

From: Charles Venable CV

Date: September 22, 1999

Subject: Architectural Agreement for the Design and construction of the Proposed Library

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Since the library building will belong to the City of Fayetteville once it is constructed, the Architectural Agreement and subsequently all building plans, specifications, and construction contracts must be approved by the City. Therefore, the attached Architectural Agreement with the Meyer, Scherer and Rockcastle, LTD Architectural Firm, located in Minneapolis, MN, has been negotiated after being selected by a Selection Committee comprised of Trent Trumbo, Jim Beavers, Sid Norbash, Louise Schaper, Louis Gottsponer, Don Bailey, and myself. The agreement is enclosed for your approval.

The work to be done by the architect is divided into two (2) phases. Phase 1 will provide schematic design documents which includes a conceptual site plan, preliminary building plans including elevations, sections, etc. A three dimensional model may also be made. Cost estimates will also be prepared and the architect will work with the Library Board in the development of a fund-raising campaign in an effort to gain public support. The costs of developing Phase 1 is $113,551, plus any expenses incurred by the architect estimated to be approximately $15,000.

Phase 2 is estimated to cost $1,520,965 and the architect will not be authorized to begin work on this segment until the successful completion of Phase 1 and funding has been secured for the construction of the building. Phase 2 covers the costs of the design of the building and parking deck and all appurtenances thereof and including all documents required for the construction. Phase 2 also covers the costs associated with the administration of the construction phase of the building.

The agreement also contains reimbursement for all approved expenses incurred by the architect up to $110,000. Therefore, the total architectural Agreement is as follows:

Phase 1	$113,551
Phase 2	1,520,965
Subtotal	$1,634,516
Phase 1 & 2 Expenses	110,000
Total	$1,744,516

If financing is secured for the library construction, all of the above fees can be included for reimbursement under the construction bonds.

Close coordination with the Library Board will be required during all phases of the work and since the library building will belong to the City of Fayetteville, all approvals including the contract documents for the construction must come from the City.

CV:msm

enclosure

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Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services

AIA Document B141 - 1997
1997 Edition - Electronic Format

TABLE OF ARTICLES

AGREEMENT made as of the first day of September in the year nineteen hundred ninety-nine
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the Owner:
(Name, address and other information)
City of Fayetteville, Arkansas
113 West Mountain Avenue
Fayetteville, AR 72701

and the Architect:
(Name, address and other information)
Meyer, Scherer & Rockcastle, Ltd.
119 North Second Street
Minneapolis, MN 55401-1420

For the following Project:
(Include detailed description of Project)
A new central library facility, referred to as the Fayetteville Public Library, for the City of Fayetteville, Arkansas.

The Owner and Architect agree as follows.

ARTICLE 1.1 INITIAL INFORMATION

1.1.1 This Agreement is based on the following information and assumptions.
(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")
The central library facility will consist of approximately 90,000 square feet building and a parking structure for 212 cars, and will be located on a 3-acre site in downtown Fayetteville,

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1.1.2 PROJECT PARAMETERS

1.1.2.1 The objective or use is:
(Identify or describe, if appropriate, proposed use or goals.)
The facility will serve as the central library facility for the City of Fayetteville as described in the Master Plan for Library Services and Facilities: 1998-2020 adopted by the Library Board.

1.1.2.2 The physical parameters are:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)
The proposed site is located between West Mountain and West Rock Streets, and South School and South West Avenues.

1.1.2.3 The Owner's Program is:
(Identify documentation or state the manner in which the program will be developed.)
Shall be determined as part of this Agreement

1.1.2.4 The legal parameters are:
(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)
Not Applicable

1.1.2.5 The financial parameters are as follows.

.1 ~~Amount of the Owner's overall budget for the Project, including the Architect's compensation, is:~~

.2 Amount of the Owner's budget for the Cost of the Work, excluding the Architect's compensation, is: Construction cost of the Building in September 1999 dollars is estimated to be $14,400,000 ($160 GSF). Construction cost of the Building in September 2001 dollars is estimated to be $15,696,000 ($174.49 GSF). Construction cost of the parking structure in September 1999 dollars is estimated to be $2,200,000 ($11,000 per car). Construction cost of the parking structure in September 2001 dollars is estimated to be $2,398,000 ($11,990 per car). The cost of furnishings and equipment in September 2001 dollars is estimated to be $1,547,980. These figures were based on an escalation factor of 4% per year. It is agreed that this factor will revisited at the conclusion of Phase 1 Services.

1.1.2.6 The time parameters are:
(Identify, if appropriate, milestone dates, durations or fast track scheduling.)
Phase 1 to be completed within 120 calendar days from the date of the written notice to proceed. Phase II timeframe to be determined at the conclusion of Phase I.

1.1.2.7 The proposed procurement or delivery method for the Project is:
(Identify method such as competitive bid, negotiated contract, or construction management.)
Single prime contract through competitive bid.

1.1.2.8 Other parameters are:
(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)
The scope of this Agreement shall be divided into two phases: Phase 1 - Pre-funding design and site studies; and Phase 2 - Design documentation and construction administration. The allocation of services is described in Article 2.8 of this Agreement.

1.1.3 PROJECT TEAM

1.1.3.1 The Owner's Designated Representative is:
(List name, address and other information.)
Fred Hanna, Mayor of the City of Fayetteville - or his designee.

1.1.3.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Architect's submittals to the Owner are:
(List name, address and other information.)
Not Applicable

1.1.3.3 The Owner's other consultants and contractors are:
(List discipline and, if known, identify them by name and address.)
Not Applicable

1.1.3.4 The Architect's Designated Representative is:
(List name, address and other information.)
Jeffrey A. Scherer, FAIA - Partner-in-charge
Sean M. Wagner, Project Manager

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1.1.3.5 The consultants retained at the Architect's expense are:
(List discipline and, if known, identify them by name and address.)
Traffic Engineer; Civil Engineer; Structural Engineer; Mechanical, Electrical and Plumbing Engineer; Data and Telecommunications Design Consultant; and Cost Estimating Consultant.

1.1.4 Other important initial information is:
Not Applicable

1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201 current as of the date of this Agreement~~, or as follows~~:

1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the Owner and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and, in that event, the Owner and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Paragraph 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

1.2.1 The Owner and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

1.2.2 OWNER

1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

1.2.2.2 The Owner shall periodically update the budget for the Project, including that portion allocated for the Cost of the Work. The Owner shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of the Architect to a corresponding change in the Project scope and quality.

1.2.2.3 The Owner's Designated Representative identified in Paragraph 1.1.3 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

1.2.2.4 The Owner shall furnish the services of consultants other than those designated in Paragraph 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project.

1.2.2.5 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

1.2.2.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

1.2.2.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

1.2.3 ARCHITECT

1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4.

1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Subparagraph 1.1.2.6 and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

1.2.3.3 The Architect's Designated Representative identified in Paragraph 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

1.2.3.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

1.2.3.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

1.2.3.7 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

1.3.1 COST OF THE WORK

1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

1.3.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

1.3.2 INSTRUMENTS OF SERVICE

1.3.2.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

1.3.2.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further

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reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

1.3.2.3 Except for the licenses granted in Subparagraph 1.3.2.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Subparagraph 1.3.2.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the Owner obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

1.3.2.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement. Five (5) sets of all drawings shall be furnished to the Owner for review and final approval. The cost of these drawings shall be a Reimbursable Expense.

1.3.3 CHANGE IN SERVICES

1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are affected as described in Subparagraph 1.3.3.2. In the absence of mutual agreement in writing, the Architect shall notify the Owner prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide those services. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Paragraph 1.5.2, and to any Reimbursable Expenses described in Subparagraph 1.3.9.2 and Paragraph 1.5.5.

1.3.3.2 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation.

.1 change in the instructions or approvals given by the Owner that necessitate revisions in Instruments of Service;

.2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;

.3 decisions of the Owner not rendered in a timely manner;

.4 significant change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method;

.5 failure of performance on the part of the Owner or the Owner's consultants or contractors;

.6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto;

.7 change in the information contained in Article 1.1.

1.3.4 MEDIATION

1.3.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

1.3.4.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

1.3.4.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

1.3.5 ARBITRATION

1.3.5.1 ~~Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Paragraph 1.3.4.~~

1.3.5.2 ~~Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.~~

1.3.5.3 ~~A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.~~

1.3.5.4 ~~No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

1.3.5.5 ~~The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and the Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Paragraph 1.3.8.

1.3.7 MISCELLANEOUS PROVISIONS

1.3.7.1 This Agreement shall be governed by the law of the State of Arkansas ~~principal place of business of the Architect, unless otherwise provided in Paragraph 1.4.2~~.

1.3.7.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

1.3.7.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

1.3.7.4 To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

1.3.7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

1.3.7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

1.3.7.8 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

1.3.7.9 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

1.3.8 TERMINATION OR SUSPENSION

1.3.8.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

1.3.8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

1.3.8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

1.3.8.4 This Agreement may be terminated by either party upon not less than fourteen ~~seven~~ days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

1.3.8.5 This Agreement may be terminated by the Owner upon not less than fourteen ~~seven~~ days' written notice to the Architect for the Owner's convenience and without cause.

1.3.8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Subparagraph 1.3.8.7.

1.3.8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

1.3.9 PAYMENTS TO THE ARCHITECT

1.3.9.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

1.3.9.2 Reimbursable Expenses, as authorized by the Owner, are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

.1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;

.2 fees paid for securing approval of authorities having jurisdiction over the Project;

.3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;

.4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;

.5 renderings, models and mock-ups requested by the Owner;

.6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;

.7 reimbursable expenses as designated in Paragraph 1.5.5;

.8 other similar direct Project-related expenditures.

1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times. Monthly invoices to the Owner shall include a itemized list of the expenses. No alcoholic beverages shall be included as a Reimbursable Expense.

1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ORIGINAL

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect. This Agreement comprises the documents listed below.

1.4.1.1 Standard Form of Agreement Between Owner and Architect, AIA Document B141-1997.

1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, ~~or as follows~~:
(List other documents, if any, delineating Architect's scope of services.)

1.4.1.3 Other documents as follows:
(List other documents, if any, forming part of the Agreement.)

1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:
1.4.2.1 Risk Allocation Disclaimer
The Owner and the Architect have discussed their risks, rewards, and benefits for the project and the Architect's total fee for services.

The Architect agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner, its officers, directors and employees against all damages, liabilities, or costs to the extent caused by the Architect's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Architect in legally liable.

The Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Architect, its officers, directors, and employees against all damages, liabilities, or costs to the extent caused by the Owner's negligent acts in connection with the Project and the acts of its contractors, subcontractors, or consultants, or anyone for whom the Owner is legally liable.

Neither the Owner, nor the Architect, shall be obligated to indemnify the other in any matter whatsoever for the other party's fault.

1.4.2.2 Indemnification for Pollution Disclaimer
In consideration of the unavailability of professional liability insurance from services relating to or arising out of or associated in any way with the actual, alleged or threatened discharge, dispersal, release or escape of pollutants or any governmental or regulatory directive or request for testing, monitoring, clean up, removal, containment, treatment, detoxify or neutralize pollutants, it is expressly agreed between the Owner and Architect that the Owner shall indemnify and hold harmless the Architect, its consultants, agents, and employees from and against all claims, including claims of employees of the Owner, any Contractor and Subcontractors, damages, losses and expenses, direct and indirect, or consequential damages, including but not limited to fees and charges of attorneys, court costs, and the costs relating to arbitration fees, and costs relating to government or regulatory directives or requests arising out of or related in any way to "pollution" by any party involved with the project and regardless of whether the claims or damages are based on Contract, tort, including negligence, strict liability, warranty, or otherwise. "Pollutants" is defined as any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke vapor, soot, fumes, acids, alkalis, chemicals, and waste.

1.4.2.3 Repetitive Stress Disclaimer
It is acknowledged by the Owner that the Architect's scope of services does not include services relating to the selection of office-type equipment, including but not limited to computers, video display terminals, and keyboards, nor relating to the ergonomic effects associated with the use of such equipment. Accordingly, the Owner agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by Law, to indemnify and hold harmless the Architect, and its principals, officers, directors, employees, agents, and independent consultants and any of them from all claims, suits, demands, liabilities, losses or costs, including reasonable attorney's fees and defense costs, arising out of the use of office-type equipment, including but not limited to computers, video display terminals, and keyboards, or for those resulting from cumulative trauma disorder, repetitive stress injuries or any adverse ergonomic effects associated with the use of such equipment.

1.4.2.4 CADD Indemnification
The CADD drawing files prepared by the Architect for this project are instruments of the Architect's service for use solely with respect to this project. During the course of the implementation of the project, and with the Architect's approval, others shall be permitted to obtain copies of the CADD drawing files for information and reference only. These CADD drawing files shall not be used on other projects, for additions to this Project, or for completion of this Project by others. Any intentional or unintentional revisions, additions or deletions to these CADD drawings files shall be made at the full risk of the person(s) making such revisions, additions, or deletions, and shall hold harmless and indemnify the Architect of any and all responsibilities and liabilities.

ARTICLE 1.5 COMPENSATION

1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:
A stipulated sum of one million six hundred thirty-four thousand five hundred sixteen dollars and zero cents ($1,634,516.00). The Architect may make modest adjustments to the approximate percentages of total fee shown below with no change to the total fee except as allowed in Article 1.3.3

Phase 1 Services:	
Building Program	$30,000 (1.84%)
Traffic Engineering Study	$3,500 (0.01%)
Architecture and Consultants Pre-funding Services	$80,051 (4.93%)
Subtotal for Phase 1 Services	***$113,551 (6.78%)***
Phase 2 Services:	
Architecture and Consultants Design Services	
Schematic Design	$96,061 (5.94%)
Design Development	$240,152 (14.7%)
Construction Documents	$736,468 (45.1%
Construction Procurement	$48,030 (2.94%)
Construction Administration	$400,254 (24.54%)
Subtotal for Phase 2 Services	***$1,520,965 (93.22%)***
Total for both phases	***$1,634,516.00 (100.0%)***

1.5.1.1 The architect's compensation will be adjusted if the project is increased above 99,000 gross square feet or below 81,000 gross squre feet. This represents a 10% addition or reduction from the building of 90,000 gross square feet.

1.5.1.2 Written authorization by the Owner shall be obtained prior to beginning Phase II work.

1.5.2 If the services of the Architect are changed as described in Subparagraph 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Paragraph 1.5.2, in an equitable manner.

(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

Principal Architect	$150.00
Supervisory Architect	$80.00 - 100.00
Registered Architect	$53.50 - 76.50
Intern Architect	$37.50 - 72.50
Drafter/Modeler	$28.50 - 35.00
Specification Writer	$85.50
Head Interior Designer	$100.00
Interior Designer	$27.00 - 65.00
CADD Manager	$62.00
Admin / Word Processing	$37.50 - 58.00

1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of one point one (1.1) times the amounts billed to the Architect for such services.

COPY

1.5.4 For Reimbursable Expenses as described in Subparagraph 1.3.9.2, and any other items included in Paragraph 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of one point zero (1.0) times the expenses incurred by the Architect, and the Architect's employees and consultants. Estimated reimbursable expenses are as follows:

Travel, hotel, meals and transportation	\$55,000.00
Postage, in-house reproduction, long-distance	\$15,000.00
Models and presentation drawings	\$10,000.00
Bid document reproduction & distribution	\$30,000.00
Total Reimbursable Budget	*\$110,000.00*

1.5.5 Other Reimbursable Expenses, if any, are as follows:
Not Applicable

1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices (approximately five percent (5%) per year).

1.5.7 An initial payment zero Dollars (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

1.5.8 Payments are due and payable thirty (30) days from the date of the Architect's invoice. ~~Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~

(Insert rate of interest agreed upon.)
zero percent

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

1.5.9 If the services covered by this Agreement have not been completed thirty-six (36) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Paragraph 1.5.2.

This Agreement entered into as of the day and year first written above.

______________________	______________________
OWNER *(Signature)*	**ARCHITECT** *(Signature)*
______________________	Jeffrey A. Scherer, FAIA - President
(Printed name and title)	*(Printed name and title)*

Standard Form of Architect's Services: Design and Contract Administration

AIA Document B141 - 1997
1997 Edition - Electronic Format

TABLE OF ARTICLES

ARTICLE 2.1 PROJECT ADMINISTRATION SERVICES

2.1.1 The Architect shall manage the Architect's services and administer the Project. The Architect shall consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

2.1.2 When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the Owner, design services furnished by the Architect, completion of documentation provided by the Architect, commencement of construction and Substantial Completion of the Work.

2.1.3 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

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2.1.4 Upon request of the Owner, the Architect shall make a presentation to explain the design of the Project to representatives of the Owner.

2.1.5 The Architect shall submit design documents to the Owner at intervals appropriate to the design process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on approvals received from the Owner in the further development of the design.

2.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

2.1.7.1 When the Project requirements have been sufficiently identified, the Architect shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

2.1.7.2 Evaluations of the Owner's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

2.1.7.3 In preparing estimates of the Cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the Owner and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.

2.1.7.4 If bidding or negotiation has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

2.1.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

.1 give written approval of an increase in the budget for the Cost of the Work;

.2 authorize rebidding or renegotiating of the Project within a reasonable time;

.3 terminate in accordance with Subparagraph 1.3.8.5; or

.4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

2.1.7.6 If the Owner chooses to proceed under Clause 2.1.7.5.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under this Paragraph 2.1.7. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 2.2 SUPPORTING SERVICES

2.2.1 Unless specifically designated in Paragraph 2.8.3, the services in this Article 2.2 shall be provided by the Owner or the Owner's consultants and contractors.

2.2.1.1 The Architect ~~Owner~~ shall engage the services of a consultant to establish ~~furnish~~ a program setting forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

2.2.1.2 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

2.2.1.3 The Owner shall furnish services of geotechnical engineers which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

2.3.1 The Architect shall provide a preliminary evaluation of the information furnished by the Owner under this Agreement, including the Owner's program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.

2.3.2 The Architect shall provide a preliminary evaluation of the Owner's site for the Project based on the information provided by the Owner of site conditions, and the Owner's program, schedule and budget for the Cost of the Work.

2.3.3 The Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

ARTICLE 2.4 DESIGN SERVICES

2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering services.

2.4.2 SCHEMATIC DESIGN DOCUMENTS

2.4.2.1 The Architect shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the Architect's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

2.4.3 DESIGN DEVELOPMENT DOCUMENTS

2.4.3.1 The Architect shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

2.4.4 CONSTRUCTION DOCUMENTS

2.4.4.1 The Architect shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

2.4.4.2 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the Owner and the Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

2.5.1 The Architect shall assist the Owner in obtaining either competitive bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction.

2.5.2 The Architect shall assist the Owner in establishing a list of prospective bidders or contractors.

2.5.3 The Architect shall assist the Owner in bid validation or proposal evaluation and determination of the successful bid or proposal, if any. If requested by the Owner, the Architect shall notify all prospective bidders or contractors of the bid or proposal results.

2.5.4 COMPETITIVE BIDDING

2.5.4.1 Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

2.5.4.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

2.5.4.3 If requested by the Owner, the Architect shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

2.5.4.4 The Architect shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

2.5.4.5 The Architect shall participate in or, at the Owner's direction, shall organize and conduct a pre-bid conference for prospective bidders.

2.5.4.6 The Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

2.5.4.7 The Architect shall participate in or, at the Owner's direction, shall organize and conduct the opening of the bids. The Architect shall subsequently document and distribute the bidding results, as directed by the Owner.

2.5.5 NEGOTIATED PROPOSALS

2.5.5.1 Proposal Documents shall consist of proposal requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

2.5.5.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Proposal Documents for distribution to prospective contractors. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

2.5.5.3 If requested by the Owner, the Architect shall organize and participate in selection interviews with prospective .

2.5.5.4 The Architect shall consider requests for substitutions, if permitted by the Proposal Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

2.5.5.5 If requested by the Owner, the Architect shall assist the Owner during negotiations with prospective contractors. The Architect shall subsequently prepare a summary report of the negotiation results, as directed by the Owner.

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

2.6.1 GENERAL ADMINISTRATION

2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services in accordance with Paragraph 2.8.2 when Contract Administration Services extend 60 days after the date of Substantial Completion of the Work.

2.6.1.3 The Architect shall be a representative of and shall advise and consult with the Owner during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment.

2.6.1.4 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

2.6.1.5 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the Architect and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

2.6.1.6 If deemed appropriate by the Architect, the Architect shall on the Owner's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.

2.6.1.7 The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

2.6.1.8 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

2.6.1.9 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

2.6.2 EVALUATIONS OF THE WORK

2.6.2.1 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect in Article 2.8, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

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The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

2.6.2.2 The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

2.6.2.4 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

2.6.2.5 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Paragraph 2.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.3.3 The Architect shall maintain a record of the Contractor's Applications for Payment.

2.6.4 SUBMITTALS

2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.6.4.2 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

2.6.5 CHANGES IN THE WORK

2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Paragraph 2.8.2.

2.6.5.2 The Architect shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

2.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

2.6.5.4 The Architect shall maintain records relative to changes in the Work.

2.6.6 PROJECT COMPLETION

2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

2.6.6.2 The Architect's inspection shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

2.6.6.4 The Architect shall receive from the Contractor and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.

ARTICLE 2.7 FACILITY OPERATION SERVICES

2.7.1 The Architect shall meet with the Owner or the Owner's Designated Representative promptly after Substantial Completion to review the need for facility operation services.

ORIGINAL

2.7.2 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the Owner and the Owner's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the Owner.

ARTICLE 2.8 SCHEDULE OF SERVICES

2.8.1 Design and Contract Administration Services beyond the following limits shall be provided by the Architect as a Change in Services in accordance with Paragraph 1.3.3:

.1 up to two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.

.2 up to six (6) visits to the site by the Architect over the duration of the Project during construction.

.3 up to two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

.4 up to one (1) inspections for any portion of the Work to determine final completion.

2.8.2 The following Design and Contract Administration Services shall be provided by the Architect as a Change in Services in accordance with Paragraph 1.3.3:

.1 review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;

.2 responses to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service;

.4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;

.5 evaluation of an extensive number of claims submitted by the Owner's consultants, the Contractor or others in connection with the Work;

.6 evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;

.7 preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; or

.8 Contract Administration Services provided 60 days after the date of Substantial Completion of the Work.

2.8.3 The Architect shall furnish or provide the following services only if specifically designated:

Services	**Responsibility** *(Architect, Owner or Not Provided)*	**Location of Service Description**
.1 Programming	Architect	Phase 1 Service
.2 Land Survey Services	Owner	Phase 1 Service
.3 Geotechnical Services	Owner	Phase 1 Service
.4 Space Schematics/Flow Diagrams	Architect	Phase 1 Service
.5 Existing Facilities Surveys	Not Provided	
.6 Economic Feasibility Survey	Not Provided	

.7 Site Analysis ~~and Selection~~	Architect	
.8 Environmental Studies and Reports	Owner	Phase 1 Service
.9 Owner Supplied Data Coordination	Not Provided	
.10 Schedule Development and Monitoring	Not Provided	
.11 Civil Design	Architect	Phase 1 & 2 Service
.12 Landscape Design	Architect	Phase 2 Service
.13 Interior Design	Architect	Phase 1 & 2 Service
.14 Special Bidding or Negotiation	Not Provided	
.15 Value Analysis	Not Provided	
.16 ~~Detailed~~ Cost Estimating	Architect	Phase 1 & 2 Service
.17 On-Site Project Representation	Owner	
.18 Construction Management	Not Provided	
.19 Start-up Assistance	Not Provided	
.20 Record Drawings	Architect	Phase 2 Service
.21 Post-Contract Evaluation	Not Provided	
.22 Tenant-Related Services	Not Provided	
.23 Structural Design	Architect	Phase 1 & 2 Service
.24 Mech./Elect./Plumb,/Data Design	Architect	Phase 1 & 2 Service
.25 Traffic Engineering Study	Architect	Phase 1 Service

Description of Services.
(Insert descriptions of the services designated.)

Phase 1 Services shall include the following:

All design and consulting services indicated in paragraph 2.8.3 as Phase 1 services as well as limited Schematic Design Services as indicated in paragraph 2.4.2.1. The extent of these services shall include a conceptual site plan, preliminary building diagrams, volumetric studies and massing models. At the Architect's option, Phase 1 services may include three dimensional representations of the scheme. The team will provide the Owner with documentation of the scheme for the Owner's use during fundraising activities.

Phase 1 meetings shall include the following:
2 team meetings with the Library to develop the building program
3 Community Design meetings to gather input and support for the project
1 interim presentation to the Library and the general public to review the proposed scheme
1 final presentation to the Library and the general public of the proposed scheme
1 presentation to the general public during the course of fundraising (additional presentations shall be subject to paragraph 1.5.2).
1 presentation to the Fayetteville City Council

Phase 2 Services shall include the following:

The completion of Schematic Design Services indicated in paragraph 2.8.3 based on the Phase 1 scheme and the balance of professional services indicted in this Agreement not otherwise designated as a Phase 1 Service.

Phase 2 meetings shall include the following:
1 Final Schematic Design Presentation
1 interim Design Development Presentation
1 final Design Development Presentation
1 Construction Document Review Meeting.

Meetings with the Fayetteville City Council shall be provided during the course of the project. A final meeting to present the bid results shall also be included. It is agreed that the number and length of these meetings shall be reasonable.

ARTICLE 2.9 MODIFICATIONS

2.9.1 Modifications to this Standard Form of Architect's Services: Design and Contract Administration, if any, are as follows:

By its execution, this Standard Form of Architect's Services: Design and Contract Administration and modifications hereto are incorporated into the Standard Form of Agreement Between the Owner and Architect, AIA Document B141-1997, that was entered into by the parties as of the date: *1st of September1999*

Library Design
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ORIGINAL

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

Jeffrey A. Scherer, FAIA - President
(Printed name and title)

Fayetteville Public Library
Meeting with City of Fayetteville September 1, 1999

Line		Budget		
Budget for 90,000 Library Building		90,000	6.3% inflation	
Construction (Building)	$	14,201,748	$ 157.80	per sf
Construction (Parking)	$	2,140,882	$10,704	per car
Furniture & Equipment	$	1,547,980	$ 17.20	per sf
Total	$	17,890,610		

Notes for Discussion
Inflation at 6.3% was for 18 months. This needs to be extended to 9% for 24 mos.
Discuss cost per car of the parking garage in light of the recent bidding experiences.
Discuss cost of building based on recent bidding and inflation experiences.

Possible Adjustments				
Budget for 90,000 Library Building		Base		with 9%
Construction (Builiding)	$	13,360,064	$ 148.45	14,562,470
Recommended Construction (Building)	$	14,400,000	$ 160.00	$ 15,696,000
Construction (Parking)	$	2,140,882	$10,704	2,333,561
Recommended Construction (Parking)	$	2,200,000	$11,000	$ 2,398,000
Furniture & Equipment	$	1,547,980		No change
Total as per City Contract Draft	$	17,048,926		18,583,329
Revised total	$	18,147,980		$ 19,781,298
Difference	$	1,099,054		1,197,969

Notes
MS&R Fee tied to 90,000 SF Library Building with 200 Cars.
Fee does not change unless scope (size) is increased or decreased by more than 10%
Fee does not change with cost of construction
Fee is a lump sum
Reimbursable expenses budget to be agreed before contract award
Number of meetings to be budgeted

PROJECT BUDGET WORKSHEET by PHASE

Project >>>	1999057-00		Project Name >>>	Fayetteville Public Library	
Project Partner >>>	Jeffrey Scherer, FAIA		Project Manager >>>	Sean M. Wagner	
Gross Fee >>>	$1,601,016	Consultants> $400,724	Reimbursibles >>>	$110,000	Net Fee>>> $1,200,2[illegible]

PHASE	%	GROSS FEE	CONSULTANT	NET FEE
Pre-Funding Design	5.0%	$80,051	$9,016	$71,035
Schematic Design	6.0%	$96,061	$21,038	$75,023
Design Development	15.0%	$240,152	$90,163	$149,989
Construction Documents	46.0%	$736,468	$218,795	$517,672
Construction Procurement	3.0%	$48,030	$13,224	$34,807
Construction Administration	25.0%	$400,254	$48,488	$351,766
	0.0%	$0		$0
	0.0%	$0		$0
Total Fee	100.0%	$1,601,016	$400,724	$1,200,292

	Fee
Green-Anderson	$200,724
Engineering Consultants	$145,000
Mickle Wagner Coleman	$25,000
Howell & Vancuren	$30,000
	$0
	$0
	$0
	$0
	$0
	$0
Total Consultants	$400,724

PROFIT MARGIN

Dates 10/18/1999 - 11/26/1999 (4/24/2000)

#	Pre-Funding Design Name of Staff	20% Bill Rate OFFICE NORM	20% Bill Rate PROJECT GOAL	Pre-Funding Design Hours	Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	165	$24,750.00
	Sean M. Wagner	$65.00	$65.00	230	$14,950.00
	Sonia Prickett	$45.00	$45.00	210	$9,450.00
	Architect B	$55.00	$55.00	100	$5,500.00
	Architect A	$40.00	$40.00	100	$4,000.00
	Interiors B	$45.00	$45.00	40	$1,800.00
	Student	$30.00	$30.00	100	$3,000.00
	Architect B	$55.00	$55.00	0	$0.00
	Architect A	$75.00	$75.00	0	$0.00
	Foster - WER	$90.00	$90.00	80	$7,200.00
	NET TOTALS	If 20% Profitable	$70,650.00	1025	$70,650.00
	NET FEE AVAILABLE		$71,034.52		$71,034.52
	PROFIT		$384.52		$384.52

Consultants	Pre-Funding Design Fee
Green-Anderson	$9,027
Engineering Consultants	$4,350
Mickle Wagner Coleman	$1,000
Howell & Vancuren	$1,250
	$0
	$0
	$0
	$0
	$0
	$0
	$15,627

	A	B	C	D	E	F	G	H	I	J	K	L
1		PROJECT BUDGET WORKSHEET by PHASE					Project Name	>>>	Fayetteville Public Library			
2		Project >>>		1999057-00			Project Manager	>>>	Sean M. Wagner			
3		Project Partner >>>		Jeffrey Scherer, FAIA			Reimbursibles	>>>	$110,000		Net Fee>>>	$1,200,292
4		Gross Fee >>>		$1,601,016	Consultants>	$400,724						

Row	A	B	D	E	F	G	I	K
40								
41			Bill Rate	Bill Rate			Consultants	Schematic Design
42	Dates	4/24/2000 - 5/29/2000	OFFICE	PROJECT	Schematic Design			Fee
43		Schematic Design	NORM	GOAL	Hours	Fee		
44	#	Name of Staff						
45		Jeffrey Scherer, FAIA	$150.00	$150.00	150	$22,500.00	Green-Anderson	$6,027
46		Sean M. Wagner	$65.00	$65.00	160	$10,400.00	Engineering Consultants	$6,525
47		Sonia Prickett	$45.00	$45.00	160	$7,200.00	Mickle Wagner Coleman	$875
48		Architect B	$55.00	$55.00	160	$8,800.00	Howell & Vancuren	$1,000
49		Architect A	$40.00	$40.00	100	$4,000.00		$0
50		Interiors B	$45.00	$45.00	130	$5,850.00		$0
51		Student	$30.00	$30.00	100	$3,000.00		$0
52		Architect B	$55.00	$55.00	0	$0.00		$0
53		Foster - WER	$90.00	$90.00	80	$7,200.00		$0
54		NET TOTALS	If 20% Profitable	$68,950.00	1040	$68,950.00		$14,427
55		NET FEE AVAILABLE		$75,022.98		$75,022.98		
56		PROFIT		$6,072.98		$6,072.98		
57								
58								
59			Bill Rate	Bill Rate			Consultants	Design Development
60	Dates	5/30/2000 - 9/1/2000	OFFICE	PROJECT	Design Development			Fee
61		Design Development	NORM	GOAL	Hours	Fee		
62	#	Name of Staff						
63		Jeffrey Scherer, FAIA	$150.00	$150.00	180	$27,000.00	Green-Anderson	$45,163
64		Sean M. Wagner	$65.00	$65.00	500	$32,500.00	Engineering Consultants	$32,625
65		Sonia Prickett	$45.00	$45.00	200	$9,000.00	Mickle Wagner Coleman	$5,625
66		Architect B	$55.00	$55.00	520	$28,600.00	Howell & Vancuren	$6,750
67		Architect A	$40.00	$40.00	520	$20,800.00		$0
68		Interiors B	$45.00	$45.00	100	$4,500.00		$0
69		Student	$30.00	$30.00	200	$6,000.00		$0
70		Architect B	$55.00	$55.00	100	$5,500.00		$0
71		Foster - WER	$90.00	$90.00	175	$15,750.00		$0
72		NET TOTALS	If 20% Profitable	$149,650.00	2495	$149,650.00		$90,163
73		NET FEE AVAILABLE		$149,989.47		$149,989.47		
74		PROFIT		$339.47		$339.47		
75								

PROJECT BUDGET WORKSHEET by PHASE

Project >>>	1999057-00
Project Partner >>>	Jeffrey Scherer, FAIA
Gross Fee >>>	$1,601,016
Consultants>	$400,724
Project Name >>>	Fayetteville Public Library
Project Manager >>>	Sean M. Wagner
Reimbursibles >>>	$110,000
Net Fee>>>	$1,200,29

Dates 9/4/2000 - 02/23/2001

#	Construction Documents Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Construction Documents Hours	Construction Documents Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	160	$24,000.00
	Sean M. Wagner	$65.00	$65.00	1100	$71,500.00
	Sonia Prickett	$45.00	$45.00	350	$15,750.00
	Architect B	$55.00	$55.00	1100	$60,500.00
	Architect A	$40.00	$40.00	1100	$44,000.00
	Interiors B	$45.00	$45.00	500	$22,500.00
	Student	$30.00	$30.00	500	$15,000.00
	Architect B	$55.00	$55.00	1100	$60,500.00
	Architect A	$75.00	$75.00	1100	$82,500.00
	Foster - WER	$90.00	$90.00	1100	$99,000.00
	NET TOTALS	If 20% Profitable	$495,250.00	8110	$495,250.00
	NET FEE AVAILABLE		$517,672.11		$517,672.11
	PROFIT		$22,422.11		$22,422.11

Consultants	Construction Documents Fee
Green-Anderson	$109,595
Engineering Consultants	$79,170
Mickle Wagner Coleman	$13,650
Howell & Vancuren	$16,380
	$0
	$0
	$0
	$0
	$0
	$0
	$218,795

Dates 02/26/2001 - 3/30/2001

#	Construction Procurement Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Construction Procurement Hours	Construction Procurement Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	8	$1,200.00
	Sean M. Wagner	$65.00	$65.00	80	$5,200.00
	Sonia Prickett	$45.00	$45.00	30	$1,350.00
	Architect B	$55.00	$55.00		$0.00
	Architect A	$40.00	$40.00		$0.00
	Interiors B	$45.00	$45.00		$0.00
	Student	$30.00	$30.00		$0.00
	Architect B	$55.00	$55.00		$0.00
	Architect A	$75.00	$75.00	100	$7,500.00
	Foster - WER	$90.00	$90.00	190	$17,100.00
	NET TOTALS	If 20% Profitable	$32,350.00	408	$32,350.00
	NET FEE AVAILABLE		$34,806.59		$34,806.59
	PROFIT		$2,456.59		$2,456.59

Consultants	Construction Procurement Fee
Green-Anderson	$6,624
Engineering Consultants	$4,785
Mickle Wagner Coleman	$825
Howell & Vancuren	$990
	$0
	$0
	$0
	$0
	$0
	$0
	$13,224

	A	B	C	D	E	F	G	H	I	J	K	L
1		PROJECT BUDGET WORKSHEET by PHASE					Project Name	>>>	Fayetteville Public Library			
2		Project >>>		1999057-00			Project Manager	>>>	Sean M. Wagner			
3		Project Partner >>>		Jeffrey Scherer, FAIA		$400,724	Reimbursibles	>>>	$110,000		Net Fee>>>	$1,200,292
4		Gross Fee >>>		$1,601,016	Consultants>							
114												

	A	B	C	D	E	F	G
115				Bill Rate	Bill Rate		
116	Dates	4/2/2001 - 9/20/2002		OFFICE	PROJECT	Construction Administration	
117		Construction Administration		NORM	GOAL	Hours	Fee
118	#	Name of Staff		$150.00	$150.00	170	$25,500.00
119		Jeffrey Scherer, FAIA		$65.00	$65.00	760	$49,400.00
120		Sean M. Wagner		$45.00	$45.00	120	$5,400.00
121		Sonia Prickett		$55.00	$55.00	100	$5,500.00
122		Architect B		$40.00	$40.00		$0.00
123		Architect A		$45.00	$45.00		$0.00
124		Interiors B		$30.00	$30.00	100	$3,000.00
125		Student		$55.00	$55.00		$0.00
126		Architect B		$75.00	$75.00	200	$15,000.00
127		Architect A		$90.00	$90.00	2750	$247,500.00
128		Foster - WER		*If 20% Profitable*	*$351,300.00*	4200	$351,300.00
129		NET TOTALS			*$351,766.30*		$351,766.30
130		NET FEE AVAILABLE			*$466.30*		$466.30
131		PROFIT					

Consultants	Construction Administration Fee
Green-Anderson	$24,287
Engineering Consultants	$17,545
Mickle Wagner Coleman	$3,025
Howell & Vancuren	$3,630
	$0
	$0
	$0
	$0
	$0
	$0
	$48,487

	A	B	C	D	E	F	G
132							
133							
134				Bill Rate	Bill Rate		
135	Dates			OFFICE	PROJECT	TOTALS	
136		TOTALS		NORM	GOAL	Hours	Fee
137	#	Name of Staff		$150.00	$150.00	833	$124,950.00
138		Jeffrey Scherer, FAIA		$65.00	$65.00	2830	$183,950.00
139		Sean M. Wagner		$45.00	$45.00	1070	$48,150.00
140		Sonia Prickett		$55.00	$55.00	1980	$108,900.00
141		Architect B		$40.00	$40.00	1820	$72,800.00
142		Architect A		$45.00	$45.00	770	$34,650.00
143		Interiors B		$30.00	$30.00	1000	$30,000.00
144		Student		$55.00	$55.00	1200	$66,000.00
145		Architect B		$75.00	$75.00	1655	$124,125.00
146		Architect A		$90.00	$90.00	4375	$393,750.00
147		Foster - WER		*If 20% Profitable*	*$1,187,275.00*	17533	$1,187,275.00
148		NET TOTALS			*$1,200,291.98*		$1,200,291.98
149		NET FEE AVAILABLE			*$13,016.98*		$13,016.98
150		PROFIT					
151							

Consultants		TOTALS Fee	
Green-Anderson		$200,723	$200,724
Engineering Consultants		$145,000	$145,000
Mickle Wagner Coleman		$25,000	$25,000
Howell & Vancuren		$29,875	$30,000
		$0	$0
		$0	$0
		$0	$0
		$0	$0
		$0	$0
Total Consultants		$400,598	$400,724

Fayetteville Public Library
Meeting with City of Fayetteville September 1, 1999

Line	Contract Element	Basic	Additional	
	Proposal Requirements			
	Phases			
1	Prefunding Phased Design		X	
2	Schematic Design	X		
3	Design Development	X		
4	Construction Document	X		
5	Bidding	X		
6	Construction Administration	X		
7	Post Construction Services		X	
8	Warranty Review	X		
9	Record Drawings		X	
10				
11	Disciplines			
12	MS&R Architecture	X		
13	MS&R Interior Design		X	
14	M&E: Green and Anderson	X		
15	Structural: Engineering Consultants	X		
16	Civil Engineering: Mickle Wagner Coleman		X	
17	Landscape Architects: Howell & Vancuren		X	Discuss need
18	Programming: Anders Dahlgren		X	
19				
20	Services			
21	Building Program		X	
22	Pre-funding design		X	
23	Environmental Assessment		X	
24	Geotechnical Investigation City to Handle		X	
25	Topographic Survey		X	
26	Data Design and Coordination		X	
27	Equipment Purchases		X	
28	Phased Services		X	
29	Interior Design: Equipment placement		X	
30	Signage		X	
31	Landscape Design Coordination		X	
32	Large Scale Development Process		X	
33	Presentation Process to the Library Board Phase 2	X		
34	Presentation Process to City Council	X	X	# Mtgs. ?
35	Presentation Process to the Planning Board	X	X	# Mtgs. ?
36	Public Design Process		X	
37				

Line	Fee Analysis		Fees	Notes
39				
40	Professional Fees			
41	Architecture Interior Design	$	1,200,292	1,601,016
42	Engineering	$	400,724	
43	Building Program	$	30,000	
44	Geotechnical Investigations	$	12,500	OMIT
45	Site Survey	$	12,000	
46	Traffic Engineering Study	$	3,500	
47	Total MS&R	$	1,659,016	1,634,516
48	City of Fayetteville Proposal			Basis
49	Parking Structure	$	107,044	5% of $2,140,882
50	Library Building	$	923,114	6.5% of $14,201,748
51	Subtotal	$	1,030,158	
52	Interior Design	$	100,619	6.5% $1,547,980
53	Total Proposed by City	$	1,130,776	
54	Difference	$	528,239.58	

Phase I
$106,734
Phase II
1,527,78?
+ expenses
EST. $100,

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF OCTOBER 5, 1999

FROM:

KEVIN CROSSON		ADMINISTRATIVE SERVICES
NAME	DIVISION	DEPARTMENT

ACTION REQUIRED: APPROVAL OF REIMBURSEMENT RESOLUTION ALLOWING THE CITY OF FAYETTEVILLE TO REIMBURSE ITSELF CERTAIN EXPENDITURES PAID DIRECTLY FROM THE OPERATING AND CAPITAL BUDGETS OF THE CITY FOR THE WASTEWATER TREATMENT PROJECT FROM TAX-EMEMPT BOND PROCEEDS ONCE THE PROJECT HAS PROCEEDED TO THAT POINT. THIS WILL ALLOW THE CITY TO BE REIMBURSED IF WE SO CHOOSE AT THE TIME WE STRUCTURE A FINANCING PLAN.

COST TO CITY:

0.00	N/A	N/A
COST OF THIS REQUEST	CATEGORY/PROJECT BUDGET	CATEGORY/PROJECT NAME
N/A	N/A	N/A
ACCOUNT NUMBER	FUNDS USED TO DATE	PROGRAM NAME
N/A	N/A	N/A
PROJECT NUMBER	REMAINING BALANCE	FUND

BUDGET REVIEW: ___ BUDGETED ITEM ___ BUDGET ADJUSTMENT ATTACHED

BUDGET COORDINATOR

ADMINISTRATIVE SERVICES DIRECTOR

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ____________

ACCOUNTING MANAGER DATE

ADA COORDINATOR DATE

CITY ATTORNEY DATE

INTERNAL AUDITOR DATE

PURCHASING OFFICER DATE

STAFF RECOMMENDATION:

DIVISION HEAD DATE

DEPARTMENT DIRECTOR DATE

Kevin D. Crosson
ADMIN. SVCS DIRECTOR

21 Sept 99
DATE

Fred Hanna
MAYOR

9/21/99
DATE

CROSS REFERENCE

NEW ITEM: YES NO

PREV ORD/RES #: ________

ORIG CONTRACT DATE: ________

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor

FROM: Kevin Crosson, Administrative Services Director

DATE: September 20, 1999

SUBJ: ***Reimbursement Resolution for Wastewater Project Expenses***

The City has, to date, spent approximately $5 million in expenses directly related to our wastewater treatment plant expansion project. This amount includes ~$3 million for the land acquisition project, $1 million for the ultraviolet (UV) disinfection system, and ~$1 million for the facilities plan and related contract amendments. All of these expenses were paid directly from operating and capital budgets.

We recommend that the City Council approve the attached reimbursement resolution. While we currently do not have a financing plan in place for the project, this resolution will allow staff the flexibility to reimburse our operating and capital budgets from tax-exempt bond proceeds, once the project has proceeded to that point. This resolution **does not** commit the City Council to any particular financing instrument, and it does not require that we be reimbursed for those expenses. It simply allows us to be reimbursed if we so choose at the time we structure a financing plan.

You will note that Section 1 includes an amount not to exceed $25 million. This is a conservative figure that, in addition to the expenses discussed above, will allow staff the ability to be reimbursed for the engineering contracts on the project that will be coming to the City Council in early 2000, and additional improvements that could be completed prior to the main expansion project.

If you have any questions regarding this resolution or this project feel free to contact either myself or Charles Venable, Director of Public Works. Thank you.

RESOLUTION

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF FAYETTEVILLE, ARKANSAS, TO REIMBURSE CERTAIN EXPENDITURES OF THE CITY PERTAINING TO THE PLANNING, DESIGNING, FINANCING, ACQUIRING, CONSTRUCTING, AND EQUIPPING OF A WASTEWATER TREATMENT PROJECT WITH THE PROCEEDS OF AN ISSUE OR ISSUES OF TAX-EXEMPT BONDS TO BE ISSUED BY THE CITY; AND STATING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Fayetteville, Arkansas, (the "City") intends to (i) construct a new wastewater treatment plant in the western portion of the City, (ii) renovate its existing wastewater treatment plant, and (iii) make associated modifications to its wastewater collection system (the "Project") to serve the growing needs of the residents of the City; and

WHEREAS, the City presently intends to finance a portion of the costs of planning, designing, acquiring, constructing, and equipping the Project through the issuance of one or more series of tax-exempt bonds of the City (the "Bonds"); and

WHEREAS, the City has determined the need to expend its funds to pay certain costs of the Project prior to the issuance of the Bonds; and

WHEREAS, in order to utilize the proceeds of tax-exempt bonds to reimburse original expenditures made by the City with respect to the Project, it is necessary under the Internal Revenue Code of 1986, as amended (the "Code") and U.S. Treasury Regulation Section 1.150-2 that the City make a present declaration of its official intent to make such reimbursement;

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

Section 1. That the City intends to issue its Bonds in one or more series in aggregate principal amount not to exceed $25 million under the constitution and laws of the State of Arkansas to finance a portion of the costs of planning, designing, acquiring, constructing, and equipping the Project.

Section 2. That the city intends to utilize a portion of the proceeds of the Bonds to reimburse itself for certain expenditures made by the City prior to the issuance of the Bonds with respect to the planning, designing, acquiring, constructing, and equipping of the Project.

Section 3. That the City intends this resolution to be its declaration of "official intent" under the Code and U.S. Treasury Regulation Section 1.150-2 to reimburse certain original expenditures with respect to the Project.

PASSED AND APPROVED this ____ day of _____________, 1999.

APPROVED:

____
Fred B. Hanna, Mayor

ATTEST:

____
Heather Woodruff, City Clerk

[SEAL]

Fayetteville
CHAMBER OF COMMERCE

September 24, 1999
Our 110th Year

Honorable Fred Hanna
Mayor
CITY OF FAYETTEVILLE
113 West Mountain Street
Fayetteville, AR 72701

SUBJECT: Industrial Prospect

Dear Mayor:

The Fayetteville Chamber of Commerce Economic Development Office has made contact with a consultant that represents an industrial client. The prospect seeks to construct a 100,000-ssquare-foot facility. The project will create 200 new jobs in Fayetteville with an average hourly wage exceeding $12.00 per hour (management and hourly).

The proposed development site is the front 14 acres of Lot 13 containing 21.6 acres in the Fayetteville Industrial Park – West – a lot line adjustment will be required. The proposed option term is 120 days with $1,000 for consideration. Close of Escrow will be 90 days from exercise of Option. Purchase price is to be $20,000 per acre.

Conditions to Purchase:

1). Seller shall be responsible for creating the legal parcel to accommodate the 14 acres, which shall be approved by Purchaser.

2). Optionee shall have the right during the term of the Option to conduct all test, studies and reports it deems necessary for it's intended use.

3). Optioner shall provide to Optionee all tests, studies and reports it may have reasonable available to Optioner related to the property.

4). Seller shall, at its sole cost and expense, extend the street to the end of the 14-acre parcel to be created.

ACCREDITED

Conditions to Purchase (continued):

5). Tax Increment Financing: The City of Fayetteville shall provide to Purchaser the present value sum of 10 years worth of estimated real property taxes for the property.

I want to formally request that this project be included on the next Council Work Session scheduled for 4:30 p.m. on Tuesday, September 28th. Should you have questions, or if I can be of any further assistance to you, please do not hesitate to call.

Sincerely,

J.V. Crider

James V. Crider, Director
Economic Development

Enclosure

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
SEPTEMBER 21, 1999

A meeting of the Fayetteville City Council was held on September 21, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ITEMS DISCUSSED	ACTION TAKEN	
Approval of the Minutes	Approved	
Water / Sewer Relocation Highway 265	Approved	Res. 119-99
Passenger Facility Charge	Approved	Res. 120-99
Greathouse Park Change Order	Failed	
Wastewater Treatment Plant Report	No action	
Cell Tower Site	Approved	Res. 121-99
RZ 98-22 Amendment	Passed	Ord. 4184
VA 99-11	Passed	Ord. 4185
RZA 99-2	Passed	Ord. 4186
RZ 99-26	Left on first reading	
RZA 99-3	Passed	Ord. 4187
RZ 99-27	Left on first reading	
RZ 99-25	Left on second reading	

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Alderman Trumbo requested that the agenda item for the Greathouse Park Change Order be removed from the Consent Agenda and placed under Old Business.

CONSENT AGENDA

WATER / SEWER RELOCATION HWY 265
A resolution approving a construction contract with Basic Construction Co. for Highway 265 widening (Highway 45 to Highway 16) -- Water and Sewer Relocations in the amount of $1,301,170.00; a project contingency in the amount of $130,000 (10%); and a budget adjustment.

RESOLUTION 119-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PASSENGER FACILITY CHARGE
A resolution approving the implementation and collection of a Passenger Facility Charge application #3 from eligible passengers at Drake Field, the amendment of existing applications #1 and #2, and the closure of application #1. The resolution is a Federal Aviation Administration FAR Part 158 requirement for the application process. As with applications #1 and #2, a $3.00 PFC Charge is being requested in application #3. The Airport Board approved this PFC application and amendments at their August meeting.

RESOLUTION 120-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Russell moved to approve the Consent Agenda. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

GREATHOUSE PARK CHANGE ORDER

A resolution to amend the contract with CEI Engineering Associates, Inc. for the purpose of conducting additional analyses to see if there is anyway to avoid major channel improvements to alleviate additional flooding that could be caused by building the park access bridge over Town Branch creek.

Alderman Trumbo had requested the item to be removed from the Consent Agenda. He explained he wanted to discuss the money which had been budgeted for the project. They were going to need additional money to carry out additional studies that the Council was wanting them to do. He thought they had gone the extra mile.

Ms. Connie Edmonston, Parks and Recreation Department Superintendent, explained some of the money was needed to add on alternatives. They had CEI look at the most feasible method for this project. They had looked at the economics and the cost of the project, at the park access and all the other things they had discussed. The request did entail additional meetings which had eaten up all the time they had budgeted. They were paying the engineers by the hour to come to special meetings to help explain the project to other people. They had used a lot of the construction supervision time already in their original contract.

Alderman Trumbo stated he was for this if this was to get the project moving. He was against the change order if it was to fund more studies.

Ms. Edmonston replied some the money was for looking at other alternatives.

Alderman Austin asked if they did not approve the amendment to the contract to increase the funding, what would happen.

Ms. Edmonston answered they would go on with the project as is. They might need some extra funding for the construction supervision at the project for CEI.

Ms. Brenda Theil, Parks and Recreation Advisory Board member, stated it had been the Parks Board's understanding that they were to look at other methods.

Mr. Todd, CEI Engineering, stated the contract amendment as it was presented a series of lump sum items that they would do in priority order. The last two items could not be done without specific authorization from the Parks Department. The analysis would include constructing an ADA ramp. They might be able to reduce the amount of channeling by changing to a more expensive type of construction for the ramp. They might also be able to change the dirt level in the park on the south side and create an overbank relief channel so the trees were higher than the park side. It was a matter of computer modeling if they could do that without destroying their park. If they lowered it too much they would take a lot of land from the park.

Alderman Daniel asked if changing the specifications on the bridge would still depend on them getting ingress and egress from the west side.

Mr. Todd replied it would still require ingress and egress for park equipment, but not for public access. All their public access would be able to come from the north side. They were only going to look at ADA alternatives for the bridge. They could not have separate but equal access. They could not put the handicapped off to one side. They needed to be co-located.

Alderman Young, referring to the change order, stated that if they found a good solution in the beginning they would not have to do the rest of them.

Mr. Todd replied that Alderman Young was correct. He added that he believed that any alternative they came up with would be more expensive than what they had now. He would be very surprised if they came up with a lower cost solution. He thought they came up with the lowest cost solution the first time.

Alderman Santos did not believe Mr. Todd was correct about the ADA requirements. He noted that at the City Administration Building and at the Bank of Fayetteville neither one had their ADA access together with the general access.

Mr. Venable replied these buildings had been retrofitted and had been grandfathered in.

Alderman Young asked if the City's equipment could go across a breakaway bridge.

Mr. Todd replied if would depend on the bridge. He knew the bridge would be more expensive than a fixed bridge. He added that, the larger the breakaway bridge, the more likelihood there was that the City would need special equipment to put it back in place after a flood. That would need to be a part of their analysis so they would not have to hire an outside contractor to put the bridge back in place.

Alderman Russell commented that the change order was what he had been expecting. He did not believe it was a lot of money.

Ms. Edmonston added that the details of an alternative design had not been included in this change order. There would be design costs necessary to change the bridge.

Mr. Todd explained they would not know what to design until they had evaluated the alternatives.

Alderman Trumbo asked Ms. Edmonston if they needed to consider more options. He thought they had done a good job.

Ms. Edmonston replied she thought they had done a great job. Their engineers had told them from day one that for the amount of money they had to spend on this project, looking at the feasibility of the plan, they had a good design. The neighborhood wanted that bridge. She felt very strongly that they had to provide ADA access for the north side of the park. And that had been expressed by that neighborhood very strongly.

Alderman Russell stated it was his understanding that no one understood the extent of the project until after they had approved the original contract. It was his opinion that they needed to spend the additional money to make sure they had considered all the options.

Alderman Russell moved to approve the change order as presented and recommended by the Parks Board. Alderman Young seconded the motion.

Ms. Fran Alexander, an area resident, stated that she thought that removing this item from the Consent Agenda was detrimental to the process for the citizens. She stated she had counted all the trees and there were over a hundred trees. She urged them to vote for the change order.

Alderman Reynolds state there had been several people walking the neighborhood. Some of the residents had lived there for over 54 years. They had never had anyone refuse to sign the petition. They explained to them that the trees would have to be removed to put the original bridge in. Everyone in the neighborhood wanted the original contract done for the park. He thought they needed to go along with the people who lived there and had to put up with it every day, rather than having people come from other parts of the city and trying to ram something down their throats that they did not want.

Alderman Austin added thirty to forty people in the area had signed the petition. There had not been one person they talked to that was not for the original project. When he had run for City Council in the area, he had gone to those people's houses. They had asked him to represent them on things that were close to them. That park was close to them, it was in their backyard. He tended to listen to those people.

Upon roll call the motion failed by a vote of 4-5-0. Austin, Davis, Trumbo, Reynolds voting nay. Mayor Hanna broke the tie by voting nay.

WASTEWATER TREATMENT PLANT REPORT

A report from Burns and McDonnell on the existing wastewater treatment plant.

Mr. Jerry Sonderegger and Mr. David Hauser of Burns & McDonnell and Dr. James Moore, Professor Emeritus of the University of Arkansas, explained how they planned to proceed with the City. They had worked with the City on the scope of the project and on what needed to be included in the study. The purpose of the study had been to determine how much wastewater could flow through the wastewater plant. They did not evaluate the operation of the plant or the life of the plant. They did not compute the original design. They had not been asked to comment on the design assumptions they had made in 1984. He explained the basic design and function of the plant, and the process and criteria they had used in evaluating the plant. Their recommended average daily flow was 12.6. They had applied this flow rate to the basins to make sure they could handle that flow and still be within the standards. He added the plant was approximately at 91% or 92% of capacity at this point. It was his opinion that the City was correct in preparing to more forward towards relief for this plant.

Alderman Trumbo stated there had been some question as to whether or not the plant was actually at this capacity level. Their report was showing that they were at approximately 93% of capacity. He added that when this plant had been designed, they had not taken into consideration the explosive growth rate Fayetteville had been experiencing.

Alderman Young asked Mr. Sonderegger if he had seen the original resolution approving the study. The study had not been passed to get a study of what the plant was currently doing. The study had been intended to determine how much flow the plant should be able to treat.

Mr. Sonderegger replied that he had gone by two items in undertaking this study, one being the RFP which stated the need to review the scope of the 201 Facility Plan. He had reviewed all the construction documents and the facility.

Alderman Young asked, based on the 201 Facility Plan, what were their recommendations for the plant.

Mr. Sonderegger replied about 11.4 million gallons per day. The design capacity was a total different term. He could not tell them what CH2M Hill had used as their design standard. He took it to be the average daily flow, which was a general term used in the industry. They had been asked to review the plans. The contract stated they were to perform an engineering evaluation of the hydraulic capacity of the plant and to recommend to the City the capacity rate of design average flow and peak flow. And they had accomplished that.

Alderman Young questioned the statement "conform to construction drawing."

Mr. Sonderegger answered that "conform to construction record" was a term that engineering companies used. When a plant was constructed they would find things that they did not anticipate or a better way to do something or there were change orders to the original design.

The resident engineers in the field keep track of any changes in the log book, noting any changes which were made. At the end of that time those were put onto "conform to construction records" which was a legal term indicating which of the records show how the structure was made. He had not read through the daily logs. They had not been asked to see if the construction records matched the daily log.

Alderman Trumbo thanked Mr. Sonderegger and stated their firm had done an excellent job in fulfilling the contract.

Mr. Rose asked Alderman Young if his contention was that the plant was not constructed the way it was supposed to be. He asked what made him think that it had not been.

Alderman Young stated there had been questions from the public and former workers. He thought it might show up in the daily logs.

Alderman Austin asked what it would cost them to overlay a growth rate chart and a rainfall chart over the flow rate chart to see if the rainfall chart was the same as the peak flow chart.

Mr. Sonderegger replied that he did not know if that information was readily available.

Alderman Austin stated they needed to be dealing with their growth rate and serving their people. They needed to make allowances for infiltration and avoid those things. He was not in favor of spending more money to do more studies. He was satisfied with the work done by these engineers.

Alderman Trumbo stated that Burns and McDonnell had shown them where they were. He asked Mr. Venable if he was satisfied with the report.

Mr. Venable stated he was satisfied and the contract had followed the four items which had been issued in the resolution. Everyone had a chance to review that contract and to improve the contract. He thought they had done a good job.

Alderman Young questioned the permit. They were limited to the volume going to Mudd Creek, but they were not limited to that going to the White River as long as they met the mass loadings.

Mr. Sonderegger replied that was correct. He explained the condition of the permit now, and what was allowed.

Alderman Reynolds explained that when that plant was constructed, the original contract went belly up. The insurance company had to send in contractors to finish the plant. He thought they were really lucky to have twelve years use of a trouble-free plant. They needed to be thankful.

In response to questions, Mr. Sonderegger stated that at his office, when they had completed a project and the design to conform documents had been made, the original design documents were discarded. Sometimes an office engineer did not have a good handle on the conditions they were going to find in the field. There could be rock, bad soil, or any number of things. The original documents only served to confuse the issue after the project has been completed. It was their policy and most engineers' policy, once the project has been constructed to discard the correspondence files and the mark-ups, because they were no longer relevant. The only thing relevant was what had been built.

In response to concerns from aldermen regarding a potential lawsuit, Mr. Rose stated that if there were any design faults in the plant that they were not aware of, there was a thing called *laches and estoppel* which meant if they had not discovered something after this long a period of time, they probably could not go back and sue someone. None of what he had heard tonight would give him reason to believe that the City, by staff or Council decision, had in any way been involved in any wrong doing. He could not chase a phantom.

CELL TOWER SITE

A resolution approving an agreement with MSA Limited Partnership (Alltel Communications) for lease of tower space on the Gulley Road water tank for the purpose of installing radio communications equipment and appurtenances (building and antenna).

Alderman Santos stated he had looked at the letter presented to the City Council at the first of the meeting from the residents in the area listing their changes to the contract. He thought some of the requests were reasonable. Some of them were the responsibility of the county. He did not think they needed to agree with some of the items at all.

Alderman Russell thought there were some valid points. He understood that the neighbors wanted assurances.

Mayor Hanna thought they needed to consider the resolution approving the agreement. The other things were suggestions. They had spoken with the person who had written the letter a couple of times. He thought they would try and do what was right for the neighbors in the area. At the present time they did not have any plans to do anything. Each plan they would do would be brought back before the council.

Alderman Davis agreed that they did not need to try and solve every problem tonight.

Alderman Russell stated some of the requests on the letter had to do with the current agreement which was on the table, such as approving the lease without satisfying some of these items which seemed amendable to everyone.

Mr. Jim Smith, General Manager for Alltel in western Arkansas, stated he did not know what the residents wanted, but he was willing to consider them.

Mayor Hanna stated this was rather late. If they were not satisfied with the resolution as they had it drawn up, then the aldermen could vote against it.

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

Mr. Jeff Erf, an area resident, questioned the dollar amount of the lease and how that amount was arrived at.

Mr. Smith answered that amount was the standard amount offered in a co-location. One thousand dollars was pretty much the standard cost across the board.

Mr. Erf stated the early draft of the cell tower ordinance required an independent appraisal. He asked if the City was comfortable with taking Alltel's word about the growing rate. He asked if they had negotiated the price.

Ms. Alyssa Coffield, Alltel, stated she handled all the site acquisitions for the central market, including Fayetteville. They were currently co-located on another one of the City's water tanks, which they had negotiated several years ago. They had doubled that rental payment and upped their amount. They used field agents and a site acquisition company to negotiate most of their contracts for them. She noted this contract had gone through several months of negotiations with the City and this was what they had agreed upon.

Mr. Erf noted the contract tied the City to the lease for ten years. He questioned whether that was what the City wanted to do since the technology was changing so fast.

Alderman Davis replied the time period was for two five-year periods. If the antenna is abandoned, they would have to remove it. Most contracts were based on five years with the option to renew.

Ms. Colleen Gaston, 3270 Rom Orchard Road, had written the letter to which they had referred earlier. She explained that Alltel did not submit their rendition of the site until yesterday. She asked how they could have reached a conclusion any more quickly than they had. She thought there were some legitimate concerns about the agreement.

Alderman Austin stated the City wanted to do the right thing. They were not under any obligation to make a contract with county residents, but they wanted to do the right thing. Most of her requests fell into the category of doing the right thing.

Alderman Russell thought the residents wanted assurances in writing because of what had happened in the past. He thought they needed to make a special effort on the front end to the neighbors that could not vote them out.

Mayor Hanna stated this was the time to vote on the agreement, not the time to change the agreement. The City would try and work to protect the residents in the area.

Ms. Gaston stated there had been only two weeks since this had been brought to the public's attention.

Ms. Coffield stated some of Ms. Gaston's concerns were valid about the exhibits. She explained the exhibit would be provided within 180 days after the complete execution of the contract. She had supplied the accurate legal description to Mr. Don Bunn, Assistant Public Works Director, along with the drawings and construction plans.

Ms. Gaston stated as a practice of good business they should see what they were getting before they signed a lease.

Mr. Smith stated they wanted to do what was right for the residents. He also lived in town.

Alderman Trumbo noted that Alltel had a better site located.

Mr. Smith replied there was some compromise. They did have another site located. They could have already built on that site. They had decided to wait because they felt this was a better solution for everyone involved.

Alderman Davis stated he had spoken with four people in the area and they had all told him to go ahead and vote for the lease. He had not seen any other opposition to the antenna.

Alderman Santos added that Alltel has shown a good faith effort for co-location, which was in the ordinance.

Mr. Smith added they had capacity issues in that area now.

Alderman Austin stated he would be voting for the resolution, with the understanding and the expectation that the City would do what they said they were going to do.

Upon roll call the resolution passed by a vote of 5-3-0. Russell, Trumbo, and Santos voted nay.

RESOLUTION 121-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 98-22
An ordinance approving an amendment to the Bill of Assurance of RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company and successor owner Clem Johnson for property located at 1798 E. Huntsville Road. Ordinance 4175 rezoned this property from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial. This request is for an amendment to the Bill of Assurance to allow automobile restoration and repair in addition to used car sales.

Mr. Rose read the ordinance for the first time.

Mayor Hanna stated the only neighbors that had contacted him had been concerned about the restoration and repair. The owner had promised to screen the area.

Alderman Reynolds stated he also had received phone calls. All of them had been for the approval of this project. All of them wanted to make sure that if something did happen to this business that the property would revert back to C-1.

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

Mr. Rose read the ordinance for the second time.

Alderman Young moved to amend the ordinance to add the wording "classic." Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Conklin did not believe the owner would object to the addition.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Austin seconded the motion.

Alderman Russell added the Bill of Assurance was only a gesture of good faith. Anyone who bought the property could do what ever they wanted to. The City had to be the watch dog.

Mr. Erf, an area resident, encouraged to Council to vote against the ordinance. The use specified was out of character for the neighborhood.

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

Upon roll call the motion carried unanimously.

ORDINANCE 4184 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

VA 99-11
An ordinance approving vacation request VA 99-11 as submitted by Curtis and Kathryn Coleman for property located at 2922 Whippoorwill Lane. The property is zoned R-1, Low Density Residential, and contains approximately .29 acres. The request is to vacate a portion of a 20-foot utility easement along the north property line.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Austin 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 4185 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 99-2
An ordinance approving annexation request RZA 99-2 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on County Road 92 (Zion Road). The property is in the planning growth area and contains approximately 34.72 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 Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

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

Alderman Young asked Ms. Harrington if her client recognized and understood that because of the sewer capacity problem that they were not guaranteed sewer hook-up.

Ms. Harrington replied they were.

ORDINANCE 4186 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-26
An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property located on County Road 92 (Zion Road). The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion failed by a vote of 4-4-0. Young, Russell, Daniel, and Santos voted nay.

THE ITEM WAS LEFT ON THE FIRST READING.

RZA 99-3
An ordinance approving annexation request RZA 99-3 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property located west of Double Springs Road. The property is in the planning growth area and contains approximately 47.98 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 Austin seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

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

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

Alderman Young asked Ms. Harrington if her client was aware of the sewer capacity problem and they could not be guaranteed sewer hook-up.

Ms. Harrington replied yes.

Alderman Santos added that although this looked like urban sprawl, this guaranteed that the development would be up to standard and not be substandard development at the edge of the City.

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

ORDINANCE 4187 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-27

An ordinance approving rezoning request RZ 99-27 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property west of Double Springs Road. The property contains approximately 47.98 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential.

Mr. Rose read the ordinance for the first time.

THE ITEM WAS LEFT ON THE FIRST READING.

RZ 99-25

An ordinance approving rezoning request RZ 99-25 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for property located west of Rupple Road and east of Meadowlands Subdivision. The property is zoned A-1, Agricultural, and contains 17.40 acres. The request is rezone the property to R-1.5, Moderate Density Residential.

Mr. Rose read the ordinance for the first time.

Alderman Daniel moved to suspend the rules and move to the second reading. Alderman Reynolds 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.

Meeting adjourned at 8:45 p.m.

AGENDA SESSION
SEPTEMBER 28, 1999

for
OCTOBER 5, 1999
CITY COUNCIL MEETING
FAYETTEVILLE

NEW ITEMS:

PUBLIC LIBRARY: OPTION TO PURCHASE

DISMISSAL OF PUBLIC NUISANCE AGAINST BAKERY FEEDS

LAND POSSESSION -- HWY. 265

OMI CONTRACT RENEWAL

ADDITIONAL INFORMATION:

INDUSTRIAL PARK

AGENDA SESSION
SEPTEMBER 28, 1999

for
OCTOBER 5, 1999
CITY COUNCIL MEETING
FAYETTEVILLE

NEW ITEMS:

PUBLIC LIBRARY: OPTION TO PURCHASE — consent

DISMISSAL OF PUBLIC NUISANCE AGAINST BAKERY FEEDS — not on agenda

LAND POSSESSION -- HWY. 265 — new business

OMI CONTRACT RENEWAL — consent

ADDITIONAL INFORMATION:

INDUSTRIAL PARK

new business - Ron Austin

AGENDA SESSION
SEPTEMBER 28, 1999

for
OCTOBER 5, 1999
CITY COUNCIL MEETING
FAYETTEVILLE

NEW ITEMS:

CONSENT PUBLIC LIBRARY: OPTION TO PURCHASE .

~~DISMISSAL OF PUBLIC NUISANCE AGAINST BAKERY FEEDS~~

NB 9 LAND POSSESSION -- HWY. 265

NEW B8 - OMI CONTRACT RENEWAL -

RES. - AUSTIN / C.C. RECOGN. - NEED COPY OF RESOLUTION

ADDITIONAL INFORMATION:

INDUSTRIAL PARK

STAFF REVIEW FORM

X Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of October 5, 1999.

FROM:

Tim Conklin	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZ 99-28.00 submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

COST TO CITY:

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

BUDGET REVIEW: ______ Budgeted Item ______ Budget Adjustment Attached

Budget Coordinator ______ Administrative Services Director

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

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	9-17-99 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and the Planning Commission approved the rezoning request with a vote of 5-2-0. Commissioners Estes and Hoover voted against the rezoning.

Division Head	9-16-99 Date	**Cross Reference**
Department Director	9-20-99 Date	New Item: **Yes** **No**
Administrative Services Director	20 Sept 99 Date	Prev Ord/Res#:________
Mayor	9/21/99 Date	Orig Contract Date: ______

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: **Fayetteville Planning Commission Members**
THRU: **Tim Conklin, City Planner**
FROM: **Brent Vinson, Associate Planner**
DATE: **September 13, 1999**

RZ 99-28.00: Rezoning (Realty Resources, pp 364) was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

RECOMMENDED MOTION:

Staff recommends approval of the proposed R-2 zonings based on the findings included as part of this report.

PLANNING COMMISSION ACTION: _YES_ **Required**
_____**Approved** _____**Denied**

Date: September 13, 1999

Comments:

____

____

CITY COUNCIL ACTION: _YES_ **Required**
_____**Approved** _____**Denied**

Date: __/__/__

BACKGROUND :

The applicant requests the rezoning of five adjacent properties off of Deane Street from R-1 (Single Family Residential) to R-2 (Medium Density Residential) in order to develop multi-family housing targeting the needs of students (12-14 units per acre.) Four properties are owned by William M. Weatherford and one property is owned by Larry and Brenda Swain.

ADJACENT LAND USE AND ZONING:

North: The University of Arkansas experimental station has vacant pastureland to the north.

South: There is vacant pastureland to the south.

East: Duplexes exist to the west on Linda Jo Place and Deane Street.

West: To the west on Sang Avenue are single family residences, duplexes, apartments, and a mobile home park.

INFRASTRUCTURE:

Streets: Deane Street is a Minor Arterial with 90' of R.O.W. (45' from the centerline.)

Water: There is a 12" waterline existing on the south side of Deane Street.

Sewer: There is a 6" sewer line along Sang Avenue and off of Porter Road going east to Linda Jo Place.

LAND USE PLAN:

The General Plan 2020 shows this area as Residential north of a school (Asbell Elementary.) There is flood plain existing on the property.

RZ 99.00-6.00 FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The Land Use Plan (General Plan 2020) shows this area as residential. The proposed zoning of R-2 (Medium Family Residential) is consistent with the plan.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning R-2 is justified and needed at this time.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning would not create or appreciably increase traffic danger and congestion in this area.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zonings would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities. On-site and off-site improvements including sewer will be required at the time of Large Scale Development and Preliminary Plat approval.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

Proposed Change to Zoning
Deane Street
Fayetteville, Arkansas

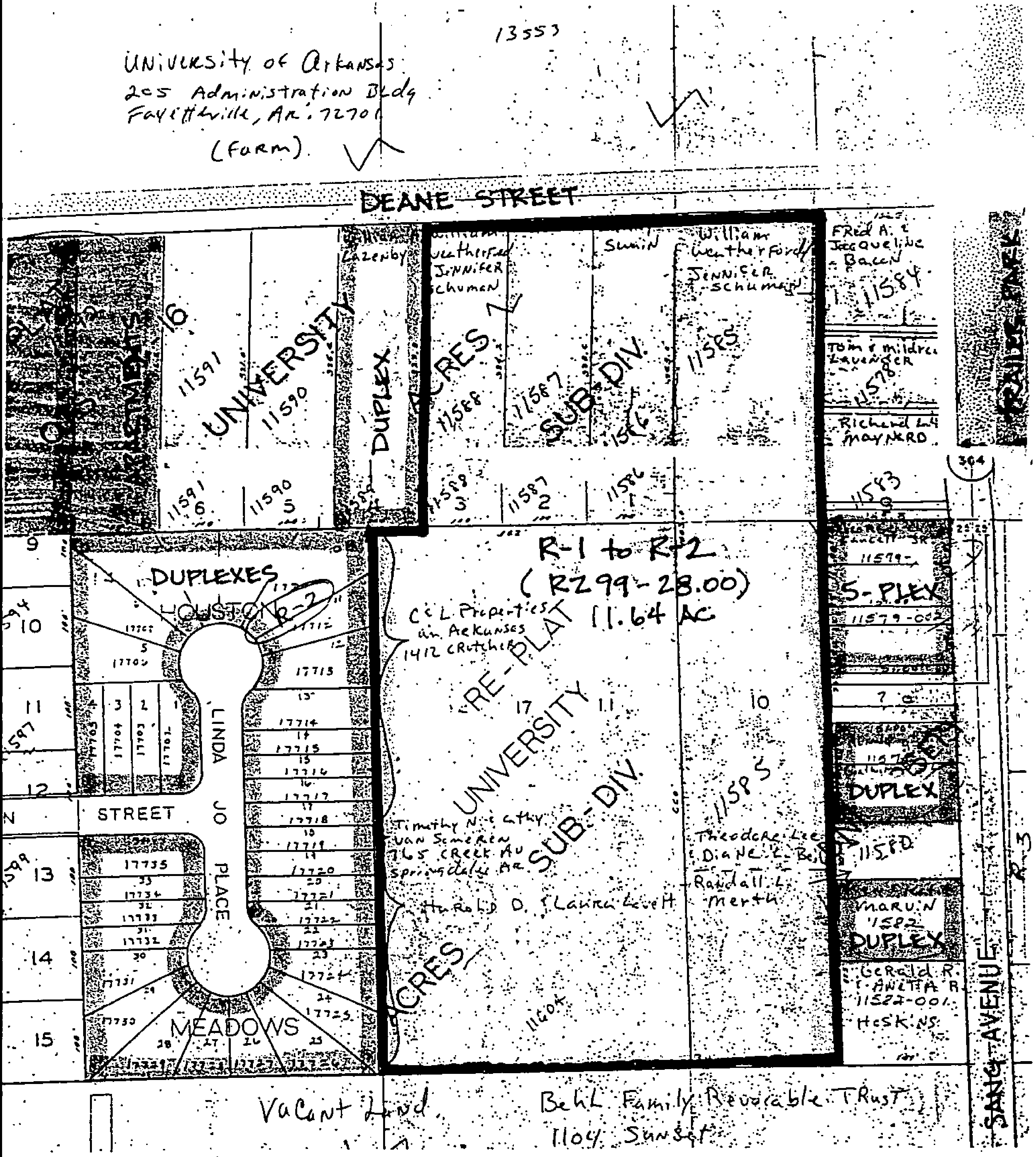
August 2, 1999

Written Statement

Pursuant to Section 5 of the Application for Rezoning:

a. The proposed hange is from R-1 to R-2 on parcels of land map 765 – 11585,11586, 11587, and 11588. Parcel 11586 is currently owned by Larry and Brenda Swain; remaining parcels are currently owned by William M. Weatherford. All parcels are under agreement to Realty Resources, Chtd.
b. We propose to develop the subject parcels as a multifamily development which will be targeted to the needs of students; density will be 12 – 14 units per acre.
c. 1. The completed development will be residential in nature. Surrounding properties include R-2 and R-3 developments as well as single family. The proposed use will be an infill situation, and will serve to reduce sprawl by increasing density of land use slightly from existing zoning.
   2. Traffic generated is estimated to be on a par with current zoning due to target market and because of its access to public transportation which will reduce traffic impacts.
   3. The completed development will be architecturally designed and will compliment other housing in the area. The property will be professionally managed.
   4. Signage will be limited to project identifications at entrances per ordinances.

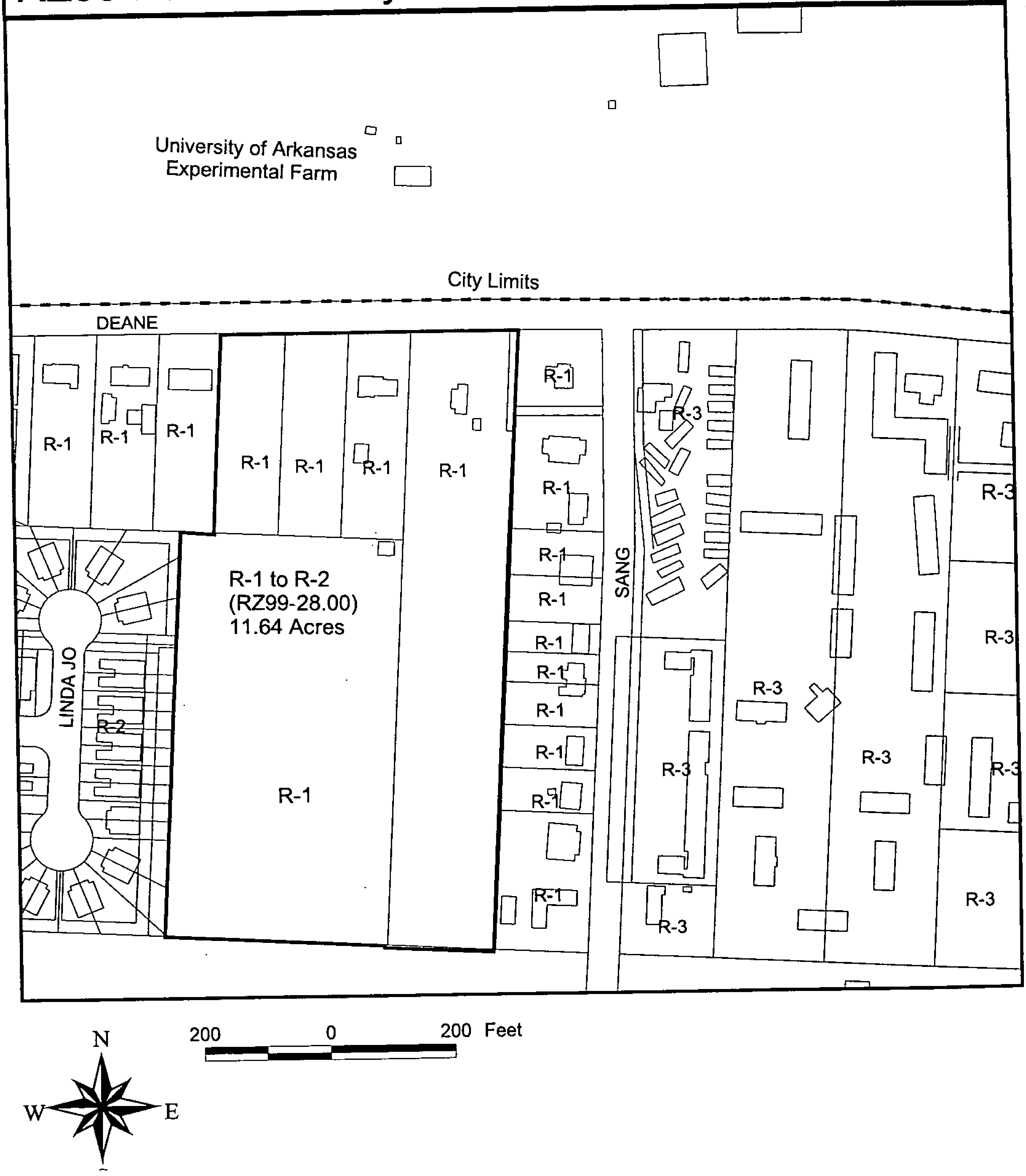
d. The site is serviced by a 12" water main on Deane St. Sewer stubs, 6" in size exist into the property from Porter St. and Sang Ave. A sketch of the property and the locations of utilities is attached.



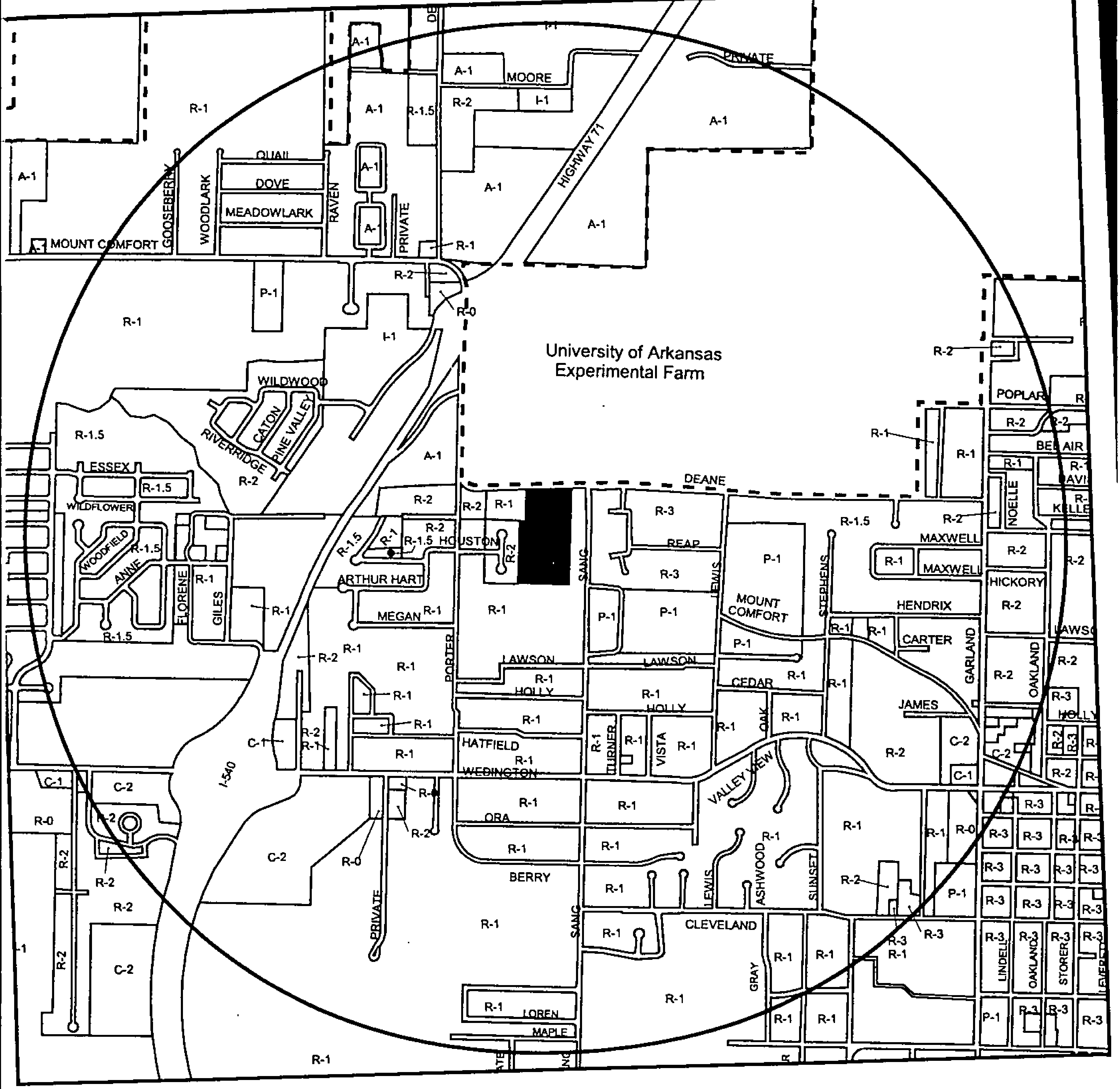
USES IN THE IMMEDIATE VICINITY
(Information provided by applicant)

NORTH
(not to scale)

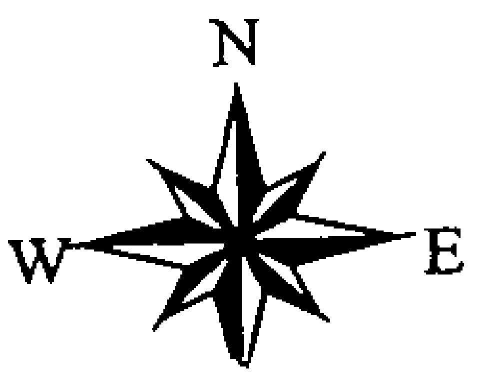
RZ99-28.00 - Realty Resources, Chtd - Close Up



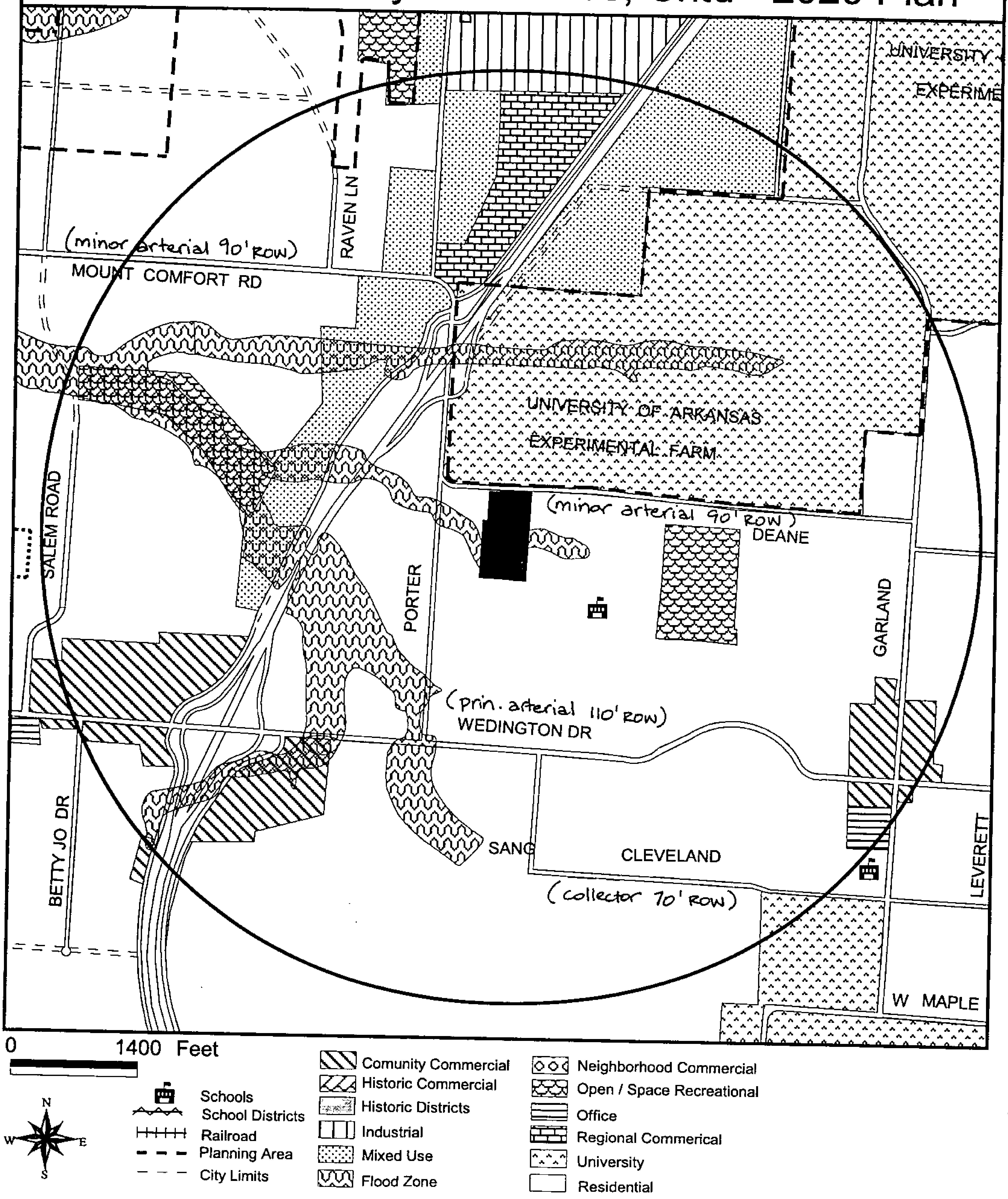
RZ99-28.00 - Realty Resources, Chtd. - One Mile Diameter



1400 0 1400 Feet



RZ99-28.00 - Realty Resources, Chtd - 2020 Plan



RZ99-28: REZONING
REALTY RESOURCES, PP364

This item was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200 and 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

Michelle Harrington and William Hahn were present on behalf of the request.

Staff Recommendation

Staff recommended approval of the proposed R-2 zoning.

Committee Discussion

Johnson: Staff, could you give us your explanation of this recommendation on this rezoning.

Conklin: Staff did recommend approval of the rezoning. This site is located on Deane Street to the north is the University of Arkansas Experimental Farm. It does adjoin R-1 zoning on the east boundary. However, four of the structures on Sang Avenue are duplexes and one structure is a 5-plex. On the west boundary line, it does adjoin R-1 zoning and R-2 zoning. If you'll refer to page 2.6 in the agenda, Linda Jo Place on the western boundary has developed with townhouses and it's zoned R-2. Staff has recommended approval based on the findings in this report that additional multi-family residential dwellings in this area are appropriate and consistent with the 2020 Plan. If you have any other questions, I'll be happy to answer them at this time.

Johnson: Commissioners, any additional questions of staff? Ms. Harrington?

Harrington: My name is Micki Harrington. I'm here tonight representing Realty Resources, Chartered and Mr. Hahn, the representative, is here with me tonight. We are requesting as Tim indicated, approval of R-2 zoning on this property. We believe that it is a good location for R-2 zoning because of what is around it and across from it. It is an infill situation in an area that is very appropriate for it and it's serviced by the University of Arkansas bus system which hopefully will allow a lot of transportation needs to be met with the bus system and not require more cars to the University because the bus system is right there. We think it is a good place to put an R-2 development but we're happy to answer questions and help with details as you need.

Johnson: Do you have any questions of Ms. Harrington at this time?

Ward: How many units do you plan on putting on this?

Harrington: It's not certain yet but they're talking roughly 120 to 140 depending on the site needs and demands.

Johnson: Any other Commissioners with initial questions.

Estes: Staff, how many units would an R-2 zoning accommodate?

Conklin: R-2 zoning does allow up to 24 units per acre. This would allow 275.

Estes: Thanks.

Johnson: So, the maximum that you're contemplating, although, of course, you're not bound to this would be about half.

Harrington: About 12 to 15 units per acre.

Public Comment

Richard Maynard, residing at 1717 N. Sang was present in opposition to the rezoning.

Maynard: I'm here with my neighbors today. Should I introduce them?

Johnson: No. If they wish to speak individually, they may. Otherwise, if they merely want to let us know that they support your position, they can do that through a show of hands.

Maynard: I own the property at 1717 N. Sang. First, I want to make it clear that we do not object to Mr. Weatherford's selling of his property. We sit on Sang Avenue which is on the east side. We've all enjoyed that little bucolic pasture for a long time. We know it isn't going to last forever. We certainly don't want to interfere with his right to sell his property. Nor do we object to Mr. Hahn developing that property. In fact, in a way, I would welcome it. What we do object to is this drastic change to that neighborhood and to our quality of life and to our investments. I moved here about 5 years ago and I looked around quite a bit in Fayetteville to find a place that I thought I would be happy with and that I could build a home. I did find a really nice piece of property. Ms. Lavender, one of my neighbor's here, her husband built it about 40 years ago but it hadn't been kept up. One of the first things that I was a little bit nervous about was there was a mobile home park across from me and as Tim said, there were several duplexes going south of me to Ms. Hoskin's home. She lives by the Baptist church there and she is here with us tonight. There's a 5-plex right to the south of me. It made me nervous. I came down to this office to find out exactly what the zoning was and it all said R-1. I didn't know what R-1 meant and I asked them about that and the reason those were R-1, they can say there are duplexes there now and

they can say there's a quad-plex there and there's a mobile home across the street. The mobile home may be different zoning but those were still R-1. Those were there before the city limits expanded so they were grandfathered in. Right now, that neighborhood that we are talking about is primarily R-1. It is primarily designed for low density residential. I can only think that your predecessors, the City Planners that came before, had a reason if those duplexes were there and that mobile home was there to call it R-1 and not see in the future that as R-2. What's over there on the west that is R-2 on Linda Joe Place and as Tim said, they are duplexes. In fact, until very recently because I don't have any real cause to go over there, I didn't know that they weren't single family homes. I don't know if they are rentals over there or if they are owned. Those are nice places there. They don't adversely add to the population density. I came down here last Thursday, just to get some clarification of what Mr. Hahn had in mind here and I did talk to Brent and he helped me out quite a bit on some things. The main thing that we were concerned with was what exactly did he have in mind. Did he have in mind what is over at Linda Jo Place? Those nice, well kept duplexes or did he have something else in mind. Brent told me he didn't really know. We really couldn't ask that. Once you rezone that, it seems like as I read this, you have quite a bit of latitude as to what you're going to put in there. As I look at 12 to 14 units, in an 11 acre space of land, I'm not quite sure how Mr. Hahn is going to that and keep the parking regulations and keep the green ordinance and by the way, I have a question on that --

Johnson: You're several steps ahead of where we are in this process. Tonight, we're only looking at the issue of rezoning. We can't get into green space issues and development issues. We'll look at that if and when this ever gets rezoned.

Maynard: The only thing that I can see that he can probably do is go up and that means 2 story townhouses probably 8 units per building. That is going to be a drastic change. That is going to add so much population to that small area of land. Also, Ms. Doege knows more about this than I do and I'll let her speak to that, part of this is on flood plain. Again, I don't know what Mr. Hahn has in mind. How is he going to rectify that? Is he going to build up the land and if so, where is that water going to go inside of our own back yards? I realize maybe this isn't an issue that I can talk about tonight but we live there and these are concerns of ours. Access is another problem I have. The only access I see is on Deane Avenue. So, we have lots of concerns that maybe I can't address tonight or maybe you can't answer but that's a problem that we have. We would like to see something like Linda Jo Place, like something that is going to add to the quality of the neighborhood then we would be okay with that. We knew that property was going to be sold and developed at some point. We're not going to keep things as they are but we are trying to protect our quality of life because we live there and we own property there. In my own particular case, because it was R-1, over the past 5 years I have spent a lot of time, a lot money, I've taken out a second mortgage and worked a second job to make this into a home that I would be happy with. Now, you're going to change the rules on me. I don't quite understand what compelling need there is. If I can refer and I think this is something I can talk about, is on the final pages of this, the findings of the staff. I'm not going to comment on number 1. I don't know that much about it to comment on it. I will comment on number 2:

> "A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed."

The finding of the staff was that yes, it was justified and yes, it is needed. Our question is why? Why is it needed? I can only think of 2 reasons. If you're putting apartments in there for college students, the only reason that I can think of is that there's a dearth of college housing available now which is an interesting thing because I teach in a special program at the University. When I was on my way to the office yesterday, I went by the College Park Apartments. There's a big, red sign out there with apartments available $199 and up. I got an idea and I started calling other places. I called Faucette Properties. They have apartments available. I called Washington Plaza, just a half a block over from us on Deane and Lewis and they had apartments available. The program I work at is an English program for international students. They come to us before they go into the University. One thing we do get for them is housing. I talked to our housing coordinator today and asked how much trouble they had finding apartments for our students and she said none at all. There can always be more college housing. I understand that. We are a growing university. What concerns me is when that starts to take prevalence over the people who live and work in this city. There are houses available and there are places to put more college housing. What we have there in this property that he's asking to rezone and you're considering tonight is primarily residential. You don't have anything like you have to the east of us. You don't have anything like you have at College Park Apartments. As I said before, it's going to be a drastic change to that neighborhood. It's going to be change that will dictate how that neighborhood will be for now and forever. Like I said, we moved in there with an understanding and we know situations change. We understand that. I don't buy this that there is a compelling need to build affordable college housing at least right there. There are other places to do it. We'll always need some. The only other need I can see and I'm sorry to say it. This is a very valuable property. I wish I owned it myself. Somebody does stand a change to make a lot of money off this. It's a much more valuable property than mine is but mine is an investment, too. I'm not just talking about a dollar investment. Although, we're all concerned about that. We're very concerned about how this college housing is going to effect our property investment. More importantly, we're talking about our investment and our quality of life that we have there. Number 3:

> "A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion."

Again, there is a bus line on Deane Street. It runs once an hour. Maybe, the University will increase that. Again, we live there. There's a lot of traffic going down Sang now. I guess I can't ask what the access plans are for this idea that Mr. Hahn has. I can tell you there is a lot of traffic now. If you've ever come down on the bypass and gone off onto Porter Road about 8:00 in the morning, you will sit there for a few minutes. I've made that mistake. I visit my mother sometimes up in Bella Vista and once in a while I'll stay over and I'll forget and not take the cloverleaf onto Garland but I'll go to Porter out of habit. You can sit there for awhile as people

are coming off of Mt. Comfort and then as it goes under the bypass it ells around into Deane. About an eighth of a mile which I'm sure there will be an access, we're going to have students coming out. Of course, not all of them. It will take them about 1 day to figure out the shortest route to the University is down Sang. That's a straight shot. There's no stoplight from Deane to Wedington and people speed down there. We put up with it all the time. We've called and complained and nothing ever really gets done about it. There is a school there. There is a trailer park right across from me. Kids play out there. They shouldn't but they do and that's a fact. There is Asbell School. If you can imagine for a second that kind of added traffic going down there. I don't know how you're going to change that. Are you going to put a stoplight there and back up traffic more? Or put a stop sign there? If you ever drive down there, pay attention. Right past the Baptist church, it kind of crests and right over that crest there's a cross walk. If you're going the 20 to 25 mph speed limit, there is no chance to stop. There's none. I'm not trying to say somebody didn't do their job. I'm just saying that I think if you took another look at that and imagine what the effect of the density of population that you're adding there. We're talking about 12 to 14 units or 120 to 140 new units. There will be at least a couple of people in each unit and we're talking about an increase of population of about 300 to 400 people and all of them have cars. We were all students at one time. We know what happens when we rush to get to school. When we get older, we become a little bit more responsible and you think about it. I cannot believe that this is not going to add adversly to traffic. It doesn't have anywhere to go except down Sang and over to Garland. This is going to add heavy traffic. I don't care if the University puts in 5 buses. Finally, I want to mention one thing about number 4. To me, it seems this zone was recommended primarily on number 4 as the best explanation. There may be water lines. There may be enough sewage capacity. We have a concern about the flood plain as I mentioned before. It seems like this is based pretty much on finding number four. The most important point, I saved for last and it's the last thing you have in your criteria which is 5.a:

> "It would be impractical to use the land for any of the uses permitted under its existing zoning classification."

Why? That's my question. Why would that be impractical. That is a residential neighborhood. I don't care if people are renting there or people like myself and my neighbors own and live there. That is a residential area. It would be a beautiful spot for a home. It would be a beautiful spot for home for people of middle income and who could afford $60,000 or $70,000 homes. I know people and you do, too, who cannot find that kind of home in Fayetteville. They're to moving West Fork. They're moving to Farmington. They're moving to Springdale. I feel that is what you might be asking me to do because I can't afford a $90,000 home or a $100,000 home either. I have a home and I'd like to keep my home. I teach college students and I don't have anything against them but I know what I was like 25 years ago. I was a pretty good kid but I wouldn't want me then living behind me now. If homes are impractical, we don't care. More expensive homes or duplexes if you want but something that is going to fit in the nature of what that neighborhood is. What kind of bothers me about this whole thing is that it seems like the burden to keep things R-1 is put on my neighbors and me. It's R-1 now and we're up here

having to convince you to keep it R-1 or at least get more specifications as to what he has in mind instead of leaving it up to him to give a compelling reason why they need to change this outside of making a great business deal. I hope to God that isn't your consideration tonight on the amount of money somebody has to make. If that's it, then we don't stand a chance because our properties don't come anywhere near that value. At the very least, I would ask you if you would -- what you decide here to tonight is going to have a tremendous effect on us and the neighborhood. It will change the nature of that neighborhood forever. Before you rush into a decision, at least give it a second look. You're welcome to come onto my property through the back gate. I have a good panorama of that view. Imagine what that neighborhood could look like. Also, try to imagine what it's going to look like with 300 or 400 college age students in there. We have to live there, ladies and gentlemen. You don't. Mr. Hahn doesn't. Mr. Weatherford doesn't. We are the ones that have to live there. Thank you.

Johnson: Thanks, Mr. Maynard. Are there others who would address us on this proposed rezoning?

Faye Doege residing with her mother at 1745 N. Sang was present in opposition to the proposed rezoning.

Doege: I'm going to address one problem which is a little complicated. When those houses were first built on Sang Avenue, there were no apartment houses or anything across the street. There was no trailer park. My dad built those houses. Then they developed the Washington Plaza apartment house. That was fine. We needed low cost apartments for people. Unfortunately, one thing they did was to bring in 20 tons of fill and they raised the level of the land there. That wasn't too bad because that water had places to go. It went east and it went west and it went south. We had some natural absorbing areas there and one of the places that used to collect most of the water from Washington Plaza was a place where they decided to build this new apartment house, The Encore apartments which is across the street from our place now. Now, they have concreted all that land that used to absorb the water that ran off of Washington Plaza. Now that water from Washington Plaza washes through there onto Sang and across Sang into our property which has been causing a little bit of a problem but we have been able to get by. One of the reasons we have been able to get by is the kind of soil that we have over there. The soil on the west side of Sang is Captina silt loam. It has a slow percolation rate but it has moderately good drainage so when we have a lot a rain, it will puddle a little bit but it will eventually soak in and you can't say that about every place in Fayetteville because there are a lot of places where it puddles and it will not soak in after a long, hot summer but it will eventually sink in. The place where most of the water goes from across the street and from our place and from the University Farm where it drains down Sang, is into this property where they want to build the apartments. That soil there is Pembroke silt loam and it has good drainage. Not only that, that whole area has excellent drainage because it used to be a vineyard about 50 years ago. A man named Rudolph had a vineyard there. That was low property there and he came in and put in drain tiles under all that property there. He used clay tiles with holes in them and he

buried them deep and planted his grapes on top of them. That not only helped him but it helps us now. We're getting all this extra water from the east and it is absorbing because we have this wonderful drainage system there. They're going to bring in these apartment houses and they're going to do like the apartment houses at Washington Plaza and Encore. They're going to put concrete and buildings and they're going to cover all that wonderful absorbing soil. They're probably going to raise it, too. If they go ahead and bring in all this fill and they raise this up a foot or two, the water will go back on us. Our soil isn't as absorbent as that and we're lucky we have that land next door but it isn't going to absorb it. It's going to be up to us and up to the people on the west side of Porter. I drove over there today and saw a woman who lives in one of the units on Linda Jo and I asked her if her unit had ever flooded. She said, no, it had gotten very close but it had never flooded. The unit 2 doors down from her had flooded this year. They actually had water in the building. That happened with the wonderful drainage system that we have on Mr. Weatherford's land. When they cover that up with concrete and they will cover it up with concrete and that's the way you build apartment buildings anymore to provide these wonderful places to park. They are going to flood. Are the engineers going to come and lift our houses off the foundation? I know we are not going to be able to live in our house if they completely pave all that property over there. Who is going to buy our houses when they flood every year? We're sunk. There's nothing we can do. The only answer I can see is for a reasonable person to put in either single dwelling or duplexes that continue to allow most of that land to be lawn which will continue to absorb all this rain. That way, we're not going to get their runoff and the people over on Porter aren't going to get their runoff. I know they have all these wonderful culverts planned and they'll have water running underneath. All that does is just shunt it off somewhere else and we're still going to have it in spite of whatever they plan.

Further Commission Discussion

Johnson: Several of those comments really go to issues that we would have to address and address very carefully but not at this stage. The drainage issues are very serious. I think you'll find that the city, every year, does more and more to assure that new developments don't create new drainage problems. In a place such as this, one of the best ways that you can keep up if this gets rezoned, once this development is proposed, is to follow it through the process and see what is being done about the drainage plan because it is my experience since I've been on the Commission that much more care is taken in '99 on drainage issues than even was 4 or 5 years ago. This is not the time when we have any authority to deal with that rather that is at the development stage. The other thing I would observe is there are 2 adjacent properties that in the foreseeable future, won't be developed in anyway other than as they now exist. The University Experimental Farm across Deane Street; I've not heard of any plan to do anything other than leave that for the foreseeable future as farm which helps the adjacent area in terms of intense development. The same is true on the smaller tract to the south which, I believe, has 2 churches on it.

Harrington: I wanted to take a brief opportunity to make a couple of comments. With all due respect to Mr. Maynard and the neighbors over there. I don't believe that the impact is going to be as large as they think. I turned onto Sang and turned around in a large apartment building directly across the street from all of these houses. I'm afraid that this R-1 area is really no longer R-1. In reality it has not been for many, many years because of the number of duplex, triplex, 5-plex apartments, etc. I would like to think of this as a true R-1 but there is very little R-1 left in this area and has not been for some time especially with a mobile home park right there and the apartments that are already in existence. If this is done nicely as this developer intends to do and he does, of course, intend to comply with all the city regulations and there are many as Ms. Johnson has mentioned regarding the drainage. If there is a chance that it's not going to work, this project will not go in and that will be discovered at the development stage when the drainage is evaluated. The reason that R-2 is being looked at here is because it would be a very difficult property to develop as R-1 given the surrounding mixed uses across the street where there's a grain elevator, etc. It's not terribly conducive to R-1 and even with very small R-1 as you all know, you have many bitter battles in here about the lower price home and the small lot R-1 for the same reason that apartments are opposed. I believe that this developer intends to find a way to do to this in such a way that it will not be a negative impact on the area and will provide much needed housing. The need for housing continues to go up and maybe there are apartments available today but that doesn't mean next year and the year after. There is very little, if any, R-2 on this entire side of town available at this point. So, I wanted to briefly address those items. I have the realtor here who has explored the market very seriously and can certainly address your concerns about what the needs of the market are. I don't know if you want to take the time with that so I'll just look for direction on whether you would like to have some comments from him or from Mr. Hahn.

Johnson: Commissioners are certainly free to raise questions to the people Ms. Harrington has made available.

Estes: I have several questions for staff. The status quo is R-1. We must make 4 specific findings of fact to grant the applicant's request. The first finding regards the 2020 Plan which lists this property as residential. That finding is met. The second finding of fact that we must make is that the proposed zoning is needed. That's the first question I have for staff. Do we truly have a shortage of R-2 property? As I ask that question, I think about the Lindsey Development that is going in to the northwest of this. I think of all the vacant apartment ads I see in the Northwest Arkansas Times each morning. Is there truly a shortage of R-2 property in the City of Fayetteville?

Conklin: Trying to answer your question accurately, as staff, we don't have a detailed market analysis to determine how much R-2 land is available in this community. We do know that there is not much R-2 land existing which is undeveloped in Fayetteville. When we looked at this recommendation and whether or not to recommend additional multi-family, this is an area where the existing land use is very mixed. It was on the U of A bus route and it was possible to

build additional apartments east of the bypass instead of on the other side of the bypass. As staff, we felt like it was justified at this time.

Estes: The third finding of fact that we must make is that it does not appreciably increase traffic congestion. As I listened to the applicant's presentation, 140 units, 2 cars per unit, 2 day trips, that makes 560 trips. Upon what basis was the finding made that the proposed zoning would not increase traffic?

Conklin: At this time, Deane Street, in my opinion does not have any traffic problems. If this does have students that live in these apartments, these students are not going to all be leaving at 8:00 in the morning. Looking at other apartments in this area, this morning there was little or no traffic when we were out there, even in the R-3 zone directly to the east on the east side of Sang Avenue.

Estes: The fourth finding of fact is the determination that the proposed zoning will not alter population density. Listening to the applicant's presentation, I make the finding as a matter of fact that it will increase population density. How did staff reach the conclusion the proposed zoning would not alter the population density?

Conklin: Let me clarify that the finding states that the proposed zonings would not alter the population density and *thereby undesirably increase the load on public services including schools, water, and sewer facilities.* With regard to schools, I contacted the school district. The school district has told me that they will accommodate future growth and student population in Fayetteville. With regard to water and sewer facilities, at the time of development, our City Engineering Division, does sit down and make recommendation on what improvements are needed on site and off site to be able to handle the additional load. Therefore, as staff, we believe that finding can be met.

Estes: I have no further questions.

Ward: We were talking about the number of units they are proposing and with R-2 zoning, you can put in duplexes on this property kind of like the site to the west. It looks to me, quickly calculating, they could do 125 units of duplexes on this property with the density that we allow on duplexes. If the units themselves are not going to be any more than what is allowable as far as duplexes, I'm not sure that there is that much difference or would change that much as far as apartment complexes.

MOTION

Ward: I will recommend approval of RZ99-28.

Johnson: Is there a second.

Marr: Second.

Johnson: We have the motion by Commissioner Ward, seconded by Commissioner Marr to approve RZ99-28. I remind you that a rezoning requires 5 positive votes and then if the rezoning passes at this level, it goes to the City Council for finalizing.

Roll Call

Upon roll call, the motion passed with a vote of 5-2-0. Commissioners Estes and Hoover voted against the motion.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

October 7, 1999

Dear Property Owner:

This letter is meant to notify you of a rezoning that is being considered by the Fayetteville City Council which may impact you. This rezoning was submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 West Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

This agenda item was introduced at the October 5, 1999 Fayetteville City Council meeting. It was left on the first reading in order to allow further consideration and input from neighboring property owners. If you have any questions or thoughts regarding this rezoning, you are invited to attend the next City Council meeting, Tuesday, October 19 at 6:30 p.m. or contact your alderman to voice your concerns.

Ward 4 Aldermen:

Kevin Santos
2004 W. Berry Street
Fayetteville 72701
582-4604 Home
575-8677 Work

Heather Daniel
44 N. Palmer Avenue
P.O. Box 4041 Fayetteville 72702
521-7891 Home

Sincerely,

Theresa J. Johnson

Theresa Johnson
Deputy City Clerk
575-8323

CITY OF FAYETTEVILLE
APPLICATION & CHECKLIST
FOR A

REZONING

FOR STAFF USE ONLY
Date Application Submitted: 8/17/99
Date Accepted as Complete:
Case / Appeal Number: RZ 99-28
Public Hearing Date: 9-13-99

FEE: $325.00 403
PP#: 364 5-16-30
Zone: R-1
4ac

Application:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

GENERAL INFORMATION

Applicant: Realty Resources, Chrd.
Address: 247 Commercial St.
Rockport, ME 04856
Day Phone: (207) 236 - 4067
Fax #: (207) 236 - 6307
521-6611

Representative: William S. Hahn
Address: 247 Commercial Street
Rockport, ME 04856
Day Phone: (207) 236 - 4067
Fax #: (207) 236 - 6307

Property Owner: William M. Weatherford
Address: 1430 Crestwood Dr.
Fayetteville, AR 72701
Day Phone: (____)________
Fax #: (____)________

Indicate where correspondence should be sent:
____ Applicant
_x_ Representative
____ Owner

Property Owner: Larry F. & Brenda Swain
2201 Deane Street, Fayetteville 72703

William M. Weatherford
1430 Crestwood DR, Fayetteville 72701

DESCRIBE PROPOSED PROJECT IN DETAIL (Attach to this application)

PROPERTY DESCRIPTION

Site Address: 2200,2201 Deane Street

Current Zoning District: R-1   Proposed Zoning District: R-2

Legal Description of Property: May be found on deed or current survey of property. (Attach to this application)
Building Size in square feet: Existing _____ Proposed _____
Hours of Operation (if applicable): _____
Number of Employees: _____
Indicate the number of patrons, clients, children, customers, etc. anticipated: _____
Average per day: _____ Peak Hour: _____

C&L Properties,LLC
An Arkansas LLC
1412 S. Crutcher
Springdale, AR 72764

Timothy N. & Cathy Van Someren
765 Creek Ave.
Springdale, AR 72764

Harold D. & Laura A. Lovett
2200 W. Sunset, STE B-3
Springdale, AR 72764

William A Lazenby
1031 College Av.
Fayetteville, AR 72701

Larry F. & Brenda Swain
2201 Deane ST.
Fayetteville, AR 72703

Richard L Maynard
1717 N. Sang Av
Fayetteville, AR 72703

Tom & Mildred L. Lavender
1745 N. Sang Av.
Fayetteville, AR 72703

Fred A. & Jacqueline Bacon
2105 Deane ST.
Fayetteville, AR 72703

Ronald L Goodwin
1705 N. Sang Av
Fayetteville, AR 72701

George C. Faucett Jr.
3589 N. College
Fayetteville, AR 72703

Theodore Lee & Diane L. Beilby
1615 Sang Av.
Fayetteville, AR 72701

Randall L Merth
1701 Sang Av.
Fayetteville, AR 72701

Ken & Katie Marvin
P.O. Box 1282
Fayetteville, AR 72702

Gerald R. & Annetta R. Hoskins
1601 N. Sang Av.
Fayetteville, AR 72701

Behl Family Revocable Trust
1104 Sunset
Fayetteville, AR 72701

University of Arkansas
205 Administrative Bldg.
Fayetteville, AR 72701

William Weatherford
1430 Crestwood Drive
Fayetteville, AR 72701

William S. Hahn
247 Commercial
Rockport, ME 04856

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Name	Division	Department
Jill Goddard	Engineering	Public Works

ACTION REQUIRED: Passage of an ordinance authorizing the City Attorney to seek possession of certain land located along Highway 265 in the City of Fayetteville, Arkansas, by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocations. Such property is owned by Richard L. Mayes and Ethel L. Mayes (Parcel No. 765-02253-000).

COST TO CITY:

$ ~~1,145~~ 1,595.00 Cost of this Request	$ 3,999,559 Category/Project Budget	Highway 265 - W/S Relocations Category/Project Name
5400-5600-5808-00 Account Number	$ 592,548 Funds Used To Date	Water & Sewer Improvements Program Name
97043-30 Project Number	$ 3,407,011 Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

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

Accounting Manager — Date 9-28-99

Internal Auditor — Date 9-28-99

City Attorney — Date 9-28-99

ADA Coordinator — Date

Purchasing Officer — Date 9-28-99

STAFF RECOMMENDATION: Have been unable to reach agreement with property owner for reasons as explained in the following memorandum. Staff recommends condemnation approval, along with an emergency clause, on this property such that contractor will not be delayed in initiating this project.

Division Head — Date 28 Sept 99

Department Director — Date 9-28-99

Administrative Services Director — Date 28 Sept 99

Mayor — Date 9/28/99

Cross Reference

New Item: Yes X **No** ___

Prev Ord/Res #: ___

Orig Contract Date: ___

STAFF REVIEW FORM

Description Condemnation--Highway 265 - Water/Sewer Relocations Meeting Date October 5, 1999

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: September 28, 1999

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor
Charles Venable, Public Works Director
Donald Bunn, Assistant Public Works Director
Jim Beavers, City Engineer

FROM: Jill Goddard, Land Agent

SUBJECT: Highway 265 Water/Sewer Relocations
Phase I (Highway 16 north to Deerpath Drive)
Project No. 97043
Richard L. & Ethel L. Mayes

The City has been acquiring easements along Highway 16 and Highway 265 for water and sewer relocations to be constructed prior to the Highway Department widening of Highway 265.

On Phase I, there is one property without signed documentation (or even a verbal indication of settlement). Given the extremely short time frame in which to do these relocations, it is necessary that the City initiate condemnation proceedings as soon as possible in order to obtain court possession of this land so as not to interfere with the construction schedule.

Initially, Mr. and Mrs. Mayes were offered $615.00 for the conveyance of rights associated with a twenty foot wide permanent easement (6,731 square feet), $330.00 as rental of the lands associated with the Temporary Construction and Grading Easement (6,731 square feet), and $200.00 in landscape damages; for a total offer amount of $1,145.00. This offer was originally presented on August 23, 1999. (See attached case history.)

Mr. and Mrs. Mayes have apparently been advised by their attorney not to sign any easements as they are in litigation with the Highway Department in regard to the right of way acquisition of a portion of their property along Highway 265.

An independent appraisal has been requested from Mark Risk, The Real Estate Consultants, to determine land value as the original offer amount was based on appraisal information prepared by the Highway Department for their right of way acquisition. This was received September 27, 1999. A revised offer will be presented to the Mayes based on this appraisal.

CASE HISTORY
Richard L. Mayes & Ethel L. Mayes
Highway 265 Water/Sewer Relocations
Tract 30

August 20, 1999	Date of original Offer Letter. $615.00 offered for 6,731 square feet permanent easement area, $330.00 for 6,731 square feet temporary construction easement area, and $200.00 for landscape damages; total offer amount being $1,145.00. Packet including offer letter, document and drawings prepared. Offer amount based on land value of $26,400/acre as determined by AHTD, with 15% of land value x sq. ft. for permanent easement area and 8% of land value x sq. ft. for rental of temporary easement area.
August 23, 1999	Holly Jones, contractual representative for the City of Fayetteville, met with Mr. and Mrs. Mayes at their home to discuss project. They were in litigation with AHTD over right of way acquisition and had been advised by their attorney not to sign anything until discussing matters with him first. They were verbally told of the very short time frame associated with this project.
August 24, 1999	Large scale drawing of area delivered to Mr. and Mrs. Mayes to give to their attorney.
Sept. 8, 1999	Requested appraisal from Mark Risk, The Real Estate Consultants. Given verbal quote on price and time. Should have within 3 weeks. Requested purchase order.
Sept. 13, 1999	Date of notification letter. Sent certified mail.
Sept. 14, 1999	As of this date, have not heard from Mr. and Mrs. Mayes or their attorney.
Sept. 27, 1999	Received appraisal from the Real Estate Consultants.
Sept. 28, 1999	Revised offer letter to Mr. and Mrs. Mayes based on appraisal.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 28, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Revised Offer Letter

Dear Mr. and Mrs. Mayes:

The City of Fayetteville is in receipt of an appraisal conducted by the Real Estate Consultants (copy of the cover page is enclosed). In an effort to negotiate this offer without legal action, the City is prepared to make a revised offer based on this appraisal.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for permanent and temporary easements. The City of Fayetteville hereby offers **$930.00** for the conveyance of rights associated with the Permanent Easement (6,731 square feet), **$465.00** as rental of the lands associated with the Temporary Construction Easement (6,731 square feet), and **$200.00** in landscape damages; making the total offer amount **$1,595.00**. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

Should you elect to accept this offer, the *Water/Sewer Easement* (which contains both the Permanent and Temporary Construction Easements) contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of this document, a check will be requested and you will be paid the amount indicated in this offer letter.

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of your property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

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

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit Court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Water/Sewer Easement*. A reduced copy of the document is included for your records. We can provide a copy of the recorded document upon your request and at the appropriate time. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to install these utilities. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407, Ed Connell at 444-3415 or I can be reached at 575-8206.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg

Attachments

APPRAISAL REPORT
FOR
CITY OF FAYETTEVILLE

Limited Summary Appraisal Report

PROJECT	Highway 265 Water/Sewer Relocations (Job No. 97043)
COUNTY	Washington
PARCEL #	765-02253-000
LOCATION	10 N.Crossover Rd., Fayetteville, AR (Pt. Of the NE ¼, SE ¼, Sec. 14, T16N, R30W
FEE OWNER	Richard & Ethel Mayes
ADDRESS	10 N.Crossover Rd., Fayetteville, AR 72701
ESTATE APPRAISED	Fee Simple

AREA OF WHOLE 3.33 acres **AREA OF RESIDUAL** 3.18 acres

AREA OF PERMANENT ACQUISITION 6,731 Sq.Ft. or .15 acre
(Descriptions attached)
Permanent Water/Sewer Easement 6,731 Sq. Ft.
Temporary Construction and Grading Easement 6,731 Sq. Ft.

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

Before		
Land	$ 99,000	
Improvements	$ 0*	
Total		$ 99,000
After		
Land	$ 98,070	
Improvements	$ 0*	
Total		$ 98,070

FAIR MARKET VALUE OF PERMANENT EASEMENT ACQUISITION **$ 930**

As of 16th *day of September, 1999*

ALLOCATION OF F.M.V. OF TOTAL ACQUISITION

Water/Sewer Easement 6,731 SF @ $.69/SF x 0.20	= $ 929	Say	$ 930	
T.C.E.** 6,731 SF @ $.69/SF x 0.10	= $ 464	Say	$ 465	
Trees None	$ 0			
Improvements: None	$ 0			
Total R-O-W, T.C.E., Trees, & Improvements				$ 1,395
Damages or Benefits:				$ 0
Total Compensation				**$ 1,395**
				Say $1,400

ATTACHMENTS:
- X Certificate of Appraiser
- X Photographs
- X Site, Improvement, H&B Use Narrative
- X Legal Descriptions
- X Market Data Approach
- X Survey
- X Tax Assessment Card

Appraiser, Mark E. Risk GAA, #CG0202

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD STATE CERTIFIED GENERAL No. CG0202 MARK E. RISK

* The appraiser has not determined the value of the existing subject improvements due to his opinion that they are not significantly affected by the partial taking.

** Water/Sewer Easement Value is based upon 20% of the fee simple land value per appraiser research. Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied times 10% to reflect a fair return plus a premium for inconvenience.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 13, 1999

VIA CERTIFIED MAIL

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Notification

Dear Mr. and Mrs. Mayes:

On August 23, 1999, Holly Jones, representative for the City of Fayetteville, met with you to discuss the proposed easements requested with the above mentioned project as they pertain to your property. As of this date, we have not received your signed documentation. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to relocate utilities.

If we have not heard from you nor received a signed easement document and vendor form by September 20, 1999, procedures will be started to obtain possession through the courts. An independent appraisal has been requested. However, please keep in mind that condemnation proceedings can be stopped at any time if an agreement is reached before the court date.

A City Land Agent will be glad to meet with you to discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407 or Ed Connell at 444-3415.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 20, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Offer Letter

Dear Mr. and Mrs. Mayes:

In conjunction with the widening of Highway 265 from Highway 16 north to Highway 45, the City of Fayetteville is required to relocate the majority of water and sewer lines that now service this area. These relocations are to be done just prior to the highway widening. It is therefore necessary to obtain permanent and temporary construction easements across a portion of your property for this project. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for permanent and temporary easements. The City of Fayetteville hereby offers **$615.00** for the conveyance of rights associated with the Permanent Easement (6,731 square feet), **$330.00** as rental of the lands associated with the Temporary Construction Easement (6,731 square feet), and **$200.00** in landscape damages; making the total offer amount **$1,145.00**.

Should you elect to accept this offer, the *Water/Sewer Easement* (which contains both the Permanent and Temporary Construction Easements) contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of this document, a check will be requested and you will be paid the amount indicated in this offer letter.

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of your property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit Court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Water/Sewer Easement*. A reduced copy of the document is included for your records. We can provide a copy of the recorded document upon your request and at the appropriate time. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to install these utilities. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407, Ed Connell at 444-3415 or I can be reached at 575-8206.

Sincerely yours,

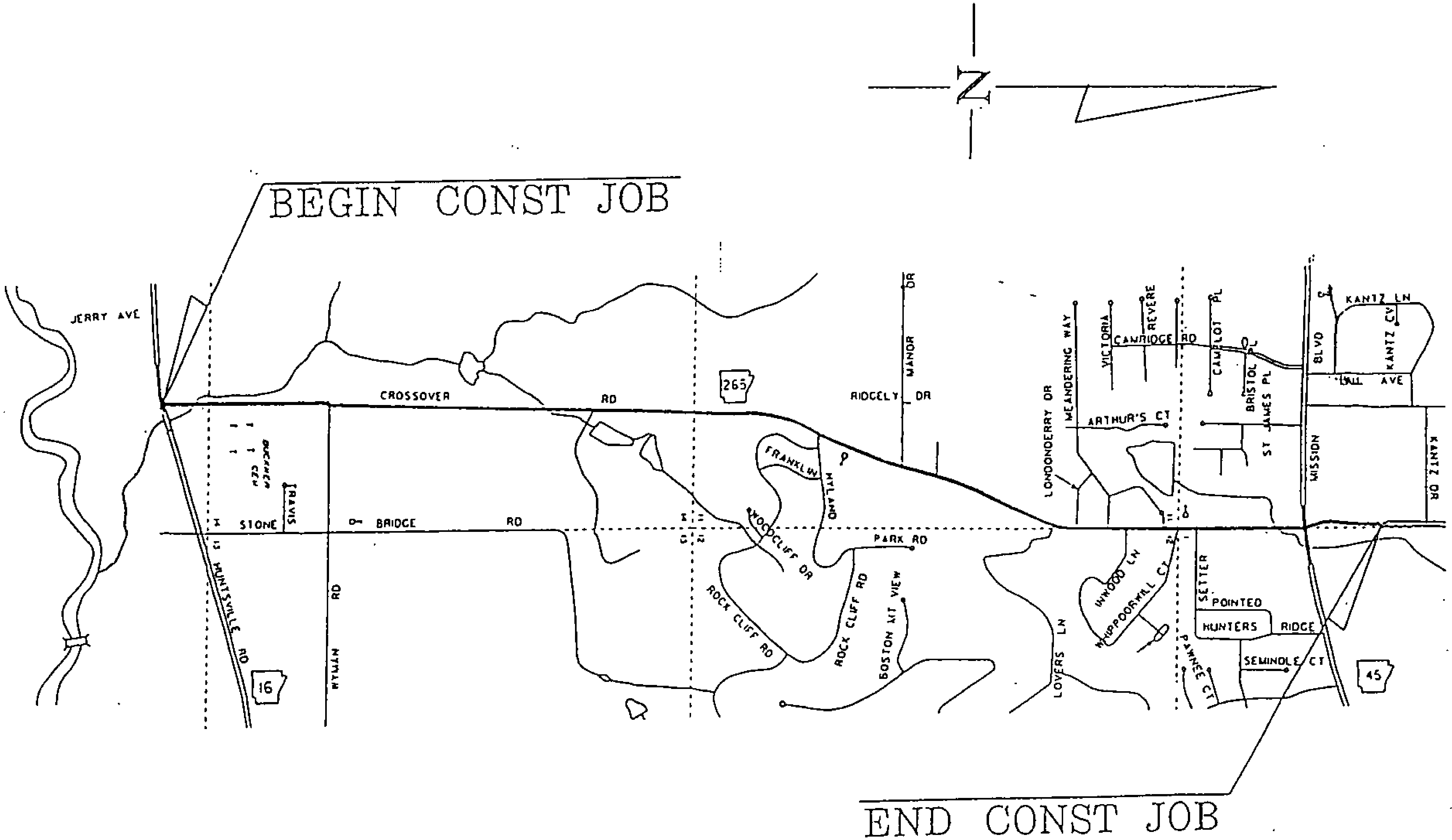
Jim Beavers

Jim Beavers
City Engineer

JB/jsg

Attachments

HIGHWAY 265 WATER/SEWER RELOCATIONS



Project No. 97043
Project: Highway 265 Water/Sewer Relocations
Parcel No. 765-02253-000
Tract No. 30

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Richard L. Mayes and Ethel L. Mayes, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

Part of the North Half (N½) of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section Fourteen (14) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M., the same being more particularly described as follows: Beginning at a point twenty (20) rods North of the Southwest corner of the said twenty acre tract ; and running thence North twenty (20) rods, thence East thirty-two (32) rods; thence South twenty (20) rods; thence West thirty-two (32) rods to the place of beginning, containing four (4) acres, more or less.

LESS AND EXCEPT that portion within the NE¼ of the SE¼ of Section 14, Township 16 North, Range 30 West, and described in CIV Case No. 99-515-4 of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, containing, 29,201 square feet, more or less. Also described in Exhibit "A" attached hereto and made a part hereof.

PERMANENT EASEMENT DESCRIPTION:

A twenty (20) foot permanent easement of equal and uniform width located along the East side of Arkansas Highway 265 Right of Way line as referenced by State Highway Commission Job No. 004999. This easement is more particularly described as beginning at the Grantor's South property line and extending North 330 feet, more or less, to the Grantor's North property line, containing 6,731 square feet (0.15 acre), more or less.

The bearings used in the above description are referenced from bearings developed by the Arkansas State Highway Commission for the Highway Project No. 004999 Right of Way Plans and will be different than the bearing system previously used in describing the Owner's property.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A temporary construction and grading easement twenty (20) feet in width being parallel with and contiguous to the above described permanent easement and situated on the East side thereof. This temporary construction easement contains 6,731 square feet (0.15 acre), more or less,

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

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located or under construction within said temporary construction and grading easement area during the construction of the hereinabove referenced project.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons. One thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

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

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

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

WITNESS the execution hereof on this the __________ day of ____________________, 1999.

______________________________	______________________________
Richard L. Mayes	Ethel L. Mayes

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Richard L. Mayes and Ethel L. Mayes, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that **they** had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this __________ day of ____________________, 1999.

____
Notary Public

MY COMMISSION EXPIRES:

____

EXHIBIT "A"

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

ARKANSAS STATE HIGHWAY COMMISSION — PLAINTIFF

VS. — NO. CIV 99-515-4

RICHARD L. MAYES AND ETHEL L. MAYES, HUSBAND AND WIFE;
AND THE BANK OF FAYETTEVILLE, N.A., MORTGAGEE — DEFENDANTS

JOB NO: 004999

TRACT NO: 30

OWNERS AND/OR PARTIES OF INTEREST: Richard L. Mayes and Ethel L. Mayes, husband and wife; and the Bank of Fayetteville, N.A., Mortgagee

LEGAL DESCRIPTION:

<u>TRACT NO. 30</u>:

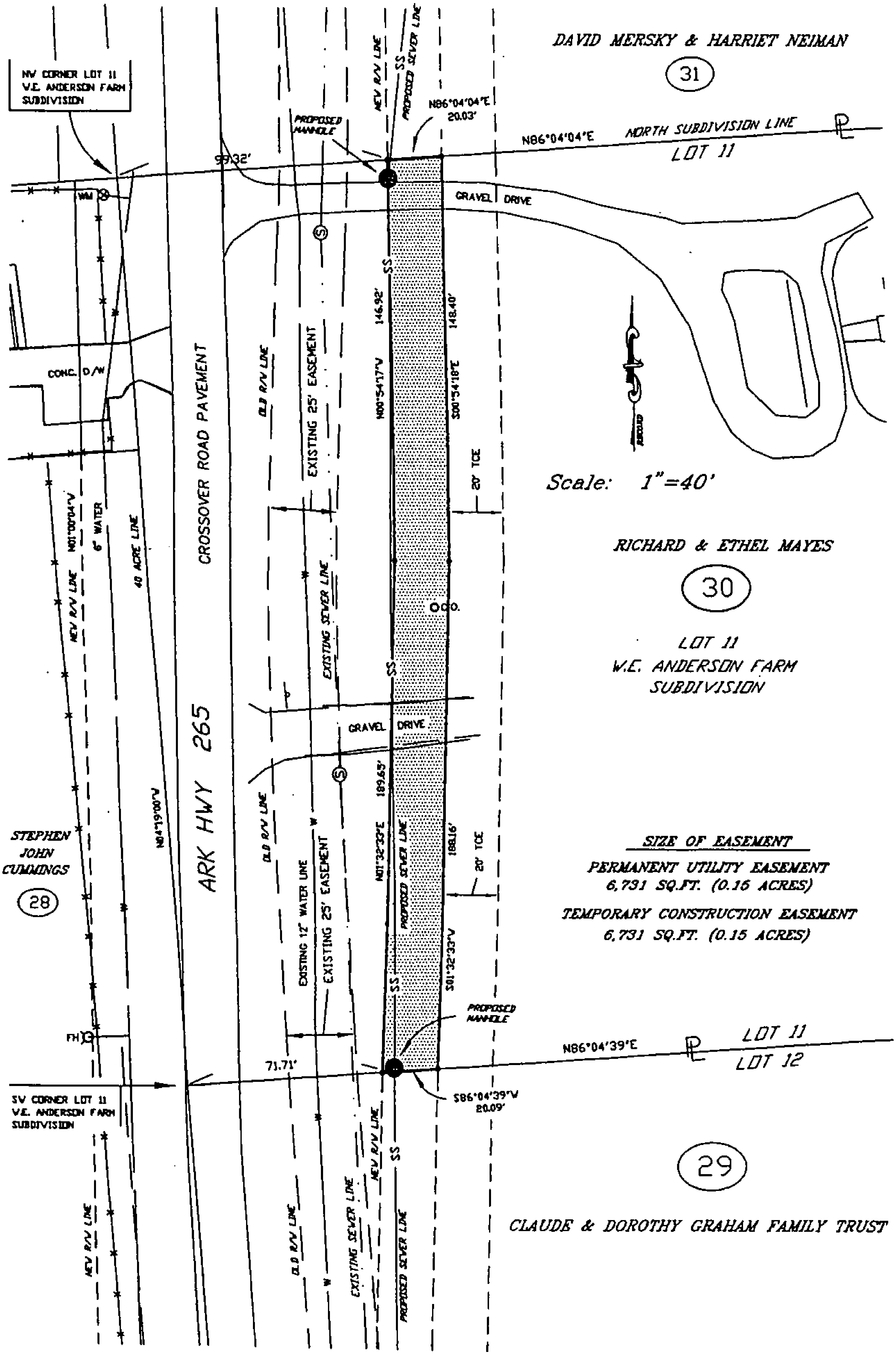
Part of Lot 11 of W. E. Anderson Farm Subdivision to the City of Fayetteville also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Starting at the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence South 85° 40' 22" West along the South line thereof a distance of 1322.95 feet to the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence North 04° 19' 00" West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 a distance of 991.73 feet to the Southwest corner of Lot 11 of W. E. Anderson Farm Subdivision for the point of beginning; thence continue North 04° 19' 00" West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the West line of Lot 14 of W. E. Anderson Farm Subdivision a distance of 335.50 feet to the Northwest corner of the Northeast Quarter of the Southeast Quarter of Section 14 also being the Northwest corner of Lot 11 of W. E. Anderson Farm Subdivision; thence North 86° 04' 04" East along the North line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the North line of Lot 11 of the W. E. Anderson Farm Subdivision a distance of 99.32 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence South 00° 54' 17" East along said proposed right of way line a distance of 146.92 feet to a point; thence South 01° 32' 33" West along said proposed right of way line a distance of 189.65 feet to a point on the South line of Lot 11 of the W. E. Anderson Farm Subdivision; thence South 86° 04' 39" West along said South line a distance of 71.21 feet to the point of beginning and containing 29,201 square feet, more or less.

UTILITY EASEMENT MAP

EASEMENT TRACT NO. 30

RICHARD L. & ETHEL L. MAYES



SIZE OF EASEMENT

PERMANENT UTILITY EASEMENT
6,731 SQ.FT. (0.16 ACRES)

TEMPORARY CONSTRUCTION EASEMENT
6,731 SQ.FT. (0.15 ACRES)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 20, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Side Letter

Dear Mr. & Mrs. Mayes:

In reviewing the plans for the above mentioned project, some special items need to be taken into consideration.

- Construction of the water line will necessitate the removal of certain trees within the permanent easement area. The City tries to avoid damage to and the loss of trees and other vegetation; however, there are times when circumstances leave no other choice. The City cannot adequately compensate you for the loss of any mature trees that are in landscaped areas; however, the following proposed compensation will allow you to plant similar trees as a substitute for the trees that will have to be removed:

2 - 1" mimosa	= @ $100	$ 200

  The City does not encourage the planting of new trees in the specified permanent easement area because such trees inhibit the future use of said easement area.

- The 20" elm in the 12 foot diameter wooden planter (within the temporary construction easement area) is to be protected by the contractor.

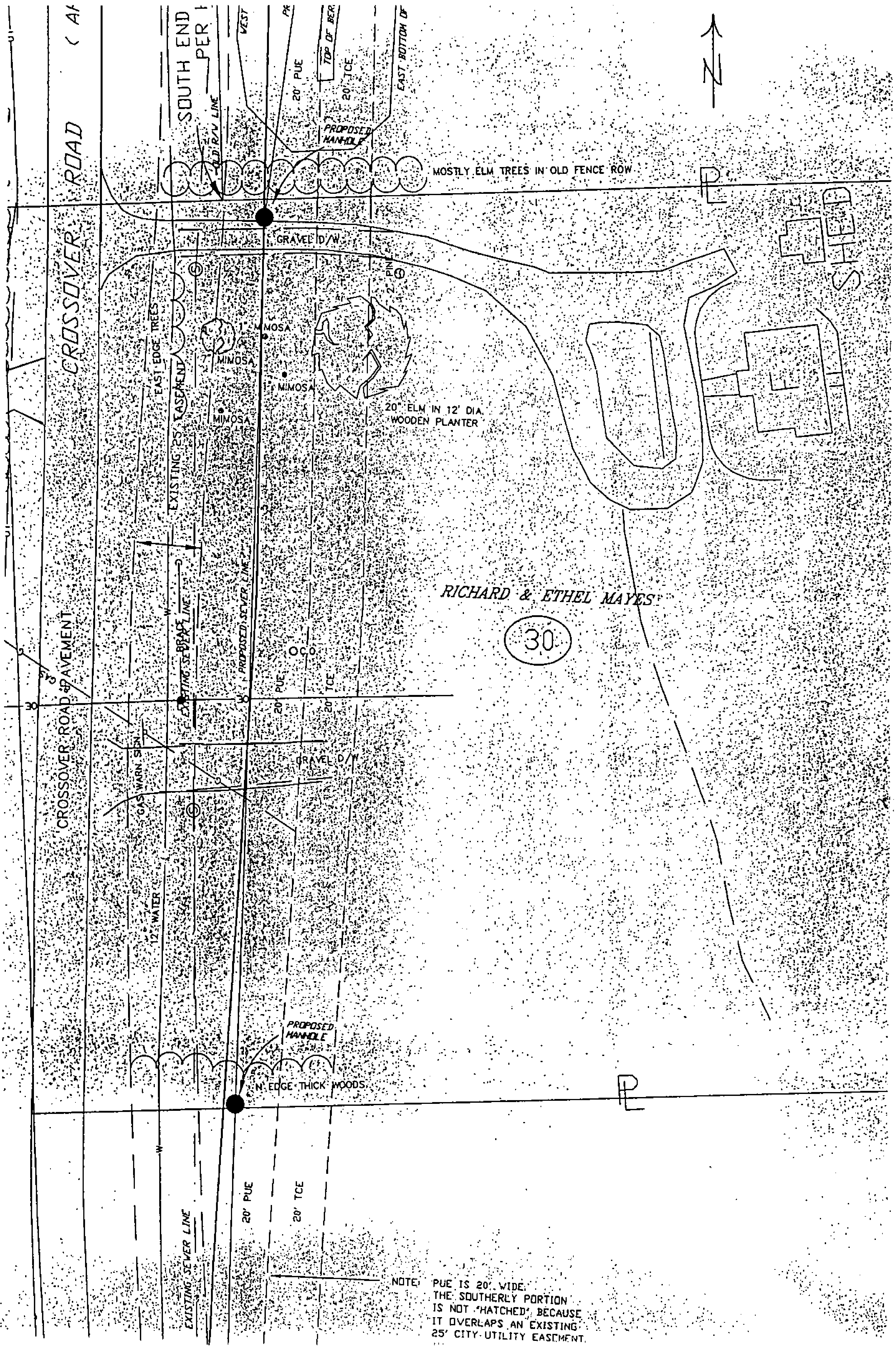
If you have any further concerns or comments, please feel free to call either Ed Connell at 444-3415 or Jill Goddard at 444-3407.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg


SOUTH END
PER
WEST
TOP OF BER
EAST BOTTOM OF
20' PUE
20' TCE
PROPOSED MANHOLE
OLD R/W LINE
CROSSOVER ROAD
MOSTLY ELM TREES IN OLD FENCE ROW
GRAVEL D/W
2" PINE
SHED
1" MIMOSA
7" MIMOSA
1" MIMOSA
MIMOSA
EAST EDGE TREES
EXISTING 25' EASEMENT
20" ELM IN 12' DIA. WOODEN PLANTER
RICHARD & ETHEL MAYES
30
CROSSOVER ROAD PAVEMENT
BRACE
EXISTING SEWER LINE
PROPOSED SEWER LINE
C.O.
20' PUE
20' TCE
GAS
GAS WARN SIGN
GRAVEL D/W
12" WATER
PROPOSED MANHOLE
N. EDGE THICK WOODS
20' PUE
20' TCE
EXISTING SEWER LINE
NOTE: PUE IS 20' WIDE.
THE SOUTHERLY PORTION
IS NOT "HATCHED" BECAUSE
IT OVERLAPS AN EXISTING
25' CITY UTILITY EASEMENT.

APPRAISAL REPORT
FOR
ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

JOB: 004999 PROJECT: STP-STPG-91-42(6) County: Washington TRACT: 30,30-E

LOCATION: Hwy. 16 - Hwy. 45 (Route 265 Section 2)

FEE OWNER(S): Richard L. Mayes and Ethel L. Mayes
ADDRESS: 10 North Crossover Road, Fayetteville, Arkansas 72701
PHONE: 501-521-1896

TENANT(S):
ADDRESS:
PHONE:

AREA OF WHOLE:	4.08±Acres	PERMANENT EASEMENT(S):	
AREA OF REMAINDER:	3.41±Acres	TEMPORARY EASEMENT(S):	.01±Acres
AREA OF ACQUISITION:	.67±Acres*		

(Title Certificate and Legal Descriptions Attached)

* .15±Acres is being used as a public road.

ESTATE APPRAISED: Fee Simple

HIGHEST & BEST USE: Residential

Highest and Best Use is defined as "that reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal. Alternatively that use, from among reasonable, probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible and which results in highest land value."

PURPOSE OF APPRAISAL:

To estimate the Fair Market Value of described property, including all damages and/or benefits that are allowed under State law to the remaining property, as just compensation for the property acquired.

MARKET VALUE CONCEPT:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

ALLOCATION OF COMPENSATION

Land: .52±Acres @ $26,400/Ac. =	$	(Rnd) 13,750.00
Area Being Used as a Public Road: .15±Acres @ Zero Value = 0	$	
Improvements: Trees	$	500.00
Cost To Cure Items:	$	
Sign Relocation/Purchase:	$	
Permanent Easements:	$	
Temporary Easements: .01±Acres @ Rental Value =	$	100.00
TOTAL COMPENSATION AS OF September 9, 1998	**$**	**14,350.00**

COMMENTS: The appraiser met with Mr. Mayes at his residence on the subject property where the R/W maps and proposed project were discussed.

Date: September 28, 1998

Randall E. Cobb, Appraiser

vs:004999:tr.30,30-E

Washington County Real Estate Assessment Record

Parcel Number: 765-02253-000

Property Type: RI

Location Address: 10 | | N | CROSSOVER | RD

Owner: MAYES, RICHARD L. & ETHEL L.

Mailing Address: 10 N CROSSOVER
FAYETTEVILLE | AR | 72701

Value Information

Current year: 1998

	Appraised	Assessed
Land value	30,000	6,000
Imp. value	83,200	16,640
Total value	113,200	22,640

Legal Description

Lot: | Block: | Section-Township-Range: 14-16-30

Addition: ANDERSON FARM PLAT

Legal: W 32RD. L 11 NE SE 14-16-30 4 ACRES

Deed: 10/07/96 | 96-63698 | WD | 115.50 | 35,000

School District: FAYETTEVILLE SCHOOLS

City description: FAYETTEVILLE

B

FILED FOR RECORD
'96 OCT 9 AM 10 59
WASHINGTON CO AR
K. HARNESS

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, Freddie Brooks and Carole Brooks, husband and wife, and James E. Brooks and Sandra R. Brooks, husband and wife, hereafter called Grantors, for and in the consideration of the sum of One Dollar ($1.00) and other good and valuable consideration to them in hand paid by Richard L. Mayes and Ethel L. Mayes, husband and wife, hereinafter called Grantees, do hereby grant, bargain and sell unto the said Grantees and Grantees' heirs and assigns, forever, the following lands lying in Washington County, Arkansas, to-wit:

Part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P. M., the same being more particularly described as follows: Beginning at a point twenty (20) rods North of the Southwest corner of the said twenty acre tract (20); and running thence North twenty (20) rods, thence East thirty-two (32) rods; thence South twenty (20) rods; thence West thirty-two (32) rods to the place of beginning, containing four (4) acres, more or less.

TO HAVE AND TO HOLD the lands and appurtenances thereunto belonging unto the said Grantees and Grantees' heirs and assigns, forever. And we, the said Grantors, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims.

WITNESS our hands and seals on this 7th day of October, 1996.

Freddie Brooks
FREDDIE BROOKS

James E. Brooks
JAMES E. BROOKS

Carole Brooks
CAROLE BROOKS

Sandra R. Brooks
SANDRA R. BROOKS

$1.10 183566

490078

$1.10 077857

96063698

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument.
Grantee Scott Bowman agent
Address #1 Stone Bridge Rd
Fayetteville AR 72701

ACKNOWLEDGEMENT

STATE OF ALASKA }
} ss.
COUNTY OF Anchorage }

On this 3rd day of October, 1996, before me, a notary public, in and for the County and State aforesaid, personally appeared James E. Brooks and Sandra R. Brooks, husband and wife, who stated that they were the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the foregoing for the consideration and purposes mentioned and set forth.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

NOTARY PUBLIC
STATE OF ALASKA

My commission expires: 10/12/99

STATE OF ARKANSAS)
} ss.
COUNTY OF WASHINGTON }

On this 7th day of October, 1996, before me, a notary public, in and for the County and State aforesaid, personally appeared Freddie Brooks and Carole Brooks, husband and wife, who stated that they were the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the foregoing for the consideration and purposes mentioned and set forth.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

My commission expires:

OFFICIAL SEAL
WINFIELD S. BRONSON, JR.
NOTARY PUBLIC - ARKANSAS
WASHINGTON COUNTY
MY COMMISSION EXPIRES: [illegible] - 18 - 2002

96063699

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

FILED FOR RECORD '99 MAY 18 AM 8 58 WASHINGTON CO AR K. HARNESS

ARKANSAS STATE HIGHWAY COMMISSION PLAINTIFF

VS. NO. CIV 99- 515-4

RICHARD L. MAYES AND ETHEL L. MAYES,
HUSBAND AND WIFE; AND THE BANK OF
FAYETTEVILLE, N.A., MORTGAGEE DEFENDANTS

FILED FOR RECORD '99 MAY 24 PM 4 13 WASHINGTON CO AR K. HARNESS

ORDER OF POSSESSION

On this day comes on to be heard the motion of Plaintiff, Arkansas State Highway Commission, for an Order of this Court granting it the right of immediate possession of the lands designated as Tracts 30 and 30E, Job No. 004999, in the Complaint and Declaration of Taking filed herein; upon consideration whereof, and it being shown to the Court that said lands were taken by Plaintiff pursuant to the provisions of Ark. Code Ann. §§ 27-67-301 to -321 (Repl. 1994), and that estimated compensation for the taking is now in the registry of this Court, the Court is of the opinion that Plaintiff's motion should be granted.

IT IS THEREFORE CONSIDERED AND ORDERED that Plaintiff's Motion for Immediate Possession be, and is hereby, granted, and that Defendants be, and are hereby, ordered and directed to immediately surrender possession of said lands to Plaintiff; provided, this Order shall be held in abeyance for a period of twenty (20) days after service of same upon

99011683

Defendants within which time Defendants may appear and show cause why this order should not be effective as entered.

Mary Ann Green
CIRCUIT JUDGE

5-24-99
DATE

APPROVED:

Robert L. Wilson, Chief Counsel

99011684

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

ARKANSAS STATE HIGHWAY COMMISSION PLAINTIFF

VS. NO. CIV 99- 515-4

RICHARD L. MAYES AND ETHEL L. MAYES, HUSBAND AND WIFE; AND THE BANK OF FAYETTEVILLE, N.A., MORTGAGEE DEFENDANTS

'99 MAY 18 AM 8 58
FILED FOR RECORD
WASHINGTON CO AR
K. HARNESS

100.00
5
14,350.00

COMPLAINT AT LAW

Plaintiff, Arkansas State Highway Commission, files this Complaint against the lands described herein and the parties hereto under the power of eminent domain and the police power pursuant to the authority and provisions of Act 419 of the 1953 General Assembly of the State of Arkansas, codified at Ark. Code Ann. §§ 27-67-301 to -321 (Repl. 1994), and in support thereof, states:

I

Plaintiff is the duly constituted agency of the State of Arkansas charged by law with the construction and maintenance of those highways and roads which comprise the highway system of the State of Arkansas. The highway hereinafter referred to is a part of the highway system of the State of Arkansas.

II

In connection with Job No. 004999, more commonly known as Hwy 16 - Hwy 45(S) (Hwy 265), Washington County, plans of which are on file at Plaintiff's offices in Little Rock and with the Clerk of this Court, Plaintiff will construct and maintain highway facilities in Washington County on the lands hereinafter described.

III

The tracts of land described in Schedule "A" attached hereto and made a part hereof are located in Washington County, Arkansas, and are needed for highway purposes in furtherance of said Job No. 004999, and it is necessary that title in fee to Tract 30 be vested in Plaintiff and that a temporary construction easement be imposed on Tract 30E. Chain of title affecting said lands are in the Recorder's office in Washington County, Arkansas, with interest holder the Bank of Fayetteville, recorded in Instrument #97021348 on or about April 7, 1997.

WHEREFORE, Plaintiff prays that the above described lands be condemned by order of this Court and that title in fee to Tract 30 and a temporary construction easement on Tract 30E, Job No. 004999, be adjudged and vested in Plaintiff; that just compensation for the condemnation and taking of said lands be awarded to those parties entitled thereto, and for such other relief as may be lawful and proper.

ARKANSAS STATE HIGHWAY COMMISSION

BY: ______________________
Robert L. Wilson, Chief Counsel
By: Mark J. Whitmore, #87188
Attorney for Plaintiff
Post Office Box 2261
Little Rock, AR 72203-2261
(501) 569-2158

SCHEDULE "A" TO COMPLAINT AT LAW

JOB NO: 004999

TRACT NO: 30 and 30E

OWNERS AND/OR PARTIES IN INTEREST: Richard L. Mayes and Ethel L. Mayes, husband and wife; and The Bank of Fayetteville, N.A., Mortgagee

LEGAL DESCRIPTIONS

TRACT 30

Part of Lot 11 of W.E. Anderson Farm Subdivision to the City of Fayetteville also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Starting at the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence South 85° 40′ 22″ West along the South line thereof a distance of 1322.95 feet to the Southwest Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence North 04° 19′ 00″ West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 a distance of 991.73 feet to the Southwest Corner of Lot 11 of W.E. Anderson Farm Subdivision for the point of beginning; thence continue North 04° 19′ 00″ West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the West line of Lot 14 of W.E. Anderson Farm Subdivision a distance of 335.50 feet to the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 14 also being the Northwest Corner of Lot 11 of W.E. Anderson Farm Subdivision; thence North 86° 04′ 04″ East along the North line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the North line of Lot 11 of the W.E. Anderson Farm Subdivision a distance of 99.32 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence South 00° 54′ 17″ East along said proposed right of way line a distance of 146.92 feet to a point; thence South 01° 32′ 33″ West along said proposed right of way line a distance of 189.65 feet to a point on the South line of Lot 11 of the W.E. Anderson Farm Subdivision; thence South 86° 04′ 39″ West along said South line a distance of 71.21 feet to the point of beginning and containing 29,201 square feet more or less.

TRACT 30E

Part of Lot 11 of W. E. Anderson Farm Subdivision to the City of Fayetteville, also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Beginning at a point on the Easterly proposed right of way line of Arkansas State Highway 265, said point being 53.48 feet right of and on a radial line to Construction Centerline Station 39+55.00; thence North 89° 47′ 23″ East a distance of 11.52 feet to a point; thence South 00° 04′ 45″ East a distance of 35.30 feet to a point; thence North 89° 56′ 52″ West a distance of 12.52 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence North 01° 32′ 33″ East along said proposed right of way line a distance of 35.26 feet to the point of beginning and containing 424 square feet more or less.

AGENDA REQUEST FORM
For Oct 5, 1999 City Council Meeting

FROM Don Bunn — Name | Public Works Admin — Division | Public Works — Department

ACTION REQUIRED Approval of a resolution giving notice of renewal of the OMI contract for Operations, Maintenance, and Management Services for an additional 5 year term beginning ~~September~~ January 1, 2000, subject to and contingent upon yearly budget approval by the City of Fayetteville.

COST TO CITY

$ -0- Cost of this Request	$ Category/Project Budget	Category/Project Name
Account Number	$ Funds Used to Date	Program Name
Project Number	$ Funds Remaining	Fund Category

BUDGET/CONTRACT REVIEW ____ Budgeted Item ____ Budget Adj. Attached

Budget Coordinator	Date 9-24-99	Admin Services Director	Date 27Sept99
Marilyn J Cramer Accounting Manager	Date 9-24-99	ADA Coordinator	Date
City Attorney	Date 9-24-99	Yolanda Fields Internal Auditor	Date 9-27-99
Purchasing Officer	Date 9-24-99		

STAFF RECOMMENDATION The Staff recommends approval of the resolution extending the OMI contract for Operations, Maintenance, and Management Services for an additional 5 year term subject to yearly budget approvals by the City.

RECEIVED
SEP 28 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Ass't Public Works Director	Date 9-24-99
Department Director	Date 9-27-99
Admin Services, Director	Date 27Sept99
Mayor	Date 9/28/99

Cross Reference

New Item: Yes **No**

Prev Ord/Res # 94-94

Orig. Contract # ______

Orig. Contract Date 8-16-94

COMMENT SHEET

Project: OMI Contract Renewal
Engineer/Contractor: N/A
Notes to Reviewers: This resolution approves a contract renewal of 5 years, however, it does not obligate any funds. The Council must still approve a yearly budget for operation of the treatment plant.

FROM: Stephen Davis

Will a separate item be brought forward later to extend contract with the cost identified for each year. 9/24/99 yes DRB

Signed assuming separate item w/costs coming (per Steve's) comment above - Marilyn

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

September 24, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: OMI Contract for Operations, Maintenance, and Management Contract Renewal

The City's contract for operation of the Noland Wastewater Treatment Facility and other management and maintenance services was executed on August 16, 1994. The contract calls for an initial 5year, 4 month contract period running through December 31, 1999. The contract also allows the City to exercise options for two additional 5 year contract periods.

The attached resolution for your review and approval gives OMI notification of renewal for one additional 5 year contract period as provided for in the contract. Such renewal is subject to and contingent upon yearly budget approval by the City of Fayetteville.

It is the recommendation of the Staff that the Council approve the resolution exercising the City's option to renew the OMI Operations Contract for an additional 5 year period.

RESOLUTION NO. _____

A RESOLUTION RENEWING A CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) FOR AN ADDITIONAL FIVE YEAR PERIOD BEGINNING JANUARY 1, 2000.

WHEREAS, by Resolution No. 94-94 the City of Fayetteville entered into a contract with OMI to oversee the operation of the Wastewater Treatment Plant for a five year period beginning September 1, 1994 and ending December 31, 1999, and

WHEREAS, under Section 7 of said contract two successive five (5) year options are possible, each option renewable at the sole discretion of the owner, and;

WHEREAS, the owner, City of Fayetteville, Arkansas wishes to exercise the first of said options and renew the contract with OMI for an additional five year period.

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

Section 1. That the City of Fayetteville, Arkansas hereby exercises its option as owner under Section 7 of the Agreement for Operations, Maintenance and Management Services dated August 16, 1994 with Operations Management International, Inc. (OMI) and hereby renews said contract for an additional five year period beginning January 1, 2000.

Section 2. Pursuant to 7.1 of the abovementioned agreement, all contract periods and renewals are subject to and contingent upon yearly budget approval by the City of Fayetteville.

PASSED AND APPROVED this 5th day of October, 1999.

APPROVED:

By:____________________________
Fred Hanna, Mayor

ATTEST:

By:____________________________
Heather Woodruff, City Clerk

AGREEMENT
for
OPERATIONS, MAINTENANCE AND
MANAGEMENT SERVICES
for the
CITY OF FAYETTEVILLE, ARKANSAS

THIS AGREEMENT is made on this 16th day of August 1994, between City of Fayetteville (hereinafter "Owner"), whose address for any formal notice is 113 West Mountain, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at Englewood, Colorado, whose address for any formal notice is 5299 DTC Blvd., Suite 1200, Englewood, Colorado 80111-3333.

Owner and OMI agree:

1. GENERAL

1.1 All definitions of words or phrases used in this Agreement are contained in Appendix A.

1.2 All grounds, facilities, equipment, and vehicles now owned by Owner or acquired by Owner shall remain the property of Owner.

1.3 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arkansas and venue shall be in Washington County, Arkansas.

1.4 This Agreement shall be binding upon the successors and assigns of each of the parties, but neither party will assign this Agreement without the prior written consent of the other party. Consent shall not be unreasonably withheld.

1.5 All notices shall be in writing and transmitted by certified mail to the address noted above.

1.6 This Agreement, including Appendices, is the entire Agreement of the parties. This Agreement may be modified only by written agreement signed by both parties. Wherever used, the terms "OMI" and "Owner" shall include the respective officers, agents, directors, elected or appointed officials, and employees.

2. SCOPE OF SERVICES--OMI

OMI shall:

2.1 Operate and maintain all facilities over a 24-hour per day, 7-day per week period, under full service contract operations and maintenance. Operations may be performed with on site staff and/or remote monitoring for all or portions of this time.

2.2 Within the design capacity and capability of the Project, manage, operate, and maintain the Project so that effluent discharged from the Project meets the requirements specified in Appendix C.

2.3 Operate and maintain the present Industrial Pretreatment Program including all monitoring, inspections, sampling, testing, reporting, and record keeping as described in appendix D. Results of all industrial sampling and testing shall be made available to owner as requested.

2.4 Provide all Maintenance for the Project. Document as required to continue existing maintenance program and to provide owner requested reporting. Owner shall have the right to inspect these records during normal business hours.

2.5 Pay all Cost incurred within the scope of normal Project operations as defined in this contract.

2.6 Staff the Project with employees who have met the certification requirements of the State of Arkansas.

2.7 Prepare all NPDES permit reports and submit these to Owner for signature and approval. Transmittal to appropriate agencies shall be done by OMI. Any fines levied because of late reports as a result of OMI's failure to complete and allow sufficient time for Owner's signature and transmittal shall be paid by OMI. Submittal to the Owner by the 10th of the month following the reporting period shall be considered timely.

2.8 Provide for the disposal of screening, grit, and sludge to the existing disposal sites in compliance with permit and regulatory requirements, as long as a suitable location for such disposal is reasonably available. Should regulations and/or disposal site availability significantly change, projected costs would be revised.

2.9 Provide for monitoring and control of septage deliveries, as provided for in the Owner's sewer use ordinance.

2.10 Provide all manufacturers' warranties on new equipment purchased by the Owner and assist the Owner in enforcing existing equipment warranties and guarantees.

2.11 Improve facilities such that odor shall be managed as detailed in Appendix I.

2.12 Be responsible for all laboratory testing and sampling presently required by the NPDES permit.

2.13 Provide an inventory of vehicles and equipment that are being used at the Project at the beginning of each contract year.

2.14 Provide twenty four (24) hour per day access to Project for Owner's personnel. Visits may be made at any time by any of Owner's employees so designated by Owner's Representative. Keys for Project shall be provided Owner by OMI. All visitors to the Project shall comply with OMI's operating and safety procedures.

2.15 Provide for the maintenance of existing Owner- owned rolling stock such as dump trucks and sludge tank trucks necessary for the operations and maintenance of the facilities.

2.16 Provide training for personnel in areas of operation, maintenance, safety, supervisory skills, laboratory, and energy management. Continue the current Project Safety Program with updates as necessary.

2.17 Provide computerized maintenance, process control, and laboratory management systems.

2.18 Comply with the requirements of Owner regarding affirmative action provisions for minority hiring.

2.19 Provide Owner with a full accounting of all expenditures at intervals and in sufficient detail as may be determined by Owner and assist Owner in preparation of annual operating budgets. Owner shall be allowed to conduct or have conducted audits of all accounting related to the direct contract operations of this Agreement at times to be determined by Owner.

2.20 Provide Owner with full documentation that preventive maintenance is being performed on all Owner-owned equipment in accordance with manufacturer's recommendations at intervals and in sufficient detail as may be determined by Owner. Maintenance program shall include documentation of corrective and preventive maintenance and a spare parts inventory.

2.21 Provide for repairs as described in the Appendix A.5

2.22 Maintenance of the S.C.A.D.A (Supervisory Control and Data Acquisition) system as described in Appendix B.1.

2.23 Verify the capacity and efficiency of each pump in the sewage pump stations in year one (1) of the contract and to repeat the operation once every three (3) years thereafter.

2.24 Travel expenses and labor to provide visits and consultation with regulatory agencies for all items within the scope of this contract.

2.25 Provide recommendations for Capital Improvements with a schedule for improvements and expenditures within thirty (30) days of contract renewal and in the month of January of each successive contract year. A five (5)year schedule will be presented for all capital improvements and ten (10) year projections will be made for major improvements. These recommendations will be based on requirements determined from facility operations and does not include detailed engineering studies. In addition, OMI will prepare the required forms and documentation required during budget and capital improvements budget preparation time each year. OMI shall meet deadlines as set forth in the budget and CIP preparation manual. Except for the improvements requiring an engineering study, the following will be included for each project:

- Improvement needed
- Justification of improvements
- Cost of improvements
- Any projected increase or decrease in O&M costs created by the Project
- Proposed expenditure schedule
- Proposed capital recovery schedule
- Impact of early termination

2.26 Perform other services that are incidental to the Scope of Services upon written notification by Owner. Such services will be invoiced to Owner at OMI's Cost plus eighteen percent (18%).

2.27 Provide Owner with oral and written reports as requested.

2.28 Operate and maintain all existing wastewater lift station facilities including buildings and grounds. However, maintenance of inlet and outlet pipeworks shall terminate at the wall of lift station. Should the owner add in excess of Six (6) additional lift stations a corresponding change of scope would be negotiated.

2.29 OMI will comply with present and future, federal, state and local laws in performing their obligations under the terms of this agreement.

3. SCOPE OF SERVICE–OWNER

Owner shall:

3.1 Provide for all Capital Expenditures except for the Projects that Owner may authorize OMI to implement subject to mutually agreeable terms and conditions of repayment.

3.2 Maintain all existing Project warranties, guarantees, easements, permits and licenses that have been granted to Owner.

3.3 Pay all property, franchise or other taxes associated with the Project.

3.4 Provide OMI within a reasonable time after request any piece of Owner's heavy equipment that is available so that OMI may discharge its obligations under this Agreement in the most cost-effective manner.

3.5 Provide all licenses for vehicles used in connection with the Project.

3.6 Provide for OMI's use all vehicles and equipment presently in use at the Project, including the vehicles described in Appendix E.

3.7 Pay for all Lift Station electrical power and other utilities.

3.8 Pay for all gasoline and diesel.

4. COMPENSATION

4.1 For services rendered during the first year of this agreement owner shall pay to OMI the actual cost of services performed plus a management fee of Seventy Thousand Dollars ($70,000). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments.

4.2 OMI and Owner agree that at the end of each three (3) months OMI will perform a reconciliation of estimated to actual cost and submit the reconciliation within thirty (30) days after the end of the period. The year end reconciliation will be performed following OMI's annual audit and will be submitted within one hundred twenty (120) days of the end of the contract year. Any difference due to Owner or OMI will be paid within thirty (30) days of quarterly and annual reconciliation completion.

4.3 OMI estimates that cost for services, on an annual basis, under this agreement for the remainder of 1994 shall be Two Million Six Hundred Sixty Six Thousand Four Hundred Eighty One Dollars ($2,666,481). For calendar year 1995 OMI estimates are Two Million Seven Hundred One Thousand One Hundred and Seventy Seven Dollars (2,701,177) annually. Details of said cost are shown in

Appendix J. The base fee shall be negotiated each year in September, beginning in 1995 for calendar year 1996. Should Owners and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this agreement, specific approval will be obtained from the owner.

4.4 An administrative fee of 35 percent is added to personnel services, 5 percent to electricity, and 10 percent to all other costs for administration, support, management and overhead.

4.5 In order to provide an incentive for OMI to operate in a manner that will result in actual costs below estimated cost, Owner will pay OMI an additional fee when actual costs are below estimated cost. Said fee will be 12.5 percent of the amount actual cost are below estimated cost to a maximum amount of Seventy Five Thousand Dollars ($75,000).

4.6 Owner will pay as additional compensation to OMI any increase in electricity costs that are a result of electrical rate increases that occur during any Agreement year and have not been reflected in previous negotiations. OMI will invoice any such cost increase annually based on the calculated difference between previous and current rates.

4.7 In the event that a change in the scope of services provided by OMI occurs, Owner and OMI will negotiate a commensurate adjustment in estimated annual cost.

5. PAYMENT OF COMPENSATION

5.1 One Twelfth (1/12) of the base fee for the current year shall be due and payable on the first of the month for each month that services are provided.

5.2 All other compensation to OMI is due upon receipt of OMI's invoice and payable within thirty (30) days.

6. INDEMNITY, LIABILITY AND INSURANCE

6.1 OMI shall be liable for damages, injury, or loss which may arise from OMI's negligent operations or intentional acts under this Agreement, to the proportion such negligence or act contributed to the damages, injury, or loss, whether such negligent operation or intentional act be by OMI or by a subcontractor of OMI.

6.2 OMI shall be liable for those fines or civil penalties, which may be imposed by a regulatory agency for violations of the effluent quality requirements specified in Article 2.2, that are a result of OMI's negligent operation. Owner will assist OMI to contest any such fines in administrative proceedings and/or in court prior to any payment by OMI. OMI shall pay the costs of contesting any such fines.

6.3 Each party shall obtain and maintain insurance coverage of a type and in the amounts described in Appendix G. Each party shall name the other party as an additional insured on all insurance policies covering the Project and shall provide the other party with satisfactory proof of insurance.

6.4 It is understood and agreed that, in seeking the services of OMI under this Agreement, Owner is requesting OMI to undertake uninsurable obligations for Owner's benefit involving the presence or potential presence of hazardous substances. Therefore, Owner agrees to hold harmless, indemnify, and defend OMI from and against any and all claims, losses, damages, liability, and costs including, but not limited to, costs of defense arising out of or in any way connected with the presence, discharge, release, or escape of hazard substances of any kind, excepting only such liability as may arise out of the negligence or intentional act of OMI in the performance of services under this Agreement.

6.5 Nothing contained herein shall constitute a waiver of any statutory, legal or equitable defenses the owner may have as a municipality, including but not limited to tort immunity under State statue.

7. <u>TERM AND TERMINATION; DEFAULT REMEDIES</u>

7.1 The initial term of this Agreement shall be five (5) years and 4 (four) months commencing on September 1,1994 and ending on December 31, 1999, followed by two (2) successive five (5) year options, each option renewable at the sole discretion of the owner. Each option can be made effective by written notification from the Owner to OMI ninety (90) days prior to the expiration of the previous contract period. All contract periods and renewals are subject to and contingent upon yearly budget approval by the owner.

7.2 Either party may terminate this Agreement for a material breach of the Agreement by the other party after giving written notice of breach and allowing the other party thirty (30) days to correct the breach. Neither party shall terminate this Agreement without giving the other party thirty (30) days written notice of intent to terminate after failure of the other party to correct the breach within thirty (30) days.

7.3 Upon notice of termination by Owner, OMI shall assist Owner in resuming operation of the Project. OMI will provide Owner at the date of termination the quantities of chemicals shown in Appendix H. Owner will pay OMI for the Cost of quantities in excess of the quantities shown in Appendix H. If additional Cost is incurred by OMI at request of Owner, Owner shall pay OMI such Cost in accordance with Article 5.2.

8. <u>LABOR DISPUTES; FORCE MAJEURE</u>

8.1 In the event activities by Owner's employee groups or unions cause a disruption in OMI's ability to perform at the Project, Owner, with OMI's assistance or OMI, at its own option, may seek appropriate injunctive court orders. During any such disruption, OMI shall operate the facilities on a best-efforts basis until any such disruptions cease.

8.2 Neither party shall be liable for its failure to perform its obligations under this Agreement if performance is made impractical, abnormally difficult, or abnormally costly, due to any unforeseen occurrence beyond its reasonable control. The party invoking this Force Majeure clause shall notify the other party immediately by verbal communication and in writing by certified mail of the nature and extent of the contingency within ten (10) working days after its occurrence.

9 ARBITRATION

9.1 Any controversy between the parties to this agreement involving the construction or application of any of the terms, covenants or conditions of this agreement shall, on the written request of one party served on the other within thirty (30) days after the dispute arises, be submitted to arbitration, and such arbitration shall comply with and be governed by the Arkansas Uniform Arbitration Act (A.C.A.§16-108-201 et seq.).

9.2 The parties to this agreement may agree on one arbitrator, but in the event that they cannot agree, there shall be three (3) arbitrators, one named in writing by each of the parties within fourteen (14) days after demand for arbitration, and a third to be chosen by the two so named.

9.3 If there is one arbitrator, his or her decision shall be binding and conclusive on the parties. If there are three arbitrators, the decision of any two shall be binding and conclusive.

Both parties indicate their approval of this Agreement by their signatures below.

Authorized signature:	Authorized signature:
Henry C. Huffman	Fred Hanna, Jr.
Henry C. Huffman Title: District Manager	Fred Hanna, Jr. Title: Mayor
OPERATIONS MANAGEMENT INTERNATIONAL, INC.	CITY OF FAYETTEVILLE
Date: 8/15/94	Date: 8-17-94

AMENDMENT NO. 4
TO THE
AGREEMENT FOR OPERATIONS,
MAINTENANCE, AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS
WASTEWATER TREATMENT PLANT

THIS AMENDMENT, entered into this 2 day of February, 1999, by and between the City of Fayetteville, Arkansas (hereinafter "Owner"), whose address for any formal notice is 113 West Mountain Street, Fayetteville, Arkansas 72701 and Operations Management International, Inc. (hereinafter "OMI"), with offices at 6060 South Willow Drive, Suite 200, Greenwood Village, Colorado 80111-5142 is made and entered into for purposes of amending certain provisions of the "Agreement for Operations, Maintenance, and Management Services for the City of Fayetteville's Wastewater Treatment Plant," dated August 16, 1994 (the "Agreement") to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

This is Amendment No. 4 to the Agreement dated the 16th day of August 1994, between Owner and OMI.

NOW THEREFORE, Owner and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:

   4.1 For services rendered during the fifth year of this agreement owner shall pay to OMI the actual cost of services performed plus a management fee of Eighty Five Thousand Four Hundred and Ninety Five Dollars ($85,495). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.

2. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates that cost for services for calendar year 1999 shall be Three Million Six Hundred Thirty Two Thousand, Nine Hundred and Ninety Two Dollars ($3,632,992) annually. Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September, beginning in 1999 for calendar year 2000. Should Owners and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this agreement, specific approval will be obtained from the owner.

3. Appendix J is hereby deleted in its entirety and replaced with the attached Appendix J.

4. Appendix K is hereby added to the Agreement.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Amendment.

Both parties indicate their approval of this Amendment to the Agreement by their signatures below as of the date shown above.

Authorized Signature:	Authorized Signature:
Bernard A. Miller	Fred Hanna, Jr.
Title: Chief Operating Officer	Title: Mayor
OPERATIONS MANAGEMENT INTERNATIONAL, INC.	CITY OF FAYETTEVILLE
Date: 19 JAN 1999	Date:

WASHINGTON COUNTY, ARK. CITY OF FAYETTEVILLE,

Appendix J

COST DETAIL

The proposed annual estimated costs for 1999 were calculated as follows:

	Projected 1998	Budgeted 1998	Proposed 1999
Direct labor and benefits	$1,267,408	$1,290,521	$1,329,586
Labor overhead @ 35%	$ 443,593	$ 451,682	$ 465,355
Electricity	$ 579,956	$ 540,000	$ 600,000
Electric overhead @ 5%	$ 28,998	$ 27,000	$ 30,000
All other direct costs	$ 779,688	$ 799,257	$ 793,233
Other direct costs overhead 10%	$ 77,969	$ 79,926	$ 79,323
Sub-Total	$3,177,612	$3,188,386	$3,297,497
Fixed Fee	$ 82,666	$ 82,665	$ 85,495
Total Operating Budget	$3,260,278	$3,271,051	$3,382,992
SCADA Upgrade - Phase 1			$ 250,000
Total 1999 Budget			$3,632,992

The following are some of the major reasons for cost circumstances:

1. Projected increase in electrical usage and demand due to increased loading, and the requirement to begin part-time utilization of the second aeration basin.

2. Continued increase in the cost of providing skilled professional labor in Northwest Arkansas' highly competitive job market.

Appendix K

SCADA UPGRADE - PHASE 1 - SCOPE OF WORK

The following SCADA upgrade tasks will be performed by OMI during the calendar year 1999.

1. Replacement of 41 (now discontinued) existing remote terminal units with OMI-developed remote terminal units at each SCADA remote location, including all existing SCADA-equipped wastewater lift stations, water tanks, and water pump/booster stations. (This project specifically excludes costs associated with installations of new SCADA equipment at locations not presently so equipped. This project also specifically excludes replacement of the existing Motorola radios associated with each remote terminal unit)

2. Replacement of existing human/machine interface software with Y2K compliant 'Lookout' v3.8 by National Instruments.

3. Replacement of two remaining existing central computers (out of the original four) with five updated and modernized versions for improved access and redundancy. These computers will be IBM compatible with minimum 350 MHz processors.

4. Upgrade of systemic remote control and monitoring capability with the replacement of existing mobile computer and addition of three mobile computers and the implementation of point-to-point protocol (PPP) dial-up networking.

Copy

AGENDA REQUEST FORM

XXX AGENDA REQUEST, City Council meeting of February

FROM: Don Bunn (Name) — Public Works Admin (Division) — Public Works (Department)

ACTION REQUIRED: A resolution authorizing the execution of Amendment No. 4 ~~5~~ to our contact with OMI for the operation of the Paul Noland Treatment Plant, and the approval of a budget adjustment. The amendment provides for a total of $3,632,992 for operations services during 1999.

COST TO CITY:

$ 250,000.00 $ 3,382,992.00	$ 250,000.00 $ 3,327,051.00	Water/Sewer Imp'v'ts PCP Operations
Cost-This Request	Category/Project Budget	Category/Project Name
5400-5700-5315-00 5400-5100-5328-00	$ -0-	
Account Number	Funds Used To Date	Program Name
99033 N/A	250,000.00 $ 3,327,051.00	Water/Sewer Fund
Project Number	Funds Remaining	Fund Category

BUDGET/CONTRACT REVIEW: XX Budgeted Item XX Budget Adj. Attached

Budget Coordinator	Date	Administrative Services Director	25JAN99 Date
Accounting Manager	1-22-99 Date	ADA Coordinator	Date
City Attorney	1-25-99 Date	Internal Auditor	1-25-99 Date
Purchasing Officer	1-25-99 Date		

STAFF RECOMMENDATION: It is the recommendation of the Staff that the Council approve Amendment No. ~~5~~ 4 in the amount of $3, 632,992.00 and a budget adjustment.

Ass't Public Works Director	1-22-99 Date	Cross Reference
Department Director	1-25-99 Date	New Item: Yes No
Admin Services Director	25JAN99 Date	Prev Ord/Res #:
Mayor	1/26/99 Date	Orig Contract Date: Aug 16, 1994

AGENDA SESSION
SEPTEMBER 28, 1999

for
OCTOBER 5, 1999
CITY COUNCIL MEETING
FAYETTEVILLE

NEW ITEMS:

PUBLIC LIBRARY: OPTION TO PURCHASE

DISMISSAL OF PUBLIC NUISANCE AGAINST BAKERY FEEDS

LAND POSSESSION -- HWY. 265

OMI CONTRACT RENEWAL

ADDITIONAL INFORMATION:

INDUSTRIAL PARK

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL MEETING
OCTOBER 5, 1999

A meeting of the Fayetteville City Council will be held on October 5, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Items to be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes of the September 21, 1999 City Council meeting.

2. **YVONNE RICHARDSON COMMUNITY CENTER:** A resolution approving an offer and acceptance contract to acquire property at 153 E. Mountain for future expansion of the Yvonne Richardson Community Center.

3. **VETERANS MEMORIAL PARK:** A resolution approving a budget adjustment in the amount of $35,201 for overlaying entryway and parking area at Veterans Memorial Park.

B. OLD BUSINESS

1. **GREATHOUSE PARK:** Discussion of Greathouse Park Bridge and the tree removal required due to flood prevention for its construction.

2. **RZ 99-26:** An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on Zion Road. The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. The ordinance was left on the first reading.

3. **RZ 99-27:** An ordinance approving rezoning request RZ 99-27 as submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for property west of Double Springs Road. The property is in the planning growth area and contains approximately 47.98 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. The ordinance was left on the first reading.

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

4. **RZ 99-25:** An ordinance approving rezoning request RZ 99-25 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for property located west of Rupple Road and east of Meadowlands Subdivision. The property is zoned A-1, Agricultural, and contains 17.10 acres. The request is to rezone the property to R-1.5, Moderate Density Residential.

C. **NEW BUSINESS**

1. **DISPATCH TRAINER:** A resolution approving three new dispatch trainer positions for the Central Dispatch Center, and also approval of a budget adjustment.

2. **RZ 99-28.00:** An ordinance approving rezoning request RZ 99-28 submitted by William S. Hahn on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

3. **US ABLE LIFE:** A resolution approving the purchase of employee group policies from US Able Life to provide Life, AD&D, and LTD coverage plus contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account. The contract's effective date is 1-1-2000 for a one-year term with four one-year options for renewal by agreement of both parties.

4. **1999 MILLAGE:** An ordinance adopting real and personal property tax rates for 1999 for the Police and Fire Pension Funds. The rate to be adopted is 0.5 mils for real and property and 0.5 mils for personal property. There is no millage proposed for general government operations.

5. **LIBRARY DESIGN:** A resolution approving an architectural agreement with Meyer, Scherer and Rockcastle, Ltd. of Minneapolis, MN for the design of the City's proposed library. And approval of a budget adjustment in the amount of $130,000.

6. **REIMBURSEMENT / WASTEWATER TREATMENT PROJECT:** A resolution allowing the City of Fayetteville to reimburse itself certain expenditures paid directly from the operating and capital budgets of the city for the Wastewater Treatment Project from tax-exempt bond proceeds once the project has proceeded to that point. This will allow the City to be reimbursed if we so choose at the time we structure a financing plan.

7. **INDUSTRIAL PARK: PROPOSED DEVELOPMENT:** A resolution authorizing the sale of 14 acres of Lot 13 in the Fayetteville Industrial Park to a proposed development.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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CITY COUNCIL MEETING
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B. OLD BUSINESS

Moving to New Business - ~~[illegible]~~ - Discussion and possible action of new info & report.

see Graphic New copy

1. **GREATHOUSE PARK:** Discussion of Greathouse Park Bridge and the tree removal required due to flood prevention for its construction.

Corp of Engineers

2. ✓**RZ 99-26:** An ordinance approving rezoning request RZ 99-26 as submitted by Michele Harrington on behalf of Valerie M. Zamberletti for property on Zion Road. The property is in the planning growth area and contains approximately 34.72 acres. The request is to rezone from A-1, Agricultural, to R-1, Low Density Residential. The ordinance was left on the first reading.

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Consent.

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Consent

actuary reports PRAB

4. **1999 MILLAGE:** An ordinance adopting real and personal property tax rates for 1999 for the Police and Fire Pension Funds. The rate to be adopted is 0.5 mils for real and property and 0.5 mils for personal property. There is no millage proposed for general government operations. need copies of act. report for both funds. Summary.

5. **LIBRARY DESIGN:** A resolution approving an architectural agreement with Meyer, Scherer and Rockcastle, Ltd. of Minneapolis, MN for the design of the City's proposed library. And approval of a budget adjustment in the amount of $130,000. (phase I) need budget adj for final agenda. Staff ~~of~~ review forms.

Consent agenda

6. **REIMBURSEMENT / WASTEWATER TREATMENT PROJECT:** A resolution allowing the City of Fayetteville to reimburse itself certain expenditures paid directly from the operating and capital budgets of the city for the Wastewater Treatment Project from tax-exempt bond proceeds once the project has proceeded to that point. This will allow the City to be reimbursed if we so choose at the time we structure a financing plan.

Jim Crider.

7. **INDUSTRIAL PARK: PROPOSED DEVELOPMENT:** A resolution authorizing the sale of 14 acres of Lot 13 in the Fayetteville Industrial Park to a proposed development.

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the City Council Meeting of October 5th, 1999

From:

James Nicholson	Community Development	Admin Services
Name	Division	Department

ACTION REQUESTED:
Agenda Request. Consideration of an Offer and Acceptance Contract to acquire property at 153 E Mountain for future expansion of the Yvonne Richardson Community Center.

COST TO THE CITY:

$16,000	$59,000	SE Commmunity Center Improvement
Cost of this request	Project Budget	Category/Project Name
2180.4990.5390.24	$21,813	Public Facilities / Improv
Account Number	Funds used to date	Program Name
99003	$37,187	Community Development
Project Number	Remaining Budget	Fund

BUDGET REVIEW:

X Budgeted Item — ___ Budget Adjustment Attached

Steph Davis
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: — Grantor Agency:

Marilyn J Cramer 9-14-99
Accounting Manager — Date

Yolanda Fields 9-14-99
Internal Auditor — Date

9-14-99
City Attorney — Date

ADA Coordinator — Date

l Vice 9-14-99
Purchasing Manager — Date

STAFF RECOMMENDATION:
Staff requests approval of purchase

James Nicholson 9-15-99
Division Head — Date

15 Sep 99
Admin Svcs Director — Date

Department Director — Date

Fred Hanna 9/15/99
Mayor — Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

From: Kevin Crosson, Administrative Services Director KC

Date: September 13, 1999

Re: Offer and Acceptance Contract - Community Development Division

The Offer and Acceptance Contract submitted for your consideration is to acquire property located at 153 East Mountain, Fayetteville. The property will be used for future expansion of the Yvonne Richardson Community Center facilities. The parcel is one lot approximately 44.5 x 99 ft and has a defunct residential building. The structure is badly damaged due to fire and will be razed.

The City Council approved the purchase of an adjacent parcel, 151 E Mountain, in June of this year. This recently purchased essentially identical parcel was appraised for $16,000 by Belote & Associates, and is the basis of the offer for 153 E Mountain.

BUDGET CONSIDERATIONS

The expansion of the Yvonne Richardson Community Center is included in the 1999 Capital Improvements Program and Community Development Block Grant (CDBG) funds in the amount of $59,000 are allocated this year. This amount represents the costs pertaining to the purchase of available parcels and demolition & removal of the dilapidated structures.

STAFF RECOMMENDATIONS

A map is attached that shows the Community Center and surrounding area. Staff recommends approval of the Contract as acquisition of this property will nearly complete City ownership of the parcels adjacent to the Community Center. Only two smaller parcels remain to be acquired to complete the acquisitions needed to accommodate the expansion.

Please let me know if you have additional questions. Thank you for your attention to this matter.

Attachments: Offer and Acceptance Contract
Map

OFFER AND ACCEPTANCE CONTRACT

1. **The City of Fayetteville, Arkansas**, a municipal corporation, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property from **Ernestine Carr**, hereinafter referred to as Seller:

   A part of the NW/4 of the SW/4 of Section 15, T-16-N, R-30-W, of the 5th P.M., County of Washington, State of Arkansas, and being more particularly described as follows, to wit: Beginning at a point which is 599.5 feet East and 266 feet South of the N/W Corner of the SW/4 of said Section 15; thence East 44.5 feet; thence South 99 feet; thence West 44.5 feet; thence North 99 feet to the point of beginning.

2. **Purchase Price**: Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **$16,000**.

3. **Contingencies/Conditions:** This offer of purchase is contingent upon approval by the City Council of the City of Fayetteville, Arkansas. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, this contract becomes null and void. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the Seller may assert legal or equitable rights which he or she may have because of breach of this contract. This offer is contingent on the condition that no tenant will occupy or have the right to occupy at the time of closing.

4. **Conveyance:** Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.

5. **Abstract or Title Insurance:** The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. Buyer shall pay for the costs of the title insurance upon closing.

6. **Buyers Right To Survey Property:** Seller agrees to allow Buyer to survey the property if Buyer so desires and at Buyer's expense. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.

7. **Prorations:** Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, and special assessments payments shall be prorated as of closing.

8. **Closing:** The closing date is designated to be **October 15, 1999**. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. **Possession:** Possession of the property shall be delivered to the Buyer on the date of closing.

10. **Fixtures and Attached Equipment/Condition of Property:** Unless specifically excluded herein, all fixtures, improvements and attached equipment are included in the purchase price.

11. **Risk of Loss:** Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.

12. **Inspections and Repairs:** Buyer has inspected the property and is not relying upon any warranties, representations, or statements by Seller or Seller's agent(s) as to age or condition of improvements, other than those specified herein.

13. **Contract Limits:** This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

14. **Expiration:** This contract expires, if not accepted on or before **September ~~10~~ 13, 1999.** E.G.

15. **NOTICE:** **BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY OF FAYETTEVILLE CITY COUNCIL AND THAT THE FAILURE TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID.**

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 3

SELLER:

Ernestine Carr

Ernestine Carr

Date: 9/13/99

AGENT OR WITNESS:

Windy Carr

Date: 9-13-99

BUYER:

City of Fayetteville, Arkansas,
a municipal corporation

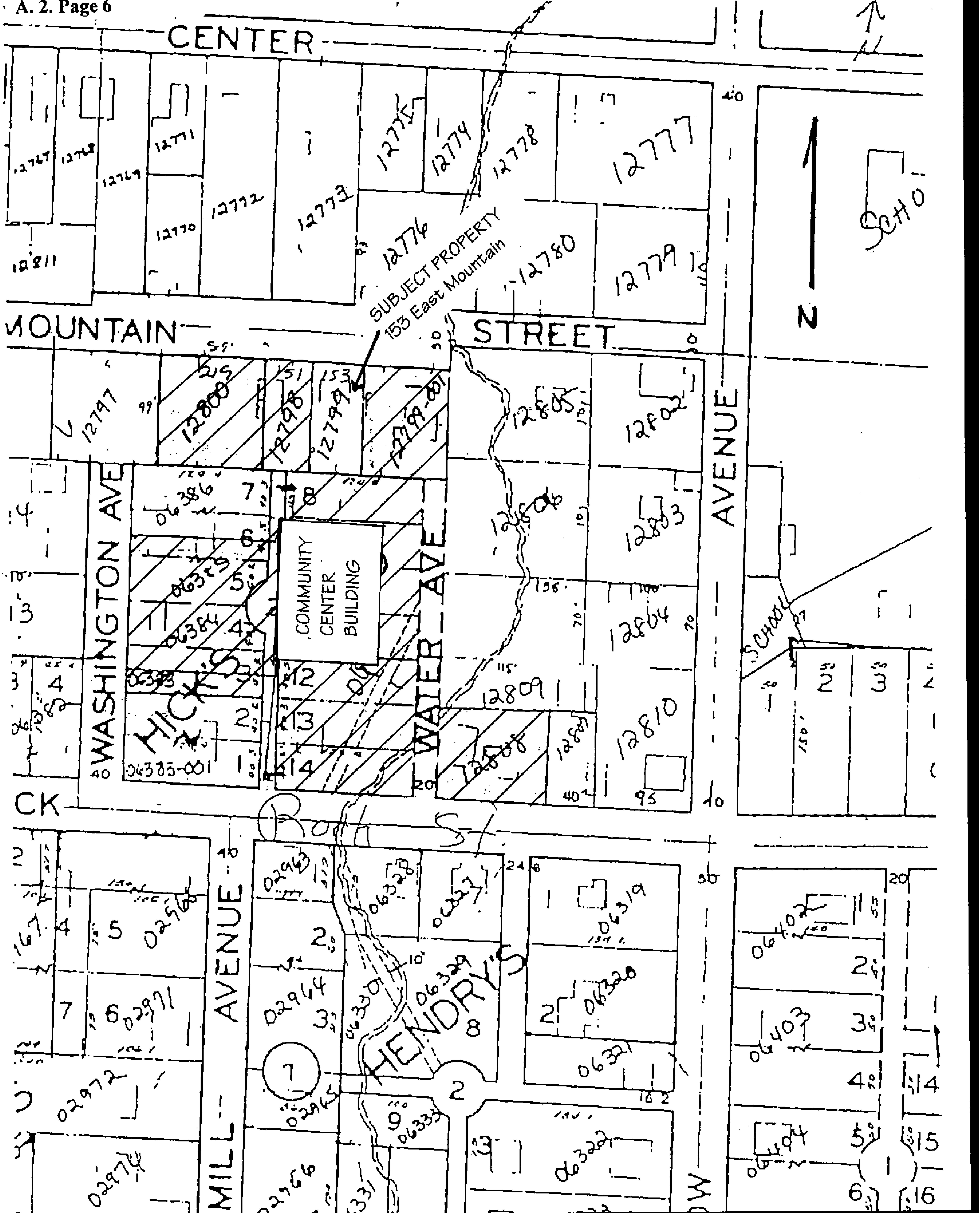
______________________________ Date: ______________

Fred Hanna, Mayor

______________________________ Date: ______________

Heather Woodruff, City Clerk

(SEAL)


CENTER
MOUNTAIN
STREET
SUBJECT PROPERTY
153 East Mountain
COMMUNITY
CENTER
BUILDING
WASHINGTON AVE
WATER AVE
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Veterans Mem. Park
A. 3. Page 1

STAFF REVIEW FORM

xx _ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Connie Edmonston	Parks & Recreation	Public Works
Name	Division	Department

ACTION REQUIRED:

Approval of Budget Adjustment in the amount of $35,201 for overlaying entryway and parking area at Veterans Memorial Park.

COST TO CITY:

~~$51,071~~	~~$172,629~~	Lake Fay S Restrooms/Parking
Cost of this Request	Category/Project Budget	Category/Project Name
4470-9470-5806-00	~~$156,759~~	
Account Number	Funds Used To Date	Program Name
96034	~~$15,870~~	Sales Tax
Project Number	Remaining Balance	Fund

BUDGET REVIEW: __xx_ Budgeted Item __xx_ Budget Adjustment Attached

9-16-99
Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ____

Marilyn J. Cramer 9-16-99
Accounting Manager Date

Internal Auditor Date

9-16-99
City Attorney Date

ADA Coordinator Date

9-16-99
Purchasing Officer Date

STAFF RECOMMENDATION:

Approval of budget adjustment

Connie Edmonston 9-15-99
Division Head Date

9-16-99
Department Director Date

Administrative Services Director Date

Fred Hanna 9/17/99
Mayor Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: __

Orig Contract Date:_

Orig Contract Number: ____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Hanna and City Council

THRU: Charlie Venable, Public Works Director

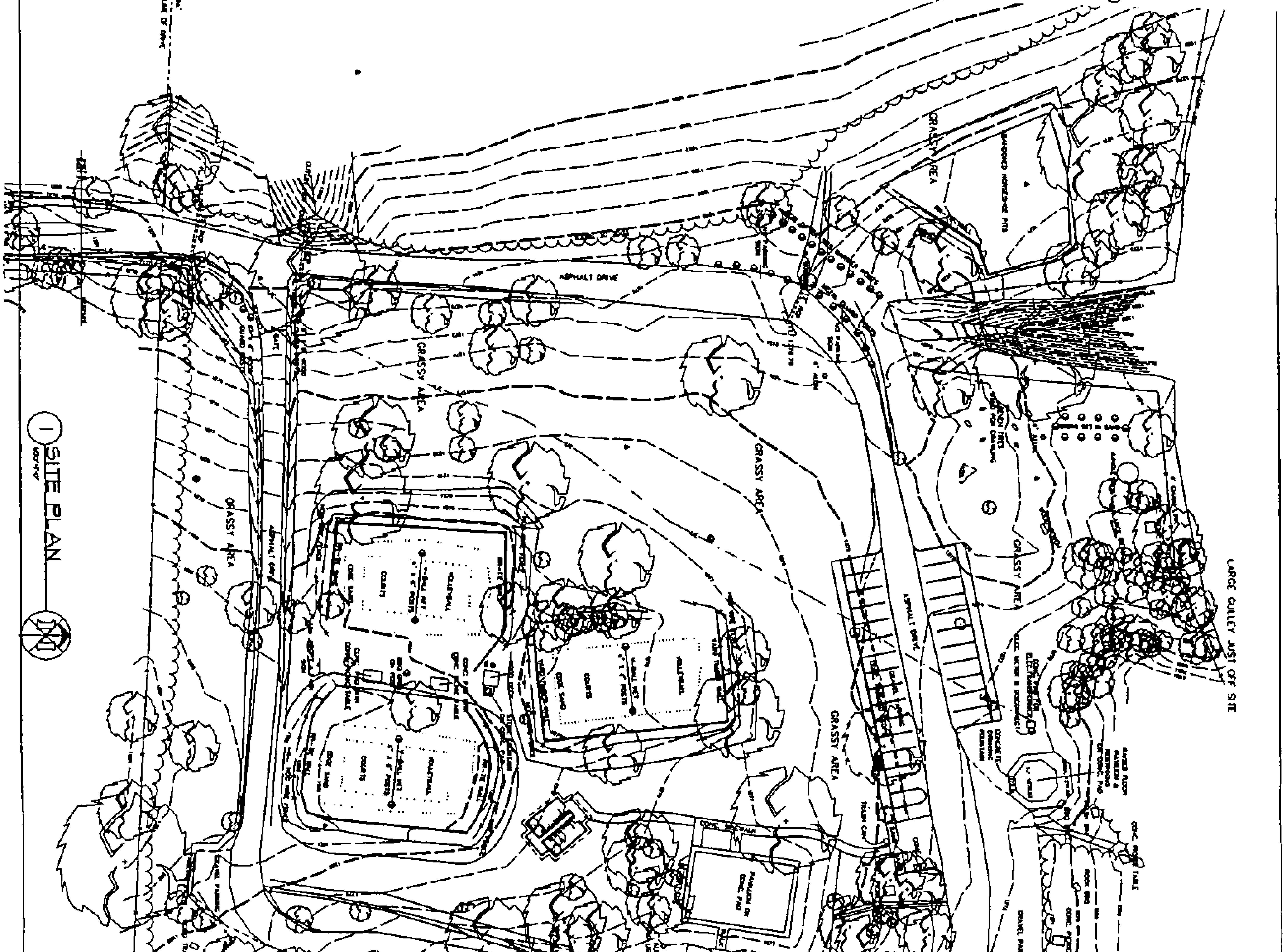
FROM: Connie Edmonston, Parks & Recreation Superintendent

DATE: September 15, 1999

RE: Budget Adjustment for Veterans Memorial Park Entryway/Parking Overlay

Overlaying the entryway and parking area at Veterans Memorial Park has been in the Park's CIP since 1996. With the completion of the new restroom facility, there was $15,870 left to overlay the entryway and parking area. Additional funds for this project would be obtained from money remaining in the Parks Maintenance Complex project.

The entryway is in terrible shape with many potholes. Over the past few years, Veterans Memorial Park has been upgraded with the addition of the large pavilion and restrooms. It is used by many large groups because of the physical amenities of the large pavilion, restrooms, playground equipment, large open area, fishing pier, trails, sand volleyball courts, and the proximity to Lake Fayetteville. The City Street Division would perform the work at a cost of $51,071. Please call me at 444-3473 if you have any questions concerning this project.



6/23/98	SITE PLAN	VETERAN'S PARK PARKING & RESTROOM PROJECTS FAYETTEVILLE, ARKANSAS	
98013			

Veterans Mem. Park
A. 3. Page 4

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvement Fund	Date Requested	Adjustment #
1999	Division:	09/16/99	
	Program:		

Project or Item Requested:
Additional funding is requested for the Veterns Park project.

Project or Item Deleted:
None. Funding for this request is from the Pqarks Maintenance Complex project.

Justification of this Increase:
The funds are requested to make improvements to the park enrtyway and to overlay the parking lot.

Justification of this Decrease:
The entryway and parking lot overlay project is a higher priority project.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Parks Improvements	35,201	4470	9470		5806	00	96034	1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Parks Improvements	35,201	4470	9470		5806	00	97019	10

Approval Signatures

Signature	Date
Requested By	
Budget Manager	9-16-99
Department Director	9-16-99
Admin. Services Director	16 SEPT 99
Mayor	9/17/99

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

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Dispatch Trainer
C. 1. Page 1

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Richard L. Watson	Police	Police
Name	Division	Department

ACTION REQUIRED: Approve three new Dispatch Trainer positions for the Central Dispatch Center, and also approve the budget adjustment.

COST TO CITY:

$20,100.00	543,345.00	Personnel
Cost of this Request	Category/Project Budget	Category/Project Name
See attached	365,459.00	Central Dispatch
Account Number	Funds Used To Date	Program Name
	177,886.00	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Manager

Administrative Services Director

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

Marilyn J Cramer 9-16-99
Accounting Manager Date

Internal Auditor Date

9-16-99
City Attorney Date

ADA Coordinator Date

9-16-99
Purchasing Officer Date

STAFF RECOMMENDATION: Approval of the three additional Dispatch Trainer positions and the budget adjustment.

Division Head Date

9-16-99
Department Director Date

Administrative Services Director Date

9/17/99
Mayor Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: ___

Orig Contract Date: ___

Dispatch Trainer
C. 1. Page 2

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year			Date Requested	Adjustment #
1999	Department:	Police	09/16/99	
	Division:	Communications		
	Program:	Central Dispatch Center		

Project or Item Requested:

Funding to implement the three Dispatch Trainer positions.

Project or Item Deleted:

None

Justification of this Increase:

These positions will reduce the work load of the Lead Dispatchers and form a streamlined training program. They will also act as dispatchers during personnel shortages.

Justification of this Decrease:

N/A

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number	Project Number
Salaries and benefits (multiple)	$20,100.00	1010 2600 5100 .00	

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project Number
911 Salary reimbursement	$20,100.00	1010 0001 4401 01	

Approval Signatures

Requested By	Date 9-16-99
Budget Coordinator	Date 9-16-99
Department Director	Date 9-16-99
Admin. Services Director	Date 16 [illegible] 99
Mayor	Date 9/17/99

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Fred B. Hanna, Mayor

From: Richard L. Watson, Chief of Police R. Watson

Subject: Agenda Request & Budget Adjustment - Dispatch Trainer Positions

Date: September 16, 1999

Attached you will find an Agenda Request and Budget Adjustment for creation of 3 new Dispatch Trainer positions. The City Personnel committee recently met and approved job descriptions and pay grades for these new positions. The Police Department has been discussing staffing and turnover with Mr. Don Bailey of the Personnel Division for some time and creation of the new positions has been the outcome of those discussions.

Our Dispatch center has been understaffed for several years even when it is at full authorized strength. However we have not been at full strength for a couple of years. Due to the competitive job market in Northwest Arkansas we are in a constant mode of trying to retain our current dispatchers and at any given time we are training new dispatchers. One problem we have is the length of time it takes to train a new dispatcher. Because of the various equipment, computers, procedures, protocol, etc., to be learned, it usually takes about six months for a dispatcher to be trained. We are also constantly trying to explain to our dispatchers why the City of Springdale has 24 dispatch slots and we have only 17. Although we have constantly worked with the Personnel Division to try and keep the pay competitive with area agencies, we still can't explain to our staff why other agencies have more people to do the job and our Center has the biggest workload of any city in Northwest Arkansas..

Recently our workload in the Dispatch Center increased because of new technology with cellular phones. We are now the only County in a 4 state area that actually routes cellular 911 calls to the dispatch center to which the cellular tower is located closest. In the past, all cellular 911 calls automatically went to the Springdale Police Department and they then transferred them to the appropriate police, fire or ambulance service. We have seen our average daily 911 calls we answer increase almost 70% in the past month.

We currently train new dispatchers by putting them with a Lead Dispatcher (supervisor) who then tries to systematically go over training material during the six month training period. However, because of continuous shortages of personnel, the Lead Dispatchers are constantly interrupted and spend the majority of their time actually filling in for shifts and working as a dispatcher. When they do this, training suffers, their other supervision duties suffer, and we get further behind.

We have been working with Mr. Bailey of the Personnel Division to examine ways to retain our personnel, provide more job satisfaction and reduce the stress level in the Dispatch Center. We propose to add 3 new positions to the Dispatch Center and these positions would be "Dispatch Trainers". We would shift the responsibility from the Lead Dispatchers for training new personnel and have the Trainers be responsible. One Trainer would work on each of the 3 shifts and our current training program would be even more closely examined to find ways to accelerate the training process as much as possible without a corresponding loss of quality.

Salaries of all dispatch personnel are offset 25% by a fee collected through the 911 phone system. Because of the recent change to the cellular service we have also begun to receive additional funding through the new Commercial Mobile Radio Service (CMRS) fee. We expect to receive a minimum of $ 44,000 annually from this fee and as cell phones increase, this number could increase as well. By law, we are only allowed to spend this money for 911 purposes and dispatch salaries are an approved expenditure. The City will only have to pay for 75% of the total salaries for the new positions and this amount will be further offset by the expected $ 44,000 from the new annual fee.

The total cost of creating these new positions for the remainder of 1999 will be $ 20,100. As stated earlier, 25% of that amount will be paid by the 911 fee and we expect to receive approximately $ 22,000 (and possibly the entire $ 44,000) before the end of the year from the new CMRS fee. Of course these new positions will impact the 2000 City budget which you will review later this year. Just for your information, the total cost of these new positions in the 2000 budget year will be $ 102,250. However, because of the 25% salary reimbursement we will receive from 911 and the expected $ 44,000 to be received from the CMRS fee, the total impact to next year's budget will be $ 32,687.

Creating and funding these new positions will accomplish several things in our Dispatch Center. Overall staffing will increase and better service will be provided. Training will become even more standardized and hopefully training time may be shortened. Lead Dispatchers will be able to devote more time to actual supervision duties on their shifts. Because the Trainer position will be a grade higher than a dispatcher, employees will have another avenue of upward mobility. All of these improvements will have a positive effect on job satisfaction, workload, stress levels and we hope to see our turnover rate stabilized.

cc:
Mr. Don Bailey

U S Able Life
C. 3. Page 1

STAFF REVIEW FORM

XX Agenda Request
___ Contract Review
___ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October 5, 1999

FROM:

Name	Division	Department
Don Bailey	Personnel	Admin. Services

ACTION REQUESTED: Purchase employee group policies from U S ABLE LIFE to provide Life, AD&D, and LTD coverage plus contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account. The contracts effective dates are 1-1-2000 for a one year term with four one year options for renewal by agreement of both parties.

COST TO THE CITY:

$155,117 Est. Year 2000	$203,277 Est. Year 2000	Life/AD&D, LTD Ins.
Cost of this request	Category/Project Budget	Category/Project Name
Various	0	City Wide
Account Number	Funds used to date	Program Name
	$203,277	City Wide
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

___ Budgeted Item   ___ Budget Adjustment Attached

Budget Coordinator   Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marilyn J. Cramer	9-21-99	Yolanda Childs	9-22-99
Accounting Manager	Date	Internal Auditor	Date
	9-21-99		
City Attorney	Date	ADA Coordinator	Date
P Vice	9-21-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approve request.

Don Bailey	9-15-99	**Cross Reference**
Division Head	Date	
		New Item: Yes No
Department Director	Date	
	23 OCT 99	
Administrative Services Director	Date	Prev Ord/Res #:
Fred Hanna	9/23/99	
Mayor	Date	Orig. Contract Date:

U S Able Life
C. 3. Page 2

STAFF REVIEW FORM

Description______________________________ Meeting Date__________

Comments: Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Fred Hanna and The City Council

THRU: Kevin Crosson, Administrative Services Director

FROM: Don Bailey, Personnel Director

DATE: September 13, 1999

SUBJECT: Employee Group life, AD&D, LTD Voluntary AD&D and Cancer Coverage Policy Renewal

The expiration date for each of the above listed employee group insurance policies is 12-31-99. Periodically the City elects to re-bid its coverages to take advantage of either more favorable pricing or to improve its employee benefits. An RFP requesting bids on the above coverages plus the addition of an IRC Section 125 Flexible Spending Account Proposal (Cafeteria plan) was sent to selected insurance companies and advertised on July 18, 1999. The RFP permitted bids to be submitted on the insurance plans, or the Flexible Spending Account Plan or both. Our group insurance RFP specified a one year contract with four one year options to renewal. Five proposals were received and evaluated by the Selection Committee on September 2, 1999.

US Able Life was the clear choice of the Committee by having met the RFP requirements for coverage to be provided and offering the best rates with a two year rate guarantee. A comparison of our 1999 rates and the year 2000 rates follows:

		1999	2000
LIFE	(per $1,000 coverage)	.31	.21
AD&D	(per $1,000 coverage)	.07	.05
LTD	(per $100 of covered payroll)	.46	.46
Vol. AD&D*	(per $25,000 coverage)	3.75	1.50 employee only
"	"	4.00	2.00 family
Cancer*		Various	No change
Cafeteria Plan		-0-	No cost

* Employer pays for $25,000 of Voluntary AD&D coverage on each employee. The employee pays 100% of premium for coverage above $25,000 or for family coverage. The employee pays 100% of premium for Cancer coverage he or she may elect.

Based on August 1999 enrollments a conservative estimate of annualized premium reduction for the year 2000 as compared to 1999 is $35,000.

Note also that reduction in Voluntary AD&D rates apply to any amount the employee has elected over the $25,000 employee coverage paid by the City. This provides a significant savings in premium cost to the employee.

Enhancements have also been incorporated in the Life policy. Coverage provisions will now permit full payment of the coverage amount to age 67. Previously, a reduction occurred at age 65. A Group Life Accelerated Benefits Rider has been added to make an advance payment of 50% of the eligible benefit in the event of a terminal illness. Also, an Accidental Death Seat Belt Benefit Rider has been included into the AD&D Policy. This rider will pay an additional benefit equal to the lesser of the employees full AD&D benefit or $25,000 in the event of a vehicle accident causing death if the seat belt was in use at the time of the accident.

US Able, in consideration of employee participation in two of their voluntary group plans (Cancer and Voluntary AD&D) , will at no cost establish and serve as a third party administrator for a Section 125 Cafeteria Plan. Internal Revenue regulations permit group premiums, employee and dependent unreimbursed medical care expense, deductibles and co-payments and dependent care for eligible children and other dependents to be incurred on a pre-tax basis through payroll contributions to a flexible spending account. These expenses are reimbursed to the employee as projected expenses occur. A pre-tax limit of $2,000 on unreimbursed medical expenses for each participant account has been set for the initial plan year.

Employees must make an annual calendar year election as to expense categories and amounts to be contributed pre-tax. The initial group presentations and enrollments must be completed by November 14 to effect a January 1, 2000 enrollment. Thus to permit installation of this plan on January 1, the Group Renewal/Cafeteria Plan Agenda item has been moved forward to the October 5 meeting in order to allow a 4-5 week enrollment period.

Further information pertaining to each of the plans is contained in policy resumes attached hereto.

2000 Budget Summary By Account - Estimated

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

Fund		LTD Budget		ADD Budget		Life Insurance Budget
General (1010)	$	52,050	$	17,142	$	78,075
Street (2100)		3,458		1,440		5,187
Community Development (2180)		606		203		909
Parks Development (2250)		710		315		1,065
Drug Law Enforcement (2930)		414		149		621
Water & Sewer (5400)		7,757		3,309		11,636
Solid Waste (5500)		3,470		1,530		5,206
Airport (5550)		1,020		363		1,530
Shop (9700)		1,775		675		2,662
	$	71,260	$	25,126	$	106,891

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Enhanced Benefit Option

Group Term Life/AD&D

Proposal

Presented to

City of Fayetteville

by

Barbara Lovin

August 11, 1999

USAble Life

USAble Life is Rated "A-" (Excellent) by the A.M. Best Company

Presented to: City of Fayetteville

USAble Life Facts

USAble Life was originally chartered in December of 1980 as *Life of Arkansas* to write Life and Accident and Health insurance.

During the past 18 years, USAble Life has grown to be a highly successful insurance company involved in both group and individual payroll deduction products.

Highlights

- The company insures over 500,000 individuals
- The company has more than $4.4 billion of insurance in-force
- The company has extensive experience in the implementation and enrollment of voluntary payroll deduction products and administration of Section 125 Cafeteria Plans in commercial accounts and educator groups.

We offer a complete innovative choice of products, from employer-sponsored group plans to employee-paid supplemental coverage, all at competitive rates. Our portfolio of products includes:

- Group and Individual Life
- Group AD&D
- Short Term and Long Term Disability
- Dependent Life
- Voluntary Term Life
- Universal Life
- Supplemental Hospital Benefits
- Cancer coverage and Accident coverage
- Voluntary Disability Coverages, both Short Term and Long Term

Management and key staff have years of experience working with employers and employees. This experience, along with our state of the art administration system, enables smooth enrollments and administration for all product lines.

USAble Life is rated "A-" (Excellent) by the A.M. Best Company and stands behind a strong commitment to superior products and customer service.

COMPANY HEADQUARTERS:

USAble Life
USAble Corporate Center
320 W. Capitol, Suite 700
P.O. Box 1650 (72203)
Little Rock, Arkansas 72201

Toll Free: 800-648-0271 Telephone: (501) 375-7200 Fax: (501) 378-3333

Presented to: City of Fayetteville

A Plan of Group Insurance

Schedule of Benefits

Classification of Employees	Amount of Life	Amount of AD&D
Class I All full time employees who customarily work at least 40 hours per week	1.5 Times Salary, Maximum $150,000	1.5 Times Salary, Maximum $150,000
Class II Any employees previously employed full time who is a designated staged retiree and who works an average of 20 hours per week on a regular basis	1.5 Times Salary, Maximum $150,000	1.5 Times Salary, Maximum $150,000

Rates, Life Insurance Volume and Monthly Premium Calculations

Rates for Group Insurance

Life per $1,000	$0.24
AD&D per $1,000	$0.05

Volume of Insurance

Life Insurance	$21,689,000
AD&D Insurance	$21,689,000

Monthly Premium

Life Insurance	$5,205.36
AD&D Insurance	$1,084.45
TOTAL MONTHLY COST	$6,289.81

Reductions, Terminations and Assumptions

Reductions and Terminations

Class I- Life and Accidental Death and Dismemberment benefits will reduce 33 1/3 percent of the pre-age 67 amount at age 67 and at age 70. Benefits terminate at retirement.

Class II- Life and Accidental Death and Dismemberment benefits will reduce 33 1/3 percent of the pre-age 67 amount at age 67 and at age 70. Benefits terminate the earlier of age 75 or retirement.

Assumptions

Eligible Employees: 528

The foregoing rates are based on employee data submitted with respect to the number of employees listed above in the assumptions section. Actual rates will be based on enrollment. The final rates will be guaranteed for 2 year(s) from the group's effective date.

Proposal prepared: August 11, 1999; and expires November 11, 1999 unless renewed.

Life Insurance

Death Benefit

The face amount of the policy, as determined by the schedule, is payable to the employee's beneficiary in the event of his death from any cause. The life insurance will be paid in a lump sum or in installments as specified by the employee or the beneficiary.

Active Work or Actively at Work

The Insured reports for work at his usual place of employment and is able to perform all the duties of his regular occupation for the entire normal work day.

Beneficiary

Each employee may name anyone he desires, except the employer, as the beneficiary or beneficiaries to whom the insurance is to be paid. This designation may be changed by the employee at any time.

Right of Conversion

The employee's life insurance automatically ceases 31 days after termination of employment. During this 31-day period and subject to the terms of the group policy, he may convert his group life insurance without evidence of insurability to an individual life insurance policy (except term insurance) without disability benefits.

Total Disability Benefit

If the employee becomes totally disabled from any cause before reaching age 60, the life insurance is continued, subject to the terms of the group policy, for the duration of his total disability without payment of further premiums. If the employee dies before the total disability ceases, the face amount of the life insurance is payable to his beneficiary.

Suicide

If an Insured Person, whether sane or insane, dies by suicide within one year of his effective date of insurance, the death benefit will be limited to the amount of premiums paid for this insurance.

With respect to employees insured on the effective date of this policy:

(1) If this policy replaces another group life policy, the one-year limitation for death by suicide shall be reduced by the number of months an insured employee was continuously insured by the prior plan; and

(2) The benefit payable shall be the lesser of the amount otherwise payable under this policy or the amount provided by the prior policy.

Presented to: City of Fayetteville

Life Insurance

Termination of Insurance

Insurance will terminate automatically on the earliest of the following dates:

(a) the last day of the period for which a premium payment is made, if the next payment is not made;

(b) the date the insured becomes a member of the armed forces;

(c) the date the policy or a specific benefit terminates;

(d) the date the insured ceases to be a member of an eligible class; or

(e) the date the insured ceases to be actively at work.

Group Accidental Death & Dismemberment

Benefit

An amount, as determined by the Schedule of Benefits, is payable in the event of loss of life or dismemberment through accidental means, Accidental Death and Dismemberment Insurance provides protection for losses occurring on or off the job. Payment will be made if the loss is suffered within 365 days of the date of the accident. However, we will pay no more than the full amount shown on the Schedule of Benefits for losses resulting from any one injury. The amounts payable are as follows:

FULL AMOUNT OF INSURANCE FOR ACCIDENTAL LOSS OF:

Life (in addition to any amount of Group Life Insurance).
Both Hands or Both Feet.
Sight of Both Eyes.
One Hand and One Foot.
One Hand and Sight of One Eye.
One Foot and Sight of One Eye.

ONE HALF AMOUNT OF INSURANCE FOR ACCIDENTAL LOSS OF:

One Hand.
One Foot.
Sight of One Eye.

Limitations

We will not pay a benefit for loss caused directly or indirectly by disease, bodily or mental infirmity of infection (except bacterial infection of a visible injury); suicide or intentionally self-inflicted injury, whether sane or insane; participation in a riot or insurrection, or commission of an assault or felony; war or any act of war, declared or undeclared; or use of any drug, hallucinogen, controlled substance or narcotic unless prescribed by a physician. Also not covered are losses caused by travel or flight in, or descent from, any aircraft unless as a fare paying passenger on a commercial airline flying between established airports on (a) a scheduled route; or (b) a charter flight seating 15 or more people; or losses caused by participation in parachute or hang gliding sports, or any organized race or speed contest.

Accidental Death Seat Belt Benefit

We will pay an additional Accidental Death benefit equal to the lesser of the insured employee's full amount of AD&D coverage or $25,000. We will pay this benefit if an insured employee suffers loss of life as the result of a covered accident which occurs while he is driving or riding in a Private Passenger Car, if:

1. the car is equipped with seat belts; and
2. the seat belt was in actual use and properly fastened at the time of the accident; and
3. the position of the seat belt is certified in the official report of the accident or by the investigating officer. A copy of the police accident report must be submitted with the claim.

If such certification is not available, and it is unclear whether the insured person was properly wearing a seat belt, we will pay a fixed benefit of $1,000 to the designated beneficiary.

"Private Passenger Car" means a validly registered four-wheel private passenger car (including Policyholder-owned car), station wagons, jeeps, pick-up trucks and van-type cars.

"Seat Belt" means those belts that form an occupant restraint system.

Presented to: City of Fayetteville

Special Education Benefit

We will pay "Special Education Benefits" if the insured employee:
1. is covered under the Plan; and
2. dies as a result of a covered accident; and
3. is survived by a spouse and/or one or more dependent children.

CHILD BENEFIT

"Dependent Child" means a child insured under the Plan who has not attained the maximum age stated in the Dependent definition of the policy at the time of the insured employee's death.

A "Special Education Benefit" will be payable for each child who qualifies as follows:
1. is enrolled at the time of the insured employee's death, or enrolls within one year of the insured employee's death as a full-time student at a school above the twelfth grade level before reaching age 23 ; and
2. incurs expense for tuition, fees, books, room and board, transportation, and any other costs payable directly to, or approved and certified by such school.

We will pay the cost of such incurred expense for not more than:
1. 4 straight years after enrollment begins; and
2. 3% of the insured employee's Voluntary Accidental Death and Dismemberment full benefit or $3,600 whichever is less, each year per child.

SPOUSE BENEFIT

A "Special Education Benefit" will be payable for the insured employee's surviving spouse who:
1. enrolls within one year after the insured employee's death in any accredited school for the purpose of retaining or refreshing skills needed for employment; and
2. incurs expenses payable directly to, or approved and certified by such school. We will pay the cost of such incurred expense for not more than:

1. 4 straight years after enrollment begins; and
2. 3% of the insured employee's Voluntary Accidental Death and Dismemberment full benefit or $3,600 whichever is less.

If, at the time of accident, Family Plan coverage is in force but there is no dependent or dependent child who is or could become eligible for "Special Education Benefits," we will pay an additional benefit of $1,500 to the insured employee's designated beneficiary.

Payment will be in addition to all other policy benefits.

If the City of Fayettevile elects this coverage, the rider will be filed with the Department of Insurance. No coverage will be available until the rider is approved by the Department of Insurance.

Presented to: City of Fayetteville

Accelerated Benefits Rider

Accelerated Benefit Plan

The accelerated benefit is advance payment of the insured's amount of life insurance under the group policy, subject to the maximum and minimum benefit requirements stated below. An insured may request payment of an accelerated benefit in the event that he is diagnosed with a terminal illness which is expected to result in his death within 6 months, and from which he is not expected to recover.

The receipt of accelerated benefit payments may adversely affect the insured's eligibility for Medicaid or other government benefits or entitlements.

Notice of possible Tax Consequences

The payment of an accelerated benefit may result in a taxable event. The insured should consult a tax advisor before requesting such benefit payment.

Cost of Providing the Accelerated Benefit

The accelerated benefit amount will be discounted to reflect the cost of providing the benefit. The discount will be based on the current yield on a 90 day Treasury Bill. We will calculate the discount on the date we receive the request for payment of the accelerated benefit in our Home Office.

Illustration of Cost Calculation Assumptions

- An employee is insured for $30,000 of group term life insurance
- On the date of the request for payment of the accelerated benefit, the current yield on a 90 day Treasury Bill is 5.4%.

Calculation:

$30,000	the employee's life insurance amount
x .50	the accelerated benefit %
$15,000	the accelerated benefit for which the employee is eligible
x(1 - .027)	the discount factor calculated on the basis of a 5.4%[1] Treasury Bill calculated for a 6 month period on a simple interest basis.
$14,595	the accelerated benefit to be paid

[1] Due to fluctuation of the current yield on a 90 day Treasury Bill, the discount factor on the date of request may be different from that shown in the illustration. Interest for the discount factor will be calculated for a 6 month period.

If death occurs more than 6 months after the date of calculation, an additional[2] interest charge, based on this same rate of interest, will be deducted from the balance of the proceeds.

[2] Difference between 6 months and actual number of months policy remained in force following payment of accelerated benefit, not to exceed 24 months

Accelerated Benefits Rider (Continued)

Amount of Accelerated Benefit

The accelerated benefit will be paid once and in one lump sum to the insured. The maximum accelerated benefit will be the lesser of:

1. 50% of the insured's life insurance amount as shown in the Schedule of Benefits of the certificate, less the discount; or
2. $150,000 less the discount.

If the insured's life insurance amount is scheduled for a reduction within 6 months after the date he requests the payment of the accelerated benefit, the maximum accelerated benefit will be limited to the lesser of:

1. 50% of the life insurance amount which will be in effect after the scheduled reduction, less the discount; or
2. $150,000 less the discount.

The minimum accelerated benefit for the insured member or insured dependent will be $7,500 less the discount.

Effect of Payment of An Accelerated Benefit Payment On Group Policy Provisions

The amount of life insurance under the group policy will be reduced by the amount of an accelerated benefit paid to you, plus the discount. As a result, the following will be based on such reduced life insurance amount:

1. the amount of insurance payable to the beneficiary when the insured dies;
2. the amount of life insurance you can convert under the group policy; and
3. the premiums payable for the insured's life insurance under the group policy after an accelerated benefit is paid, if such premiums are not waived.

The payment of an accelerated benefit **will not** affect the amount of your Accidental Death and Dismemberment Benefits under the group policy, if any.

Exclusions

We will not pay an accelerated benefit if:

1. The insured has made an absolute assignment of your life insurance under the group policy;
2. all or part of the life insurance under the group is to be paid to the insured's child(ren) or former spouse as part of a court approved divorce agreement;
3. we do not receive written consent by an irrevocable beneficiary; or
4. the terminal illness is a result of intentional self-inflicted injury or attempted suicide.

Date Insurance Ends Under The Rider

Insurance will end at the earliest of:

1. the date the accelerated benefit is paid to the insured or on his behalf;
2. the date the insured's life insurance ends under the group policy; or
3. the policy anniversary on which the insured is age 70.

Presented to: City of Fayetteville

General Provisions

Master Policy and Individual Certificates

The complete terms of the insurance are contained in a Master Policy issued to the Policyholder. Each employee receives a Certificate which outlines his benefits under the plan.

Eligible Employee

All permanent, active, full-time employees who have completed the waiting period established by the Policyholder are eligible unless limited by conditions pertaining to their employment. The term "employees" includes all persons who work for the Policyholder at least the minimum number of hours per week shown on the group application.

No director or officer of the Employer will be considered an Employee unless he meets the above conditions.

Eligible Dependents

(If Dependent's Life included) An employee's spouse and unmarried children under 19 years of age (or age 23 if the dependent is a full-time student).

Effective Date of Coverage

EMPLOYEES - All eligible employees actively at work on the effective date of the plan may be insured immediately. New employees will become insured following completion of the waiting period specified on the group application. If an Employee is not actively working on the date his insurance or any increase in insurance is scheduled to take effect, it will take effect on the day he returns to active work. If the Employee's insurance is scheduled to take effect on a non-working day, his active work status will be based on the last working day before the scheduled effective date of his insurance.

DEPENDENTS - Insurance on dependents will not become effective until the employee's insurance is effective. Dependents who are totally disabled on the effective date will be insured when the disability ceases and the dependent resumes normal activities.

If the employee pays part of the premium and does not apply for insurance within 31 days after becoming eligible, satisfactory evidence of insurability is required.

Word About Compliance

We are all well aware that many federal laws and regulations affect the structure and provisions of employee fringe benefit programs. Applicable federal laws include the Age Discrimination in Employment Act ("ADEA"), Section 79 of the Internal Revenue Code ("Code") and other Code provisions, and the Employee Retirement Income Security Act of 1974 ("ERISA") to name a few. There are many potential problems created by failure to comply with these laws including adverse tax consequences, penalties and other sanctions.

The ADEA appears to require that older employees continue to be covered by insurance plans as long as they remain in employment, on the same basis as other employees. However, it does appear that employers may reduce benefits to the extent justified by the increased cost of covering the older employees. ADEA regulations provide that reductions can be based upon cost comparisons of adjacent five year age brackets.

Code Section 79 prohibits discrimination in favor of key employees as defined in the Code. While the IRS will not give pre-approval to any plan, it has indicated that schedules providing benefits based on a uniform percentage of salary or a level benefit for all employees will not be considered discriminatory.

ERISA contains several requirements concerning reporting and disclosure of benefits to employees as well as requirements that a plan be in writing and employees be advised of changes which are made. We will provide you with annual financial information which you may use in filing financial reports if you are required to do so.

USAble Life cannot serve as your tax or legal advisor and does not represent that the plan provisions described in this proposal will satisfy all requirements of these complex laws and regulations. Your plan should be reviewed by your tax and legal advisors for their opinion as to whether your plan is in compliance with applicable laws and regulations.

Current Benefits

LONG TERM DISABILITY

Proposal

presented to

City of Fayetteville

by

Barbara Lovin

August 11, 1999

USAble Life

USAble Life is Rated "A-" (Excellent) by the A.M. Best Company

WHY BUY GROUP LONG TERM DISABILITY?

Imagine...your employees have plenty of protection for medical, life, home and auto insurance. Their life insurance provides for last expenses, the family's future income needs, their home mortgage and even the kids' education.

With everything in order, they might settle back into their everyday lives, forgetting the foremost threat...***disability***.

At age 32, disabilities lasting three months or longer are more likely to occur than death.

Loss of income due to sudden disability is often overlooked. Without the proper protection, the consequences can be devastating to the employee and the employer. For example, 45-50% of all mortgage foreclosures result from disabilities.

Group Long Term Disability coverage, provided by you as the employer is especially designed to replace a portion of an employee's income. this surprisingly affordable protection will help you or your employees maintain your standard of living even under the most difficult of circumstances.

Today, there's no need to be without Long Term Disability coverage. Select the plan that best suits the needs of you and your employees and add it to your insurance portfolio. **Then settle back and relax.**

--- Advantages of Group LTD ---

*Eases the often difficult decisions regarding how to handle disabled employees.

*Valuable recruiting tool

*Maintains and rewards long term key employees and valuable staff

*Tax deductible benefit

*Low cost/budgetable/easy to administer

*Fills in the large gap in social security Disability Benefits

*Protects your firm against the loss of a key employee

*In most cases physical and health questions are not required

Group LTD: *the solution to a tough problem.*

*American Society of Actuaries

Features of This Plan

* ACCUMULATION OF ELIMINATION PERIOD
* COST OF LIVING FREEZE
* MATERNITY
* PARTIAL DISABILITY
* PRIOR INSURANCE CREDIT
* RECURRENT DISABILITY
* 3-MONTH SURVIVOR BENEFIT

OPTIONS AVAILABLE UNDER THIS PLAN (If "yes" is not indicated these options do not apply)

	INCLUDED
*C.O.L.A.	NO
*DEFINITION OF DISABILITY:	
36 Month Own Occupation	YES
Extensive Own Occupation	NO
*MENTAL ILLNESS LIMITATION WAIVED	NO
*PARTIAL DISABILITY BENEFITS	
BENEFIT CALCULATION METHODS:	
Employee Disability Group Enhancement	NO
Employee Disability Group Enhancement I	NO
Progressive Partial Disability	YES
*PENSION CONTRIBUTION BENEFIT	NO
*SURVIVOR INCOME BENEFIT:	
1 Year Survivor Benefit	NO
2 Year Survivor Benefit	NO
* 401(K) CONTRIBUTION BENEFIT	NO

Schedule Of Benefits And Cost Summary

PREPARED FOR: City of Fayetteville

PRESENTED BY: Barbara Lovin

Eligibility:	All Full-Time Active Employees
Number of Employees Rated:	528
Employer Contribution Required:	100%

Benefit Replacement Percentage	60%
Maximum Monthly Benefit	$6,000
Elimination Period	180 DAYS
Benefit Duration	RBD
Integration Approach	Primary/Family
Minimum Benefit	$50
Pre-existing Conditions	3/6/12
Total Monthly Covered Payroll	$1,190,582
Premium Rate	$0.46
Monthly Premium	$5,476.68

The final rate will be guaranteed for 2 year(s) from the group's effective date.

Proposal August 11, 1999; expires November 11, 1999, unless renewed.

Assumptions and Underwriting

This Proposal is conditional on the following:

*If the plan is contributory on the part of the employees, at least 75 % of those eligible must participate.

*All eligible employees must be covered if the plan is noncontributory. (Employer pays all premiums.)

*This proposal is intended to summarize certain portions of the group LTD plan. It does not constitute a contract. Your group contract will be the binding and authoritative document.

*This proposal is based on census data received. Final costs and rates for the employees to be insured under this plan on the effective date must be approved and accepted by the Home Office.

*Only permanent full-time employees are eligible for insurance. "Full-time" means working 40 hours a week during the regular work week.

General Provisions

Accumulation of Elimination Period

During the Elimination Period, a total disability can temporarily cease for up to seven days and not require the beginning of a new elimination period for plans with a 90 day elimination period or less. On plans with elimination periods of more than 90 days, we will allow up to 14 days of temporary cessation of total disability. The days worked will not count toward the satisfaction of the elimination period.

Basic Monthly Earnings or Pre-Disability Earnings

Basic monthly earnings means that the Insured's monthly rate of earnings from the employer in effect immediately prior to the date total disability begins. Basic monthly earnings include all earnings before any deductions. It does not include bonuses, overtime pay or other extra compensation other than commissions. Commissions will be averaged over the 12 month period prior to the date total disability begins.

Benefits

When the company receives proof that the insured is totally disabled due to sickness or injury and requires the regular attendance of a physician, the company will pay the insured a monthly benefit in accordance with the **Schedule of Benefits** page of this proposal.

General Provisions

Benefit Duration

Reducing Benefit Duration

Age at Disability	*Maximum Benefit Period*
Less than age 60	To age 65
60	60 months
61	48 months
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69 and older	12 months

This benefit duration is in compliance with ADEA.

Note: Employees who remain at work full-time at age 70 and beyond will continue to be eligible for coverage.

Benefit Reductions

LTD is a relatively low cost employee benefit. The intent of LTD is to replace a reasonable portion of a disabled employee's salary, not to make being disabled more attractive than working. In order to prevent overinsurance, which increases the chance for malingering, certain offsets must be taken. LTD benefits will be reduced by any disability benefits that the claimant is entitled to receive from the following sources: U.S. Social Security and Canada and Quebec Pension Plan payments, Workers Compensation Benefits, State Disability Plan payments (U.C.D., D.B.D., T.D.B., etc.), and other employer-sponsored group disability income plans, and any disability benefits or retirement benefits received by the employee from any pension plan provided through his employer.

LTD benefits are not reduced by: individual disability income plans, distributions from profit sharing plans, 401 (K) plans, IRA's, TSA's, stock ownership plans or nonqualified plans of deferred compensation, military disability benefits, professional franchise or association plans not purchased through the employer, or no-fault automobile insurance benefits.

General Provisions

Cost of Living Freeze

After the initial deduction for each of the respective other income benefits reflected previously under BENEFIT REDUCTIONS, the monthly LTD benefit will not be further reduced due to any cost of living increases payable under any of these other income benefits. This provision does not apply to increases received from partial disability employment.

Definition of Total Disability

Total disability means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of his regular occupation, and after benefits have been paid for 36 months, the insured cannot perform all of the material duties of any gainful occupation for which he is reasonable fitted by training, education, experience, age and physical and mental capacity.

With respect to employees employed as pilots, co-pilots and crew of aircraft, "total disability" means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of any gainful occupation for which he is reasonable fitted by training, education or experience. The loss of a pilot's license for any reason, does not in itself, constitute total disability.

General Provisions

Definition of Total Disability

The provision checked below applies to this proposal (as indicated in the **"Optional Provisions"**).

✓ 36 Month Own Occupation

All Full-time Active Employees

Total disability means that because of injury or sickness, the insured cannot perform all of the material and substantial duties of his/her regular occupation.

After benefits have been paid for 36 months, Total Disability means that the insured cannot perform all of the material duties of any gainful occupation for which he/she is reasonably fitted by training, education, experience, age and physical and mental capacity.

General Provisions

Exclusions	Disabilities which arise from intentionally self-inflicted injuries, war or participation in a riot, or committing a felony are excluded from coverage.
Integration with Primary and Family Social Security	The total disability Benefit will be directly reduced by Primary and Family Benefits the employee is eligible to receive from Social Security. Primary Benefits are those Social Security benefits which the employee is eligible to receive because of disability and/or retirement. Family benefits are those Social Security benefits which the insured employee's spouse, child or children are eligible to receive as a result of the insured employee's eligibility for Social Security benefits. Also see: **Benefit Reductions**

General Provisions

Maternity

Total disability caused by pregnancy or complications of pregnancy will be covered on the same basis as any other illness.

Mental Illness Limitations

Benefits for a disability due to mental illness will be payable for up to 24 months. After 24 months of benefit payments, benefits will be payable if the insured satisfies one of the following situations:

1. If the insured is in a hospital or institution at the end of the 24 month period, the monthly benefit will be payable during the confinement.

    If the insured is still disabled when discharged, the monthly benefits will be payable for a recovery period of up to 90 days.

    If the insured becomes reconfined during the recovery period for at least 14 days in a row, benefits will be payable for the confinement and another recovery period up to 90 more days.

2. If after 24 months of benefit payments, the insured continues to be disabled and becomes confined for at least 14 days in a row, the monthly benefit will be payable during the confinement.

The monthly benefit will not be payable beyond the maximum benefit period.

"Hospital" or "institution" means facilities licensed to provide care and treatment for the condition causing your disability.

"Mental illness" means mental, nervous or emotional diseases or disorders of any type.

General Provisions

Minimum Benefit

Disabled employees will never receive less than $50 per month under the plan regardless of income received from other sources.

Partial Disability

Many employees who receive total disability benefits desire to return to work but are not able to resume all of their former duties on a full-time basis. This benefit is designed to assist partially disabled employees to return to work by providing financial security during this difficult period.

Employees will be able to qualify for this benefit if they are:

1. able to perform one or more, but not all, of the material and substantial duties of his/her own or any other occupation on a full-time basis, or

2. able to perform all of the material and substantial duties of their own or any occupation on a part-time basis.

To qualify for the benefit, the insured must be earning less than 80% of his/her pre-disability income at the time partial disability employment begins.

The Partial Disability Benefit will be the lesser of:

1. the benefit percentage multiplied by the insured's pre-disability income, or

2. 100% of the insured's pre-disability income less other income benefits, which include earnings from partial employment.

The Partial Disability Benefits are payable to the end of the benefit duration or until the disabled employee's partial earnings exceed 85% of his/her pre-disability earnings.

Progressive Partial Disability

With the inclusion of Progressive Partial Disability, an insured can receive a partial disability benefit after satisfying the elimination period which consists of a period of total disability, or a combination thereof.

General Provisions

Pre-existing Condition Limitation

This policy will not cover any total disability:

1. which is caused or contributed to by, or results from a pre-existing condition; and
2. which begins in the first 12 months after the insured's effective date, unless no treatment was received for 6 consecutive months after the insured's effective date.

"Treatment" means consultation, care or services provided by a physician including diagnostic measures and taking prescribed drugs and medicines.

"Pre-existing Condition" means a diagnosed sickness or injury for which the insured received treatment within 3 months prior to the insured's effective date.

Prior Insurance Credit

In order to prevent loss of coverage for an employee because of a transfer of insurance carriers, this policy will provide coverage for certain employees as follows:

Failure to be in active employment due to injury or sickness

This policy will cover, subject to premium payments, employees:

1. insured with the prior carrier at the time of transfer; and
2. who are not in active employment due to injury or sickness.

The benefit payable will be that which would have been paid by the prior carrier had coverage remained in force, less any benefit for which the prior carrier is liable.

Disability due to a pre-existing condition

Benefits may be payable for a total disability due to a pre-existing condition for an employee who:

1. was insured by the prior carrier at the time of transfer; and
2. was in active employment and insured under this policy on its effective date.

The benefits will be determined as follows:

1. USAble Life will apply this policy's pre-existing condition exclusion. If the employee qualifies for benefits, he/she will be paid according to this policy's benefit schedule.
2. If the employee cannot satisfy this policy's pre-existing exclusion, the prior carrier's pre-existing condition exclusion will be applied.
   a. If the employee satisfies the prior carrier's pre-existing condition exclusion, giving consideration towards continuous time insured under both policies, he/she will be paid according to the prior carrier's benefit schedule.
   b. If he/she cannot satisfy the pre-existing condition exclusion of this policy or that of the prior carrier, no benefit will be paid

General Provisions

Recurrent Disability

Recurrent Disability means a disability which is related to or due to the same cause or causes of a prior disability for which a monthly benefit was payable. A recurrent disability will be treated as part of the prior disability if, after receiving disability benefits under this policy, an insured returns to his regular occupation on a full-time basis for less than six months and performs all the material duties of his occupation. Benefit payments will be subject to the terms of this policy for the prior disability.

Survivor Benefit

If an employee dies after having been disabled for a minimum of 180 days and was receiving benefits under the policy, we will pay the eligible survivor a lump sum benefit equal to three times the last monthly LTD benefit.

Waiver of Premium

Premium payments for an employee who is totally disabled are waived during any period for which benefits are payable.

PROPOSAL

CITY OF FAYETTEVILLE

VOLUNTARY ACCIDENTAL DEATH AND DISMEMBERMENT

Current Benefits

Voluntary Accidental Death and Dismemberment (VAD&D) is available either as an Employee Plan or Family Plan in Benefit Amounts of $25,000 units to a maximum of $100,000.

The plan provides full 24-hour protection against accidents anywhere in the world. It also provides coverage while flying as a passenger in any licensed civilian aircraft or in military transport aircraft operated by the Military Aircraft Command or similar foreign service.

Monthly Cost

Employee Plan:	$1.50 per $25,000 Benefit Amount
Family Plan:	$2.00 per $25,000 Benefit Amount

Benefit

Loss of Life	Full Benefit Amount
Loss of Two or More Members	Full Benefit Amount ("Member" means hand, foot or eye)
Loss of One Member	One-Half Benefit Amount
Loss of Thumb and Index Finger of same hand	One-Quarter Benefit Amount

"Member" means hand, foot or eye.

Family Plan

Spouse and Children may also be insured for covered losses under a VAD&D Family Plan. The amount of insurance applicable under the Family Plan is based on the Employee's Benefit Amount and the composition of the family at the time of loss as follows:

<u>Composition of Family At Time of Loss</u>

1) Employee, Spouse and Children

Employee	100% of Employee's Benefit Amount
Spouse	40% of Employee's Benefit Amount
Each Child	5% of Employee's Benefit Amount

City of Fayetteville
Voluntary Accidental Death and Dismemberment
Page Two

Family Plan (Cont'd)

2) Employee, Spouse and No Children

Employee	100% of Employee's Benefit Amount
Spouse	50% of Employee's Benefit Amount

3) Employee, Dependent Children but NO Spouse

Employee	100% of Employee's Benefit Amount
Each Child	10% of Employee's Benefit Amount

Reductions

The Benefit Amount reduces 35% at age 70, a further 20% at age 75 and an additional 15% each at ages 80 and 85. Reductions are based on the pre-age 70 Benefit Amount. Monthly rates are based on the VAD&D Plan selected and Employee's Benefit Amount:

August 11, 1999

- Voluntary Cancer Coverage

Premium: Employee paid by payroll deduction

Response: USAble Life's CancerCare Policy is offered as an employee paid product by payroll deduction.

Coverage: Benefits paid directly to the insured to include but not Limited to:

(1) Multiple levels of coverage for hospital confinement due to cancer.

Response: USAble Life's CancerCare Policy offers the following levels of coverage for daily hospital confinement:

BASIC	SELECT	ULTRA
$100 Per Day 1 thru 60th Day	$250 Per Day 1 thru 60th Day	$300 Per Day 1 thru 60th Day
$200 Per Day After the 60th Day	$500 Per Day After the 60th Day	$600 Per Day After the 60th Day
Children $200 Per Day 1 thru 60th Day	Children $500 Per Day I thru 60th Day	Children $600 Per Day 1 thru 60th Day
$400 Per Day After the 60th Day	$1,000 Per Day After the 60th Day	$1,200 Per Day After the 60th Day

(2) Cancer Diagnosis Benefit Rider, multiple levels of coverage.

Response: USAble Life's CancerCare Policy offers the following levels of coverage:

$1,000
$2,000
$3,000
$4,000
$5,000

(3) Coronary Care or Intensive Care Benefit Rider, multiple levels of coverage.

Response: USAble Life's CancerCare Policy offers

the following levels of ICU/CCU coverage.

$200
$400
$600

(4) Cancer Disability Benefit Rider

Response: **USAble Life's CancerCare Policy offers the following levels of disability.**

$250 Monthly
$500 Monthly

Eligible Class: All regular full time employees

Response: **All regular full time employees are eligible to apply for the CancerCare.**

Waiting Period: First day of the month following 90 days of employment or eligibility.

Response: **USAble Life's CancerCare Policy does not have a waiting period.**

CancerCareSeries
Monthly Premiums

Policy Benefits:	Individual	1 Parent Family	Full Family
Basic	$10.44	$12.40	$19.08
Select	19.84	23.80	36.44
Ultra	26.24	31.60	48.94
Cancer Diagnosis Rider:			
$1,000	$1.00	$1.14	$1.60
$2,000	2.00	2.28	3.20
$3,000	3.00	3.42	4.80
$4,000	4.00	4.56	6.40
$5,000	5.00	5.70	8.00

	Individual	1 Parent Family	Full Family
Daily CCU/ICU Rider *(Not available in Tennessee or Idaho)*:			
$200	$2.00	$2.40	$ 3.74
$400	4.00	4.80	7.50
$600	6.00	7.20	11.24
Monthly Disability Rider for 1 year:			
$250	$1.44	$1.44	$2.64
$500	2.88	2.88	5.28

Agreement for Administrative Services

This agreement specifies the services to be provided to City of Fayetteville hereinafter referred to as "Company" in the ongoing administration of the Company's Section 125 Cafeteria Plan, and the specified responsibilities of the Company.

Administrator

City of Fayetteville shall be the Plan Administrator and USAble Life, hereinafter referred to as the "Third Party Administrator", shall be engaged as a subcontractor in the performance of administrative services for the plan.

Administrative services to be provided by USAble Life:

1. Design a Cafeteria Plan Document, Dependent Care Assistance Plan and Medical Reimbursement Plan to be reviewed by the Company and Company's legal counsel.
2. Design a Prototype Summary Plan Description. City of Fayetteville is responsible for printing the plan description and distributing it to employees.
3. Conduct informational seminars to explain the Cafeteria Plan to the employees if flexible spending accounts are involved.
4. Provide participant election forms to be used during the enrollment process.
5. Process initial enrollment forms and revocation forms to initiate the administration function.
6. Provide an employee list to payroll once all elections have been received and keyed into administration software for verification of elections and amounts.
7. Provide claim for reimbursement forms to be used to claim flexible spending account elections.
8. Provide reimbursement checks to employees on a bi-weekly basis.
9. Provide a check register for all checks printed (or to be printed) on a bi-weekly basis.
10. Provide each participant a Statement of Account on a quarterly basis for the first, second and third quarters, and monthly for the fourth quarter.
11. Provide discrimination reports on a semi-annual basis.
12. Provide forms to the Company for use by the Company in communicating participant termination's and changes of family status.
13. Provide quarterly Company statements of participation by plan by participant.
14. Provide annual preparation of Form 5500 for City of Fayetteville to review, sign and mail to the IRS.
15. Provide participant election forms at the end of each year for use in making elections for the following year.

16. Provide guidance to the Company as to the operation of the Plan and to maintaining the tax qualification of the Plan as set by the Internal Revenue Code of 1986, as amended from time to time, and successor tax laws.
17. Maintain all Cafeteria Plan documents and files for six months following the end of each plan year, which after that time will be returned to the Company .

Communication services to be provided by USAble Life:

1. Present informational seminar to the employee group.
2. Survey the group and analyze for individual savings.
3. Meet with each employee to discuss their individual savings and personal needs.

Responsibilities of the City of Fayetteville:

1. Report participant termination's and changes of family status to Administrative Firm to be effective 2 weeks after receipt.
2. Reconciliation of payroll amount redirected to the Cafeteria Plan based on reports provided each month by USAble Life.
3. Distribution of participant statements of account to Company employees.
4. Initiate any action required in the event plan(s) become discriminatory.
5. Secure legal review of the Cafeteria Plan Document and Summary Plan Description from Company's legal counsel.
6. Review, sign and mail the annual Form 5500 to the IRS.
7. Maintain all Cafeteria Plan documents following the end of each plan year in the event the Plan is audited.

Fees and Terms of Payment

The Schedule of Services/Fees is to be attached and made a part of this Agreement. USAble Life has the right to change the Schedule of Services/Fees by giving at least 60 days notice to the Company.

Reports and Data

All reports and data remain the property of the Company. USAble Life will provide the Company all data, upon request, used by USAble Life in its administration procedures.

Terms of this Agreement

This Agreement will be effective from the date both parties execute this agreement until it is terminated. Either party may terminate this Agreement with 30 days written notice.

By_______________________________ Date:_______________

By_______________________________ Date:_______________
Julie Marshall, Senior Vice President

City of Fayetteville
Section 125 Cafeteria Plan
Schedule of Fees

The fees for City of Fayetteville have been waived. This waiver will remain with the continual enrollment of USAble Life products. If product solicitation is terminated, then USAble Life will re-evaluate the fee structure at that time.

One time set-up fee:	$ 0.00
Monthly fee for Premium Only Participant:	$ 0.00
Monthly fee for Flexible Spending Participant:	$ 0.00
Minimum Monthly Charge:	$ 0.00

Reimbursement
C. 6. Page 1

STAFF REVIEW FORM

_X_ AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF OCTOBER 5, 1999

FROM:

Name	Division	Department
KEVIN CROSSON		ADMINISTRATIVE SERVICES

ACTION REQUIRED: APPROVAL OF REIMBURSEMENT RESOLUTION ALLOWING THE CITY OF FAYETTEVILLE TO REIMBURSE ITSELF CERTAIN EXPENDITURES PAID DIRECTLY FROM THE OPERATING AND CAPITAL BUDGETS OF THE CITY FOR THE WASTEWATER TREATMENT PROJECT FROM TAX-EMEMPT BOND PROCEEDS ONCE THE PROJECT HAS PROCEEDED TO THAT POINT. THIS WILL ALLOW THE CITY TO BE REIMBURSED IF WE SO CHOOSE AT THE TIME WE STRUCTURE A FINANCING PLAN.

COST TO CITY:

0.00	N/A	N/A
COST OF THIS REQUEST	CATEGORY/PROJECT BUDGET	CATEGORY/PROJECT NAME
N/A	N/A	N/A
ACCOUNT NUMBER	FUNDS USED TO DATE	PROGRAM NAME
N/A	N/A	N/A
PROJECT NUMBER	REMAINING BALANCE	FUND

BUDGET REVIEW: ___ BUDGETED ITEM ___ BUDGET ADJUSTMENT ATTACHED

BUDGET COORDINATOR ADMINISTRATIVE SERVICES DIRECTOR

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

ACCOUNTING MANAGER DATE ADA COORDINATOR DATE

CITY ATTORNEY DATE INTERNAL AUDITOR DATE

PURCHASING OFFICER DATE

STAFF RECOMMENDATION:

DIVISION HEAD DATE

CROSS REFERENCE

DEPARTMENT DIRECTOR DATE

NEW ITEM: YES NO

Kevin D. Crosson 21 Sept 99

ADMIN. SVCS DIRECTOR DATE

PREV ORD/RES #:

Fred Hanna 9/21/99

MAYOR DATE

ORIG CONTRACT DATE:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor

FROM: Kevin Crosson, Administrative Services Director

DATE: September 20, 1999

SUBJ: ***Reimbursement Resolution for Wastewater Project Expenses***

The City has, to date, spent approximately $5 million in expenses directly related to our wastewater treatment plant expansion project. This amount includes ~$3 million for the land acquisition project, $1 million for the ultraviolet (UV) disinfection system, and ~$1 million for the facilities plan and related contract amendments. All of these expenses were paid directly from operating and capital budgets.

We recommend that the City Council approve the attached reimbursement resolution. While we currently do not have a financing plan in place for the project, this resolution will allow staff the flexibility to reimburse our operating and capital budgets from tax-exempt bond proceeds, once the project has proceeded to that point. This resolution **does not** commit the City Council to any particular financing instrument, and it does not require that we be reimbursed for those expenses. It simply allows us to be reimbursed if we so choose at the time we structure a financing plan.

You will note that Section 1 includes an amount not to exceed $25 million. This is a conservative figure that, in addition to the expenses discussed above, will allow staff the ability to be reimbursed for the engineering contracts on the project that will be coming to the City Council in early 2000, and additional improvements that could be completed prior to the main expansion project.

If you have any questions regarding this resolution or this project feel free to contact either myself or Charles Venable, Director of Public Works. Thank you.

RESOLUTION

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF FAYETTEVILLE, ARKANSAS, TO REIMBURSE CERTAIN EXPENDITURES OF THE CITY PERTAINING TO THE PLANNING, DESIGNING, FINANCING, ACQUIRING, CONSTRUCTING, AND EQUIPPING OF A WASTEWATER TREATMENT PROJECT WITH THE PROCEEDS OF AN ISSUE OR ISSUES OF TAX-EXEMPT BONDS TO BE ISSUED BY THE CITY; AND STATING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Fayetteville, Arkansas, (the "City") intends to (i) construct a new wastewater treatment plant in the western portion of the City, (ii) renovate its existing wastewater treatment plant, and (iii) make associated modifications to its wastewater collection system (the "Project") to serve the growing needs of the residents of the City; and

WHEREAS, the City presently intends to finance a portion of the costs of planning, designing, acquiring, constructing, and equipping the Project through the issuance of one or more series of tax-exempt bonds of the City (the "Bonds"); and

WHEREAS, the City has determined the need to expend its funds to pay certain costs of the Project prior to the issuance of the Bonds; and

WHEREAS, in order to utilize the proceeds of tax-exempt bonds to reimburse original expenditures made by the City with respect to the Project, it is necessary under the Internal Revenue Code of 1986, as amended (the "Code") and U.S. Treasury Regulation Section 1.150-2 that the City make a present declaration of its official intent to make such reimbursement;

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

Section 1. That the City intends to issue its Bonds in one or more series in aggregate principal amount not to exceed $25 million under the constitution and laws of the State of Arkansas to finance a portion of the costs of planning, designing, acquiring, constructing, and equipping the Project.

Section 2. That the city intends to utilize a portion of the proceeds of the Bonds to reimburse itself for certain expenditures made by the City prior to the issuance of the Bonds with respect to the planning, designing, acquiring, constructing, and equipping of the Project.

Section 3. That the City intends this resolution to be its declaration of "official intent" under the Code and U.S. Treasury Regulation Section 1.150-2 to reimburse certain original expenditures with respect to the Project.

PASSED AND APPROVED this ____ day of _____________, 1999.

APPROVED:

____
Fred B. Hanna, Mayor

ATTEST:

____
Heather Woodruff, City Clerk

[SEAL]

STAFF REVIEW FORM

Library Opt. Purch.
A.7. page 1

__X__ Agenda Request
_____ Contract Review
_____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October ~~19~~ 5, 1999

FROM:

Charles Venable		Public Works
Name	Division	Department

ACTION REQUESTED: Resolution authorizing the Mayor and City Clerk to execute the Option to Purchase on the proposed site for the new public library. Terms include: $1,000 for 3 year option to be applied toward purchase price at closing; purchase price not to exceed $268,000; and use limited to library.

COST TO THE CITY:

$1,000.00	$160,000	Library Expansion
Cost of this request	Category/Project Budget	Category/Project Name
4470-9470-5805	$128,551	
Account Number	Funds used to date	Program Name
99073-40	$31,449	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

__X__ Budgeted Item   _____ Budget Adjustment Attached

Budget Coordinator   Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: __________

Marilyn G. Cramer	10-1-99		
Accounting Manager	Date	Internal Auditor	Date
	10-1-99		
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Division Head	Date
Charles Venable	10-1-99
Department Director	Date
Kevin D. Crosson	1 OCT 99
Administrative Services Director	Date
Fred Hanna	10/1/99
Mayor	Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: __________

Orig. Contract Date: __________

OPTION TO PURCHASE

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Thousand Dollars, ($1000), paid by the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called Grantee, the receipt of which is hereby acknowledged, Washington Regional MediCorp, hereinafter called Grantor, does hereby give and grant unto the Grantee, and unto its heirs and assigns, the right, privilege and option to purchase at anytime on or before the expiration date, in the manner, for the price and on the terms hereinafter set forth, the following described property in Washington County, Arkansas:

See Exhibit "A" attached hereto and made a part hereof.

1. **Exercise of Option**. If the Grantee elects to exercise this option, written notice shall be given on or before October 5, 2002. In the event that notice exercising the option is not given on or before the expiration date provided herein, this option shall at once cease and terminate and the Grantee shall have no further rights hereunder.

2. **Purchase Price**. The purchase price of the above-described property is $ 268,000. At the time of closing, to be determined by agreement of the parties upon exercise of this option, the sum of $ 267,000. shall be paid in cash (which with the $ 1000.00 paid for this option represents the total agreed payment.

3. **Use**. Seller agrees to sell the subject property for the use of a library only. Therefore, if prior to exercise of this option it is determined that this site will not be used for a library, this option shall terminate. Further, if after closing, but prior to beginning construction, it is determined that the property will not be used for a library, the property shall revert to Seller and the purchase price shall be refunded to Buyer.

4. **Offer and Acceptance.** Upon exercise of this option, the parties shall enter into an offer and acceptance contract reflecting the terms set forth herein. Further, the offer and acceptance shall set forth additional terms as agreed to by both parties (i.e, closing date, prorate taxes, merchantable title, title insurance, misc., etc.).

5. **General**. Time is of the essence of this agreement, and if the Grantee shall not have exercised this option to purchase within the time and in the manner herein stated, all of the Grantee's rights hereunder shall at once cease and determine.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 29th day of September, 1999.

WASHINGTON REGIONAL MEDICORP.
GRANTOR

By: Patrick D. Flynn
Title: CEO

ATTEST:

By:______________________________
Title:____________________________

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Washington Regional MediCorp., by Patrick Flynn, and Janet Absher, to me well know to be the Grantor in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned an set forth.

WITNESS my hand and seal as such Notary Public this 29th day of September, 1999.

Paula Neal
Notary Public

My Commission Expires:
June 1, 2005

CITY OF FAYETTEVILLE, ARKANSAS
GRANTEE

By:______________________________
Fred Hanna, Mayor

ATTEST:

By:______________________________
Heather Woodruff, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commission and acting, the City of Fayetteville, by Fred Hanna, Mayor, and Heather Woodruff, City Clerk, to me well known to be the Grantee in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this _____ day of ________, 1999.

____
Notary Public

My Commission Expires:

____

OPTION TO PURCHASE

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Thousand Dollars, ($1000), paid by the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called Grantee, the receipt of which is hereby acknowledged, Washington Regional MediCorp, hereinafter called Grantor, does hereby give and grant unto the Grantee, and unto its heirs and assigns, the right, privilege and option to purchase at anytime on or before the expiration date, in the manner, for the price and on the terms hereinafter set forth, the following described property in Washington County, Arkansas:

See Exhibit "A" attached hereto and made a part hereof.

1. **Exercise of Option**. If the Grantee elects to exercise this option, written notice shall be given on or before October 5, 2002. In the event that notice exercising the option is not given on or before the expiration date provided herein, this option shall at once cease and terminate and the Grantee shall have no further rights hereunder.

2. **Purchase Price**. The purchase price of the above-described property is $268,000. At the time of closing, to be determined by agreement of the parties upon exercise of this option, the sum of $267,000. shall be paid in cash (which with the $1000.00 paid for this option represents the total agreed payment.

3. **Use**. Seller agrees to sell the subject property for the use of a library only. Therefore, if prior to exercise of this option it is determined that this site will not be used for a library, this option shall terminate. Further, if after closing, but prior to beginning construction, it is determined that the property will not be used for a library, the property shall revert to Seller and the purchase price shall be refunded to Buyer.

4. **Offer and Acceptance.** Upon exercise of this option, the parties shall enter into an offer and acceptance contract reflecting the terms set forth herein. Further, the offer and acceptance shall set forth additional terms as agreed to by both parties (i.e, closing date, prorate taxes, merchantable title, title insurance, misc., etc.).

5. **General**. Time is of the essence of this agreement, and if the Grantee shall not have exercised this option to purchase within the time and in the manner herein stated, all of the Grantee's rights hereunder shall at once cease and determine.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 29th day of September, 1999.

WASHINGTON REGIONAL MEDICORP.
GRANTOR

By: Patrick D. Flynn
Title: CEO

ATTEST:

By: Janet Absher
Title: Assistant Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Washington Regional MediCorp., by Patrick Flynn, and Janet Absher, to me well know to be the Grantor in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned an set forth.

WITNESS my hand and seal as such Notary Public this 29th day of September, 1999.

Paula Deal
Notary Public

My Commission Expires:
June 1, 2005

CITY OF FAYETTEVILLE, ARKANSAS
GRANTEE

By:________________________
Fred Hanna, Mayor

ATTEST:

By:________________________
Heather Woodruff, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commission and acting, the City of Fayetteville, by Fred Hanna, Mayor, and Heather Woodruff, City Clerk, to me well known to be the Grantee in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this ____ day of _______, 1999.

____
Notary Public

My Commission Expires:

____

FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

JERRY E. ROSE, CITY ATTORNEY
LAGAYLE D.MCCARTY, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

From: LaGayle D. McCarty, Assistant City Attorney

Date: September 28, 1999

Re: Option to Purchase/ Proposed Site of Public Library

Attached is an Option to Purchase negotiated by representatives of the Fayetteville Public Library and representatives of Washington Regional MediCorp. The property is the city block bounded by School, Rock, West and Mountain, and is the proposed site for the new public library.

The terms include:

- -$1000 for a 3 year option, to be applied toward purchase price at closing
- -Purchase price not to exceed $268,000
- -Use limited to library

A signed copy of the contract will be available prior to the Council Meeting.

Action Requested: Resolution authorizing the Mayor and City Clerk to execute the Option to Purchase on the proposed site for the new public library.

OPTION TO PURCHASE

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Thousand Dollars, ($1000), paid by the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called Grantee, the receipt of which is hereby acknowledged, Washington Regional MediCorp , hereinafter called Grantor, does hereby give and grant unto the Grantee, and unto its heirs and assigns, the right, privilege and option to purchase at anytime on or before the expiration date, in the manner, for the price and on the terms hereinafter set forth, the following described property in Washington County, Arkansas:

See Exhibit "A" attached hereto and made a part hereof.

1. **Exercise of Option**. If the Grantee elects to exercise this option, written notice shall be given on or before October 5 , 2002 . In the event that notice exercising the option is not given on or before the expiration date provided herein, this option shall at once cease and terminate and the Grantee shall have no further rights hereunder.

2. **Purchase Price**. The purchase price of the above-described property is $ 268,000 . At the time of closing, to be determined by agreement of the parties upon exercise of this option, the sum of $ 267,000. shall be paid in cash (which with the $ 1000.00 paid for this option represents the total agreed payment.

3. **Use**. Seller agrees to sell the subject property for the use of a library only. Therefore, if prior to exercise of this option it is determined that this site will not be used for a library, this option shall terminate. Further, if after closing, but prior to beginning construction, it is determined that the property will not be used for a library, the property shall revert to Seller and the purchase price shall be refunded to Buyer.

4. **Offer and Acceptance.** Upon exercise of this option, the parties shall enter into an offer and acceptance contract reflecting the terms set forth herein. Further, the offer and acceptance shall set forth additional terms as agreed to by both parties (i.e, closing date, prorate taxes, merchantable title, title insurance, misc., etc.).

5. **General**. Time is of the essence of this agreement, and if the Grantee shall not have exercised this option to purchase within the time and in the manner herein stated, all of the Grantee's rights hereunder shall at once cease and determine.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of __________, _____.

WASHINGTON REGIONAL MEDICORP.
GRANTOR

By:______________________________
Title:____________________________

ATTEST:

By:______________________________
Title:_____________________________

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Washington Regional MediCorp., by ________ ________, and ______________, to me well know to be the Grantor in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned an set forth.

WITNESS my hand and seal as such Notary Public this ____ day of _________, 1999.

____
Notary Public

My Commission Expires:

____

CITY OF FAYETTEVILLE, ARKANSAS
GRANTEE

By:______________________________
Fred Hanna, Mayor

ATTEST:

By:______________________________
Heather Woodruff, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commission and acting, the City of Fayetteville, by Fred Hanna, Mayor, and Heather Woodruff, City Clerk, to me well known to be the Grantee in the foregoing Option to Purchase, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this _____ day of _______, 1999.

____
Notary Public

My Commission Expires:

____

WARRANTY DEED

SINGLE PERSON

FILED FOR RECORD
'97 JUN 25 PM 3 57
WASHINGTON CO AR
K. HARNESS

ARKANSAS DOCUMENTARY $110 193112
ARKANSAS DOCUMENTARY $55.00 306242

KNOW ALL MEN BY THESE PRESENTS:

That I, WILLIAM R. MANNKE a single person, hereinafter called Grantor, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration to me in hand paid by WASHINGTON REGIONAL MEDI CORP., hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in WASHINGTON County, State of Arkansas, to-wit:

PART OF BLOCK THIRTY-FOUR (34) IN THE ORIGINAL TOWN (NOW CITY) OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF SAID BLOCK 34, AND RUNNING THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK 34; 140.00 FEET; THENCE NORTH 00 DEGREES 27 MINUTES 57 SECONDS EAST 65.50 FEET; THENCE EAST 140.00 FEET TO THE EAST LINE OF SAID BLOCK 34; THENCE SOUTH 00 DEGREES 27 MINUTES 57 SECONDS WEST 65.50 FEET TO THE POINT OF BEGINNING. SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And I, the said Grantor, hereby covenant that I am lawfully seized of said land and premises, that the same is unencumbered, and that I will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS my hand and seal on this 24th day of June, 1997

THIS INSTRUMENT PREPARED BY:
WASHINGTON REGIONAL MEDI CORP.
1125 N. COLLEGE AVE
FAYETTEVILLE, AR. 72701

William R Mannke (Seal)
WILLIAM R. MANNKE

(Seal)

(Seal)

I certify under penalty of ... that the legally correct amount of documentary stamps have been placed on this instrument.
Grantee Sandy Fauss - Bronson Agent
Address 12 S. School Street
Fayetteville, Ar 72701

ACKNOWLEDGMENT

STATE OF ARKANSAS } ss:
COUNTY OF WASHINGTON

On this the 24th day of June, 1997, before me, a notary public, personally appeared WILLIAM R. MANNKE known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.

Jennifer L. Reynolds
Notary Public

My Commission Expires:

Official Seal
JENNIFER L. REYNOLDS
Notary Public – Arkansas
WASHINGTON COUNTY
My Commission Expires 08-29-2000

CERTIFICATE OF RECORD

STATE OF ARKANSAS } ss:
COUNTY OF

I, ______________________ Circuit Clerk and Ex-Officio Recorder for the C... ... that the annexed and foregoing instrument of writing was filed for record in my office on the

FILED FOR RECORD
'91 AUG 29 PM 3 05
WASHINGTON CO AR
A. KILLMEYER

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT Fayetteville City Hospital, an Arkansas corporation, GRANTOR, by its Chairman of the Board and Secretary, duly authorized hereby by lawful resolution of its Board of Directors, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, paid by Washington Regional MediCorp., GRANTEE, the receipt of which is hereby acknowledged, does hereby grant, convey and quitclaim unto the said Grantee and unto its successors and assigns forever, all of its right, title interest, equity and estate in and to the following described lands situated in the County of Washington, State of Arkansas:

B+E
P.O. Box 588
F'ville AR 72702

A part of Block Thirty-four (34) in the City of Fayetteville, described as: Beginning on the East boundary line of said Block at a point 111 feet South of the Northeast corner of said Block and running thence West 200 feet; thence South 80 feet; thence East 200 feet and thence North 80 feet to the place of beginning, being a part of said Block 34, as designated on the original plat of the Town (now City) of Fayetteville, in Washington County, Arkansas.

ALSO

Beginning at a point 212 feet East of the Northwest Corner of Block Thirty-four (34), in the City of Fayetteville, and running, thence South 111 feet; thence East to the East line of said Block; thence North to the Northeast corner thereof; thence West to the point of beginning.

ALSO

A part of Block Numbered Thirty-four (34), in the Original Plat of the Town (now City) of Fayetteville, described as follows: Beginning at a point which is Sixty-three (63) feet East of the Northwest corner of said Block, and running, thence East Sixty-nine (69) feet; thence South One Hundred Forty-seven (147) feet Ten and one-half (10 1/2) inches; thence West Sixty-nine (69) feet; thence North One Hundred Forty-seven (147) feet, Ten and one-half (10 1/2) inches to the place of beginning.

1430 279

QUITCLAIM DEED
PAGE 2

ALSO

Part of Block Numbered Thirty-four (34) in the City of Fayetteville, Arkansas, being more particularly described as follows, to-wit: Beginning Sixty-five and a half (65 1/2) feet North of the Southeast corner of said Block, thence West One Hundred forty-three (143), thence North Sixty-five and a half (65 1/2) feet, thence East One Hundred Forty-three (143) feet, thence South Sixty-five and a half (65 1/2) feet to the point of beginning.

ALSO

Part of Block Numbered Thirty-four (34) in the Original Town of Fayetteville, described as follows: Beginning Seventy (70) feet East of the Southwest corner of said Block 34, and running, thence North One Hundred Thirty-six (136) feet; thence East Sixty-two (62) feet; thence South One Hundred Thirty-six (136) feet to the North line of Rock Street; thence West on the North side of Rock Street Sixty-two (62) feet to the place of beginning.

A part of Block Numbered Thirty-four (34), Original Plat of the Town (now City) of Fayetteville, more particularly described as: Beginning at a point 140 feet West of the Southeast corner of said Block and running thence North Sixty-five and a half (65 1/2) feet; thence West Three (3) feet; thence North Sixty-five and a half (65 1/2) feet; thence West Fifty (50) feet; thence South One Hundred Thirty-one (131) feet; thence East Fifty-three (53) feet to the place of beginning, situate in Washington County, Arkansas.

ALSO

Part of Block Thirty Four (34) in the Original Plat of the Town of Fayetteville, Arkansas, described as beginning at the Northwest corner of said block, thence East a distance of sixty three (63) feet, thence South a distance of one hundred forty seven (147) feet and ten and one half (10 1/2) inches, thence West sixty three (63) feet, thence North to the place of beginning, a distance of one hundred forty seven (147) feet and ten and one half (10 1/2) inches.

BOOK 1430 PAGE 260

QUITCLAIM DEED
PAGE 3

ALSO

Part of Block Numbered Thirty-four (34) in the Original plat of the Town (now City) of Fayetteville, Arkansas, described as beginning at the Southwest corner of said Block and running thence East with the North line of Rock Street Seventy (70) feet; thence North One Hundred Thirty-six (136) feet; thence West Seventy (70) feet to the East line of West Street; thence South with the East line of West Street One Hundred Thirty-six (136) feet to the beginning.

ALSO

A part of Lot Numbered One (1) in Block Numbered Thirty-eight (38) in the Original Town (now City) of Fayetteville, Arkansas, and being more particularly described as follows, to-wit: Part of Block Numbered Thirty-eight (38) in the City of Fayetteville, Arkansas, described as follows: Beginning 295.69 feet North of the Southeast corner of said Block Thirty-eight (38) and running thence West 162.36 feet; thence North 133.98 feet; thence East 162.36 feet, to the East boundary line of said Block Thirty-eight (38); thence South 133.98 feet with said line to the place of beginning, and situate in the City of Fayetteville, County of Washington and State of Arkansas.

ALSO

A part of Block Numbered Thirty-four (34) of the Original Town of Fayetteville, Plat as shown and recorded in the office of the Ex-Officio Recorder and Circuit Clerk of Washington County, Arkansas and being more particularly described as follows, to-wit: Beginning at a point which is 136 feet North of the Southwest corner of said Block Numbered 34; thence East 132 feet; thence North 42 feet; thence West 132 feet; thence South 42 feet to the point of beginning.

To have and to hold the same unto the said Grantee and unto its successors and assigns forever, along with all tenements, appurtenances and hereditaments thereunto belonging.

By its acceptance hereof, the Grantee assumes and promises to pay the indebtedness secured by mortgage liens covering the real estate hereby conveyed.

BOOK 1430 PAGE 281

QUITCLAIM DEED
PAGE 4

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its Chairman of the Board and its seal affixed by its Secretary this 6th day of August, 1991.

FAYETTEVILLE CITY HOSPITAL

By: John W. Vinsant
Chairman of the Board

ATTEST:

Edward D. Connell
Secretary

STATE OF ARKANSAS)
) ACKNOWLEDGMENT
COUNTY OF WASHINGTON)

BE IT REMEMBERED that on this day came before me, a notary public, qualified and acting, within and for the said County and State, appeared in person the within named John W. Vinsant, M.D. and Edward D. Connell who stated that they were the Chairman of the Board and Secretary, respectively, of Fayetteville City Hospital and were duly authorized in their capacity to execute the foregoing instrument for and in the name and on behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 6th day of August, 1991.

Rosilee Meegley
NOTARY PUBLIC

My Commission Expires:
4-15-94

BOOK 1430 PAGE 282

WARRANTY DEED

SINGLE PERSON

FILED FOR RECORD
'85 MAY 30 PM 12 12
WAS... [illegible] ...TY AR
AL... [illegible] ...YER
CIRCUIT CLERK

$93.00 $1.10 $1.10
[illegible] 0626129 0626128

KNOW ALL MEN BY THESE PRESENTS:

That I, ESTHER POWERS

a single person, hereinafter called Grantor, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration to me in hand paid by

FAYETTEVILLE CITY HOSPITAL

hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in

Washington County, State of Arkansas, to-wit:

A part of Block Thirty-four (34) in the Original Plat of the Town (now City) of Fayetteville, Arkansas, described as follows, to-wit: Beginning at a point which is 44 yards East of the Northwest Corner of said block, and running thence East 80 feet to the Northwest corner of a lot formerly conveyed by Elizabeth M. Bryant to W.E. Ucker and Mary E. Ucker, thence South 113 feet, thence West 80 feet, thence North to the point of beginning, situate in County of Washington and State of Arkansas.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And I, the said Grantor, hereby covenant that I am lawfully seized of said land and premises, that the same is unincumbered, and that I will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS my hand and seal on this 30th day of May, 1985.

THIS INSTRUMENT PREPARED BY:
Kent L. Tharol
Attorney at Law
P.O. Box 334
Fayetteville, AR 72702

Esther Powers (Seal)
ESTHER POWERS

(Seal)

(Seal)

ACKNOWLEDGMENT

STATE OF ARKANSAS
County of Washington } ss.

BOOK 1142 PAGE 105

On this the 30 day of May, 1985, before me, a notary public, personally appeared ESTHER POWERS known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she had executed the same for the purposes therein set forth.

In witness whereof, I hereunto set my hand and official seal.

My Commission Expires: 2-27-97

Kent Tharol
Notary Public

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT Fayetteville City Hospital, an Arkansas corporation, GRANTOR, by is Chairman of the Board and Secretary, duly authorized hereby by lawful resolution of its Board of Directors, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, paid by Washington Regional MediCorp., GRANTEE, the receipt of which is hereby acknowledged, does hereby grant, convey and quitclaim unto the said Grantee and unto its successors and assigns forever, all of its right, title, interest, equity and estate in and to the following described lands situated in the County of Washington, State of Arkansas:

A part of Block Thirty-four (34) in the Original Plat of the Town (now City) of Fayetteville, Arkansas, described as follows, to-wit: Beginning at a point which is 44 yards East of the Northwest Corner of said block, and running thence East 80 feet to the Northwest corner of a lot formerly conveyed by Elizabeth M. Bryant to W.E. Ucker and Mary E. Ucker, thence South 113 feet, thence West 80 feet, thence North to the point of beginning, situate in County of Washington and State of Arkansas.

To have and to hold the same unto the said Grantee and unto its successors and assigns forever, along with all tenements, appurtenances and hereditaments thereunto belonging.

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its Chairman of the Board and its seal affixed by its Secretary this ___ day of ___________, 1999.

FAYETTEVILLE CITY HOSPITAL

By:_______________________
Chairman of the Board

ATTEST:

____
Secretary

STATE OF ARKANSAS)
) ACKNOWLEDGMENT
COUNTY OF WASHINGTON)

BE IT REMEMBERED that on this day came before me, a notary public, qualified and acting, within and for the said County and State, appeared in person the within named John W. Vinzant, M.D. and Edward D. Connell who stated that they were the Chairman of the Board and Secretary, respectively, of the Fayetteville City Hospital and were duly authorized in their capacity to execute the foregoing instrument for and in the name and on behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ___ day of ____________, 1999.

____
Notary Public

My Commission Expires:

____

AGENDA REQUEST FORM
For Oct 5, 1999 City Council Meeting

FROM Don Bunn — Public Works Admin — Public Works

Name — Division — Department

ACTION REQUIRED Approval of a resolution giving notice of renewal of the OMI contract for Operations, Maintenance, and Management Services for an additional 5 year term beginning September January 1, 2000, subject to and contingent upon yearly budget approval by the City of Fayetteville.

COST TO CITY

$ -0-	$	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	
Account Number	Funds Used to Date	Program Name
	$	
Project Number	Funds Remaining	Fund Category

BUDGET/CONTRACT REVIEW ____ Budgeted Item ____ Budget Adj. Attached

[signature]	9-24-99	[signature]	27SEP99
Budget Coordinator	Date	Admin Services Director	Date
Marilyn J Cramer	9-24-99		
Accounting Manager	Date	ADA Coordinator	Date
[signature]	9-24-99	Yolanda Fields	9-27-99
City Attorney	Date	Internal Auditor	Date
P Vice	9-24-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION The Staff recommends approval of the resolution extending the OMI contract for Operations, Maintenance, and Management Services for an additional 5 year term subject to yearly budget approvals by the City.

[signature]	9-24-99	
Ass't Public Works Director	Date	Cross Reference
Charles Venable	9-27-99	
Department Director	Date	New Item: Yes **No**
[signature]	27SEP99	Prev Ord/Res # 94-94
Admin Services Director	Date	Orig. Contract # ______
Fred Hanna	9/28/99	
Mayor	Date	Orig. Contract Date 8-16-94

RECEIVED
SEP 28 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

COMMENT SHEET

Project: OMI Contract Renewal
Engineer/Contractor: N/A
Notes to Reviewers: This resolution approves a contract renewal of 5 years, however, it does not obligate any funds. The Council must still approve a yearly budget for operation of the treatment plant.

FROM: Stephen Davis

Will a separate item be brought forward later to extend contract with the cost identified for each year. 9/24/99

yes DRB

Signed assuming separate item w/costs coming (per Steve's) comment above - Marilyn

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

September 24, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: OMI Contract for Operations, Maintenance, and Management
Contract Renewal

The City's contract for operation of the Noland Wastewater Treatment Facility and other management and maintenance services was executed on August 16, 1994. The contract calls for an initial 5year, 4 month contract period running through December 31, 1999. The contract also allows the City to exercise options for two additional 5 year contract periods.

The attached resolution for your review and approval gives OMI notification of renewal for one additional 5 year contract period as provided for in the contract. Such renewal is subject to and contingent upon yearly budget approval by the City of Fayetteville.

It is the recommendation of the Staff that the Council approve the resolution exercising the City's option to renew the OMI Operations Contract for an additional 5 year period.

RESOLUTION NO. _____

A RESOLUTION RENEWING A CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) FOR AN ADDITIONAL FIVE YEAR PERIOD BEGINNING JANUARY 1, 2000.

WHEREAS, by Resolution No. 94-94 the City of Fayetteville entered into a contract with OMI to oversee the operation of the Wastewater Treatment Plant for a five year period beginning September 1, 1994 and ending December 31, 1999, and;

WHEREAS, under Section 7 of said contract two successive five (5) year options are possible, each option renewable at the sole discretion of the owner, and;

WHEREAS, the owner, City of Fayetteville, Arkansas wishes to exercise the first of said options and renew the contract with OMI for an additional five year period.

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

Section 1. That the City of Fayetteville, Arkansas hereby exercises its option as owner under Section 7 of the Agreement for Operations, Maintenance and Management Services dated August 16, 1994 with Operations Management International, Inc. (OMI) and hereby renews said contract for an additional five year period beginning January 1, 2000.

Section 2. Pursuant to 7.1 of the abovementioned agreement, all contract periods and renewals are subject to and contingent upon yearly budget approval by the City of Fayetteville.

PASSED AND APPROVED this 5th day of October, 1999.

APPROVED:

By:______________________________
Fred Hanna, Mayor

ATTEST:

By:________________________
Heather Woodruff, City Clerk

AGREEMENT
for
OPERATIONS, MAINTENANCE AND
MANAGEMENT SERVICES
for the
CITY OF FAYETTEVILLE, ARKANSAS

THIS AGREEMENT is made on this 16th day of August 1994, between City of Fayetteville (hereinafter "Owner"), whose address for any formal notice is 113 West Mountain, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at Englewood, Colorado, whose address for any formal notice is 5299 DTC Blvd., Suite 1200, Englewood, Colorado 80111-3333.

Owner and OMI agree:

1. GENERAL

1.1 All definitions of words or phrases used in this Agreement are contained in Appendix A.

1.2 All grounds, facilities, equipment, and vehicles now owned by Owner or acquired by Owner shall remain the property of Owner.

1.3 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arkansas and venue shall be in Washington County, Arkansas.

1.4 This Agreement shall be binding upon the successors and assigns of each of the parties, but neither party will assign this Agreement without the prior written consent of the other party. Consent shall not be unreasonably withheld.

1.5 All notices shall be in writing and transmitted by certified mail to the address noted above.

1.6 This Agreement, including Appendices, is the entire Agreement of the parties. This Agreement may be modified only by written agreement signed by both parties. Wherever used, the terms "OMI" and "Owner" shall include the respective officers, agents, directors, elected or appointed officials, and employees.

2. SCOPE OF SERVICES—OMI

OMI shall:

2.1 Operate and maintain all facilities over a 24-hour per day, 7-day per week period, under full service contract operations and maintenance. Operations may be performed with on site staff and/or remote monitoring for all or portions of this time.

2.2 Within the design capacity and capability of the Project, manage, operate, and maintain the Project so that effluent discharged from the Project meets the requirements specified in Appendix C.

2.3 Operate and maintain the present Industrial Pretreatment Program including all monitoring, inspections, sampling, testing, reporting, and record keeping as described in appendix D. Results of all industrial sampling and testing shall be made available to owner as requested.

2.4 Provide all Maintenance for the Project. Document as required to continue existing maintenance program and to provide owner requested reporting. Owner shall have the right to inspect these records during normal business hours.

2.5 Pay all Cost incurred within the scope of normal Project operations as defined in this contract.

2.6 Staff the Project with employees who have met the certification requirements of the State of Arkansas.

2.7 Prepare all NPDES permit reports and submit these to Owner for signature and approval. Transmittal to appropriate agencies shall be done by OMI. Any fines levied because of late reports as a result of OMI's failure to complete and allow sufficient time for Owner's signature and transmittal shall be paid by OMI. Submittal to the Owner by the 10th of the month following the reporting period shall be considered timely.

2.8 Provide for the disposal of screening, grit, and sludge to the existing disposal sites in compliance with permit and regulatory requirements, as long as a suitable location for such disposal is reasonably available. Should regulations and/or disposal site availability significantly change, projected costs would be revised.

2.9 Provide for monitoring and control of septage deliveries, as provided for in the Owner's sewer use ordinance.

2.10 Provide all manufacturers' warranties on new equipment purchased by the Owner and assist the Owner in enforcing existing equipment warranties and guarantees.

2.11 Improve facilities such that odor shall be managed as detailed in Appendix I.

2.12 Be responsible for all laboratory testing and sampling presently required by the NPDES permit.

2.13 Provide an inventory of vehicles and equipment that are being used at the Project at the beginning of each contract year.

2.14 Provide twenty four (24) hour per day access to Project for Owner's personnel. Visits may be made at any time by any of Owner's employees so designated by Owner's Representative. Keys for Project shall be provided Owner by OMI. All visitors to the Project shall comply with OMI's operating and safety procedures.

2.15 Provide for the maintenance of existing Owner- owned rolling stock such as dump trucks and sludge tank trucks necessary for the operations and maintenance of the facilities.

2.16 Provide training for personnel in areas of operation, maintenance, safety, supervisory skills, laboratory, and energy management. Continue the current Project Safety Program with updates as necessary.

2.17 Provide computerized maintenance, process control, and laboratory management systems.

2.18 Comply with the requirements of Owner regarding affirmative action provisions for minority hiring.

2.19 Provide Owner with a full accounting of all expenditures at intervals and in sufficient detail as may be determined by Owner and assist Owner in preparation of annual operating budgets. Owner shall be allowed to conduct or have conducted audits of all accounting related to the direct contract operations of this Agreement at times to be determined by Owner.

2.20 Provide Owner with full documentation that preventive maintenance is being performed on all Owner-owned equipment in accordance with manufacturer's recommendations at intervals and in sufficient detail as may be determined by Owner. Maintenance program shall include documentation of corrective and preventive maintenance and a spare parts inventory.

2.21 Provide for repairs as described in the Appendix A.5

2.22 Maintenance of the S.C.A.D.A (Supervisory Control and Data Acquisition) system as described in Appendix B.1.

2.23 Verify the capacity and efficiency of each pump in the sewage pump stations in year one (1) of the contract and to repeat the operation once every three (3) years thereafter.

2.24 Travel expenses and labor to provide visits and consultation with regulatory agencies for all items within the scope of this contract.

2.25 Provide recommendations for Capital Improvements with a schedule for improvements and expenditures within thirty (30) days of contract renewal and in the month of January of each successive contract year. A five (5)year schedule will be presented for all capital improvements and ten (10) year projections will be made for major improvements. These recommendations will be based on requirements determined from facility operations and does not include detailed engineering studies. In addition, OMI will prepare the required forms and documentation required during budget and capital improvements budget preparation time each year. OMI shall meet deadlines as set forth in the budget and CIP preparation manual. Except for the improvements requiring an engineering study, the following will be included for each project:

- Improvement needed
- Justification of improvements
- Cost of improvements
- Any projected increase or decrease in O&M costs created by the Project
- Proposed expenditure schedule
- Proposed capital recovery schedule
- Impact of early termination

2.26 Perform other services that are incidental to the Scope of Services upon written notification by Owner. Such services will be invoiced to Owner at OMI's Cost plus eighteen percent (18%).

2.27 Provide Owner with oral and written reports as requested.

2.28 Operate and maintain all existing wastewater lift station facilities including buildings and grounds. However, maintenance of inlet and outlet pipeworks shall terminate at the wall of lift station. Should the owner add in excess of Six (6) additional lift stations a corresponding change of scope would be negotiated.

2.29 OMI will comply with present and future, federal, state and local laws in performing their obligations under the terms of this agreement.

3. SCOPE OF SERVICE—OWNER

Owner shall:

3.1 Provide for all Capital Expenditures except for the Projects that Owner may authorize OMI to implement subject to mutually agreeable terms and conditions of repayment.

3.2 Maintain all existing Project warranties, guarantees, easements, permits and licenses that have been granted to Owner.

3.3 Pay all property, franchise or other taxes associated with the Project.

3.4 Provide OMI within a reasonable time after request any piece of Owner's heavy equipment that is available so that OMI may discharge its obligations under this Agreement in the most cost-effective manner.

3.5 Provide all licenses for vehicles used in connection with the Project.

3.6 Provide for OMI's use all vehicles and equipment presently in use at the Project, including the vehicles described in Appendix E.

3.7 Pay for all Lift Station electrical power and other utilities.

3.8 Pay for all gasoline and diesel.

4. COMPENSATION

4.1 For services rendered during the first year of this agreement owner shall pay to OMI the actual cost of services performed plus a management fee of Seventy Thousand Dollars ($70,000). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments.

4.2 OMI and Owner agree that at the end of each three (3) months OMI will perform a reconciliation of estimated to actual cost and submit the reconciliation within thirty (30) days after the end of the period. The year end reconciliation will be performed following OMI's annual audit and will be submitted within one hundred twenty (120) days of the end of the contract year. Any difference due to Owner or OMI will be paid within thirty (30) days of quarterly and annual reconciliation completion.

4.3 OMI estimates that cost for services, on an annual basis, under this agreement for the remainder of 1994 shall be Two Million Six Hundred Sixty Six Thousand Four Hundred Eighty One Dollars ($2,666,481). For calendar year 1995 OMI estimates are Two Million Seven Hundred One Thousand One Hundred and Seventy Seven Dollars (2,701,177) annually. Details of said cost are shown in

Appendix J. The base fee shall be negotiated each year in September, beginning in 1995 for calendar year 1996. Should Owners and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this agreement, specific approval will be obtained from the owner.

4.4 An administrative fee of 35 percent is added to personnel services, 5 percent to electricity, and 10 percent to all other costs for administration, support, management and overhead.

4.5 In order to provide an incentive for OMI to operate in a manner that will result in actual costs below estimated cost, Owner will pay OMI an additional fee when actual costs are below estimated cost. Said fee will be 12.5 percent of the amount actual cost are below estimated cost to a maximum amount of Seventy Five Thousand Dollars ($75,000).

4.6 Owner will pay as additional compensation to OMI any increase in electricity costs that are a result of electrical rate increases that occur during any Agreement year and have not been reflected in previous negotiations. OMI will invoice any such cost increase annually based on the calculated difference between previous and current rates.

4.7 In the event that a change in the scope of services provided by OMI occurs, Owner and OMI will negotiate a commensurate adjustment in estimated annual cost.

5. PAYMENT OF COMPENSATION

5.1 One Twelfth (1/12) of the base fee for the current year shall be due and payable on the first of the month for each month that services are provided.

5.2 All other compensation to OMI is due upon receipt of OMI's invoice and payable within thirty (30) days.

6. INDEMNITY, LIABILITY AND INSURANCE

6.1 OMI shall be liable for damages, injury, or loss which may arise from OMI's negligent operations or intentional acts under this Agreement, to the proportion such negligence or act contributed to the damages, injury, or loss, whether such negligent operation or intentional act be by OMI or by a subcontractor of OMI.

6.2 OMI shall be liable for those fines or civil penalties, which may be imposed by a regulatory agency for violations of the effluent quality requirements specified in Article 2.2, that are a result of OMI's negligent operation. Owner will assist OMI to contest any such fines in administrative proceedings and/or in court prior to any payment by OMI. OMI shall pay the costs of contesting any such fines.

6.3 Each party shall obtain and maintain insurance coverage of a type and in the amounts described in Appendix G. Each party shall name the other party as an additional insured on all insurance policies covering the Project and shall provide the other party with satisfactory proof of insurance.

6.4 It is understood and agreed that, in seeking the services of OMI under this Agreement, Owner is requesting OMI to undertake uninsurable obligations for Owner's benefit involving the presence or potential presence of hazardous substances. Therefore, Owner agrees to hold harmless, indemnify, and defend OMI from and against any and all claims, losses, damages, liability, and costs including, but not limited to, costs of defense arising out of or in any way connected with the presence, discharge, release, or escape of hazard substances of any kind, excepting only such liability as may arise out of the negligence or intentional act of OMI in the performance of services under this Agreement.

6.5 Nothing contained herein shall constitute a waiver of any statutory, legal or equitable defenses the owner may have as a municipality, including but not limited to tort immunity under State statue.

7. TERM AND TERMINATION; DEFAULT REMEDIES

7.1 The initial term of this Agreement shall be five (5) years and 4 (four) months commencing on September 1,1994 and ending on December 31, 1999, followed by two (2) successive five (5) year options, each option renewable at the sole discretion of the owner. Each option can be made effective by written notification from the Owner to OMI ninety (90) days prior to the expiration of the previous contract period. All contract periods and renewals are subject to and contingent upon yearly budget approval by the owner.

7.2 Either party may terminate this Agreement for a material breach of the Agreement by the other party after giving written notice of breach and allowing the other party thirty (30) days to correct the breach. Neither party shall terminate this Agreement without giving the other party thirty (30) days written notice of intent to terminate after failure of the other party to correct the breach within thirty (30) days.

7.3 Upon notice of termination by Owner, OMI shall assist Owner in resuming operation of the Project. OMI will provide Owner at the date of termination the quantities of chemicals shown in Appendix H. Owner will pay OMI for the Cost of quantities in excess of the quantities shown in Appendix H. If additional Cost is incurred by OMI at request of Owner, Owner shall pay OMI such Cost in accordance with Article 5.2.

8. LABOR DISPUTES; FORCE MAJEURE

8.1 In the event activities by Owner's employee groups or unions cause a disruption in OMI's ability to perform at the Project, Owner, with OMI's assistance or OMI, at its own option, may seek appropriate injunctive court orders. During any such disruption, OMI shall operate the facilities on a best-efforts basis until any such disruptions cease.

8.2 Neither party shall be liable for its failure to perform its obligations under this Agreement if performance is made impractical, abnormally difficult, or abnormally costly, due to any unforeseen occurrence beyond its reasonable control. The party invoking this Force Majeure clause shall notify the other party immediately by verbal communication and in writing by certified mail of the nature and extent of the contingency within ten (10) working days after its occurrence.

9 ARBITRATION

9.1 Any controversy between the parties to this agreement involving the construction or application of any of the terms, covenants or conditions of this agreement shall, on the written request of one party served on the other within thirty (30) days after the dispute arises, be submitted to arbitration, and such arbitration shall comply with and be governed by the Arkansas Uniform Arbitration Act (A.C.A.§16-108-201 et seq.).

9.2 The parties to this agreement may agree on one arbitrator, but in the event that they cannot agree, there shall be three (3) arbitrators, one named in writing by each of the parties within fourteen (14) days after demand for arbitration, and a third to be chosen by the two so named.

9.3 If there is one arbitrator, his or her decision shall be binding and conclusive on the parties. If there are three arbitrators, the decision of any two shall be binding and conclusive.

Both parties indicate their approval of this Agreement by their signatures below.

Authorized signature:	Authorized signature:
Henry C. Huffman	Fred Hanna, Jr.
Title: District Manager	Title: Mayor
OPERATIONS MANAGEMENT INTERNATIONAL, INC.	CITY OF FAYETTEVILLE
Date: 8/15/94	Date: 8-17-94

AMENDMENT NO. 4
TO THE
AGREEMENT FOR OPERATIONS,
MAINTENANCE, AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS
WASTEWATER TREATMENT PLANT

THIS AMENDMENT, entered into this 2 day of February, 1999, by and between the City of Fayetteville, Arkansas (hereinafter "Owner"), whose address for any formal notice is 113 West Mountain Street, Fayetteville, Arkansas 72701 and Operations Management International, Inc. (hereinafter "OMI"), with offices at 6060 South Willow Drive, Suite 200, Greenwood Village, Colorado 80111-5142 is made and entered into for purposes of amending certain provisions of the "Agreement for Operations, Maintenance, and Management Services for the City of Fayetteville's Wastewater Treatment Plant," dated August 16, 1994 (the "Agreement") to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

This is Amendment No. 4 to the Agreement dated the 16th day of August 1994, between Owner and OMI.

NOW THEREFORE, Owner and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:

   4.1 For services rendered during the fifth year of this agreement owner shall pay to OMI the actual cost of services performed plus a management fee of Eighty Five Thousand Four Hundred and Ninety Five Dollars ($85,495). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.

2. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates that cost for services for calendar year 1999 shall be Three Million Six Hundred Thirty Two Thousand, Nine Hundred and Ninety Two Dollars ($3,632,992) annually. Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September, beginning in 1999 for calendar year 2000. Should Owners and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this agreement, specific approval will be obtained from the owner.

3. Appendix J is hereby deleted in its entirety and replaced with the attached Appendix J.

4. Appendix K is hereby added to the Agreement.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Amendment.

Both parties indicate their approval of this Amendment to the Agreement by their signatures below as of the date shown above.

Authorized Signature:

Bernard A. Miller
Title: Chief Operating Officer

OPERATIONS MANAGEMENT INTERNATIONAL, INC.

Date: 19 JAN 1999

Authorized Signature:

Fred Hanna, Jr.
Title: Mayor

CITY OF FAYETTEVILLE

Date:

CITY OF FAYETTEVILLE WASHINGTON COUNTY ARK

Appendix J

COST DETAIL

The proposed annual estimated costs for 1999 were calculated as follows:

	Projected 1998	Budgeted 1998	Proposed 1999
Direct labor and benefits	$1,267,408	$1,290,521	$1,329,586
Labor overhead @ 35%	$ 443,593	$ 451,682	$ 465,355
Electricity	$ 579,956	$ 540,000	$ 600,000
Electric overhead @ 5%	$ 28,998	$ 27,000	$ 30,000
All other direct costs	$ 779,688	$ 799,257	$ 793,233
Other direct costs overhead 10%	$ 77,969	$ 79,926	$ 79,323
Sub-Total	$3,177,612	$3,188,386	$3,297,497
Fixed Fee	$ 82,666	$ 82,665	$ 85,495
Total Operating Budget	$3,260,278	$3,271,051	$3,382,992
SCADA Upgrade - Phase 1			$ 250,000
Total 1999 Budget			$3,632,992

The following are some of the major reasons for cost circumstances:

1. Projected increase in electrical usage and demand due to increased loading, and the requirement to begin part-time utilization of the second aeration basin.

2. Continued increase in the cost of providing skilled professional labor in Northwest Arkansas' highly competitive job market.

Appendix K

SCADA UPGRADE - PHASE 1 - SCOPE OF WORK

The following SCADA upgrade tasks will be performed by OMI during the calendar year 1999.

1. Replacement of 41 (now discontinued) existing remote terminal units with OMI-developed remote terminal units at each SCADA remote location, including all existing SCADA-equipped wastewater lift stations, water tanks, and water pump/booster stations. (This project specifically excludes costs associated with installations of new SCADA equipment at locations not presently so equipped. This project also specifically excludes replacement of the existing Motorola radios associated with each remote terminal unit)

2. Replacement of existing human/machine interface software with Y2K compliant 'Lookout' v3.8 by National Instruments.

3. Replacement of two remaining existing central computers (out of the original four) with five updated and modernized versions for improved access and redundancy. These computers will be IBM compatible with minimum 350 MHz processors.

4. Upgrade of systemic remote control and monitoring capability with the replacement of existing mobile computer and addition of three mobile computers and the implementation of point-to-point protocol (PPP) dial-up networking.

Copy

AGENDA REQUEST FORM

XXX AGENDA REQUEST, City Council meeting of February

FROM: Don Bunn (Name) — Public Works Admin (Division) — Public Works (Department)

ACTION REQUIRED: A resolution authorizing the execution of Amendment No.4 ~~8~~ to our contact with OMI for the operation of the Paul Noland Treatment Plant, and the approval of a budget adjustment. The amendment provides for a total of $3,632,992 for operations services during 1999.

COST TO CITY:

Cost-This Request	Category/Project Budget	Category/Project Name
$ 250,000.00 $ 3,382,992.00	$ 250,000.00 $ 3,327,051.00	Water/Sewer Imp'v'ts PCP Operations

Account Number	Funds Used To Date	Program Name
5400-5700-5315-00 5400-5100-5328-00	$ -0-	

Project Number	Funds Remaining	Fund Category
99033 N/A	250,000.00 $ 3,327,051.00	Water/Sewer Fund

BUDGET/CONTRACT REVIEW: XX Budgeted Item XX Budget Adj. Attached

Budget Coordinator	Date	Administrative Services Director	Date 25JAN99
Accounting Manager	Date 1-22-99	ADA Coordinator	Date
City Attorney	Date 1-25-99	Internal Auditor	Date 1-25-99
Purchasing Officer	Date 1-25-99		

STAFF RECOMMENDATION: It is the recommendation of the Staff that the Council approve Amendment No. ~~8~~ 4 in the amount of $3, 632,992.00 and a budget adjustment.

Ass't Public Works Director	Date 1-22-99	Cross Reference
Department Director	Date 1-25-99	New Item: Yes No
Admin Services Director	Date 25JAN99	Prev Ord/Res #:
Mayor	Date 1/26/99	Orig Contract Date: Aug 16, 1994

STAFF REVIEW FORM

RECEIVED
OCT 05 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Connie Edmonston	Parks & Recreation	Public Works
Name	Division	Department

ACTION REQUIRED:

Approval of amendment to CEI contract #656 for the Greathouse Park bridge.

COST TO CITY:

$2,250	$134,000	Park Improvements
Cost of this Request	Category/Project Budget	Category/Project Name
2250-9250-5817-00	$125,180	
Account Number	Funds Used To Date	Program Name
98004-1	$ 8,820	General/Parks Development/Sales Tax
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ✓ Budgeted Item ___ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager — Date 10-4-99

Internal Auditor (Yolanda Fields) — Date 10-4-99 ✓

City Attorney — Date 10-4-99

ADA Coordinator — Date

Purchasing Officer — Date 10-4-99

STAFF RECOMMENDATION:

Approval of amendment to contract.

Division Head (Connie Edmonston) — Date 10-4-99

Department Director — Date 10-4-99

Administrative Services Director — Date 3OCT99

Mayor — Date 10/5/99

Cross Reference

New Item: Yes No

Prev Ord/Res #: __

Orig Contract Date: _

Orig Contract Number: 656

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Hanna and City Council

THRU: Charlie Venable, Public Works Director Ca

FROM: Connie Edmonston, Parks & Recreation Superintendent

DATE: October 4, 1999

RE: Amendment to CEI Contract for the Greathouse Park Bridge

The Parks and Recreation Division requests the approval of an amendment to the contract with CEI Engineering Associates Inc. for their work at Greathouse Park. The amendment will allow CEI to review the project and verify the amount of channel improvements needed for flood improvement purposes; costs to attend meetings; and provide construction administration. These changes will allow the City to proceed with CEI in revising the construction contract with Tomlinson Construction in order to reduce the channelization and tree removal required.

If you have any questions, please call me at 444-3473.

Attachments:

CEI Amendment to Contract

CEI

Engineering Associates, Inc.

City of Fayetteville, Arkansas
Greathouse Park Bridge
Amendment to Contract for Engineering Services
CEI Project No. 13905.2 – October 4, 1999

I. PROJECT DEFINITION

This contract amendment is for the purpose of advising the City of Fayetteville as to the viability of the Greathouse Park Bridge project, as designed and as previously approved by the Fayetteville Parks Board and the Fayetteville City Council.

II. SCOPE OF SERVICES

A. EVALUATE ALTERNATIVES TO CURRENT DESIGN

Review the project to verify that the amount of channel improvements being performed are needed for flood improvement purposes.

B. MEETINGS and WRITTEN REPORT

Attend meetings with City officials, at public meetings and at other times, and with other regulatory agencies as required to discuss the project and to identify various alternatives for evaluation.

C. CONSTRUCTION ADMINISTRATION

Provide construction administration during the construction phase. This represents a slight increase in the construct phase budge from the original contract.

Lump Sum Fee (for all tasks).. $2,250.00

III. ADDITIONAL SERVICES

A. Any evaluations besides those described above will either require an amendment to this amendment or can be performed as extra services using the hourly rates included in the original contract.

B. Any costs to re-bid the project and prepare new contracts, if required, will be covered by an amendment.

All other provisions of the original contract remain the same.

_______________________ Title: Mayor _______________ Date: ___________
City of Fayetteville

_______________________ Title: Department Head _______________ Date: Oct 4, 1999
Rick W. Rogers
CEI Engineering Associates, Inc.

STAFF REVIEW FORM

X Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of October 5, 1999.

FROM:

Tim Conklin	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZ 99-28.00 submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

COST TO CITY:

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

BUDGET REVIEW: ______ Budgeted Item ______ Budget Adjustment Attached

Budget Coordinator ______ Administrative Services Director

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

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	9-17-99 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and the Planning Commission approved the rezoning request with a vote of 5-2-0. Commissioners Estes and Hoover voted against the rezoning.

Division Head	9-16-99 Date	**Cross Reference**
Department Director	9-20-99 Date	New Item: **Yes** **No**
Administrative Services Director	Date	Prev Ord/Res#: ______
Mayor	9/21/99 Date	Orig Contract Date: ______

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	**Fayetteville Planning Commission Members**
THRU:	**Tim Conklin, City Planner**
FROM:	**Brent Vinson, Associate Planner**
DATE:	**September 13, 1999**

RZ 99-28.00: Rezoning (Realty Resources, pp 364) was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200, 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

RECOMMENDED MOTION:

Staff recommends approval of the proposed R-2 zonings based on the findings included as part of this report.

PLANNING COMMISSION ACTION: YES Required
_____Approved _____Denied

Date: September 13, 1999

Comments:

CITY COUNCIL ACTION: YES Required
______Approved ______Denied

Date: / /

BACKGROUND :

The applicant requests the rezoning of five adjacent properties off of Deane Street from R-1 (Single Family Residential) to R-2 (Medium Density Residential) in order to develop multi-family housing targeting the needs of students (12-14 units per acre.) Four properties are owned by William M. Weatherford and one property is owned by Larry and Brenda Swain.

ADJACENT LAND USE AND ZONING:

North: The University of Arkansas experimental station has vacant pastureland to the north.

South: There is vacant pastureland to the south.

East: Duplexes exist to the west on Linda Jo Place and Deane Street.

West: To the west on Sang Avenue are single family residences, duplexes, apartments, and a mobile home park.

INFRASTRUCTURE:

Streets: Deane Street is a Minor Arterial with 90' of R.O.W. (45' from the centerline.)

Water: There is a 12" waterline existing on the south side of Deane Street.

Sewer: There is a 6" sewer line along Sang Avenue and off of Porter Road going east to Linda Jo Place.

LAND USE PLAN:

The General Plan 2020 shows this area as Residential north of a school (Asbell Elementary.) There is flood plain existing on the property.

RZ 99.00-6.00 FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The Land Use Plan (General Plan 2020) shows this area as residential. The proposed zoning of R-2 (Medium Family Residential) is consistent with the plan.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning R-2 is justified and needed at this time.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning would not create or appreciably increase traffic danger and congestion in this area.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zonings would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities. On-site and off-site improvements including sewer will be required at the time of Large Scale Development and Preliminary Plat approval.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Proposed Change to Zoning
Deane Street
Fayetteville, Arkansas

August 2, 1999

Written Statement

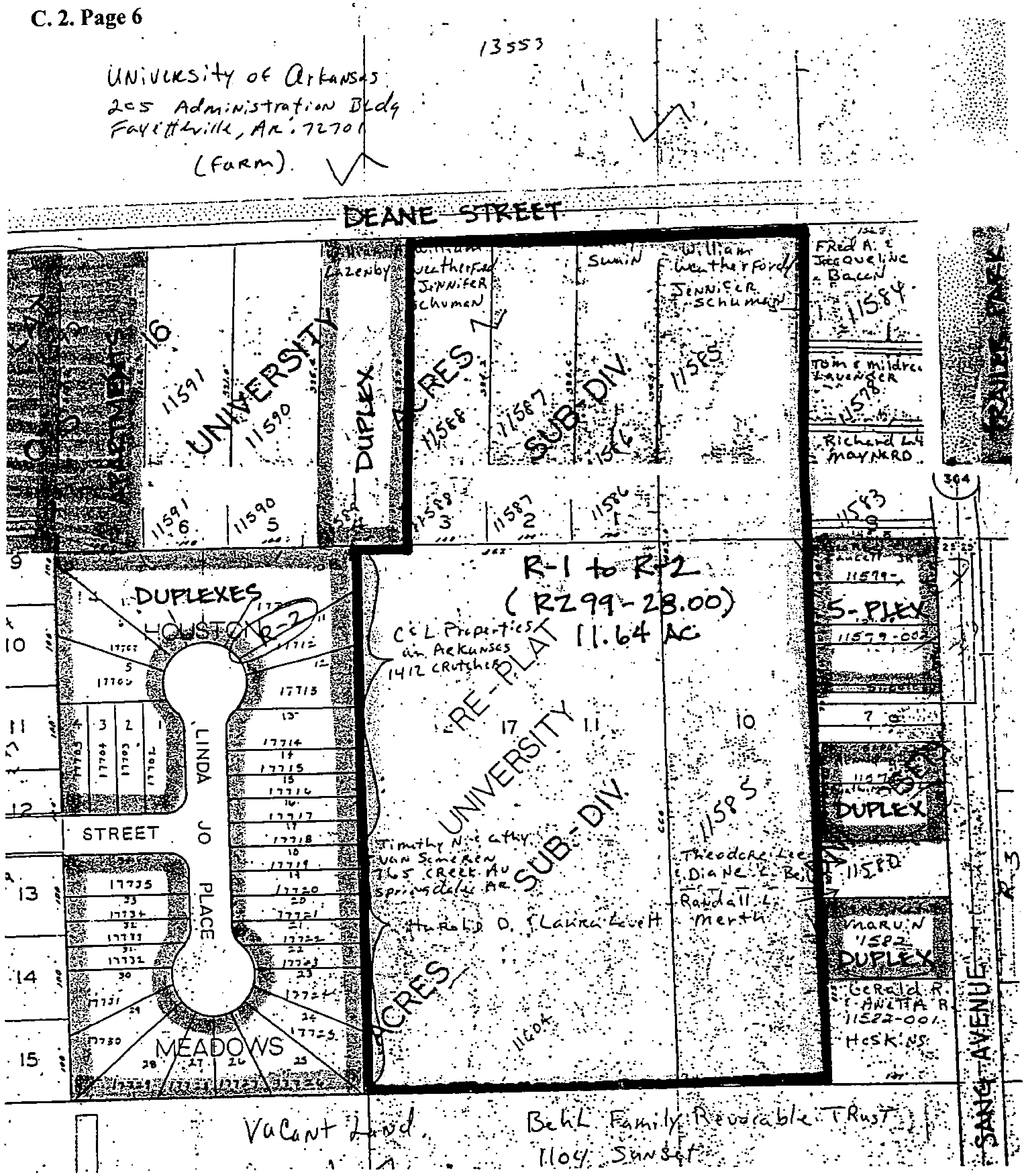
Pursuant to Section 5 of the Application for Rezoning:

a. The proposed hange is from R-1 to R-2 on parcels of land map 765 – 11585,11586, 11587, and 11588. Parcel 11586 is currently owned by Larry and Brenda Swain; remaining parcels are currently owned by William M. Weatherford. All parcels are under agreement to Realty Resources, Chtd.

b. We propose to develop the subject parcels as a multifamily development which will be targeted to the needs of students; density will be 12 – 14 units per acre.

c. 1. The completed development will be residential in nature. Surrounding properties include R-2 and R-3 developments as well as single family. The proposed use will be an infill situation, and will serve to reduce sprawl by increasing density of land use slightly from existing zoning.
   2. Traffic generated is estimated to be on a par with current zoning due to target market and because of its access to public transportation which will reduce traffic impacts.
   3. The completed development will be architecturally designed and will compliment other housing in the area. The property will be professionally managed.
   4. Signage will be limited to project identifications at entrances per ordinances.

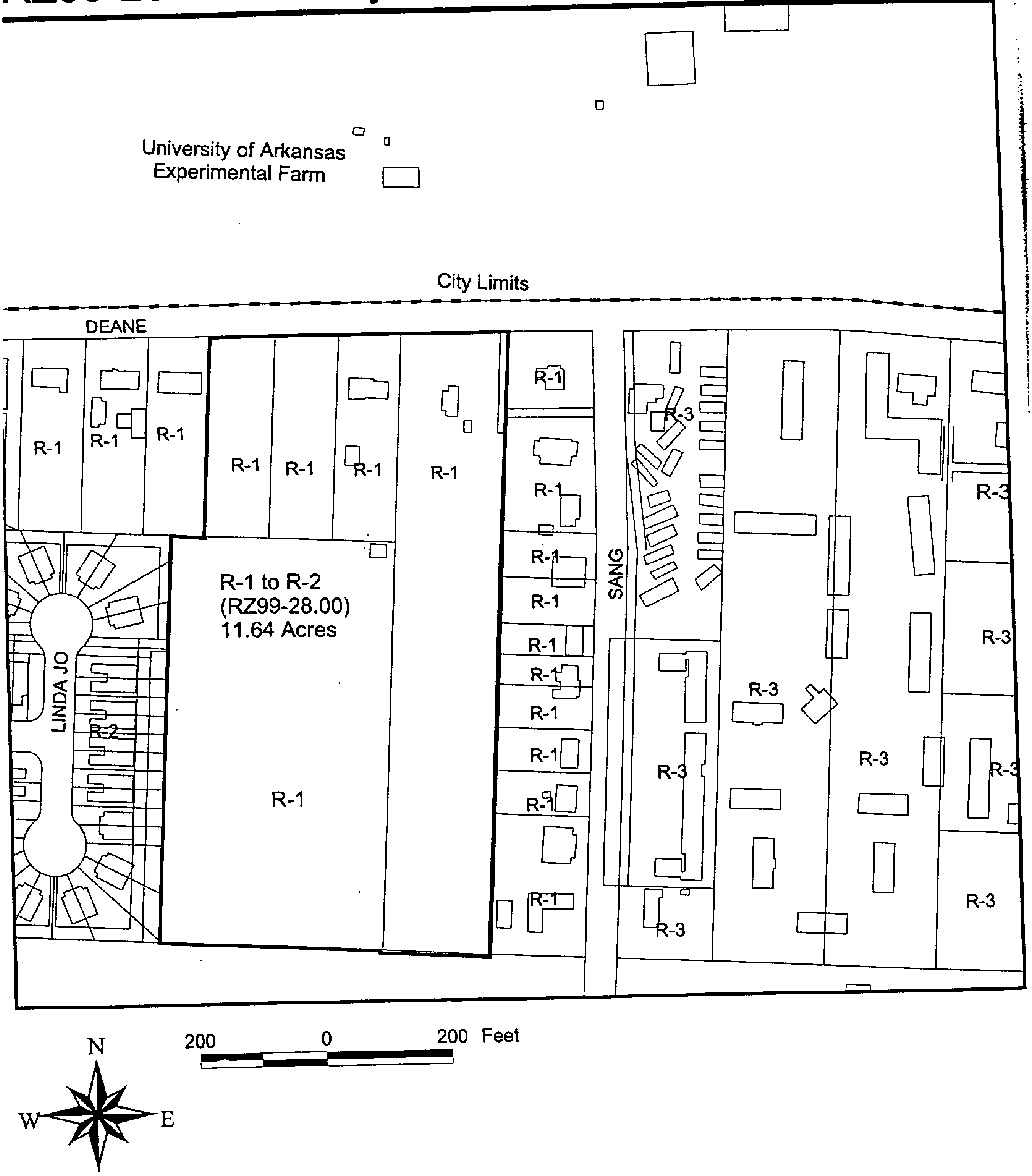
d. The site is serviced by a 12" water main on Deane St. Sewer stubs, 6" in size exist into the property from Porter St. and Sang Ave. A sketch of the property and the locations of utilities is attached.



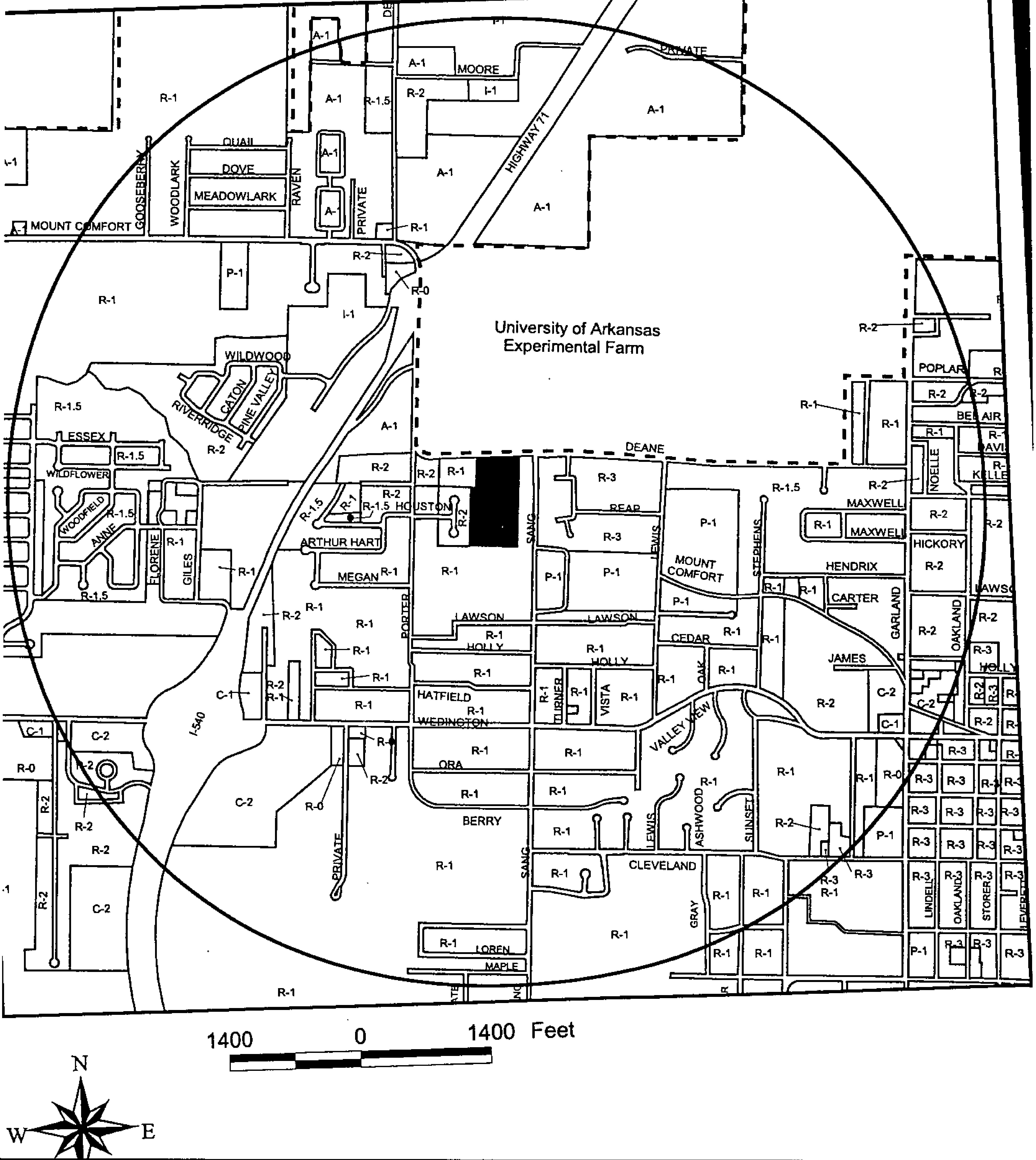
USES IN THE IMMEDIATE VICINITY
(Information provided by applicant)

↑
NORTH
(not to scale)

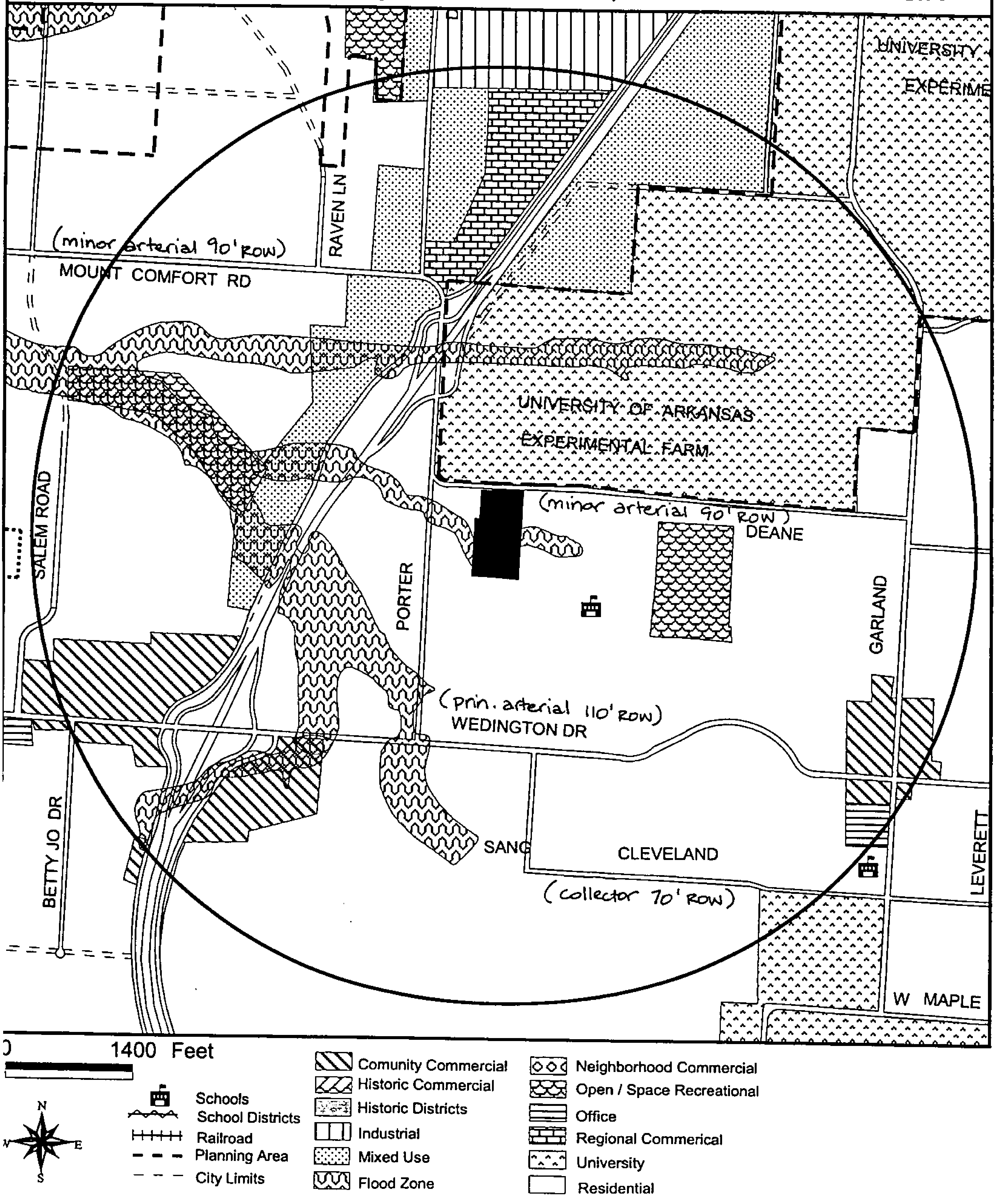
RZ99-28.00 - Realty Resources, Chtd - Close Up



RZ99-28.00 - Realty Resources, Chtd. - One Mile Diameter



RZ99-28.00 - Realty Resources, Chtd - 2020 Plan



RZ99-28: REZONING
REALTY RESOURCES, PP364

This item was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200 and 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

Michelle Harrington and William Hahn were present on behalf of the request.

Staff Recommendation

Staff recommended approval of the proposed R-2 zoning.

Committee Discussion

Johnson: Staff, could you give us your explanation of this recommendation on this rezoning.

Conklin: Staff did recommend approval of the rezoning. This site is located on Deane Street to the north is the University of Arkansas Experimental Farm. It does adjoin R-1 zoning on the east boundary. However, four of the structures on Sang Avenue are duplexes and one structure is a 5-plex. On the west boundary line, it does adjoin R-1 zoning and R-2 zoning. If you'll refer to page 2.6 in the agenda, Linda Jo Place on the western boundary has developed with townhouses and it's zoned R-2. Staff has recommended approval based on the findings in this report that additional multi-family residential dwellings in this area are appropriate and consistent with the 2020 Plan. If you have any other questions, I'll be happy to answer them at this time.

Johnson: Commissioners, any additional questions of staff? Ms. Harrington?

Harrington: My name is Micki Harrington. I'm here tonight representing Realty Resources, Chartered and Mr. Hahn, the representative, is here with me tonight. We are requesting as Tim indicated, approval of R-2 zoning on this property. We believe that it is a good location for R-2 zoning because of what is around it and across from it. It is an infill situation in an area that is very appropriate for it and it's serviced by the University of Arkansas bus system which hopefully will allow a lot of transportation needs to be met with the bus system and not require more cars to the University because the bus system is right there. We think it is a good place to put an R-2 development but we're happy to answer questions and help with details as you need.

Johnson: Do you have any questions of Ms. Harrington at this time?

Ward: How many units do you plan on putting on this?

Harrington: It's not certain yet but they're talking roughly 120 to 140 depending on the site needs and demands.

Johnson: Any other Commissioners with initial questions.

Estes: Staff, how many units would an R-2 zoning accommodate?

Conklin: R-2 zoning does allow up to 24 units per acre. This would allow 275.

Estes: Thanks.

Johnson: So, the maximum that you're contemplating, although, of course, you're not bound to this would be about half.

Harrington: About 12 to 15 units per acre.

Public Comment

Richard Maynard, residing at 1717 N. Sang was present in opposition to the rezoning.

Maynard: I'm here with my neighbors today. Should I introduce them?

Johnson: No. If they wish to speak individually, they may. Otherwise, if they merely want to let us know that they support your position, they can do that through a show of hands.

Maynard: I own the property at 1717 N. Sang. First, I want to make it clear that we do not object to Mr. Weatherford's selling of his property. We sit on Sang Avenue which is on the east side. We've all enjoyed that little bucolic pasture for a long time. We know it isn't going to last forever. We certainly don't want to interfere with his right to sell his property. Nor do we object to Mr. Hahn developing that property. In fact, in a way, I would welcome it. What we do object to is this drastic change to that neighborhood and to our quality of life and to our investments. I moved here about 5 years ago and I looked around quite a bit in Fayetteville to find a place that I thought I would be happy with and that I could build a home. I did find a really nice piece of property. Ms. Lavender, one of my neighbor's here, her husband built it about 40 years ago but it hadn't been kept up. One of the first things that I was a little bit nervous about was there was a mobile home park across from me and as Tim said, there were several duplexes going south of me to Ms. Hoskin's home. She lives by the Baptist church there and she is here with us tonight. There's a 5-plex right to the south of me. It made me nervous. I came down to this office to find out exactly what the zoning was and it all said R-1. I didn't know what R-1 meant and I asked them about that and the reason those were R-1, they can say there are duplexes there now and

they can say there's a quad-plex there and there's a mobile home across the street. The mobile home may be different zoning but those were still R-1. Those were there before the city limits expanded so they were grandfathered in. Right now, that neighborhood that we are talking about is primarily R-1. It is primarily designed for low density residential. I can only think that your predecessors, the City Planners that came before, had a reason if those duplexes were there and that mobile home was there to call it R-1 and not see in the future that as R-2. What's over there on the west that is R-2 on Linda Joe Place and as Tim said, they are duplexes. In fact, until very recently because I don't have any real cause to go over there, I didn't know that they weren't single family homes. I don't know if they are rentals over there or if they are owned. Those are nice places there. They don't adversely add to the population density. I came down here last Thursday, just to get some clarification of what Mr. Hahn had in mind here and I did talk to Brent and he helped me out quite a bit on some things. The main thing that we were concerned with was what exactly did he have in mind. Did he have in mind what is over at Linda Jo Place? Those nice, well kept duplexes or did he have something else in mind. Brent told me he didn't really know. We really couldn't ask that. Once you rezone that, it seems like as I read this, you have quite a bit of latitude as to what you're going to put in there. As I look at 12 to 14 units, in an 11 acre space of land, I'm not quite sure how Mr. Hahn is going to that and keep the parking regulations and keep the green ordinance and by the way, I have a question on that --

Johnson: You're several steps ahead of where we are in this process. Tonight, we're only looking at the issue of rezoning. We can't get into green space issues and development issues. We'll look at that if and when this ever gets rezoned.

Maynard: The only thing that I can see that he can probably do is go up and that means 2 story townhouses probably 8 units per building. That is going to be a drastic change. That is going to add so much population to that small area of land. Also, Ms. Doege knows more about this than I do and I'll let her speak to that, part of this is on flood plain. Again, I don't know what Mr. Hahn has in mind. How is he going to rectify that? Is he going to build up the land and if so, where is that water going to go inside of our own back yards? I realize maybe this isn't an issue that I can talk about tonight but we live there and these are concerns of ours. Access is another problem I have. The only access I see is on Deane Avenue. So, we have lots of concerns that maybe I can't address tonight or maybe you can't answer but that's a problem that we have. We would like to see something like Linda Jo Place, like something that is going to add to the quality of the neighborhood then we would be okay with that. We knew that property was going to be sold and developed at some point. We're not going to keep things as they are but we are trying to protect our quality of life because we live there and we own property there. In my own particular case, because it was R-1, over the past 5 years I have spent a lot of time, a lot money, I've taken out a second mortgage and worked a second job to make this into a home that I would be happy with. Now, you're going to change the rules on me. I don't quite understand what compelling need there is. If I can refer and I think this is something I can talk about, is on the final pages of this, the findings of the staff. I'm not going to comment on number 1. I don't know that much about it to comment on it. I will comment on number 2:

> "A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed."

The finding of the staff was that yes, it was justified and yes, it is needed. Our question is why? Why is it needed? I can only think of 2 reasons. If you're putting apartments in there for college students, the only reason that I can think of is that there's a dearth of college housing available now which is an interesting thing because I teach in a special program at the University. When I was on my way to the office yesterday, I went by the College Park Apartments. There's a big, red sign out there with apartments available $199 and up. I got an idea and I started calling other places. I called Faucette Properties. They have apartments available. I called Washington Plaza, just a half a block over from us on Deane and Lewis and they had apartments available. The program I work at is an English program for international students. They come to us before they go into the University. One thing we do get for them is housing. I talked to our housing coordinator today and asked how much trouble they had finding apartments for our students and she said none at all. There can always be more college housing. I understand that. We are a growing university. What concerns me is when that starts to take prevalence over the people who live and work in this city. There are houses available and there are places to put more college housing. What we have there in this property that he's asking to rezone and you're considering tonight is primarily residential. You don't have anything like you have to the east of us. You don't have anything like you have at College Park Apartments. As I said before, it's going to be a drastic change to that neighborhood. It's going to be change that will dictate how that neighborhood will be for now and forever. Like I said, we moved in there with an understanding and we know situations change. We understand that. I don't buy this that there is a compelling need to build affordable college housing at least right there. There are other places to do it. We'll always need some. The only other need I can see and I'm sorry to say it. This is a very valuable property. I wish I owned it myself. Somebody does stand a change to make a lot of money off this. It's a much more valuable property than mine is but mine is an investment, too. I'm not just talking about a dollar investment. Although, we're all concerned about that. We're very concerned about how this college housing is going to effect our property investment. More importantly, we're talking about our investment and our quality of life that we have there. Number 3:

> "A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion."

Again, there is a bus line on Deane Street. It runs once an hour. Maybe, the University will increase that. Again, we live there. There's a lot of traffic going down Sang now. I guess I can't ask what the access plans are for this idea that Mr. Hahn has. I can tell you there is a lot of traffic now. If you've ever come down on the bypass and gone off onto Porter Road about 8:00 in the morning, you will sit there for a few minutes. I've made that mistake. I visit my mother sometimes up in Bella Vista and once in a while I'll stay over and I'll forget and not take the cloverleaf onto Garland but I'll go to Porter out of habit. You can sit there for awhile as people

are coming off of Mt. Comfort and then as it goes under the bypass it ells around into Deane. About an eighth of a mile which I'm sure there will be an access, we're going to have students coming out. Of course, not all of them. It will take them about 1 day to figure out the shortest route to the University is down Sang. That's a straight shot. There's no stoplight from Deane to Wedington and people speed down there. We put up with it all the time. We've called and complained and nothing ever really gets done about it. There is a school there. There is a trailer park right across from me. Kids play out there. They shouldn't but they do and that's a fact. There is Asbell School. If you can imagine for a second that kind of added traffic going down there. I don't know how you're going to change that. Are you going to put a stoplight there and back up traffic more? Or put a stop sign there? If you ever drive down there, pay attention. Right past the Baptist church, it kind of crests and right over that crest there's a cross walk. If you're going the 20 to 25 mph speed limit, there is no chance to stop. There's none. I'm not trying to say somebody didn't do their job. I'm just saying that I think if you took another look at that and imagine what the effect of the density of population that you're adding there. We're talking about 12 to 14 units or 120 to 140 new units. There will be at least a couple of people in each unit and we're talking about an increase of population of about 300 to 400 people and all of them have cars. We were all students at one time. We know what happens when we rush to get to school. When we get older, we become a little bit more responsible and you think about it. I cannot believe that this is not going to add adversly to traffic. It doesn't have anywhere to go except down Sang and over to Garland. This is going to add heavy traffic. I don't care if the University puts in 5 buses. Finally, I want to mention one thing about number 4. To me, it seems this zone was recommended primarily on number 4 as the best explanation. There may be water lines. There may be enough sewage capacity. We have a concern about the flood plain as I mentioned before. It seems like this is based pretty much on finding number four. The most important point, I saved for last and it's the last thing you have in your criteria which is 5.a:

> "It would be impractical to use the land for any of the uses permitted under its existing zoning classification."

Why? That's my question. Why would that be impractical. That is a residential neighborhood. I don't care if people are renting there or people like myself and my neighbors own and live there. That is a residential area. It would be a beautiful spot for a home. It would be a beautiful spot for home for people of middle income and who could afford $60,000 or $70,000 homes. I know people and you do, too, who cannot find that kind of home in Fayetteville. They're to moving West Fork. They're moving to Farmington. They're moving to Springdale. I feel that is what you might be asking me to do because I can't afford a $90,000 home or a $100,000 home either. I have a home and I'd like to keep my home. I teach college students and I don't have anything against them but I know what I was like 25 years ago. I was a pretty good kid but I wouldn't want me then living behind me now. If homes are impractical, we don't care. More expensive homes or duplexes if you want but something that is going to fit in the nature of what that neighborhood is. What kind of bothers me about this whole thing is that it seems like the burden to keep things R-1 is put on my neighbors and me. It's R-1 now and we're up here

having to convince you to keep it R-1 or at least get more specifications as to what he has in mind instead of leaving it up to him to give a compelling reason why they need to change this outside of making a great business deal. I hope to God that isn't your consideration tonight on the amount of money somebody has to make. If that's it, then we don't stand a chance because our properties don't come anywhere near that value. At the very least, I would ask you if you would -- what you decide here to tonight is going to have a tremendous effect on us and the neighborhood. It will change the nature of that neighborhood forever. Before you rush into a decision, at least give it a second look. You're welcome to come onto my property through the back gate. I have a good panorama of that view. Imagine what that neighborhood could look like. Also, try to imagine what it's going to look like with 300 or 400 college age students in there. We have to live there, ladies and gentlemen. You don't. Mr. Hahn doesn't. Mr. Weatherford doesn't. We are the ones that have to live there. Thank you.

Johnson: Thanks, Mr. Maynard. Are there others who would address us on this proposed rezoning?

Faye Doege residing with her mother at 1745 N. Sang was present in opposition to the proposed rezoning.

Doege: I'm going to address one problem which is a little complicated. When those houses were first built on Sang Avenue, there were no apartment houses or anything across the street. There was no trailer park. My dad built those houses. Then they developed the Washington Plaza apartment house. That was fine. We needed low cost apartments for people. Unfortunately, one thing they did was to bring in 20 tons of fill and they raised the level of the land there. That wasn't too bad because that water had places to go. It went east and it went west and it went south. We had some natural absorbing areas there and one of the places that used to collect most of the water from Washington Plaza was a place where they decided to build this new apartment house, The Encore apartments which is across the street from our place now. Now, they have concreted all that land that used to absorb the water that ran off of Washington Plaza. Now that water from Washington Plaza washes through there onto Sang and across Sang into our property which has been causing a little bit of a problem but we have been able to get by. One of the reasons we have been able to get by is the kind of soil that we have over there. The soil on the west side of Sang is Captina silt loam. It has a slow percolation rate but it has moderately good drainage so when we have a lot a rain, it will puddle a little bit but it will eventually soak in and you can't say that about every place in Fayetteville because there are a lot of places where it puddles and it will not soak in after a long, hot summer but it will eventually sink in. The place where most of the water goes from across the street and from our place and from the University Farm where it drains down Sang, is into this property where they want to build the apartments. That soil there is Pembroke silt loam and it has good drainage. Not only that, that whole area has excellent drainage because it used to be a vineyard about 50 years ago. A man named Rudolph had a vineyard there. That was low property there and he came in and put in drain tiles under all that property there. He used clay tiles with holes in them and he

buried them deep and planted his grapes on top of them. That not only helped him but it helps us now. We're getting all this extra water from the east and it is absorbing because we have this wonderful drainage system there. They're going to bring in these apartment houses and they're going to do like the apartment houses at Washington Plaza and Encore. They're going to put concrete and buildings and they're going to cover all that wonderful absorbing soil. They're probably going to raise it, too. If they go ahead and bring in all this fill and they raise this up a foot or two, the water will go back on us. Our soil isn't as absorbent as that and we're lucky we have that land next door but it isn't going to absorb it. It's going to be up to us and up to the people on the west side of Porter. I drove over there today and saw a woman who lives in one of the units on Linda Jo and I asked her if her unit had ever flooded. She said, no, it had gotten very close but it had never flooded. The unit 2 doors down from her had flooded this year. They actually had water in the building. That happened with the wonderful drainage system that we have on Mr. Weatherford's land. When they cover that up with concrete and they will cover it up with concrete and that's the way you build apartment buildings anymore to provide these wonderful places to park. They are going to flood. Are the engineers going to come and lift our houses off the foundation? I know we are not going to be able to live in our house if they completely pave all that property over there. Who is going to buy our houses when they flood every year? We're sunk. There's nothing we can do. The only answer I can see is for a reasonable person to put in either single dwelling or duplexes that continue to allow most of that land to be lawn which will continue to absorb all this rain. That way, we're not going to get their runoff and the people over on Porter aren't going to get their runoff. I know they have all these wonderful culverts planned and they'll have water running underneath. All that does is just shunt it off somewhere else and we're still going to have it in spite of whatever they plan.

Further Commission Discussion

Johnson: Several of those comments really go to issues that we would have to address and address very carefully but not at this stage. The drainage issues are very serious. I think you'll find that the city, every year, does more and more to assure that new developments don't create new drainage problems. In a place such as this, one of the best ways that you can keep up if this gets rezoned, once this development is proposed, is to follow it through the process and see what is being done about the drainage plan because it is my experience since I've been on the Commission that much more care is taken in '99 on drainage issues than even was 4 or 5 years ago. This is not the time when we have any authority to deal with that rather that is at the development stage. The other thing I would observe is there are 2 adjacent properties that in the foreseeable future, won't be developed in anyway other than as they now exist. The University Experimental Farm across Deane Street; I've not heard of any plan to do anything other than leave that for the foreseeable future as farm which helps the adjacent area in terms of intense development. The same is true on the smaller tract to the south which, I believe, has 2 churches on it.

Harrington: I wanted to take a brief opportunity to make a couple of comments. With all due respect to Mr. Maynard and the neighbors over there. I don't believe that the impact is going to be as large as they think. I turned onto Sang and turned around in a large apartment building directly across the street from all of these houses. I'm afraid that this R-1 area is really no longer R-1. In reality it has not been for many, many years because of the number of duplex, triplex, 5-plex apartments, etc. I would like to think of this as a true R-1 but there is very little R-1 left in this area and has not been for some time especially with a mobile home park right there and the apartments that are already in existence. If this is done nicely as this developer intends to do and he does, of course, intend to comply with all the city regulations and there are many as Ms. Johnson has mentioned regarding the drainage. If there is a chance that it's not going to work, this project will not go in and that will be discovered at the development stage when the drainage is evaluated. The reason that R-2 is being looked at here is because it would be a very difficult property to develop as R-1 given the surrounding mixed uses across the street where there's a grain elevator, etc. It's not terribly conducive to R-1 and even with very small R-1 as you all know, you have many bitter battles in here about the lower price home and the small lot R-1 for the same reason that apartments are opposed. I believe that this developer intends to find a way to do to this in such a way that it will not be a negative impact on the area and will provide much needed housing. The need for housing continues to go up and maybe there are apartments available today but that doesn't mean next year and the year after. There is very little, if any, R-2 on this entire side of town available at this point. So, I wanted to briefly address those items. I have the realtor here who has explored the market very seriously and can certainly address your concerns about what the needs of the market are. I don't know if you want to take the time with that so I'll just look for direction on whether you would like to have some comments from him or from Mr. Hahn.

Johnson: Commissioners are certainly free to raise questions to the people Ms. Harrington has made available.

Estes: I have several questions for staff. The status quo is R-1. We must make 4 specific findings of fact to grant the applicant's request. The first finding regards the 2020 Plan which lists this property as residential. That finding is met. The second finding of fact that we must make is that the proposed zoning is needed. That's the first question I have for staff. Do we truly have a shortage of R-2 property? As I ask that question, I think about the Lindsey Development that is going in to the northwest of this. I think of all the vacant apartment ads I see in the Northwest Arkansas Times each morning. Is there truly a shortage of R-2 property in the City of Fayetteville?

Conklin: Trying to answer your question accurately, as staff, we don't have a detailed market analysis to determine how much R-2 land is available in this community. We do know that there is not much R-2 land existing which is undeveloped in Fayetteville. When we looked at this recommendation and whether or not to recommend additional multi-family, this is an area where the existing land use is very mixed. It was on the U of A bus route and it was possible to

build additional apartments east of the bypass instead of on the other side of the bypass. As staff, we felt like it was justified at this time.

Estes: The third finding of fact that we must make is that it does not appreciably increase traffic congestion. As I listened to the applicant's presentation, 140 units, 2 cars per unit, 2 day trips, that makes 560 trips. Upon what basis was the finding made that the proposed zoning would not increase traffic?

Conklin: At this time, Deane Street, in my opinion does not have any traffic problems. If this does have students that live in these apartments, these students are not going to all be leaving at 8:00 in the morning. Looking at other apartments in this area, this morning there was little or no traffic when we were out there, even in the R-3 zone directly to the east on the east side of Sang Avenue.

Estes: The fourth finding of fact is the determination that the proposed zoning will not alter population density. Listening to the applicant's presentation, I make the finding as a matter of fact that it will increase population density. How did staff reach the conclusion the proposed zoning would not alter the population density?

Conklin: Let me clarify that the finding states that the proposed zonings would not alter the population density and *thereby undesirably increase the load on public services including schools, water, and sewer facilities.* With regard to schools, I contacted the school district. The school district has told me that they will accommodate future growth and student population in Fayetteville. With regard to water and sewer facilities, at the time of development, our City Engineering Division, does sit down and make recommendation on what improvements are needed on site and off site to be able to handle the additional load. Therefore, as staff, we believe that finding can be met.

Estes: I have no further questions.

Ward: We were talking about the number of units they are proposing and with R-2 zoning, you can put in duplexes on this property kind of like the site to the west. It looks to me, quickly calculating, they could do 125 units of duplexes on this property with the density that we allow on duplexes. If the units themselves are not going to be any more than what is allowable as far as duplexes, I'm not sure that there is that much difference or would change that much as far as apartment complexes.

MOTION

Ward: I will recommend approval of RZ99-28.

Johnson: Is there a second.

Marr: Second.

Johnson: We have the motion by Commissioner Ward, seconded by Commissioner Marr to approve RZ99-28. I remind you that a rezoning requires 5 positive votes and then if the rezoning passes at this level, it goes to the City Council for finalizing.

Roll Call

Upon roll call, the motion passed with a vote of 5-2-0. Commissioners Estes and Hoover voted against the motion.

STAFF REVIEW FORM

XX AGENDA REQUEST
__ CONTRACT REVIEW
__ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Stephen Davis	Budget & Research	Admin. Services
Name	Division	Department

ACTION REQUIRED : Council Action is requested to adopt real and personal property tax rates for 1999 for the Police and Fire Pension funds. The rate to be adopted is 0.5 mils for real property and 0.5 mils for personal property. There is no millage proposed for general government operations.

COST TO CITY:

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

BUDGET REVIEW: XX Budgeted Item __ Budget Adjustment Attached

Budget Manager

Administrative Services Director

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

Marilyn Cramer Accounting Manager	9-20-99 Date	Internal Auditor	Date
City Attorney	9-21-99 Date	ADA Coordinator	Date
P Vice Purchasing Officer	9-21-99 Date		

STAFF RECOMMENDATION: Staff recommends adoption of millage rates.

Division Head	9-20-99 Date	Cross Reference
Department Director	Date	New Item: **Yes No**
Administrative Services Director	21 Sept 99 Date	Prev Ord/Res #:_______
Mayor	Date	Orig Contract Date:______

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Kevin Crosson, Administrative Services Director

From: Budget & Research

Re: 1999 Millage Levy

Date: September 20, 1999

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 1999.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of September 13, 1999, is approximately $563 million. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract.

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Fire and Police Pension Funds. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 1999.

The millage levied by this ordinance for the Fire Pension and Relief Fund and the Police Pension fund is 0.5 mils for real property and 0.5 mils for personal property. Any increase in millage rate for either the Fire Pension and Relief Fund and Police Pension must be approved by the voters.

City of Fayetteville
Property Tax Revenue per Mil
September 20, 1999

Millage	Approximate Revenue
0.10	$52,000
0.20	$103,000
0.30	$155,000
0.40	$207,000
0.50	$259,000
0.60	$310,000
0.70	$362,000
0.80	$414,000
0.90	$466,000
1.00	$517,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County assessments for the Year 1999 dated September 13, 1999 and excludes real and personal property for Utilities. The current millage rate for operations is set at 0.0 mils. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 1999 amount to approximately $545 million excluding real estate and personal property for utilities.

The change in assessed value, for real estate, from 1998 to 1999 is approximately $12 million or 3.0%. The change in assessed real estate value is due to newly discovered, newly constructed property and increases in personal property.

The following tables illustrate how each city divides its portion of the Real Estate and Personal Property Taxes.

REAL ESTATE TAXES

CITY	GENERAL	POLICE PENSION	FIRE PENSION	POLICE VOL	FIRE VOL	LIBRARY	G.O. BONDS	YOUTH CENTER	TOTAL
FAYETTEVILLE	0.0	0.5	0.5						**1.0**
SPRINGDALE	5.0	0.5	0.5					0.5	**6.5**
FARMINGTON	5.0								**5.0**
ELKINS	2.3								**2.3**
WINSLOW	3.0								**3.0**
PRAIRIE GROVE	5.0			1.0	0.5		3.0		**9.5**
LINCOLN	5.0			1.0	0.5				**6.5**
GREENLAND	3.0								**3.0**
WEST FORK	5.0								**5.0**
JOHNSON	5.0								**2.4**
ELM SPRINGS	2.0								**5.0**
TONTITOWN	2.0								**2.0**
FORT SMITH	5.0	1.0	1.0			1.0	0.5		**8.0**
ROGERS	3.0	0.5	0.5			0.9			**4.9**

PERSONAL PROPERTY TAXES

CITY	GENERAL	POLICE PENSION	FIRE PENSION	POLICE VOL	FIRE VOL	LIBRARY	G.O. BONDS	YOUTH CENTER	TOTAL
FAYETTEVILLE	0.0	0.5	0.5						**1.0**
SPRINGDALE	5.0	0.5	0.5					0.5	**6.5**
FARMINGTON	5.0								**5.0**
ELKINS	2.3								**2.3**
WINSLOW	3.0								**3.0**
PRAIRIE GROVE	5.0			1.0	0.5		3.0		**9.5**
LINCOLN	5.0			1.0	0.5				**6.5**
GREENLAND	3.0								**3.0**
WEST FORK	5.0								**5.0**
JOHNSON	5.0								**2.4**
ELM SPRINGS	2.0								**5.0**
TONTITOWN	2.0								**2.0**
FORT SMITH	5.0	1.0	1.0			1.0	0.5		**8.0**
ROGERS	3.0	0.5	0.5			0.9			**4.9**

Washington County
Preliminary Summary Report of County Assessments for the Year 1999

City Totals

	1998	1999	%change
Elkins	8,091,360	8,829,812	9
Elm Springs	6,770,104	6,921,132	2
Farmington	21,457,022	23,744,588	11
Fayetteville	541,040,341	563,437,269	4
Goshen	5,508,377	5,986,005	9
Greenland	5,210,069	5,446,775	5
Johnson	13,142,249	15,857,516	21
Lincoln	10,230,008	10,989,181	7
Prairie Grove	18,671,715	19,311,879	3
Springdale	382,706,776	414,468,995	8
Tontitown	9,683,712	10,520,133	9
West Fork	11,402,333	11,934,880	5
Winslow	2,123,449	2,113,037	(0)

Washington County
Preliminary Summary Report of County Assessments for the Year 1999

09/13/99

		Real Estate					Utilities RE			Personal Property			Utilities PP		
		1998	1999	NDP	%change	%ch-NDP	1998	1999	%change	1998	1999	%change	1998	1999	%change
Fayetteville	010	41,154,710	42,334,340	1,179,630	3	0	41,190	41,190	0	6,269,340	7,099,133	13	3,753,114	8,898,503	137
Fayetteville	011	364,136,727	374,873,539	10,736,812	3	0	2,290,050	2,939,920	28	99,642,268	108,747,167	9	15,466,722	15,829,584	1
Johnson	012	6,365,030	6,349,400	(15,630)	(0)	0	490	490	0	1,505,596	1,617,554	7	397,407	467,101	18
Farmington	013	1,652,770	1,650,430	(2,340)	(0)	0	0	0		233,839	382,168	63	32,976	29,185	(11)
Elkins	014	2,191,400	2,399,730	208,330	10	0	0	0		373,224	364,566	(2)	16,183	17,486	8
Goshen	015	4,067,360	4,646,310	578,950	14	0	0	0		638,235	612,913	(4)	90,972	104,376	15
Total		419,567,997	432,253,749	12,685,752	3	0	2,331,730	2,981,600	28	108,663,602	118,823,501	9	19,757,374	25,146,235	27
Farmington	060	23,856,810	24,664,570	807,760	3	0	2,660	2,660	0	4,885,676	5,462,241	12	1,119,349	1,220,441	9
Farmington	061	16,030,080	17,789,680	1,759,600	11	0	183,020	183,020	0	2,875,961	3,282,564	14	448,376	427,539	(5)
Fayetteville	062	3,733,300	4,075,130	341,830	9	0	0	0		346,150	393,771	14	610	577	(5)
Total		43,620,190	46,529,380	2,909,190	7	0	185,680	185,680	0	8,107,787	9,138,576	13	1,568,335	1,648,557	5
Elkins	100	13,288,220	13,550,090	261,870	2	0	297,700	304,250	2	3,437,770	3,737,878	9	1,944,943	1,940,915	(0)
Elkins	101	4,165,950	4,462,740	296,790	7	0	19,630	19,630	0	918,773	1,139,611	24	406,200	426,049	5
Total		17,454,170	18,012,830	558,660	3	0	317,330	323,880	2	4,356,543	4,877,489	12	2,351,143	2,366,964	1
Winslow	200	3,788,230	3,834,890	46,660	1	0	27,260	27,260	0	1,268,005	1,159,860	(9)	1,607,125	1,603,531	(0)
Winslow	201	1,445,130	1,485,060	39,930	3	0	11,080	11,080	0	453,242	414,151	(9)	213,997	202,746	(5)
Total		5,233,360	5,319,950	86,590	2	0	38,340	38,340	0	1,721,247	1,574,011	(9)	1,821,122	1,806,277	(1)
Benton County	210	4,654,040	4,970,180	316,140	7	0	0	0		1,022,635	1,101,353	8	438,344	440,073	0
Total		4,654,040	4,970,180	316,140	7	0	0	0		1,022,635	1,101,353	8	438,344	440,073	0
Prairie Grove	230	16,115,040	16,733,000	617,960	4	0	1,880	1,880	0	4,599,046	5,257,097	14	1,961,864	2,181,672	11
Prairie Grove	231	14,744,080	15,116,740	372,660	3	0	54,190	54,190	0	3,068,136	3,529,067	15	805,309	611,882	(24)
Total		30,859,120	31,849,740	990,620	3	0	56,070	56,070	0	7,667,182	8,786,164	15	2,767,173	2,793,554	1
West Fork	410	10,313,930	10,742,660	428,730	4	0	94,240	94,220	(0)	6,455,533	4,538,524	(30)	1,501,104	1,781,182	19
West Fork	411	8,259,413	8,530,583	271,170	3	0	43,900	43,900	0	1,753,936	1,879,463	7	615,976	663,546	8
Total		18,573,343	19,273,243	699,900	4	0	138,140	138,120	(0)	8,209,469	6,418,987	(22)	2,117,080	2,444,728	15
Lincoln	480	18,283,540	18,871,080	587,540	3	0	32,980	32,980	0	5,443,478	6,088,867	12	1,733,609	1,840,889	6
Lincoln	481	7,730,903	8,068,943	338,040	4	0	3,530	3,530	0	2,103,361	2,545,977	21	392,214	370,731	(5)
Total		26,014,443	26,940,023	925,580	4	0	36,510	36,510	0	7,546,839	8,634,844	14	2,125,823	2,211,620	4
Springdale	500	57,767,180	59,711,620	1,944,440	3	0	517,270	519,110	0	10,463,270	12,796,255	22	4,247,319	7,671,054	81
Springdale	501	265,182,760	285,774,960	20,592,200	8	0	548,910	550,620	0	107,860,398	118,393,058	10	9,124,708	9,750,357	7
Elm Springs	502	5,569,070	5,738,870	169,800	3	0	31,170	31,170	0	868,970	875,063	1	300,694	276,029	(8)
Tontitown	503	6,918,590	7,312,590	394,000	6	0	27,010	27,430	2	2,152,083	2,442,610	13	586,029	737,503	26
Fayetteville	504	31,924,050	32,878,751	954,701	3	0	0	0		13,518,543	14,169,483	5	86,302	115,278	34
Johnson	505	4,509,550	6,489,250	1,979,700	44	0	29,310	402,710	1,274	295,996	478,662	62	38,870	52,149	34
Goshen	506	657,980	568,830	(89,150)	(14)	0	0	0		52,830	53,576	1	0	0	
Total		372,529,180	398,474,871	25,945,691	7	0	1,163,670	1,531,040	33	135,202,090	149,206,907	10	14,384,122	18,602,370	29
Greenland	950	10,514,480	10,925,410	410,930	4	0	500	500	0	2,394,816	2,684,985	13	1,243,744	1,307,127	5
Greenland	951	4,261,430	4,435,870	174,440	4	0	2,320	2,320	0	675,854	706,650	4	270,465	303,035	12
Fayetteville	952	2,147,360	2,165,400	18,040	1	0	0	0		7,657,134	7,348,695	(4)	91,125	99,674	9
West Fork	953	625,390	686,660	61,270	10	0	0	0		98,928	126,422	28	4,790	4,266	(11)
Total		17,548,660	18,213,340	664,680	4	0	2,820	2,820	0	10,826,732	10,876,932	0	1,610,124	1,714,122	6
All Districts		958,054,603	1,001,837,308	45,782,883	5	0	4,280,290	5,294,060	24	293,324,026	318,436,764	9	48,940,640	59,174,800	21

PRB ARKANSAS FIRE & POLICE PENSION REVIEW BOARD

P.O. DRAWER 34164
LITTLE ROCK, ARKANSAS 72203
TELEPHONE (501) 682-1745
FAX: (501) 682-1751

TO: The Board of Trustees
Police Pension and Relief Fund of FAYETTEVILLE

FROM: Arkansas Fire and Police Pension Review Board

RE: 1997 Pension Fund Actuarial Valuation

DATE: July 7, 1998

In accordance with State law, the actuary under contract to this office periodically tests all local fire and police pension funds for actuarial soundness. The 1997 actuarial study of your pension fund is attached. The financial tests for the pension fund are to answer the following questions:

		YES	NO
1.	Is there enough annual income to the pension fund to fully fund it? (See page 4 of the actuary's report.)	✓	___
2.	Are there enough assets in the pension fund to cover all active member contributions, all payments to current retirants, and at least 75% of future payments earned by active members (See page 11 of the actuary's report), **OR** are current assets sufficient to cover 90% of all accrued actuarial liabilities (See page 10 of the actuary's report)?	✓	___
3.	Is this pension fund considered actuarially sound under State law?	✓	___

FAYETTEVILLE POLICE PENSION FUND

ACTUARIAL VALUATION

AS OF DECEMBER 31, 1997

Osborn, Carreiro & Associates, Inc.

ACTUARIES • CONSULTANTS • ANALYSTS

One Union National Plaza,Suite 1690
124 West Capitol Avenue
Little Rock, Arkansas 72201
(501)376-8043

July 7, 1998

Board of Trustees
Fayetteville Police Pension Fund

Gentlemen:

This report presents the results of our actuarial valuation of the assets and liabilities of the Fayetteville Police Pension Fund as of December 31, 1997.

This valuation is required by Arkansas Code Annotated 24-11-205. The purpose of this report is to (1) evaluate the actuarial status of the Fund, (2) determine the level contribution requirement needed, (3) review the development of the Fund over the past several years, and (4) present certain actuarial items on pages 8 and 9 for disclosure under Governmental Accounting Standards. This report is not intended for any other purpose.

The member and financial information used in this report was supplied by the Arkansas Fire & Police Pension Review Board, whose cooperation is appreciated. We did not audit this information, although we did review it for reasonableness and consistency.

I certify that this report has been prepared in accordance with generally accepted actuarial principles and practices. In my opinion, the actuarial methods used are appropriate and the actuarial assumptions produce results which, in the aggregate, are reasonable.

Sincerely,

Steve Osborn

Steve Osborn, F.S.A., M.A.A.A.
Actuary

TABLE OF CONTENTS

EXHIBIT 1

CONTRIBUTIONS

The following contribution level reflects the payment of the current year Normal Cost for benefits attributable to said year (see Exhibit 2) plus an amount sufficient to pay off the Unfunded Actuarial Liability over a 10-year period (5-year period for any unfunded retiree liability). These costs DO NOT include the contributions due to the Local Police and Firefighters Retirement System ("LOPFI") for persons hired after 1982.

1998 Necessary Annual Contribution to pay:

1 Normal Cost, plus	$	132,306
2 Pay off the Unfunded Actuarial Accrued Liability		(28,679)
3 Total necessary	$	103,627
Less		
4 Expected Employee Contribution (6.00% of salary)	-	29,485
Necessary Employer Contribution (This is the amount needed in addition to investment income)	$	74,142
Covered Payroll	$	491,422
Necessary Employer Rate		15.09%

These contributions assume that the dollar contribution grows at a rate of 4% per year. The contributions are assumed to be made continuously throughout the year.

The actual 1997 contribution was $588,261 from the employer.

EXHIBIT 2

COSTS AND LIABILITIES

		December 31, 1997	
A Normal Cost (Cost to fund current active members)		Dollar Amount	Percent of pay
1 Regular Retirement Benefits	$	121,708	24.77%
2 Voluntary Termination Benefits		2,712	0.55%
3 Survivors' Benefits		3,800	0.77%
4 Disability Benefits		4,086	0.83%
TOTAL	$	132,306	26.92%
B Actuarial Accrued Liability			
1 Active Lives			
Regular Retirement Benefits	$	2,918,517	
Voluntary Termination Benefits		0	
Survivors' Benefits		2,227	
Disability Benefits		4,917	
TOTAL ACTIVE LIVES	$	2,925,661	
2 Inactive Lives			
Retirees	$	3,259,339	
Disability Retirees		1,985,681	
Widows & Children		699,822	
TOTAL INACTIVE LIVES	$	5,944,842	
3 Total Liability	$	8,870,503	
C Assets	$	9,126,449	
D Unfunded Actuarial Accrued Liability	$	(255,946)	

EXHIBIT 3

SUMMARY OF FINANCIAL INFORMATION

(Items D-E determined by Osborn, Carreiro and Associates, Inc.)

	Year Ended 12/31/95	Year Ended 12/31/96	Year Ended 12/31/97
A. INCOME			
1 Contributions			
Employee	$ 32,206	$ 32,644	$ 31,663
Donations	600	530	420
Employer/Court Fines/Other	171,256	175,146	192,089
Insurance Tax	163,469	163,303	158,283
Local Millage	166,068	215,222	237,469
Adjustment to prior year asset value	0	0	0
2 Net Investment Income	318,782	753,400	874,170
TOTAL INCOME	$ 852,381	$ 1,340,245	$ 1,494,094
B. EXPENSES			
1 Administrative	$ 3,400	$ 3,725	$ 3,000
2 Benefits	403,839	435,322	453,553
3 Refunds	0	0	0
TOTAL EXPENSES	$ 407,239	$ 439,047	$ 456,553

EXHIBIT 3 (Continued)

C	ASSETS (at book value)	12/31/95	12/31/96	12/31/97
	1 Cash & Checking Accounts	$ 0	$ 0	$ 0
	2 Bank Deposits	3,132	4,629	16,086
	3 Savings and Loan Deposits	0	0	0
	4 Other Cash Equivalents	722,791	752,438	911,757
	5 US Govt. Securities	2,671,628	3,182,681	3,032,039
	6 Non-US Govt Securities	0	0	0
	7 Mortgages	0	0	0
	8 Corporate Bonds	1,157,519	1,043,872	1,174,980
	9 Common Stocks	2,534,108	3,017,749	3,907,641
	10 Other	98,532	87,539	83,946
	11 Payables	0	0	0
	TOTAL ASSETS	$ 7,187,710	$ 8,088,908	$ 9,126,449
D.	RATIO OF ASSETS TO ANNUAL EXPENSES:	17.6	18.4	20.0
E.	NET INVESTMENT RETURN:	4.7%	10.4%	10.7%
F.	TOTAL MARKET VALUE (Used only for GASB calculations)		8,455,191	9,970,550

EXHIBIT 3 (Continued)

ACCOUNTING INFORMATION

This page is included to provide the information required by the Governmental Accounting Standards Board Statement No. 5. The values below are based on the assumptions contained in Exhibit 8.

STATEMENT OF CREDITED PROJECTED BENEFITS

Actuarial present value of credited projected plan benefits		December 31, 1997
Participants currently receiving benefits	$	5,944,842
Terminated employees not yet receiving benefits		0
Active employees		
Accumulated employee contributions		317,594
Employer Financed		
Vested		1,452,054
Nonvested		1,147,082
Total actuarial present value of credited projected benefits	$	8,861,572

The actuarial present value of credited projected benefits is used in the financial statements of the plan and the Employer. These numbers are used for disclosure purposes only, and are not used in determining the actuarial contribution requirements.

Note: GASB No. 27 is effective January 1, 1998. The GASB No. 5 information on this page is being shown for transition purposes only, and will not be shown in the future.

EXHIBIT 3 (Continued)

ACCOUNTING INFORMATION

This page is included to provide the information required by the Governmental Accounting Standards Board Statement No. 25 and 27, effective January 1, 1998. The values below are based on the assumptions contained in Exhibit 8.

The Annual Pension Cost disclosed in this exhibit will almost always differ from the actual cash contribution to the fund. We must emphasize that these disclosures are shown in the city's financial statements; Sound actuarial projections should be used to determine the actual cash contribution requirements.

RECONCILIATION OF NET PENSION OBLIGATION (NPO)

		1997	1998
1.	Actuarially Required Contribution	194,517	0
2.	Interest on NPO	(117,305)	(138,229)
3.	Adjustment to (1)	(162,318)	(258,144)
4.	Annual Pension Cost (1)+(2)-(3)	239,530	119,915
5.	Actual Contribution Made	588,261	
6.	Increase in NPO (4)-(5)	(348,731)	
7.	NPO Beginning of Year	(1,955,087)	(2,303,818)
8.	NPO End of Year	(2,303,818)	

REQUIRED SUPPLEMENTARY INFORMATION

(a) Actuarial Valuation Date	(b) Market Value of Plan Assets*	(c) Entry Age Actuarial Accrued Liability	(d) Unfunded Accrued Liability (UAL) (c)-(b)	(e) Funded Ratio (b)/(c)	(f) Annual Covered Payroll	(g) UAL as a % of Covered Payroll (d)/(f)
12/31/93	6,293,999	7,526,922	1,232,923	83.6%	536,070	230.0%
12/31/95	7,187,710	8,177,365	989,655	87.9%	518,643	190.8%
12/31/97	9,970,550	8,870,503	(1,100,047)	112.4%	491,422	-223.8%

* Note: 12/31/93 and 12/31/95 are at amortized cost value.

EXHIBIT 4

COMPARISON WITH PRIOR YEARS

This exhibit compares current valuation results with those of prior years.

		Full Paid Active Members		Actuarial Computed Employer Contribution		Total Plan			
Valuation Date		No.	Annual Payroll	Percent of Pay	Dollar Amount	Assets	Unfunded Actuarial Liability	Normal Cost Percent	Funded Percent
12/31/82	*	48	775,875	30.8%	239,145	1,968,196	1,564,043	23.5%	55.7%
12/31/84		38	691,245	32.9%	227,671	2,637,566	1,685,881	23.7%	61.0%
12/31/86		29	604,566	35.5%	214,342	3,251,235	1,712,937	23.9%	65.5%
12/31/87	*	28	666,941	37.8%	252,114	3,374,250	2,065,775	24.6%	62.0%
12/31/89		25	634,711	38.8%	246,132	4,009,866	2,175,493	27.2%	64.8%
12/31/91		24	675,900	35.9%	242,541	5,144,950	1,632,194	28.2%	75.9%
12/31/93		17	536,070	37.2%	199,314	6,293,999	1,232,923	27.8%	83.6%
12/31/95	*	15	518,643	37.5%	194,517	7,187,710	989,655	27.7%	87.9%
12/31/97		12	491,422	15.1%	74,142	9,126,449	(255,946)	26.9%	102.9%

*Benefits changed

Note: Normal cost prior to 12/31/89 is net of 6% employee contributions.

EXHIBIT 5

SHORT CONDITION TEST

The Arkansas General Assembly has stated that the funding objective for these plans is to pay for benefits with contributions that remain level as a percentage of employee payroll. Thus, the long-term condition test is met when the actual contributions are fairly level and are paid when due.

A short condition test can be used to measure a plan's progress. Under the short condition test, the fund's assets are compared with:

1) Active member contributions;
2) The liabilities for future benefits to the present retirees and inactive members;
3) The liabilities for service already rendered by active members.

If the plan has been following level cost funding, liability (1) and liability (2) above will almost always be fully covered by the rest of the present assets. In addition, liability (3) above will at least partially funded. The larger the funded portion of liability (3), the stronger the condition of the fund. For a closed fund i.e., one like yours, where no new members are admitted), the funded portion of liability (3) should be steadily increasing.

The following table illustrates the history of the short condition test for this plan:

	Computed Actuarial Liabilities				Portion of Liabilities covered by Assets		
Valuation Date	(1) Active Members Contributions	(2) Retirees and Inactives	(3) Actives-Employer Financed	Valuation Assets	(1)	(2)	(3)
12/31/82	141,635	1,538,508	1,852,096	1,968,196	100%	100%	16%
12/31/84	186,492	2,220,660	1,916,295	2,637,566	100%	100%	12%
12/31/86	200,487	2,982,120	1,781,565	3,251,235	100%	100%	4%
12/31/87	229,457	3,095,232	2,115,336	3,374,250	100%	100%	2%
12/31/89	266,726	3,719,388	2,199,245	4,009,866	100%	100%	1%
12/31/91	336,940	3,674,180	2,766,024	5,144,950	100%	100%	41%
12/31/93	299,612	4,834,716	2,392,594	6,293,999	100%	100%	48%
12/31/95	319,728	5,358,162	2,499,475	7,187,710	100%	100%	60%
12/31/97	317,594	5,944,842	2,608,067	9,126,449	100%	100%	110%

Exhibit 6

Employee Profile

Employee data needed for the valuation was obtained from the records furnished by the Arkansas Fire and Police Pension Review Board. The following table shows a detailed breakdown of the present participants by the number of participants and total salary.

Actives

		Years of Service							
Age		0-5	5-10	10-15	15-20	20-25	25-30	30 and Over	Total
Under 25	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
25-29	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
30-34	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
35-39	Count	0	0	0	3	1	0	0	4
	Salary	0	0	0	112,779	28,743	0	0	141,522
40-44	Count	0	0	0	1	1	0	0	2
	Salary	0	0	0	34,840	48,242	0	0	83,082
45-49	Count	0	0	0	3	1	0	0	4
	Salary	0	0	0	107,414	39,656	0	0	147,070
50-54	Count	0	0	0	0	0	1	0	1
	Salary	0	0	0	0	0	56,075	0	56,075
55-59	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
60-64	Count	0	0	0	0	0	0	1	1
	Salary	0	0	0	0	0	0	63,673	63,673
65 & Over	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
Unknown Age	Count	0	0	0	0	0	0	0	0
	Salary	0	0	0	0	0	0	0	0
Total	Count	0	0	0	7	3	1	1	12
	Salary	0	0	0	255,033	116,641	56,075	63,673	491,422

Exhibit 6

Inactive Profile

Employee data needed for the valuation was obtained from the records furnished by the Arkansas Fire and Police Pension Review Board. The following table shows a detailed breakdown of the present payees by the number of payees and total annual benefit.

Retirees and Survivors

Years Since Retirement

Age		0-1	1-2	2-3	3-4	4-5	5-10	10 and Over	Total
Under 40	Count	0	0	0	0	0	0	1	**1**
	Benefit	0	0	0	0	0	0	4,200	**4,200**
40-44	Count	0	1	0	0	1	0	1	**3**
	Benefit	0	17,630	0	0	11,769	0	15,741	**45,140**
45-49	Count	0	0	0	1	0	1	0	**2**
	Benefit	0	0	0	28,146	0	11,869	0	**40,015**
50-54	Count	0	0	1	0	0	3	2	**6**
	Benefit	0	0	18,130	0	0	44,139	15,029	**77,298**
55-59	Count	1	0	0	0	0	4	6	**11**
	Benefit	14,864	0	0	0	0	52,561	53,643	**121,068**
60-64	Count	0	0	0	0	0	1	7	**8**
	Benefit	0	0	0	0	0	18,765	70,888	**89,653**
65-69	Count	0	0	0	0	0	0	5	**5**
	Benefit	0	0	0	0	0	0	36,286	**36,286**
70-74	Count	0	0	0	0	0	0	5	**5**
	Benefit	0	0	0	0	0	0	24,798	**24,798**
75-79	Count	0	0	0	0	0	0	3	**3**
	Benefit	0	0	0	0	0	0	17,855	**17,855**
80-84	Count	0	0	0	0	0	0	1	**1**
	Benefit	0	0	0	0	0	0	4,200	**4,200**
85 & Over	Count	0	0	0	0	0	0	2	**2**
	Benefit	0	0	0	0	0	0	8,984	**8,984**
Unknown Age	Count	0	0	0	0	0	0	0	**0**
	Benefit	0	0	0	0	0	0	0	**0**
Total	Count	**1**	**1**	**1**	**1**	**1**	**9**	**33**	**47**
	Benefit	**14,864**	**17,630**	**18,130**	**28,146**	**11,769**	**127,334**	**251,624**	**469,497**

This includes	22	retirees	with annual benefit of	$246,274 .
This includes	15	disableds	with annual benefit of	$157,044 .
This includes	10	survivors	with annual benefit of	$66,179 .

EXHIBIT 7

PRINCIPLE PROVISIONS OF THE PLAN

EMPLOYEE	Member of Police Department
EMPLOYER	Fayetteville Police Department
MEMBERSHIP	Condition of Employment. Police officers hired after 1982 must join the statewide Local Police and Firefighters Retirement System
CREDITABLE SERVICE	Determined on basis of service since employment
CONTRIBUTIONS	
Employee	6.00% of salary. Refundable if member terminates before retirement eligibility.
Employer	1. Matching contribution equal to employee contribution 2. State Insurance Premium Tax turnback 3. Local Millage 4. 10% of all fines & forfeitures collected by the Police Department.
FINAL SALARY	Highest salary for any continuous twelve-month period of time worked prior to retirement.
RETIREMENT BENEFITS	
Eligibility	20 Years of Service regardless of age.
Benefit	50% of Final Salary, but not less than $4,200. If service exceeds 20 years, the annual benefit is increased by $240 for each year over 20, up to $1,200/ year extra. If service is more than 25 years, member receives an extra 1.25% (for each year over 25) of Final Salary, payable once the retiree reaches age 60. The benefit cannot exceed 100% of Final Salary.
DEATH BENEFITS	
Eligibility	Death of an active member or member receiving benefits.
Benefit	1. Widow receives same amount as member is receiving or eligible for, excluding the 1.25% additional formula for service over 25 years. 2. Each child under age 18 (23 if still in school) receives $1,500/year. 3. If no widow or children, widowed mother receives $1,500/year.

EXHIBIT 7 (Continued)

DISABILITY BENEFITS

Eligibility	Permanent physical or mental disability. Five year service requirement unless disability is incurred in the line of duty.
Benefit	Non-duty disability Retirement benefit but not less than $4,200/year. Duty related disability Retirement benefit but not less than 65% of Final Salary and not less than $4,200/year.

EXHIBIT 8

ACTUARIAL METHODS AND ASSUMPTIONS

The assumptions for this valuation have been selected in accordance with Actuarial Standards of Practice No. 27. The asset valuation method is prescribed in Arkansas Code Annotated 24-11-207 to be the amortized cost method. This prescribed asset valuation method directly impacts the investment return assumption. The assumed salary growth is restricted by A.C.A. 24-11-205 in relation to the investment return assumption.

ACTUARIAL COST METHOD

The "entry age normal" cost method has been used.

PRE-RETIREMENT MORTALITY

Deaths have been projected on the basis of the 1971 Group Annuity Table for Males, set back five years for females. Mortality rates at a few sample ages are:

Age	Mortality rate per 1,000
25	0.619
35	1.122
45	2.922
55	8.519

POST RETIREMENT MORTALITY

The 1971 Group Annuity Mortality Table was used. For females, the male table was used with a five-year setback. The life expectancy according to this table is as follows:

Age	Males	Females
55	22.71	27.99
65	15.11	19.24

VOLUNTARY TERMINATIONS

Annual termination rates at a few sample ages are:

Age	Termination rate per 1,000
20	50
25	45
30	39
35	23
40	9
45	5
50	5
55	5

EXHIBIT 8 (continued)

When a person had less than 4 years of service, we assumed that his chances of voluntary termination were a multiple of thereafter rates, with the following multiples being used:

1st year	2.85
2nd year	2.00
3rd year	1.50
4th year	1.15

ASSUMED INVESTMENT RETURN

6.0%

DISABILITIES

We continued the disability rates used in prior reports. Disability rates at a few sample ages are:

Age	Disability rate per 1,000
20	0.8
25	0.8
30	0.8
35	0.8
40	2.0
45	2.6
50	4.9
55	8.9
60	14.1

One third of the disabilities were assumed to be service related.

For mortality after disability, we assumed rates based on the Eleventh Actuarial Valuation of the Railroad Retirement System, for occupational disabilities

ASSET VALUATION

Book Value

EXHIBIT 8 (continued)

SALARY GROWTH

We have used the salary scale used in prior reports. Annual assumed growth at a few sample ages is:

	ANNUAL SALARY INCREASE		
Age	Base	Merit	Total
20	4.0%	4.0%	8.0%
25	4.0%	3.2%	7.2%
30	4.0%	2.8%	6.8%
35	4.0%	2.5%	6.5%
40	4.0%	2.2%	6.2%
45	4.0%	1.7%	5.7%
50	4.0%	1.2%	5.2%
55	4.0%	0.7%	4.7%
60	4.0%	0.2%	4.2%

EXPECTED RETIREMENT PATTERN

Since the plan allows full benefits at ages younger than the traditional "65", an assumption that will have an important impact is what percentage of people who are eligible for this early retirement will actually take advantage of it.

This will depend on intangible things such as the economy, health, financial ability to retire, Social Security eligibility, and work patterns. Based on recent experience, we are using the following assumed rates, effective 12/31/91:

Age	Retirement rate per 1,000
40-44	200
45-50	250
51	250
52-58	250
59	250
60+	1,000

Note: A member was assumed to be eligible for retirement after attaining age 40 with 20 years of service. It is also assumed that twice the normal number will retire in the first year of eligibility.

1999 Millage
C. 3. page 20

:ANSAS FIRE & POLICE PENSION REVIEW BOARD

P.O. DRAWER 34164
LITTLE ROCK, ARKANSAS 72203
TELEPHONE (501) 682-1745
FAX: (501) 682-1751

TO: The Board of Trustees
Fire Pension and Relief Fund of FAYETTEVILLE

FROM: Arkansas Fire and Police Pension Review Board

RE: 1997 Pension Fund Actuarial Valuation

DATE: July 7, 1998

In accordance with State law, the actuary under contract to this office periodically tests all local fire and police pension funds for actuarial soundness. The 1997 actuarial study of your pension fund is attached. The financial tests for the pension fund are to answer the following questions:

		YES	NO
1.	Is there enough annual income to the pension fund to fully fund it? (See page 4 of the actuary's report.)	✓	
2.	Are there enough assets in the pension fund to cover all active member contributions, all payments to current retirants, and at least 75% of future payments earned by active members (See page 11 of the actuary's report), OR are current assets sufficient to cover 90% of all accrued actuarial liabilities (See page 10 of the actuary's report).		X
3.	Is this pension fund considered actuarially sound under State law?		X

FAYETTEVILLE FIREFIGHTERS PENSION FUND

ACTUARIAL VALUATION

AS OF DECEMBER 31, 1997

1999 Millage
C. 3. page 22

Osborn, Carreiro & Associates, Inc.

ACTUARIES • CONSULTANTS • ANALYSTS

One Union National Plaza Suite 169
124 West Capitol Avenu
Little Rock, Arkansas 7220
(501)376-804

July 7, 1998

Board of Trustees
Fayetteville Firefighters Pension Fund

Gentlemen:

This report presents the results of our actuarial valuation of the assets and liabilities of the Fayetteville Firefighters Pension Fund as of December 31, 1997.

This valuation is required by Arkansas Code Annotated 24-11-205. The purpose of this report is to (1) evaluate the actuarial status of the Fund, (2) determine the level contribution requirement needed, (3) review the development of the Fund over the past several years, and (4) present certain actuarial items on pages 8 and 9 for disclosure under Governmental Accounting Standards. This report is not intended for any other purpose.

The member and financial information used in this report was supplied by the Arkansas Fire & Police Pension Review Board, whose cooperation is appreciated. We did not audit this information, although we did review it for reasonableness and consistency.

I certify that this report has been prepared in accordance with generally accepted actuarial principles and practices. In my opinion, the actuarial methods used are appropriate and the actuarial assumptions produce results which, in the aggregate, are reasonable.

Sincerely,

Steve Osborn

Steve Osborn, F.S.A., M.A.A.A.
Actuary

TABLE OF CONTENTS

EXHIBIT 1

CONTRIBUTIONS

The following contribution level reflects the payment of the current year Normal Cost for benefits attributable to said year (see Exhibit 2) plus an amount sufficient to pay off the Unfunded Actuarial Liability over a 10-year period (5-year period for any unfunded retiree liability). These costs DO NOT include the contributions due to the Local Police and Firefighters Retirement System ("LOPFI") for persons hired after 1982.

1998 Necessary Annual Contribution to pay:		Full Paid		Volunteer or Part-Paid		Total
1 Normal Cost, plus	$	231,299	$	0	$	231,299
2 Pay off the Unfunded Actuarial Accrued Liability		145,191		0		145,191
3 Total necessary	$	376,490	$	0	$	376,490
Less						
4 Expected Employee Contribution (6.00% of salary. $12 per active volunteer)	-	36,516	-	0	-	36,516
Necessary Employer Contribution (This is the amount needed in addition to investment income)	$	339,974	$	0	$	339,974
Covered Payroll	$	608,602		N/A	$	608,602
Necessary Employer Rate		55.86%	$	0		55.86%

These contributions assume that the dollar contribution grows at a rate of 4% per year. The contributions are assumed to be made continuously ~~throughout the year.~~

The actual 1997 contribution was $481,137 from the employer.

EXHIBIT 2

COSTS AND LIABILITIES

		December 31, 1997 Dollar Amount	Percent of pay
A	Normal Cost (Cost to fund current active members)		
	1 Regular Retirement Benefits	$ 216,601	35.59%
	2 Voluntary Termination Benefits	3,099	0.51%
	3 Survivors' Benefits	5,560	0.91%
	4 Disability Benefits	6,039	0.99%
	TOTAL	$ 231,299	38.00%
B	Actuarial Accrued Liability		
	1 Active Lives		
	Regular Retirement Benefits	$ 4,770,150	
	Voluntary Termination Benefits	0	
	Survivors' Benefits	2,893	
	Disability Benefits	4,702	
	TOTAL ACTIVE LIVES	$ 4,777,745	
	2 Deferred Retirement Option		
	DROP Accounts	$ 135,845	
	Future DROP Payments & Pensions	1,345,538	
	TOTAL DROP	$ 1,481,383	
	3 Inactive Lives		
	Retirees	$ 4,739,155	
	Disability Retirees	794,740	
	Widows & Children	300,427	
	TOTAL INACTIVE LIVES	$ 5,834,322	
	4 Total Liability	$ 12,093,450	
C	Assets	$ 10,797,686	
D	Unfunded Actuarial Accrued Liability	$ 1,295,764	

EXHIBIT 3

SUMMARY OF FINANCIAL INFORMATION

(Items D-E determined by Osborn, Carreiro and Associates, Inc.)

A. INCOME	Year Ended 12/31/95	Year Ended 12/31/96	Year Ended 12/31/97	
1 Contributions				
Employee	$ 41,187	$ 44,248	$ 44,797	
Donations	50	300	0	
Employer/Court Fines/Other	83,087	88,521	89,593	
Insurance Tax	137,227	146,423	154,075	481,137
Local Millage	166,068	215,222	237,469	
Adjustment to prior year asset value	0	0	0	
2 Net Investment Income	1,047,672	844,248	877,202	
TOTAL INCOME	$ 1,475,291	$ 1,338,962	$ 1,403,136	
B. EXPENSES				
1 Administrative	$ 5,426	$ 4,775	$ 3,000	
2 Benefits	379,530	381,670	452,558	
3 Refunds	0	0	0	
TOTAL EXPENSES	$ 384,956	$ 386,445	$ 455,558	

EXHIBIT 3 (Continued)

		12/31/95	12/31/96	12/31/97
C	ASSETS (at book value)			
1	Cash & Checking Accounts	$ 0	$ 0	$ 0
2	Bank Deposits	32,125	59,911	66,202
3	Savings and Loan Deposits	0	0	0
4	Other Cash Equivalents	647,238	371,374	650,784
5	US Govt. Securities	1,640,239	1,763,736	2,184,012
6	Non-US Govt Securities	0	0	0
7	Mortgages	0	0	0
8	Corporate Bonds	2,152,304	2,305,155	2,377,472
9	Common Stocks	4,357,651	5,252,056	5,401,209
10	Other	68,616	97,876	118,007
11	Payables	(582)	0	0
	TOTAL ASSETS	$ 8,897,591	$ 9,850,108	$ 10,797,686
D.	RATIO OF ASSETS TO ANNUAL EXPENSES:	23.1	25.5	23.7
E.	NET INVESTMENT RETURN:	13.4%	9.4%	8.9%
F.	TOTAL MARKET VALUE (Used only for GASB calculations)		9,826,212	11,225,602

EXHIBIT 3 (Continued)

ACCOUNTING INFORMATION

This page is included to provide the information required by the Governmental Accounting Standards Board Statement No. 5. The values below are based on the assumptions contained in Exhibit 8.

STATEMENT OF CREDITED PROJECTED BENEFITS

Actuarial present value of credited projected plan benefits	December 31, 1997
Participants currently receiving benefits	$ 5,834,322
Terminated employees not yet receiving benefits	0
DROP Balances	135,845
Future DROP Payments & Pensions	1,345,538
Active employees	
Accumulated employee contributions	401,937
Employer Financed	
Vested	2,025,857
Nonvested	2,375,693
Total actuarial present value of credited projected benefits	$ 12,119,192

The actuarial present value of credited projected benefits is used in the financial statements of the plan and the Employer. These numbers are used for disclosure purposes only, and are not used in determining the actuarial contribution requirements.

Note: GASB No. 27 is effective January 1, 1998. The GASB No. 5 information on this page is being shown for transition purposes only, and will not be shown in the future.

EXHIBIT 3 (Continued)

ACCOUNTING INFORMATION

This page is included to provide the information required by the Governmental Accounting Standards Board Statement No. 25 and 27, effective January 1, 1998. The values below are based on the assumptions contained in Exhibit 8.

The Annual Pension Cost disclosed in this exhibit will almost always differ from the actual cash contribution to the fund. We must emphasize that these disclosures are shown in the city's financial statements; Sound actuarial projections should be used to determine the actual cash contribution requirements.

RECONCILIATION OF NET PENSION OBLIGATION (NPO)

		1997	1998
1.	Actuarially Required Contribution	173,401	292,026
2.	Interest on NPO	(77,367)	(94,050)
3.	Adjustment to (1)	(107,055)	(175,639)
4.	Annual Pension Cost (1)+(2)-(3)	203,089	373,615
5.	Actual Contribution Made	481,137	
6.	Increase in NPO (4)-(5)	(278,048)	
7.	NPO Beginning of Year	(1,289,450)	(1,567,498)
8.	NPO End of Year	(1,567,498)	

REQUIRED SUPPLEMENTARY INFORMATION

(a) Actuarial Valuation Date	(b) Market Value of Plan Assets*	(c) Entry Age Actuarial Accrued Liability	(d) Unfunded Accrued Liability (UAL) (c)-(b)	(e) Funded Ratio (b)/(c)	(f) Annual Covered Payroll	(g) UAL as a % of Covered Payroll (d)/(f)
12/31/93	7,271,255	7,816,034	544,779	93.0%	620,116	87.9%
12/31/95	8,897,591	9,045,983	148,392	98.4%	676,847	21.9%
12/31/97	11,225,602	12,093,450	867,848	92.8%	608,602	142.6%

* Note: 12/31/93 and 12/31/95 are at amortized cost value.

EXHIBIT 4

COMPARISON WITH PRIOR YEARS

This exhibit compares current valuation results with those of prior years.

Valuation Date		Full Paid Active Members No.	Full Paid Active Members Annual Payroll	Actuarial Computed Employer Contribution Percent of Pay	Actuarial Computed Employer Contribution Dollar Amount	Total Plan Assets	Total Plan Unfunded Actuarial Liability	Total Plan Normal Cost Percent	Total Plan Funded Percent
12/31/82		50	810,926	22.1%	179,271	2,202,969	811,186	18.5%	73.1%
12/31/84		45	807,438	27.7%	223,455	3,078,619	1,193,660	22.1%	72.1%
12/31/86		37	723,894	29.6%	213,935	4,006,484	1,379,340	21.8%	74.4%
12/31/87	*	38	788,348	31.3%	246,479	4,460,948	1,455,161	23.4%	75.4%
12/31/89		27	639,962	36.0%	230,328	5,189,846	1,976,463	26.6%	72.4%
12/31/91		23	585,898	33.3%	195,273	5,999,964	1,427,422	25.5%	80.8%
12/31/93		22	620,116	25.2%	156,484	7,271,255	544,779	25.4%	93.0%
12/31/95	*	21	676,847	25.6%	173,401	8,897,591	148,392	29.8%	98.4%
12/31/97	*	17	608,602	55.9%	339,974	10,797,686	1,295,764	38.0%	89.3%

*Benefits changed

Note: Normal cost prior to 12/31/89 is net of 6% employee contributions.

Valuation Date		Part-Paid/ Volunteer Active Members	Actuarial Computed Employer Contribution
12/31/82		1	227
12/31/84		1	274
12/31/86		0	0
12/31/87	*	0	0
12/31/89		0	0
12/31/91		0	0
12/31/93		0	0
12/31/95	*	0	0
12/31/97	*	0	0

EXHIBIT 5

SHORT CONDITION TEST

The Arkansas General Assembly has stated that the funding objective for these plans is to pay for benefits with contributions that remain level as a percentage of employee payroll. Thus, the long-term condition test is met when the actual contributions are fairly level and are paid when due.

A short condition test can be used to measure a plan's progress. Under the short condition test, the fund's assets are compared with:

1) Active member contributions;
2) The liabilities for future benefits to the present retirees and inactive members;
3) The liabilities for service already rendered by active members.

If the plan has been following level cost funding, liability (1) and liability (2) above will almost always be fully covered by the rest of the present assets. In addition, liability (3) above will at least partially funded. The larger the funded portion of liability (3), the stronger the condition of the fund.For a closed fund i.e., one like yours, where no new members are admitted), the funded portion of liability (3) should be steadily increasing.

The following table illustrates the history of the short condition test for this plan.

	Computed Actuarial Liabilities				Portion of Liabilities covered by Assets		
Valuation Date	(1) Active Members Contributions	(2) Retirees, Inactives, and DROPS	(3) Actives-Employer Financed	Valuation Assets	(1)	(2)	(3)
12/31/82	160,669	898,272	1,955,214	2,202,969	100%	100%	59%
12/31/84	236,541	1,464,696	2,571,042	3,078,619	100%	100%	54%
12/31/86	263,129	2,753,772	2,368,923	4,006,484	100%	100%	42%
12/31/87	308,829	2,754,276	2,853,004	4,460,948	100%	100%	49%
12/31/89	274,405	4,560,672	2,331,232	5,189,846	100%	100%	15%
12/31/91	292,477	5,072,169	2,062,740	5,999,964	100%	100%	31%
12/31/93	353,891	5,005,131	2,457,012	7,271,255	100%	100%	78%
12/31/95	418,412	5,101,995	3,525,576	8,897,591	100%	100%	96%
12/31/97	401,937	7,315,705	4,375,808	10,797,686	100%	100%	70%

STAFF REVIEW FORM

Library Design
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___ ...est
___ Contract Review
___ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October 5, 1999

FROM:

Charles Venable		Public Works
Name	Division	Department

ACTION REQUESTED: Approval of an Architectural Agreement with Meyer, Sherer and Rockcastle, LTD of Minneapolis, Mn, for the design of the City's proposed library. The work will be split into 2 phases, with Phase 1 being the preliminary design sufficient in detail to obtain information necessary to develop fund raising methologys and the actual raising of these funds required to construct the building. Phase 1 costs is $113,551 plus expenses estimated to cost no more than $15,000. Phase 2 is for the actual design and construction of the building and appurtenances. The architect will be authorized to begin work only on Phase 2 subject to acquiring satisfactory funding for the construction. Approval of a budget adjustment in the amount of $130,000 is also included.

COST TO THE CITY:

Phase 1 - $113,551 plus expenses up to $15,000
Phase 2 - $1,520,965

Total Expenses - $110,000	-0-	Library Expansion
Cost of this request	Category/Project Budget	Category/Project Name
4470-9470-5314-03	-0-	
Account Number	Funds used to date	Program Name
99073-10	-0-	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

___ Budgeted Item   XX Budget Adjustment Attached

Budget Coordinator   Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marilyn J. Cramer	9-23-99	Yolanda Fields	9-27-99
Accounting Manager	Date	Internal Auditor	Date
	9-23-99		
City Attorney	Date	ADA Coordinator	Date
	9-24-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Recommend approval of Phase 1

Division Head	Date
	9-21-99
Department Director	Date
	28 SEPT 99
Administrative Services Director	Date
	9/29/99
Mayor	Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: ___

Orig. Contract Date: ___

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvement Fund	Date Requested	Adjustment #
1999	Division:	09/22/99	
	Program:		

Project or Item Requested:	Project or Item Deleted:
Funding is requested for Phase 1 of the architectural services for the Library Expansion project.	Stonebridge - Street/ Drainage Improvements Project is proposed for this adjustment.

Justification of this Increase:	Justification of this Decrease:
The Library Expansion project is an outgrowth of the Library Master Plan project.	The Stonebridge - Street/ Drainage Improvements Project will be rescheduled in the 2000-2004 CIP.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Architectural Services	160,000	4470	9470		5314	03	~~99032~~ 99073	20
Use of Fund Balance	14,856	4470	0947		4999	99		

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Street Improvements	174,856	4470	9470		5809	00	97032	20

Approval Signatures

	Date
Requested By	
Budget Manager	9-28-99
Department Director	9-28-99
Admin. Services Director	28 OCT 99
Mayor	

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

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STAFF REVIEW FORM

Library Design
C. 5. Page 1

X Agenda Request
____ Contract Review
____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF October 5, 1999

FROM:

Charles Venable		Public Works
Name	Division	Department

ACTION REQUESTED: Approval of an Architectural Agreement with Meyer, Sherer and Rockcastle, LTD of Minneapolis, Mn, for the design of the City's proposed library. The work will be split into 2 phases, with Phase 1 being the preliminary design sufficient in detail to obtain information necessary to develop fund raising methologys and the actual raising of these funds required to construct the building. Phase 1 costs is $113,551 plus expenses estimated to cost no more than $15,000. Phase 2 is for the actual design and construction of the building and appurtenances. The architect will be authorized to begin work only on Phase 2 subject to acquiring satisfactory funding for the construction. Approval of a budget adjustment in the amount of $130,000 is also included.

COST TO THE CITY:

Phase 1 - $113,551 plus expenses up to $15,000
Phase 2 - $1,520,965
Total Expenses - $110,000

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

STAFF RECOMMENDATION: Recommend approval of Phase 1

Division Head	Date
Charles Venable	9-21-99
Department Director	Date
Administrative Services Director	Date
Mayor	Date

Cross Reference

New Item: Yes No

Prev Ord/Res #:

Orig. Contract Date:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Hanna and Members of the City Council

From: Charles Venable CV

Date: September 22, 1999

Subject: Architectural Agreement for the Design and construction of the Proposed Library

---

Since the library building will belong to the City of Fayetteville once it is constructed, the Architectural Agreement and subsequently all building plans, specifications, and construction contracts must be approved by the City. Therefore, the attached Architectural Agreement with the Meyer, Scherer and Rockcastle, LTD Architectural Firm, located in Minneapolis, MN, has been negotiated after being selected by a Selection Committee comprised of Trent Trumbo, Jim Beavers, Sid Norbash, Louise Schaper, Louis Gottsponer, Don Bailey, and myself. The agreement is enclosed for your approval.

The work to be done by the architect is divided into two (2) phases. Phase 1 will provide schematic design documents which includes a conceptual site plan, preliminary building plans including elevations, sections, etc. A three dimensional model may also be made. Cost estimates will also be prepared and the architect will work with the Library Board in the development of a fund-raising campaign in an effort to gain public support. The costs of developing Phase 1 is $113,551, plus any expenses incurred by the architect estimated to be approximately $15,000.

Phase 2 is estimated to cost $1,520,965 and the architect will not be authorized to begin work on this segment until the successful completion of Phase 1 and funding has been secured for the construction of the building. Phase 2 covers the costs of the design of the building and parking deck and all appurtenances thereof and including all documents required for the construction. Phase 2 also covers the costs associated with the administration of the construction phase of the building.

The agreement also contains reimbursement for all approved expenses incurred by the architect up to $110,000. Therefore, the total architectural Agreement is as follows:

Phase 1	$113,551
Phase 2	1,520,965
Subtotal	$1,634,516
Phase 1 & 2 Expenses	110,000
Total	$1,744,516

If financing is secured for the library construction, all of the above fees can be included for reimbursement under the construction bonds.

Close coordination with the Library Board will be required during all phases of the work and since the library building will belong to the City of Fayetteville, all approvals including the contract documents for the construction must come from the City.

CV:msm

enclosure

ORIGINAL

Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services

AIA Document B141 - 1997
1997 Edition - Electronic Format

TABLE OF ARTICLES

AGREEMENT made as of the first day of September in the year nineteen hundred ninety-nine
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the Owner:
(Name, address and other information)
City of Fayetteville, Arkansas
113 West Mountain Avenue
Fayetteville, AR 72701

and the Architect:
(Name, address and other information)
Meyer, Scherer & Rockcastle, Ltd.
119 North Second Street
Minneapolis, MN 55401-1420

For the following Project:
(Include detailed description of Project)
A new central library facility, referred to as the Fayetteville Public Library, for the City of Fayetteville, Arkansas.

The Owner and Architect agree as follows.

ARTICLE 1.1 INITIAL INFORMATION

1.1.1 This Agreement is based on the following information and assumptions.
(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")
The central library facility will consist of approximately 90,000 square feet building and a parking structure for 212 cars, and will be located on a 3-acre site in downtown Fayetteville,

ORIGINAL

1.1.2 PROJECT PARAMETERS

1.1.2.1 The objective or use is:
(Identify or describe, if appropriate, proposed use or goals.)
The facility will serve as the central library facility for the City of Fayetteville as described in the Master Plan for Library Services and Facilities: 1998-2020 adopted by the Library Board.

1.1.2.2 The physical parameters are:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)
The proposed site is located between West Mountain and West Rock Streets, and South School and South West Avenues.

1.1.2.3 The Owner's Program is:
(Identify documentation or state the manner in which the program will be developed.)
Shall be determined as part of this Agreement

1.1.2.4 The legal parameters are:
(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)
Not Applicable

1.1.2.5 The financial parameters are as follows.

.1 ~~Amount of the Owner's overall budget for the Project, including the Architect's compensation, is:~~

.2 Amount of the Owner's budget for the Cost of the Work, excluding the Architect's compensation, is: Construction cost of the Building in September 1999 dollars is estimated to be $14,400,000 ($160 GSF). Construction cost of the Building in September 2001 dollars is estimated to be $15,696,000 ($174.49 GSF). Construction cost of the parking structure in September 1999 dollars is estimated to be $2,200,000 ($11,000 per car). Construction cost of the parking structure in September 2001 dollars is estimated to be $2,398,000 ($11,990 per car). The cost of furnishings and equipment in September 2001 dollars is estimated to be $1,547,980. These figures were based on an escalation factor of 4% per year. It is agreed that this factor will revisited at the conclusion of Phase 1 Services.

1.1.2.6 The time parameters are:
(Identify, if appropriate, milestone dates, durations or fast track scheduling.)
Phase I to be completed within 120 calendar days from the date of the written notice to proceed. Phase II timeframe to be determined at the conclusion of Phase I.

1.1.2.7 The proposed procurement or delivery method for the Project is:
(Identify method such as competitive bid, negotiated contract, or construction management.)
Single prime contract through competitive bid.

1.1.2.8 Other parameters are:
(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)
The scope of this Agreement shall be divided into two phases: Phase 1 - Pre-funding design and site studies; and Phase 2 - Design documentation and construction administration. The allocation of services is described in Article 2.8 of this Agreement.

1.1.3 PROJECT TEAM

1.1.3.1 The Owner's Designated Representative is:
(List name, address and other information.)
Fred Hanna, Mayor of the City of Fayetteville - or his designee.

1.1.3.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Architect's submittals to the Owner are:
(List name, address and other information.)
Not Applicable

1.1.3.3 The Owner's other consultants and contractors are:
(List discipline and, if known, identify them by name and address.)
Not Applicable

1.1.3.4 The Architect's Designated Representative is:
(List name, address and other information.)
Jeffrey A. Scherer, FAIA - Partner-in-charge
Sean M. Wagner, Project Manager

ORIGINAL

1.1.3.5 The consultants retained at the Architect's expense are:
(List discipline and, if known, identify them by name and address.)
Traffic Engineer; Civil Engineer; Structural Engineer; Mechanical, Electrical and Plumbing Engineer; Data and Telecommunications Design Consultant; and Cost Estimating Consultant.

1.1.4 Other important initial information is:
Not Applicable

1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201 current as of the date of this Agreement~~, or as follows~~:

1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the Owner and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and, in that event, the Owner and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Paragraph 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

1.2.1 The Owner and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

1.2.2 OWNER

1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

1.2.2.2 The Owner shall periodically update the budget for the Project, including that portion allocated for the Cost of the Work. The Owner shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of the Architect to a corresponding change in the Project scope and quality.

1.2.2.3 The Owner's Designated Representative identified in Paragraph 1.1.3 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

1.2.2.4 The Owner shall furnish the services of consultants other than those designated in Paragraph 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project.

1.2.2.5 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

1.2.2.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

1.2.2.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

1.2.3 ARCHITECT

1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4.

1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Subparagraph 1.1.2.6 and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

1.2.3.3 The Architect's Designated Representative identified in Paragraph 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

1.2.3.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

1.2.3.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

1.2.3.7 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

1.3.1 COST OF THE WORK

1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

1.3.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

1.3.2 INSTRUMENTS OF SERVICE

1.3.2.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

1.3.2.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further

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reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

1.3.2.3 Except for the licenses granted in Subparagraph 1.3.2.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Subparagraph 1.3.2.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the Owner obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

1.3.2.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement. Five (5) sets of all drawings shall be furnished to the Owner for review and final approval. The cost of these drawings shall be a Reimbursable Expense.

1.3.3 CHANGE IN SERVICES

1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are affected as described in Subparagraph 1.3.3.2. In the absence of mutual agreement in writing, the Architect shall notify the Owner prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide those services. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Paragraph 1.5.2, and to any Reimbursable Expenses described in Subparagraph 1.3.9.2 and Paragraph 1.5.5.

1.3.3.2 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation.

.1 change in the instructions or approvals given by the Owner that necessitate revisions in Instruments of Service;

.2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;

.3 decisions of the Owner not rendered in a timely manner;

.4 significant change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method;

.5 failure of performance on the part of the Owner or the Owner's consultants or contractors;

.6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto;

.7 change in the information contained in Article 1.1.

1.3.4 MEDIATION

1.3.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

1.3.4.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

1.3.4.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

1.3.5 ARBITRATION

1.3.5.1 ~~Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Paragraph 1.3.4~~.

1.3.5.2 ~~Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association~~.

1.3.5.3 ~~A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations~~.

1.3.5.4 ~~No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

1.3.5.5 ~~The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and the Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Paragraph 1.3.8.

1.3.7 MISCELLANEOUS PROVISIONS

1.3.7.1 This Agreement shall be governed by the law of the State of Arkansas ~~principal place of business of the Architect, unless otherwise provided in Paragraph 1.4.2~~.

1.3.7.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

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1.3.7.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

1.3.7.4 To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

1.3.7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

1.3.7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

1.3.7.8 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

1.3.7.9 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

1.3.8 TERMINATION OR SUSPENSION

1.3.8.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

1.3.8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

1.3.8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

1.3.8.4 This Agreement may be terminated by either party upon not less than fourteen ~~seven~~ days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

1.3.8.5 This Agreement may be terminated by the Owner upon not less than fourteen ~~seven~~ days' written notice to the Architect for the Owner's convenience and without cause.

1.3.8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Subparagraph 1.3.8.7.

1.3.8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

1.3.9 PAYMENTS TO THE ARCHITECT

1.3.9.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

1.3.9.2 Reimbursable Expenses, as authorized by the Owner, are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

.1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;

.2 fees paid for securing approval of authorities having jurisdiction over the Project;

.3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;

.4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;

.5 renderings, models and mock-ups requested by the Owner;

.6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;

.7 reimbursable expenses as designated in Paragraph 1.5.5;

.8 other similar direct Project-related expenditures.

1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times. Monthly invoices to the Owner shall include a itemized list of the expenses. No alcoholic beverages shall be included as a Reimbursable Expense.

1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

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ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect. This Agreement comprises the documents listed below.

1.4.1.1 Standard Form of Agreement Between Owner and Architect, AIA Document B141-1997.

1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, ~~or as follows~~:
(List other documents, if any, delineating Architect's scope of services.)

1.4.1.3 Other documents as follows:
(List other documents, if any, forming part of the Agreement.)

1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

1.4.2.1 Risk Allocation Disclaimer
The Owner and the Architect have discussed their risks, rewards, and benefits for the project and the Architect's total fee for services.

The Architect agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner, its officers, directors and employees against all damages, liabilities, or costs to the extent caused by the Architect's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Architect in legally liable.

The Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Architect, its officers, directors, and employees against all damages, liabilities, or costs to the extent caused by the Owner's negligent acts in connection with the Project and the acts of its contractors, subcontractors, or consultants, or anyone for whom the Owner is legally liable.

Neither the Owner, nor the Architect, shall be obligated to indemnify the other in any matter whatsoever for the other party's fault.

1.4.2.2 Indemnification for Pollution Disclaimer
In consideration of the unavailability of professional liability insurance from services relating to or arising out of or associated in any way with the actual, alleged or threatened discharge, dispersal, release or escape of pollutants or any governmental or regulatory directive or request for testing, monitoring, clean up, removal, containment, treatment, detoxify or neutralize pollutants, it is expressly agreed between the Owner and Architect that the Owner shall indemnify and hold harmless the Architect, its consultants, agents, and employees from and against all claims, including claims of employees of the Owner, any Contractor and Subcontractors, damages, losses and expenses, direct and indirect, or consequential damages, including but not limited to fees and charges of attorneys, court costs, and the costs relating to arbitration fees, and costs relating to government or regulatory directives or requests arising out of or related in any way to "pollution" by any party involved with the project and regardless of whether the claims or damages are based on Contract, tort, including negligence, strict liability, warranty, or otherwise. "Pollutants" is defined as any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke vapor, soot, fumes, acids, alkalis, chemicals, and waste.

1.4.2.3 Repetitive Stress Disclaimer
It is acknowledged by the Owner that the Architect's scope of services does not include services relating to the selection of office-type equipment, including but not limited to computers, video display terminals, and keyboards, nor relating to the ergonomic effects associated with the use of such equipment. Accordingly, the Owner agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by Law, to indemnify and hold harmless the Architect, and its principals, officers, directors, employees, agents, and independent consultants and any of them from all claims, suits, demands, liabilities, losses or costs, including reasonable attorney's fees and defense costs, arising out of the use of office-type equipment, including but not limited to computers, video display terminals, and keyboards, or for those resulting from cumulative trauma disorder, repetitive stress injuries or any adverse ergonomic effects associated with the use of such equipment.

1.4.2.4 CADD Indemnification
The CADD drawing files prepared by the Architect for this project are instruments of the Architect's service for use solely with respect to this project. During the course of the implementation of the project, and with the Architect's approval, others shall be permitted to obtain copies of the CADD drawing files for information and reference only. These CADD drawing files shall not be used on other projects, for additions to this Project, or for completion of this Project by others. Any intentional or unintentional revisions, additions or deletions to these CADD drawings files shall be made at the full risk of the person(s) making such revisions, additions, or deletions, and shall hold harmless and indemnify the Architect of any and all responsibilities and liabilities.

ARTICLE 1.5 COMPENSATION

1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:
A stipulated sum of one million six hundred thirty-four thousand five hundred sixteen dollars and zero cents ($1,634,516.00). The Architect may make modest adjustments to the approximate percentages of total fee shown below with no change to the total fee except as allowed in Article 1.3.3

Phase 1 Services:	
Building Program	$30,000 (1.84%)
Traffic Engineering Study	$3,500 (0.01%)
Architecture and Consultants Pre-funding Services	$80,051 (4.93%)
Subtotal for Phase 1 Services	***$113,551 (6.78%)***
Phase 2 Services:	
Architecture and Consultants Design Services	
Schematic Design	$96,061 (5.94%)
Design Development	$240,152 (14.7%)
Construction Documents	$736,468 (45.1%
Construction Procurement	$48,030 (2.94%)
Construction Administration	$400,254 (24.54%)
Subtotal for Phase 2 Services	***$1,520,965 (93.22%)***
Total for both phases	***$1,634,516.00 (100.0%)***

1.5.1.1 The architect's compensation will be adjusted if the project is increased above 99,000 gross square feet or below 81,000 gross squre feet. This represents a 10% addition or reduction from the building of 90,000 gross square feet.

1.5.1.2 Written authorization by the Owner shall be obtained prior to beginning Phase II work.

1.5.2 If the services of the Architect are changed as described in Subparagraph 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Paragraph 1.5.2, in an equitable manner.
(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

Principal Architect	$150.00
Supervisory Architect	$80.00 - 100.00
Registered Architect	$53.50 - 76.50
Intern Architect	$37.50 - 72.50
Drafter/Modeler	$28.50 - 35.00
Specification Writer	$85.50
Head Interior Designer	$100.00
Interior Designer	$27.00 - 65.00
CADD Manager	$62.00
Admin / Word Processing	$37.50 - 58.00

1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of one point one (1.1) times the amounts billed to the Architect for such services.

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1.5.4 For Reimbursable Expenses as described in Subparagraph 1.3.9.2, and any other items included in Paragraph 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of one point zero (1.0) times the expenses incurred by the Architect, and the Architect's employees and consultants. Estimated reimbursable expenses are as follows:

Travel, hotel, meals and transportation	$55,000.00
Postage, in-house reproduction, long-distance	$15,000.00
Models and presentation drawings	$10,000.00
Bid document reproduction & distribution	$30,000.00
Total Reimbursable Budget	*$110,000.00*

1.5.5 Other Reimbursable Expenses, if any, are as follows:
Not Applicable

1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices (approximately five percent (5%) per year).

1.5.7 An initial payment zero Dollars ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

1.5.8 Payments are due and payable thirty (30) days from the date of the Architect's invoice. ~~Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~

(Insert rate of interest agreed upon.)
zero percent

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

1.5.9 If the services covered by this Agreement have not been completed thirty-six (36) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Paragraph 1.5.2.

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
(Printed name and title)	Jeffrey A. Scherer, FAIA - President *(Printed name and title)*

Standard Form of Architect's Services: Design and Contract Administration

AIA Document B141 - 1997
1997 Edition - Electronic Format

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

TABLE OF ARTICLES

ARTICLE 2.1 PROJECT ADMINISTRATION SERVICES

2.1.1 The Architect shall manage the Architect's services and administer the Project. The Architect shall consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

2.1.2 When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the Owner, design services furnished by the Architect, completion of documentation provided by the Architect, commencement of construction and Substantial Completion of the Work.

2.1.3 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

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2.1.4 Upon request of the Owner, the Architect shall make a presentation to explain the design of the Project to representatives of the Owner.

2.1.5 The Architect shall submit design documents to the Owner at intervals appropriate to the design process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on approvals received from the Owner in the further development of the design.

2.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

2.1.7.1 When the Project requirements have been sufficiently identified, the Architect shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

2.1.7.2 Evaluations of the Owner's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

2.1.7.3 In preparing estimates of the Cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the Owner and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.

2.1.7.4 If bidding or negotiation has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

2.1.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

.1 give written approval of an increase in the budget for the Cost of the Work;

.2 authorize rebidding or renegotiating of the Project within a reasonable time;

.3 terminate in accordance with Subparagraph 1.3.8.5; or

.4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

2.1.7.6 If the Owner chooses to proceed under Clause 2.1.7.5.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under this Paragraph 2.1.7. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 2.2 SUPPORTING SERVICES

2.2.1 Unless specifically designated in Paragraph 2.8.3, the services in this Article 2.2 shall be provided by the Owner or the Owner's consultants and contractors.

2.2.1.1 The Architect ~~Owner~~ shall engage the services of a consultant to establish ~~furnish~~ a program setting forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

2.2.1.2 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

2.2.1.3 The Owner shall furnish services of geotechnical engineers which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

2.3.1 The Architect shall provide a preliminary evaluation of the information furnished by the Owner under this Agreement, including the Owner's program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.

2.3.2 The Architect shall provide a preliminary evaluation of the Owner's site for the Project based on the information provided by the Owner of site conditions, and the Owner's program, schedule and budget for the Cost of the Work.

2.3.3 The Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

ARTICLE 2.4 DESIGN SERVICES

2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering services.

2.4.2 SCHEMATIC DESIGN DOCUMENTS

2.4.2.1 The Architect shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the Architect's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

2.4.3 DESIGN DEVELOPMENT DOCUMENTS

2.4.3.1 The Architect shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

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2.4.4 CONSTRUCTION DOCUMENTS

2.4.4.1 The Architect shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

2.4.4.2 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the Owner and the Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

2.5.1 The Architect shall assist the Owner in obtaining either competitive bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction.

2.5.2 The Architect shall assist the Owner in establishing a list of prospective bidders or contractors.

2.5.3 The Architect shall assist the Owner in bid validation or proposal evaluation and determination of the successful bid or proposal, if any. If requested by the Owner, the Architect shall notify all prospective bidders or contractors of the bid or proposal results.

2.5.4 COMPETITIVE BIDDING

2.5.4.1 Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

2.5.4.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

2.5.4.3 If requested by the Owner, the Architect shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

2.5.4.4 The Architect shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

2.5.4.5 The Architect shall participate in or, at the Owner's direction, shall organize and conduct a pre-bid conference for prospective bidders.

2.5.4.6 The Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

2.5.4.7 The Architect shall participate in or, at the Owner's direction, shall organize and conduct the opening of the bids. The Architect shall subsequently document and distribute the bidding results, as directed by the Owner.

2.5.5 NEGOTIATED PROPOSALS

2.5.5.1 Proposal Documents shall consist of proposal requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

2.5.5.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Proposal Documents for distribution to prospective contractors. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

2.5.5.3 If requested by the Owner, the Architect shall organize and participate in selection interviews with prospective .

2.5.5.4 The Architect shall consider requests for substitutions, if permitted by the Proposal Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

2.5.5.5 If requested by the Owner, the Architect shall assist the Owner during negotiations with prospective contractors. The Architect shall subsequently prepare a summary report of the negotiation results, as directed by the Owner.

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

2.6.1 GENERAL ADMINISTRATION

2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services in accordance with Paragraph 2.8.2 when Contract Administration Services extend 60 days after the date of Substantial Completion of the Work.

2.6.1.3 The Architect shall be a representative of and shall advise and consult with the Owner during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment.

2.6.1.4 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

2.6.1.5 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the Architect and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

2.6.1.6 If deemed appropriate by the Architect, the Architect shall on the Owner's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.

2.6.1.7 The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

2.6.1.8 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

2.6.1.9 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

2.6.2 EVALUATIONS OF THE WORK

2.6.2.1 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect in Article 2.8, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

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The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

2.6.2.2 The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

2.6.2.4 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

2.6.2.5 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Paragraph 2.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.3.3 The Architect shall maintain a record of the Contractor's Applications for Payment.

2.6.4 SUBMITTALS

2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.6.4.2 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

2.6.5 CHANGES IN THE WORK

2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Paragraph 2.8.2.

2.6.5.2 The Architect shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

2.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

2.6.5.4 The Architect shall maintain records relative to changes in the Work.

2.6.6 PROJECT COMPLETION

2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

2.6.6.2 The Architect's inspection shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

2.6.6.4 The Architect shall receive from the Contractor and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.

ARTICLE 2.7 FACILITY OPERATION SERVICES

2.7.1 The Architect shall meet with the Owner or the Owner's Designated Representative promptly after Substantial Completion to review the need for facility operation services.

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2.7.2 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the Owner and the Owner's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the Owner.

ARTICLE 2.8 SCHEDULE OF SERVICES

2.8.1 Design and Contract Administration Services beyond the following limits shall be provided by the Architect as a Change in Services in accordance with Paragraph 1.3.3:

.1 up to two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.

.2 up to six (6) visits to the site by the Architect over the duration of the Project during construction.

.3 up to two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

.4 up to one (1) inspections for any portion of the Work to determine final completion.

2.8.2 The following Design and Contract Administration Services shall be provided by the Architect as a Change in Services in accordance with Paragraph 1.3.3:

.1 review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;

.2 responses to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service;

.4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;

.5 evaluation of an extensive number of claims submitted by the Owner's consultants, the Contractor or others in connection with the Work;

.6 evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;

.7 preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; or

.8 Contract Administration Services provided 60 days after the date of Substantial Completion of the Work.

2.8.3 The Architect shall furnish or provide the following services only if specifically designated:

Services	**Responsibility** *(Architect, Owner or Not Provided)*	**Location of Service Description**
.1 Programming	Architect	Phase 1 Service
.2 Land Survey Services	Owner	Phase 1 Service
.3 Geotechnical Services	Owner	Phase 1 Service
.4 Space Schematics/Flow Diagrams	Architect	Phase 1 Service
.5 Existing Facilities Surveys	Not Provided	
.6 Economic Feasibility Survey	Not Provided	

.7 Site Analysis ~~and Selection~~	Architect	Phase 1 Service
.8 Environmental Studies and Reports	Owner	
.9 Owner Supplied Data Coordination	Not Provided	
.10 Schedule Development and Monitoring	Not Provided	
.11 Civil Design	Architect	Phase 1 & 2 Service
.12 Landscape Design	Architect	Phase 2 Service
.13 Interior Design	Architect	Phase 1 & 2 Service
.14 Special Bidding or Negotiation	Not Provided	
.15 Value Analysis	Not Provided	
.16 ~~Detailed~~ Cost Estimating	Architect	Phase 1 & 2 Service
.17 On-Site Project Representation	Owner	
.18 Construction Management	Not Provided	
.19 Start-up Assistance	Not Provided	
.20 Record Drawings	Architect	Phase 2 Service
.21 Post-Contract Evaluation	Not Provided	
.22 Tenant-Related Services	Not Provided	
.23 Structural Design	Architect	Phase 1 & 2 Service
.24 Mech./Elect./Plumb,/Data Design	Architect	Phase 1 & 2 Service
.25 Traffic Engineering Study	Architect	Phase 1 Service

Description of Services.
(Insert descriptions of the services designated.)

Phase 1 Services shall include the following:
All design and consulting services indicated in paragraph 2.8.3 as Phase 1 services as well as limited Schematic Design Services as indicated in paragraph 2.4.2.1. The extent of these services shall include a conceptual site plan, preliminary building diagrams, volumetric studies and massing models. At the Architect's option, Phase 1 services may include three dimensional representations of the scheme. The team will provide the Owner with documentation of the scheme for the Owner's use during fundraising activities.
Phase 1 meetings shall include the following:
2 team meetings with the Library to develop the building program
3 Community Design meetings to gather input and support for the project
1 interim presentation to the Library and the general public to review the proposed scheme
1 final presentation to the Library and the general public of the proposed scheme
1 presentation to the general public during the course of fundraising (additional presentations shall be subject to paragraph 1.5.2).
1 presentation to the Fayetteville City Council

Phase 2 Services shall include the following:
The completion of Schematic Design Services indicated in paragraph 2.8.3 based on the Phase 1 scheme and the balance of professional services indicted in this Agreement not otherwise designated as a Phase 1 Service.
Phase 2 meetings shall include the following:
1 Final Schematic Design Presentation
1 interim Design Development Presentation
1 final Design Development Presentation
1 Construction Document Review Meeting.
Meetings with the Fayetteville City Council shall be provided during the course of the project. A final meeting to present the bid results shall also be included. It is agreed that the number and length of these meetings shall be reasonable.

ARTICLE 2.9 MODIFICATIONS

2.9.1 Modifications to this Standard Form of Architect's Services: Design and Contract Administration, if any, are as follows:

By its execution, this Standard Form of Architect's Services: Design and Contract Administration and modifications hereto are incorporated into the Standard Form of Agreement Between the Owner and Architect, AIA Document B141-1997, that was entered into by the parties as of the date: *1st of September1999*

ORIGINAL

OWNER (Signature)

ARCHITECT (Signature)

(Printed name and title)

Jeffrey A. Scherer, FAIA - President
(Printed name and title)

Fayetteville Public Library
Meeting with City of Fayetteville September 1, 1999

Line		Budget		
Budget for 90,000 Library Building		90,000	6.3% inflation	
Construction (Building)	$	14,201,748	$ 157.80	per sf
Construction (Parking)	$	2,140,882	$10,704	per car
Furniture & Equipment	$	1,547,980	$ 17.20	per sf
Total	$	17,890,610		

Notes for Discussion

Inflation at 6.3% was for 18 months. This needs to be extended to 9% for 24 mos.
Discuss cost per car of the parking garage in light of the recent bidding experiences.
Discuss cost of building based on recent bidding and inflation experiences.

Possible Adjustments

Budget for 90,000 Library Building		Base		with 9%
Construction (Builiding)	$	13,360,064	$ 148.45	14,562,470
Recommended Construction (Building)	$	14,400,000	$ 160.00	$ 15,696,000
Construction (Parking)	$	2,140,882	$10,704	2,333,561
Recommended Construction (Parking)	$	2,200,000	$11,000	$ 2,398,000
Furniture & Equipment	$	1,547,980		No change
Total as per City Contract Draft	$	17,048,926		18,583,329
Revised total	$	18,147,980		$ 19,781,298
Difference	$	1,099,054		1,197,969

Notes

MS&R Fee tied to 90,000 SF Library Building with 200 Cars.
Fee does not change unless scope (size) is increased or decreased by more than 10%
Fee does not change with cost of construction
Fee is a lump sum
Reimbursable expenses budget to be agreed before contract award
Number of meetings to be budgeted

PROJECT BUDGET WORKSHEET by PHASE

Project >>>	1999057-00	Project Name >>>	Fayetteville Public Library
Project Partner >>>	Jeffrey Scherer, FAIA	Project Manager >>>	Sean M. Wagner
Gross Fee >>>	$1,601,016	Consultants> $400,724	Reimbursibles >>> $110,000
		Net Fee>>>	$1,200,2[illegible]

PHASE	%	GROSS FEE	CONSULTANT	NET FEE
Pre-Funding Design	5.0%	$80,051	$9,016	$71,035
Schematic Design	6.0%	$96,061	$21,038	$75,023
Design Development	15.0%	$240,152	$90,163	$149,989
Construction Documents	46.0%	$736,468	$218,795	$517,672
Construction Procurement	3.0%	$48,030	$13,224	$34,807
Construction Administration	25.0%	$400,254	$48,488	$351,766
	0.0%	$0		$0
	0.0%	$0		$0
Total Fee	100.0%	$1,601,016	$400,724	$1,200,292

Consultants	Fee
Green-Anderson	$200,724
Engineering Consultants	$145,000
Mickle Wagner Coleman	$25,000
Howell & Vancuren	$30,000
	$0
	$0
	$0
	$0
	$0
	$0
Total Consultants	$400,724

PROFIT MARGIN

Dates 10/18/1999 - 11/26/1999 (4/24/2000)

Pre-Funding Design

#	Name of Staff	Bill Rate OFFICE NORM (20%)	Bill Rate PROJECT GOAL (20%)	Pre-Funding Design Hours	Pre-Funding Design Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	165	$24,750.00
	Sean M. Wagner	$65.00	$65.00	230	$14,950.00
	Sonia Prickett	$45.00	$45.00	210	$9,450.00
	Architect B	$55.00	$55.00	100	$5,500.00
	Architect A	$40.00	$40.00	100	$4,000.00
	Interiors B	$45.00	$45.00	40	$1,800.00
	Student	$30.00	$30.00	100	$3,000.00
	Architect B	$55.00	$55.00	0	$0.00
	Architect A	$75.00	$75.00	0	$0.00
	Foster - WER	$90.00	$90.00	80	$7,200.00
	NET TOTALS	*If 20% Profitable*	$70,650.00	1025	$70,650.00
	NET FEE AVAILABLE		$71,034.52		$71,034.52
	PROFIT		$384.52		$384.52

Consultants	Pre-Funding Design Fee
Green-Anderson	$9,027
Engineering Consultants	$4,350
Mickle Wagner Coleman	$1,000
Howell & Vancuren	$1,250
	$0
	$0
	$0
	$0
	$0
	$0
	$15,627

PROJECT BUDGET WORKSHEET by PHASE

Project >>>	1999057-00	Project Name >>>	Fayetteville Public Library
Project Partner >>>	Jeffrey Scherer, FAIA	Project Manager >>>	Sean M. Wagner
Gross Fee >>>	$1,601,016	Consultants>	$400,724
Reimbursibles >>>	$110,000	Net Fee>>>	$1,200,292

Dates 4/24/2000 - 5/29/2000

#	Schematic Design Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Schematic Design Hours	Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	150	$22,500.00
	Sean M. Wagner	$65.00	$65.00	160	$10,400.00
	Sonia Prickett	$45.00	$45.00	160	$7,200.00
	Architect B	$55.00	$55.00	160	$8,800.00
	Architect A	$40.00	$40.00	100	$4,000.00
	Interiors B	$45.00	$45.00	130	$5,850.00
	Student	$30.00	$30.00	100	$3,000.00
	Architect B	$55.00	$55.00	0	$0.00
	Foster - WER	$90.00	$90.00	80	$7,200.00
	NET TOTALS	*If 20% Profitable*	$68,950.00	1040	$68,950.00
	NET FEE AVAILABLE		$75,022.98		$75,022.98
	PROFIT		$6,072.98		$6,072.98

Consultants	Schematic Design Fee
Green-Anderson	$6,027
Engineering Consultants	$6,525
Mickle Wagner Coleman	$875
Howell & Vancuren	$1,000
	$0
	$0
	$0
	$0
	$0
	$14,427

Dates 5/30/2000 - 9/1/2000

#	Design Development Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Design Development Hours	Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	180	$27,000.00
	Sean M. Wagner	$65.00	$65.00	500	$32,500.00
	Sonia Prickett	$45.00	$45.00	200	$9,000.00
	Architect B	$55.00	$55.00	520	$28,600.00
	Architect A	$40.00	$40.00	520	$20,800.00
	Interiors B	$45.00	$45.00	100	$4,500.00
	Student	$30.00	$30.00	200	$6,000.00
	Architect B	$55.00	$55.00	100	$5,500.00
	Foster - WER	$90.00	$90.00	175	$15,750.00
	NET TOTALS	*If 20% Profitable*	$149,650.00	2495	$149,650.00
	NET FEE AVAILABLE		$149,989.47		$149,989.47
	PROFIT		$339.47		$339.47

Consultants	Design Development Fee
Green-Anderson	$45,163
Engineering Consultants	$32,625
Mickle Wagner Coleman	$5,625
Howell & Vancuren	$6,750
	$0
	$0
	$0
	$0
	$0
	$90,163

	A	B	C	D	E	F	G	H	I	J	K	L
1		**PROJECT BUDGET WORKSHEET by PHASE**					**Project Name >>>**		Fayetteville Public Library			
2		**Project >>>**		1999057-00			**Project Manager >>>**		Sean M. Wagner			
3		**Project Partner >>>**		Jeffrey Scherer, FAIA			**Reimbursibles >>>**		$110,000		**Net Fee>>>**	$1,200,29
4		**Gross Fee >>>**		$1,601,016	Consultants>	$400,724						

Row			Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Construction Documents Hours	Construction Documents Fee	Consultants	Construction Documents Fee
78	Dates	9/4/2000 - 02/23/2001						
79		**Construction Documents**						
80	#	Name of Staff						
81		Jeffrey Scherer, FAIA	$150.00	$150.00	160	$24,000.00	Green-Anderson	$109,595
82		Sean M. Wagner	$65.00	$65.00	1100	$71,500.00	Engineering Consultants	$79,170
83		Sonia Prickett	$45.00	$45.00	350	$15,750.00	Mickle Wagner Coleman	$13,650
84		Architect B	$55.00	$55.00	1100	$60,500.00	Howell & Vancuren	$16,380
85		Architect A	$40.00	$40.00	1100	$44,000.00		$0
86		Interiors B	$45.00	$45.00	500	$22,500.00		$0
87		Student	$30.00	$30.00	500	$15,000.00		$0
88		Architect B	$55.00	$55.00	1100	$60,500.00		$0
89		Architect A	$75.00	$75.00	1100	$82,500.00		$0
90		Foster - WER	$90.00	$90.00	1100	$99,000.00		$0
91		**NET TOTALS**	*If 20% Profitable*	*$495,250.00*	8110	**$495,250.00**		**$218,795**
92		**NET FEE AVAILABLE**		*$517,672.11*		**$517,672.11**		
93		**PROFIT**		*$22,422.11*		**$22,422.11**		

Row			Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Construction Procurement Hours	Construction Procurement Fee	Consultants	Construction Procurement Fee
97	Dates	02/26/2001 - 3/30/2001						
98		**Construction Procurement**						
99	#	Name of Staff						
100		Jeffrey Scherer, FAIA	$150.00	$150.00	8	$1,200.00	Green-Anderson	$6,624
101		Sean M. Wagner	$65.00	$65.00	80	$5,200.00	Engineering Consultants	$4,785
102		Sonia Prickett	$45.00	$45.00	30	$1,350.00	Mickle Wagner Coleman	$825
103		Architect B	$55.00	$55.00		$0.00	Howell & Vancuren	$990
104		Architect A	$40.00	$40.00		$0.00		$0
105		Interiors B	$45.00	$45.00		$0.00		$0
106		Student	$30.00	$30.00		$0.00		$0
107		Architect B	$55.00	$55.00	100	$7,500.00		$0
108		Architect A	$75.00	$75.00	190	$17,100.00		$0
109		Foster - WER	$90.00	$90.00		$0.00		$0
110		**NET TOTALS**	*If 20% Profitable*	*$32,350.00*	408	**$32,350.00**		**$13,224**
111		**NET FEE AVAILABLE**		*$34,806.59*		**$34,806.59**		
112		**PROFIT**		*$2,456.59*		**$2,456.59**		
113								

PROJECT BUDGET WORKSHEET by PHASE

Project >>>	1999057-00	Project Name >>>	Fayetteville Public Library
Project Partner >>>	Jeffrey Scherer, FAIA	Project Manager >>>	Sean M. Wagner
Gross Fee >>>	$1,601,016	Consultants> $400,724	Reimbursibles >>> $110,000
		Net Fee>>>	$1,200,292

Dates 4/2/2001 - 9/20/2002

#	Construction Administration / Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	Construction Administration Hours	Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	170	$25,500.00
	Sean M. Wagner	$65.00	$65.00	760	$49,400.00
	Sonia Prickett	$45.00	$45.00	120	$5,400.00
	Architect B	$55.00	$55.00	100	$5,500.00
	Architect A	$40.00	$40.00		$0.00
	Interiors B	$45.00	$45.00		$0.00
	Student	$30.00	$30.00	100	$3,000.00
	Architect B	$55.00	$55.00		$0.00
	Architect A	$75.00	$75.00	200	$15,000.00
	Foster - WER	$90.00	$90.00	2750	$247,500.00
	NET TOTALS	*If 20% Profitable*	*$351,300.00*	4200	$351,300.00
	NET FEE AVAILABLE		*$351,766.30*		$351,766.30
	PROFIT		*$466.30*		$466.30

Consultants	Construction Administration Fee
Green-Anderson	$24,287
Engineering Consultants	$17,545
Mickle Wagner Coleman	$3,025
Howell & Vancuren	$3,630
	$0
	$0
	$0
	$0
	$0
	$0
	$48,487

Dates

#	TOTALS / Name of Staff	Bill Rate OFFICE NORM	Bill Rate PROJECT GOAL	TOTALS Hours	Fee
	Jeffrey Scherer, FAIA	$150.00	$150.00	833	$124,950.00
	Sean M. Wagner	$65.00	$65.00	2830	$183,950.00
	Sonia Prickett	$45.00	$45.00	1070	$48,150.00
	Architect B	$55.00	$55.00	1980	$108,900.00
	Architect A	$40.00	$40.00	1820	$72,800.00
	Interiors B	$45.00	$45.00	770	$34,650.00
	Student	$30.00	$30.00	1000	$30,000.00
	Architect B	$55.00	$55.00	1200	$66,000.00
	Architect A	$75.00	$75.00	1655	$124,125.00
	Foster - WER	$90.00	$90.00	4375	$393,750.00
	NET TOTALS	*If 20% Profitable*	*$1,187,275.00*	17533	$1,187,275.00
	NET FEE AVAILABLE		*$1,200,291.98*		$1,200,291.98
	PROFIT		*$13,016.98*		$13,016.98

Consultants	TOTALS Fee	
Green-Anderson	$200,723	$200,724
Engineering Consultants	$145,000	$145,000
Mickle Wagner Coleman	$25,000	$25,000
Howell & Vancuren	$29,875	$30,000
	$0	$0
	$0	$0
	$0	$0
	$0	$0
	$0	$0
Total Consultants	$400,598	$400,724

Library Design
C. 5. Page 30

Fayetteville Public Library
Meeting with City of Fayetteville September 1, 1999

Line	Contract Element	Basic	Additional	
	Proposal Requirements			
	Phases			
1	Prefunding Phased Design		X	
2	Schematic Design	X		
3	Design Development	X		
4	Construction Document	X		
5	Bidding	X		
6	Construction Administration	X		
7	Post Construction Services		X	
8	Warranty Review	X		
9	Record Drawings		X	
10				
11	Disciplines			
12	MS&R Architecture	X		
13	MS&R Interior Design		X	
14	M&E: Green and Anderson	X		
15	Structural: Engineering Consultants	X		
16	Civil Engineering: Mickle Wagner Coleman		X	
17	Landscape Architects: Howell & Vancuren		X	Discuss need
18	Programming: Anders Dahlgren		X	
19				
20	Services			
21	Building Program		X	
22	Pre-funding design		X	
23	Environmental Assessment		X	
24	Geotechnical Investigation — City to Handle		X	
25	Topographic Survey		X	
26	Data Design and Coordination		X	
27	Equipment Purchases		X	
28	Phased Services		X	
29	Interior Design: Equipment placement		X	
30	Signage		X	
31	Landscape Design Coordination		X	
32	Large Scale Development Process		X	
33	Presentation Process to the Library Board — Phase 2	X		
34	Presentation Process to City Council	X	X	# Mtgs. ?
35	Presentation Process to the Planning Board	X	X	# Mtgs. ?
36	Public Design Process		X	
37				

Line	Fee Analysis		Fees	Notes
39				
40	Professional Fees			
41	Architecture Interior Design	$	1,200,292	1,601,016
42	Engineering	$	400,724	
43	Building Program	$	30,000	
44	Geotechnical Investigations	$	12,500	OMIT
45	Site Survey	$	12,000	
46	Traffic Engineering Study	$	3,500	
47	Total MS&R	$	1,659,016	1,634,516
48	City of Fayetteville Proposal			Basis
49	Parking Structure	$	107,044	5% of $2,140,882
50	Library Building	$	923,114	6.5% of $14,201,748
51	Subtotal	$	1,030,158	
52	Interior Design	$	100,619	6.5% $1,547,980
53	Total Proposed by City	$	1,130,776	
54	Difference	$	528,239.58	

Phase I
$106,734
Phase II
1,527,782
+ expenses
est. $100,000

Fayetteville
CHAMBER OF COMMERCE

September 24, 1999
Our 110th Year

Honorable Fred Hanna
Mayor
CITY OF FAYETTEVILLE
113 West Mountain Street
Fayetteville, AR 72701

SUBJECT: Industrial Prospect

Dear Mayor:

The Fayetteville Chamber of Commerce Economic Development Office has made contact with a consultant that represents an industrial client. The prospect seeks to construct a 100,000-ssquare-foot facility. The project will create 200 new jobs in Fayetteville with an average hourly wage exceeding $12.00 per hour (management and hourly).

The proposed development site is the front 14 acres of Lot 13 containing 21.6 acres in the Fayetteville Industrial Park – West – a lot line adjustment will be required. The proposed option term is 120 days with $1,000 for consideration. Close of Escrow will be 90 days from exercise of Option. Purchase price is to be $20,000 per acre.

Conditions to Purchase:

1). Seller shall be responsible for creating the legal parcel to accommodate the 14 acres, which shall be approved by Purchaser.

2). Optionee shall have the right during the term of the Option to conduct all test, studies and reports it deems necessary for it's intended use.

3). Optioner shall provide to Optionee all tests, studies and reports it may have reasonable available to Optioner related to the property.

4). Seller shall, at its sole cost and expense, extend the street to the end of the 14-acre parcel to be created.

123 WEST MOUNTAIN • P.O. Box 4216 • FAYETTEVILLE, ARKANSAS 72702-4216 • (501) 521-1710 • FAX (501) 521-1791

Conditions to Purchase (continued):

5). Tax Increment Financing: The City of Fayetteville shall provide to Purchaser the present value sum of 10 years worth of estimated real property taxes for the property.

I want to formally request that this project be included on the next Council Work Session scheduled for 4:30 p.m. on Tuesday, September 28th. Should you have questions, or if I can be of any further assistance to you, please do not hesitate to call.

Sincerely,

J.V. Crider

James V. Crider, Director
Economic Development

Enclosure

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of October 5, 1999

FROM:

Jill Goddard	Engineering	Public Works
Name	Division	Department

ACTION REQUIRED: Passage of an ordinance authorizing the City Attorney to seek possession of certain land located along Highway 265 in the City of Fayetteville, Arkansas, by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocations. Such property is owned by Richard L. Mayes and Ethel L. Mayes (Parcel No. 765-02253-000).

COST TO CITY:

$ ~~1,145~~ 1,595.00	$ 3,999,559	Highway 265 - W/S Relocations
Cost of this Request	Category/Project Budget	Category/Project Name
5400-5600-5808-00	$ 592,548	Water & Sewer Improvements
Account Number	Funds Used To Date	Program Name
97043-30	$ 3,407,011	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

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

Marilyn J Cramer	9-28-99	Yolanda Fields	9-28-99
Accounting Manager	Date	Internal Auditor	Date
	9-28-99		
City Attorney	Date	ADA Coordinator	Date
Vice	9-28-99		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Have been unable to reach agreement with property owner for reasons as explained in the following memorandum. Staff recommends condemnation approval, along with an emergency clause, on this property such that contractor will not be delayed in initiating this project.

Jim Beavers	28 Sept 99	Cross Reference
Division Head	Date	
	9-28-99	New Item: Yes X No ___
Department Director	Date	
	28 Sept 99	Prev Ord/Res #: ___
Administrative Services Director	Date	
Fred Hanna	9/28/99	Orig Contract Date: ___
Mayor	Date	

STAFF REVIEW FORM

Description Condemnation--Highway 265 - Water/Sewer Relocations Meeting Date October 5, 1999

Comments: **Reference Comments:**

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: September 28, 1999

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor
Charles Venable, Public Works Director
Donald Bunn, Assistant Public Works Director
Jim Beavers, City Engineer JB

FROM: Jill Goddard, Land Agent JG

SUBJECT: Highway 265 Water/Sewer Relocations
Phase I (Highway 16 north to Deerpath Drive)
Project No. 97043
Richard L. & Ethel L. Mayes

The City has been acquiring easements along Highway 16 and Highway 265 for water and sewer relocations to be constructed prior to the Highway Department widening of Highway 265.

On Phase I, there is one property without signed documentation (or even a verbal indication of settlement). Given the extremely short time frame in which to do these relocations, it is necessary that the City initiate condemnation proceedings as soon as possible in order to obtain court possession of this land so as not to interfere with the construction schedule.

Initially, Mr. and Mrs. Mayes were offered $615.00 for the conveyance of rights associated with a twenty foot wide permanent easement (6,731 square feet), $330.00 as rental of the lands associated with the Temporary Construction and Grading Easement (6,731 square feet), and $200.00 in landscape damages; for a total offer amount of $1,145.00. This offer was originally presented on August 23, 1999. (See attached case history.)

Mr. and Mrs. Mayes have apparently been advised by their attorney not to sign any easements as they are in litigation with the Highway Department in regard to the right of way acquisition of a portion of their property along Highway 265.

An independent appraisal has been requested from Mark Risk, The Real Estate Consultants, to determine land value as the original offer amount was based on appraisal information prepared by the Highway Department for their right of way acquisition. This was received September 27, 1999. A revised offer will be presented to the Mayes based on this appraisal.

CASE HISTORY
Richard L. Mayes & Ethel L. Mayes
Highway 265 Water/Sewer Relocations
Tract 30

August 20, 1999	Date of original Offer Letter. $615.00 offered for 6,731 square feet permanent easement area, $330.00 for 6,731 square feet temporary construction easement area, and $200.00 for landscape damages; total offer amount being $1,145.00. Packet including offer letter, document and drawings prepared. Offer amount based on land value of $26,400/acre as determined by AHTD, with 15% of land value x sq. ft. for permanent easement area and 8% of land value x sq. ft. for rental of temporary easement area.
August 23, 1999	Holly Jones, contractual representative for the City of Fayetteville, met with Mr. and Mrs. Mayes at their home to discuss project. They were in litigation with AHTD over right of way acquisition and had been advised by their attorney not to sign anything until discussing matters with him first. They were verbally told of the very short time frame associated with this project.
August 24, 1999	Large scale drawing of area delivered to Mr. and Mrs. Mayes to give to their attorney.
Sept. 8, 1999	Requested appraisal from Mark Risk, The Real Estate Consultants. Given verbal quote on price and time. Should have within 3 weeks. Requested purchase order.
Sept. 13, 1999	Date of notification letter. Sent certified mail.
Sept. 14, 1999	As of this date, have not heard from Mr. and Mrs. Mayes or their attorney.
Sept. 27, 1999	Received appraisal from the Real Estate Consultants.
Sept. 28, 1999	Revised offer letter to Mr. and Mrs. Mayes based on appraisal.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 28, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Revised Offer Letter

Dear Mr. and Mrs. Mayes:

The City of Fayetteville is in receipt of an appraisal conducted by the Real Estate Consultants (copy of the cover page is enclosed). In an effort to negotiate this offer without legal action, the City is prepared to make a revised offer based on this appraisal.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for permanent and temporary easements. The City of Fayetteville hereby offers **$930.00** for the conveyance of rights associated with the Permanent Easement (6,731 square feet), **$465.00** as rental of the lands associated with the Temporary Construction Easement (6,731 square feet), and **$200.00** in landscape damages; making the total offer amount **$1,595.00**. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

Should you elect to accept this offer, the *Water/Sewer Easement* (which contains both the Permanent and Temporary Construction Easements) contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of this document, a check will be requested and you will be paid the amount indicated in this offer letter.

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of your property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

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

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit Court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Water/Sewer Easement*. A reduced copy of the document is included for your records. We can provide a copy of the recorded document upon your request and at the appropriate time. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to install these utilities. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407, Ed Connell at 444-3415 or I can be reached at 575-8206.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg

Attachments

APPRAISAL REPORT
FOR
CITY OF FAYETTEVILLE

Limited Summary Appraisal Report

PROJECT	Highway 265 Water/Sewer Relocations (Job No. 97043)
COUNTY	Washington
PARCEL #	765-02253-000
LOCATION	10 N.Crossover Rd., Fayetteville, AR (Pt. Of the NE ¼, SE ¼, Sec. 14, T16N, R30W
FEE OWNER	Richard & Ethel Mayes
ADDRESS	10 N.Crossover Rd., Fayetteville, AR 72701
ESTATE APPRAISED	Fee Simple

AREA OF WHOLE 3.33 acres **AREA OF RESIDUAL** 3.18 acres

AREA OF PERMANENT ACQUISITION 6,731 Sq.Ft. or .15 acre
(Descriptions attached)
Permanent Water/Sewer Easement 6,731 Sq. Ft.
Temporary Construction and Grading Easement 6,731 Sq. Ft.

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

Before		
Land	$ 99,000	
Improvements	$ 0*	
Total		$ 99,000
After		
Land	$ 98,070	
Improvements	$ 0*	
Total		$ 98,070

FAIR MARKET VALUE OF PERMANENT EASEMENT ACQUISITION $ 930

As of 16th *day of September, 1999*

ALLOCATION OF F.M.V. OF TOTAL ACQUISITION

Water/Sewer Easement	6,731 SF @ $.69/SF x 0.20	= $ 929	Say	$ 930	
T.C.E.**	6,731 SF @ $.69/SF x 0.10	= $ 464	Say	$ 465	
Trees	None	$ 0			
Improvements:	None	$ 0			
Total R-O-W, T.C.E., Trees, & Improvements					$ 1,395
Damages or Benefits:					$ 0
Total Compensation					**$ 1,395**
					Say $1,400

ATTACHMENTS:
X Certificate of Appraiser
X Photographs
X Site, Improvement, H&B Use Narrative
X Legal Descriptions
X Market Data Approach
X Survey
X Tax Assessment Card

Appraiser, Mark E. Risk GAA, #CG0202

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD
STATE CERTIFIED GENERAL
No. CG0202
MARK E. RISK

* The appraiser has not determined the value of the existing subject improvements due to his opinion that they are not significantly affected by the partial taking.

** Water/Sewer Easement Value is based upon 20% of the fee simple land value per appraiser research. Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied times 10% to reflect a fair return plus a premium for inconvenience.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 13, 1999

VIA CERTIFIED MAIL

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Notification

Dear Mr. and Mrs. Mayes:

On August 23, 1999, Holly Jones, representative for the City of Fayetteville, met with you to discuss the proposed easements requested with the above mentioned project as they pertain to your property. As of this date, we have not received your signed documentation. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to relocate utilities.

If we have not heard from you nor received a signed easement document and vendor form by September 20, 1999, procedures will be started to obtain possession through the courts. An independent appraisal has been requested. However, please keep in mind that condemnation proceedings can be stopped at any time if an agreement is reached before the court date.

A City Land Agent will be glad to meet with you to discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407 or Ed Connell at 444-3415.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 20, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Offer Letter

Dear Mr. and Mrs. Mayes:

In conjunction with the widening of Highway 265 from Highway 16 north to Highway 45, the City of Fayetteville is required to relocate the majority of water and sewer lines that now service this area. These relocations are to be done just prior to the highway widening. It is therefore necessary to obtain permanent and temporary construction easements across a portion of your property for this project. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for permanent and temporary easements. The City of Fayetteville hereby offers **$615.00** for the conveyance of rights associated with the Permanent Easement (6,731 square feet), **$330.00** as rental of the lands associated with the Temporary Construction Easement (6,731 square feet), and **$200.00** in landscape damages; making the total offer amount **$1,145.00**.

Should you elect to accept this offer, the *Water/Sewer Easement* (which contains both the Permanent and Temporary Construction Easements) contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of this document, a check will be requested and you will be paid the amount indicated in this offer letter.

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of your property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

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

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit Court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Water/Sewer Easement*. A reduced copy of the document is included for your records. We can provide a copy of the recorded document upon your request and at the appropriate time. We urge you to address this matter at your earliest convenience as the City has a very limited time frame in which to install these utilities. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (501) 444-3407, Ed Connell at 444-3415 or I can be reached at 575-8206.

Sincerely yours,

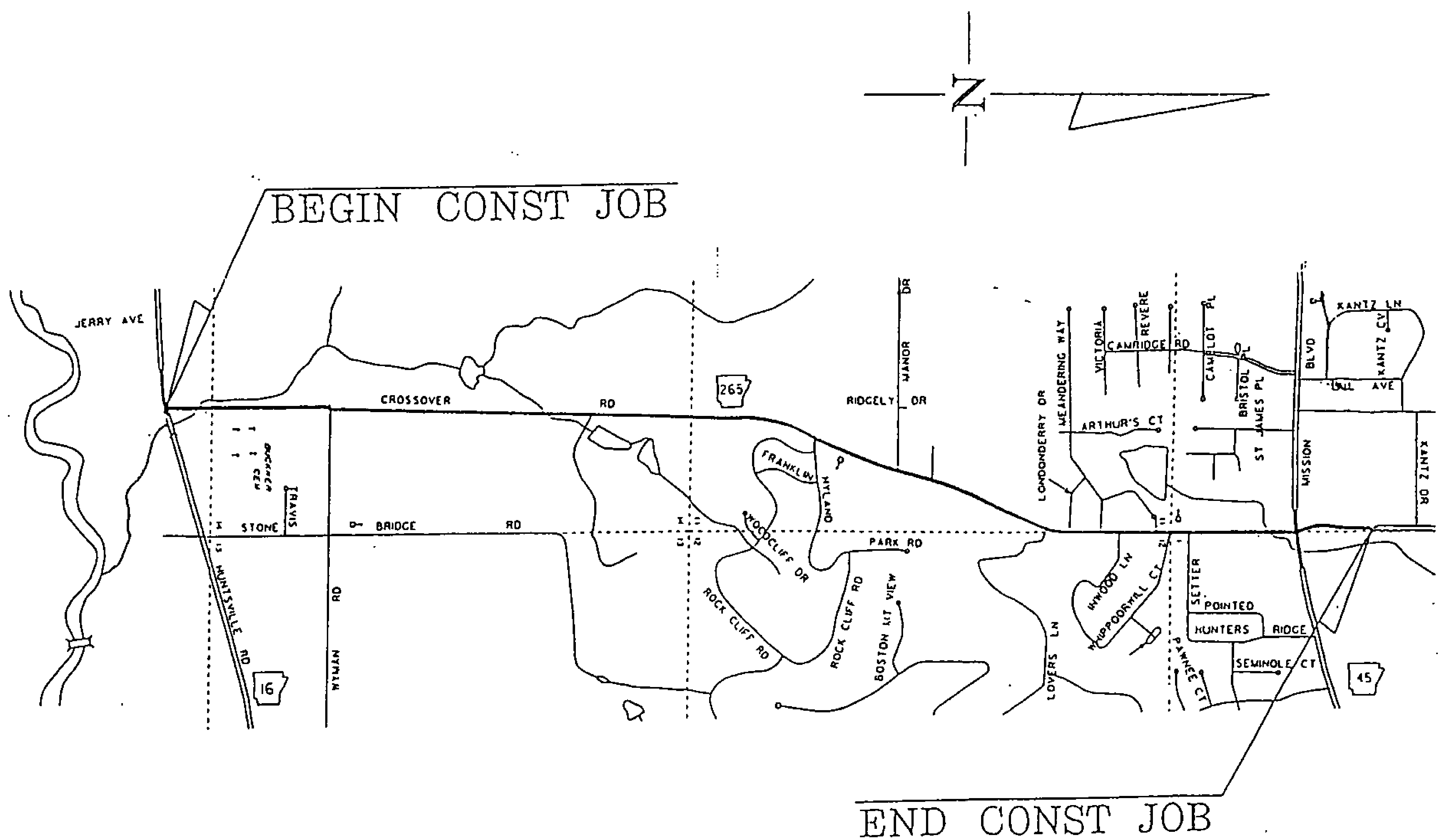
Jim Beavers

Jim Beavers
City Engineer

JB/jsg

Attachments

HIGHWAY 265 WATER/SEWER RELOCATIONS



Project No. 97043
Project: Highway 265 Water/Sewer Relocations
Parcel No. 765-02253-000
Tract No. 30

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Richard L. Mayes and Ethel L. Mayes, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

Part of the North Half (N½) of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section Fourteen (14) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M., the same being more particularly described as follows: Beginning at a point twenty (20) rods North of the Southwest corner of the said twenty acre tract ; and running thence North twenty (20) rods, thence East thirty-two (32) rods; thence South twenty (20) rods; thence West thirty-two (32) rods to the place of beginning, containing four (4) acres, more or less.

LESS AND EXCEPT that portion within the NE¼ of the SE¼ of Section 14, Township 16 North, Range 30 West, and described in CIV Case No. 99-515-4 of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, containing, 29,201 square feet, more or less. Also described in Exhibit "A" attached hereto and made a part hereof.

PERMANENT EASEMENT DESCRIPTION:

A twenty (20) foot permanent easement of equal and uniform width located along the East side of Arkansas Highway 265 Right of Way line as referenced by State Highway Commission Job No. 004999. This easement is more particularly described as beginning at the Grantor's South property line and extending North 330 feet, more or less, to the Grantor's North property line, containing 6,731 square feet (0.15 acre), more or less.

The bearings used in the above description are referenced from bearings developed by the Arkansas State Highway Commission for the Highway Project No. 004999 Right of Way Plans and will be different than the bearing system previously used in describing the Owner's property.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A temporary construction and grading easement twenty (20) feet in width being parallel with and contiguous to the above described permanent easement and situated on the East side thereof. This temporary construction easement contains 6,731 square feet (0.15 acre), more or less,

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

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located or under construction within said temporary construction and grading easement area during the construction of the hereinabove referenced project.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons. One thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

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

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

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

WITNESS the execution hereof on this the ___________ day of ____________________, 1999.

______________________________ Richard L. Mayes

______________________________ Ethel L. Mayes

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Richard L. Mayes and Ethel L. Mayes, husband and wife,** to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this ___________ day of ____________________, 1999.

____
Notary Public

MY COMMISSION EXPIRES:

____

EXHIBIT "A"

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

ARKANSAS STATE HIGHWAY COMMISSION — PLAINTIFF

VS. — NO. CIV 99-515-4

RICHARD L. MAYES AND ETHEL L. MAYES, HUSBAND AND WIFE;
AND THE BANK OF FAYETTEVILLE, N.A., MORTGAGEE — DEFENDANTS

JOB NO: 004999

TRACT NO: 30

OWNERS AND/OR PARTIES OF INTEREST: Richard L. Mayes and Ethel L. Mayes, husband and wife; and the Bank of Fayetteville, N.A., Mortgagee

LEGAL DESCRIPTION:

<u>TRACT NO. 30</u>:

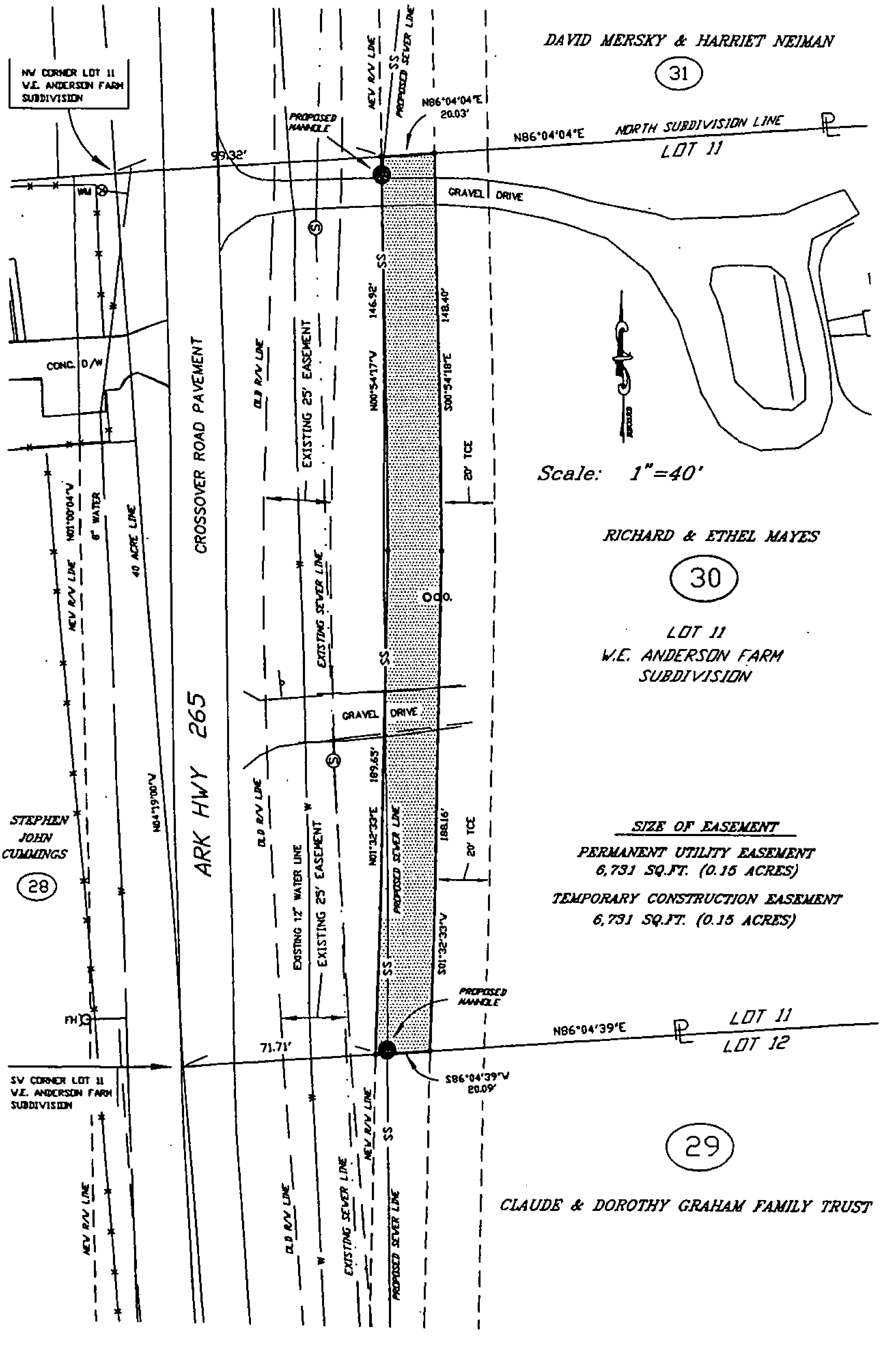
Part of Lot 11 of W. E. Anderson Farm Subdivision to the City of Fayetteville also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Starting at the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence South 85° 40' 22" West along the South line thereof a distance of 1322.95 feet to the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence North 04° 19' 00" West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 a distance of 991.73 feet to the Southwest corner of Lot 11 of W. E. Anderson Farm Subdivision for the point of beginning; thence continue North 04° 19' 00" West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the West line of Lot 14 of W. E. Anderson Farm Subdivision a distance of 335.50 feet to the Northwest corner of the Northeast Quarter of the Southeast Quarter of Section 14 also being the Northwest corner of Lot 11 of W. E. Anderson Farm Subdivision; thence North 86° 04' 04" East along the North line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the North line of Lot 11 of the W. E. Anderson Farm Subdivision a distance of 99.32 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence South 00° 54' 17" East along said proposed right of way line a distance of 146.92 feet to a point; thence South 01° 32' 33" West along said proposed right of way line a distance of 189.65 feet to a point on the South line of Lot 11 of the W. E. Anderson Farm Subdivision; thence South 86° 04' 39" West along said South line a distance of 71.21 feet to the point of beginning and containing 29,201 square feet, more or less.

UTILITY EASEMENT MAP

EASEMENT TRACT NO. 30

RICHARD L. & ETHEL L. MAYES



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 20, 1999

Richard L. & Ethel L. Mayes
10 N. Crossover
Fayetteville, AR 72701

RE: Highway 265 Water/Sewer Relocations
Job No. 97043
Tract No. 30
Side Letter

Dear Mr. & Mrs. Mayes:

In reviewing the plans for the above mentioned project, some special items need to be taken into consideration.

- Construction of the water line will necessitate the removal of certain trees within the permanent easement area. The City tries to avoid damage to and the loss of trees and other vegetation; however, there are times when circumstances leave no other choice. The City cannot adequately compensate you for the loss of any mature trees that are in landscaped areas; however, the following proposed compensation will allow you to plant similar trees as a substitute for the trees that will have to be removed:

2 - 1" mimosa	= @ $100	$ 200

  The City does not encourage the planting of new trees in the specified permanent easement area because such trees inhibit the future use of said easement area.

- The 20" elm in the 12 foot diameter wooden planter (within the temporary construction easement area) is to be protected by the contractor.

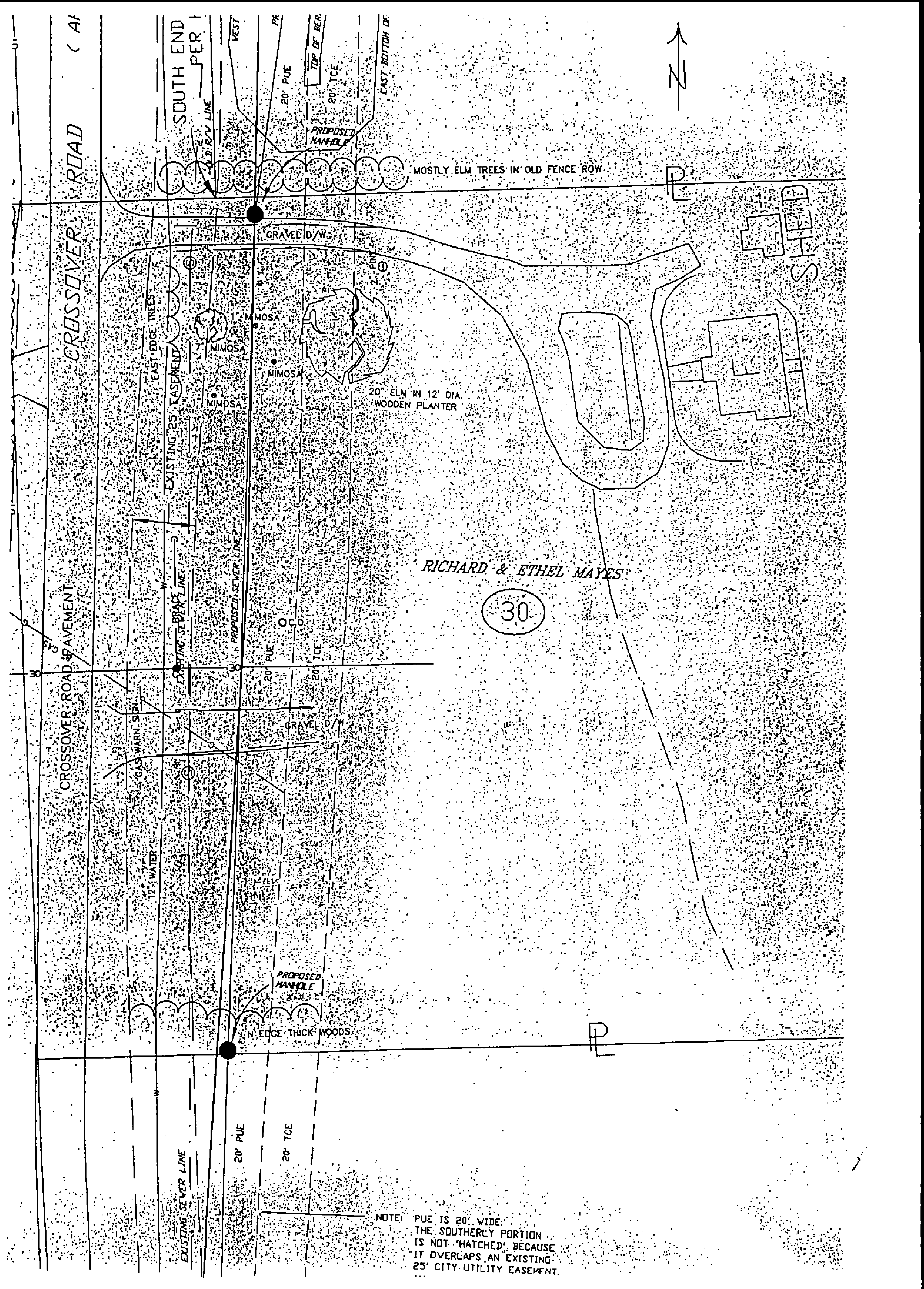
If you have any further concerns or comments, please feel free to call either Ed Connell at 444-3415 or Jill Goddard at 444-3407.

Sincerely yours,

Jim Beavers

Jim Beavers
City Engineer

JB/jsg



CROSSOVER ROAD
SOUTH END
PER
OLD R/W LINE
20' PUE
20' TCE
TOP OF BERM
EAST BOTTOM OF
PROPOSED MANHOLE
MOSTLY ELM TREES IN OLD FENCE ROW
GRAVEL D/W
PINE
SHED
EAST EDGE TREES
MIMOSA
7" MIMOSA
MIMOSA
MIMOSA
20" ELM IN 12' DIA. WOODEN PLANTER
EXISTING 25' EASEMENT
RICHARD & ETHEL MAYES
30
CROSSOVER ROAD PAVEMENT
GAS
BRACE
EXISTING SEWER LINE
PROPOSED SEWER LINE
20' PUE
20' TCE
GRAVEL D/W
GAS WARN SIGN
12' WATER
PROPOSED MANHOLE
N. EDGE THICK WOODS
EXISTING SEWER LINE
20' PUE
20' TCE
NOTE: PUE IS 20' WIDE.
THE SOUTHERLY PORTION
IS NOT "HATCHED" BECAUSE
IT OVERLAPS AN EXISTING
25' CITY UTILITY EASEMENT.

APPRAISAL REPORT
FOR
ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

JOB: 004999 PROJECT: STP-STPG-91-42(6) County: Washington TRACT: 30,30-E

LOCATION: Hwy. 16 - Hwy. 45 (Route 265 Section 2)

FEE OWNER(S): Richard L. Mayes and Ethel L. Mayes
ADDRESS: 10 North Crossover Road, Fayetteville, Arkansas 72701
PHONE: 501-521-1896

TENANT(S):
ADDRESS:
PHONE:

AREA OF WHOLE:	4.08±Acres	PERMANENT EASEMENT(S):	
AREA OF REMAINDER:	3.41±Acres	TEMPORARY EASEMENT(S):	.01±Acres
AREA OF ACQUISITION:	.67±Acres*		

(Title Certificate and Legal Descriptions Attached)

* .15±Acres is being used as a public road.

ESTATE APPRAISED: Fee Simple

HIGHEST & BEST USE: Residential

Highest and Best Use is defined as "that reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal. Alternatively that use, from among reasonable, probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible and which results in highest land value."

PURPOSE OF APPRAISAL:

To estimate the Fair Market Value of described property, including all damages and/or benefits that are allowed under State law to the remaining property, as just compensation for the property acquired.

MARKET VALUE CONCEPT:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

ALLOCATION OF COMPENSATION

Land: .52±Acres @ $26,400/Ac. =	$	(Rnd) 13,750.00
Area Being Used as a Public Road: .15±Acres @ Zero Value = 0	$	
Improvements: Trees	$	500.00
Cost To Cure Items:	$	
Sign Relocation/Purchase:	$	
Permanent Easements:	$	
Temporary Easements: .01±Acres @ Rental Value =	$	100.00
TOTAL COMPENSATION AS OF September 9, 1998	**$**	**14,350.00**

COMMENTS: The appraiser met with Mr. Mayes at his residence on the subject property where the R/W maps and proposed project were discussed.

Date: September 28, 1998

Randall E. Cobb, Appraiser

vs:004999:tr.30,30-E

Washington County Real Estate Assessment Record

Parcel Number	765-02253-000			Property Type	RI
Location Address	10		N	CROSSOVER	RD

Owner: MAYES, RICHARD L. & ETHEL L.

Mailing Address: 10 N CROSSOVER
FAYETTEVILLE | AR | 72701

Value Information

Current year: 1998

	Appraised	Assessed
Land value	30,000	6,000
Imp. value	83,200	16,640
Total value	113,200	22,640

Legal Description

Lot: | Block: | Section-Township-Range: 14-16-30

Addition: ANDERSON FARM PLAT

Legal: W 32RD. L 11 NE SE 14-16-30 4 ACRES

Deed: 10/07/96 | 96-63698 | WD | 115.50 | 35,000

School District: FAYETTEVILLE SCHOOLS City description: FAYETTEVILLE

B

FILED FOR RECORD
'96 OCT 9 AM 10 59
WASHINGTON CO AR
K. HARNESS

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, Freddie Brooks and Carole Brooks, husband and wife, and James E. Brooks and Sandra R. Brooks, husband and wife, hereafter called Grantors, for and in the consideration of the sum of One Dollar ($1.00) and other good and valuable consideration to them in hand paid by Richard L. Mayes and Ethel L. Mayes, husband and wife, hereinafter called Grantees, do hereby grant, bargain and sell unto the said Grantees and Grantees' heirs and assigns, forever, the following lands lying in Washington County, Arkansas, to-wit:

Part of the North Half (N 1/2) of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P. M., the same being more particularly described as follows: Beginning at a point twenty (20) rods North of the Southwest corner of the said twenty acre tract (20); and running thence North twenty (20) rods, thence East thirty-two (32) rods; thence South twenty (20) rods; thence West thirty-two (32) rods to the place of beginning, containing four (4) acres, more or less.

TO HAVE AND TO HOLD the lands and appurtenances thereunto belonging unto the said Grantees and Grantees' heirs and assigns, forever. And we, the said Grantors, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims.

WITNESS our hands and seals on this 7th day of October, 1996.

Freddie Brooks
FREDDIE BROOKS

James E. Brooks
JAMES E. BROOKS

Carole Brooks
CAROLE BROOKS

Sandra R. Brooks
SANDRA R. BROOKS

$1.10 183566

490078

$1.10 077857

96063698

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument.
Grantee [illegible]
Address [illegible]
Fayetteville AR 72701

ACKNOWLEDGEMENT

STATE OF ALASKA }
} ss.
COUNTY OF Anchorage }

On this 3rd day of October, 1996, before me, a notary public, in and for the County and State aforesaid, personally appeared James E. Brooks and Sandra R. Brooks, husband and wife, who stated that they were the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the foregoing for the consideration and purposes mentioned and set forth.

In witness whereof I hereunto set my hand and official seal.

Gordon Klein
NOTARY PUBLIC

GORDON KLEIN NOTARY PUBLIC STATE OF ALASKA

My commission expires: 10/12/99

STATE OF ARKANSAS }
} ss.
COUNTY OF WASHINGTON }

On this 7th day of October, 1996, before me, a notary public, in and for the County and State aforesaid, personally appeared Freddie Brooks and Carole Brooks, husband and wife, who stated that they were the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the foregoing for the consideration and purposes mentioned and set forth.

In witness whereof I hereunto set my hand and official seal.

Winfield S. Bronson
NOTARY PUBLIC

My commission expires: OFFICIAL SEAL
WINFIELD S. BRONSON, JR.
NOTARY PUBLIC - ARKANSAS
WASHINGTON COUNTY
MY COMMISSION EXPIRES: 00 - 18 - 2002

96063699

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

FILED FOR RECORD
'99 MAY 18 AM 8 58
WASHINGTON CO AR
K. HARNESS

ARKANSAS STATE HIGHWAY COMMISSION PLAINTIFF

VS. NO. CIV 99-515-4

RICHARD L. MAYES AND ETHEL L. MAYES, HUSBAND AND WIFE; AND THE BANK OF FAYETTEVILLE, N.A., MORTGAGEE DEFENDANTS

ORDER OF POSSESSION

FILED FOR RECORD
'99 MAY 24 PM 1 10
WASHINGTON CO AR
K. HARNESS

On this day comes on to be heard the motion of Plaintiff, Arkansas State Highway Commission, for an Order of this Court granting it the right of immediate possession of the lands designated as Tracts 30 and 30E, Job No. 004999, in the Complaint and Declaration of Taking filed herein; upon consideration whereof, and it being shown to the Court that said lands were taken by Plaintiff pursuant to the provisions of Ark. Code Ann. §§ 27-67-301 to -321 (Repl. 1994), and that estimated compensation for the taking is now in the registry of this Court, the Court is of the opinion that Plaintiff's motion should be granted.

IT IS THEREFORE CONSIDERED AND ORDERED that Plaintiff's Motion for Immediate Possession be, and is hereby, granted, and that Defendants be, and are hereby, ordered and directed to immediately surrender possession of said lands to Plaintiff; provided, this Order shall be held in abeyance for a period of twenty (20) days after service of same upon

99011683

Defendants within which time Defendants may appear and show cause why this order should not be effective as entered.

Mary Ann Green
CIRCUIT JUDGE

5-24-99
DATE

APPROVED:

Robert L. Wilson
Robert L. Wilson, Chief Counsel

99011684

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

ARKANSAS STATE HIGHWAY COMMISSION PLAINTIFF

VS. NO. CIV 99- 515-4

RICHARD L. MAYES AND ETHEL L. MAYES, HUSBAND AND WIFE; AND THE BANK OF FAYETTEVILLE, N.A., MORTGAGEE DEFENDANTS

FILED FOR RECORD
'99 MAY 18 AM 8 58
WASHINGTON CO AR
K. HARNESS

100.00
5
14,350.00

COMPLAINT AT LAW

Plaintiff, Arkansas State Highway Commission, files this Complaint against the lands described herein and the parties hereto under the power of eminent domain and the police power pursuant to the authority and provisions of Act 419 of the 1953 General Assembly of the State of Arkansas, codified at Ark. Code Ann. §§ 27-67-301 to -321 (Repl. 1994), and in support thereof, states:

I

Plaintiff is the duly constituted agency of the State of Arkansas charged by law with the construction and maintenance of those highways and roads which comprise the highway system of the State of Arkansas. The highway hereinafter referred to is a part of the highway system of the State of Arkansas.

II

In connection with Job No. 004999, more commonly known as Hwy 16 - Hwy 45(S) (Hwy 265), Washington County, plans of which are on file at Plaintiff's offices in Little Rock and with the Clerk of this Court, Plaintiff will construct and maintain highway facilities in Washington County on the lands hereinafter described.

III

The tracts of land described in Schedule "A" attached hereto and made a part hereof are located in Washington County, Arkansas, and are needed for highway purposes in furtherance of said Job No. 004999, and it is necessary that title in fee to Tract 30 be vested in Plaintiff and that a temporary construction easement be imposed on Tract 30E. Chain of title affecting said lands are in the Recorder's office in Washington County, Arkansas, with interest holder the Bank of Fayetteville, recorded in Instrument #97021348 on or about April 7, 1997.

WHEREFORE, Plaintiff prays that the above described lands be condemned by order of this Court and that title in fee to Tract 30 and a temporary construction easement on Tract 30E, Job No. 004999, be adjudged and vested in Plaintiff; that just compensation for the condemnation and taking of said lands be awarded to those parties entitled thereto, and for such other relief as may be lawful and proper.

ARKANSAS STATE HIGHWAY COMMISSION

BY: ______________________

Robert L. Wilson, Chief Counsel
By: Mark J. Whitmore, #87188
Attorney for Plaintiff
Post Office Box 2261
Little Rock, AR 72203-2261
(501) 569-2158

SCHEDULE "A" TO COMPLAINT AT LAW

JOB NO: 004999

TRACT NO: 30 and 30E

OWNERS AND/OR PARTIES IN INTEREST: Richard L. Mayes and Ethel L. Mayes, husband and wife; and The Bank of Fayetteville, N.A., Mortgagee

LEGAL DESCRIPTIONS

TRACT 30

Part of Lot 11 of W.E. Anderson Farm Subdivision to the City of Fayetteville also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Starting at the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence South 85° 40′ 22″ West along the South line thereof a distance of 1322.95 feet to the Southwest Corner of the Northeast Quarter of the Southeast Quarter of Section 14; thence North 04° 19′ 00″ West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 a distance of 991.73 feet to the Southwest Corner of Lot 11 of W.E. Anderson Farm Subdivision for the point of beginning; thence continue North 04° 19′ 00″ West along the West line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the West line of Lot 14 of W.E. Anderson Farm Subdivision a distance of 335.50 feet to the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 14 also being the Northwest Corner of Lot 11 of W.E. Anderson Farm Subdivision; thence North 86° 04′ 04″ East along the North line of the Northeast Quarter of the Southeast Quarter of Section 14 also being the North line of Lot 11 of the W.E. Anderson Farm Subdivision a distance of 99.32 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence South 00° 54′ 17″ East along said proposed right of way line a distance of 146.92 feet to a point; thence South 01° 32′ 33″ West along said proposed right of way line a distance of 189.65 feet to a point on the South line of Lot 11 of the W.E. Anderson Farm Subdivision; thence South 86° 04′ 39″ West along said South line a distance of 71.21 feet to the point of beginning and containing 29,201 square feet more or less.

TRACT 30E

Part of Lot 11 of W. E. Anderson Farm Subdivision to the City of Fayetteville, also being part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows:

Beginning at a point on the Easterly proposed right of way line of Arkansas State Highway 265, said point being 53.48 feet right of and on a radial line to Construction Centerline Station 39+55.00; thence North 89° 47′ 23″ East a distance of 11.52 feet to a point; thence South 00° 04′ 45″ East a distance of 35.30 feet to a point; thence North 89° 56′ 52″ West a distance of 12.52 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 265; thence North 01° 32′ 33″ East along said proposed right of way line a distance of 35.26 feet to the point of beginning and containing 424 square feet more or less.

015 04 City of Fayetteville 2/13/2003
Maintenance/Inquiry 8:06:40

Document Reference	Date	Item Ref.	Action Taken	Brief Description
MIN	10/05/1999	685		INDUSTRIAL PARK PROPOSED DEVELOPMNT

Keywords..............: INDUSTRIAL PARK
PROPOSED DEVELOPMENT
14 ACRES
DAYCO PRODUCTS INC.
RES. 131-99

File Reference #......:
Security Class........:
Expiration Date.......:
Date for Cont/Referred:
Name Referred to......:

Retention Type:
**** Active ****

Press Cmd 6 to Update
Cmd1-Return Cmd2-Check Out Cmd8-Retention Cmd3-End Press 'ENTER' to Continue
Cmd5-Abstract Yes No

Northwest Arkansas TIMES

Monday, October 4, 1999

CITY OF FAYETTEVILLE CITY COUNCIL FINAL AGENDA

A meeting of the Fayetteville City Council will be held on October 5, 1999, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of minutes of the September 21, 1999 City Council meeting.
2. **YVONNE RICHARDSON COMMUNITY CENTER:** A resolution approving an offer and acceptance contract to acquire property at 153 E. Mountain for future expansion.
3. **VETERANS MEMORIAL PARK:** A resolution approving a budget adjustment in the amount of $35,201 for overlaying entryway and parking area.
4. **DISPATCH TRAINER:** A resolution approving three new dispatch trainer positions and approval of a budget adjustment.
5. **US ABLE LIFE:** A resolution approving the purchase of employee group policies to provide Life, AD&D, and LTD coverage plus a contract to provide third party administration for an IRS Sec. 125 Flexible Spending Account.
6. **REIMBURSEMENT/WASTEWATER TREATMENT PROJECT:** A resolution allowing the City to reimburse itself certain expenditures for the Wastewater Treatment Project from tax-exempt bond proceeds once the project has proceeded to that point.
7. **LIBRARY OPTION TO PURCHASE:** A resolution to execute the Option to Purchase negotiated by representatives of Washington Regional MediCorp. for the proposed site for the new public library.
8. **OMI CONTRACT RENEWAL:** A resolution giving notice of renewal for Operations, Maintenance and Management Services for an additional 5-year term.

B. OLD BUSINESS

1. **RZ 99-26:** An ordinance approving a rezoning request from A-1 Agricultural to R-1 Low Density Residential submitted by Michele Harrington on behalf of Valerie M. Zamberletti for approximately 34.72 acres on Zion Road.
2. **RZ 99-27:** An ordinance approving a rezoning request from A-1 Agricultural to R-1 Low Density Residential submitted by Michele Harrington on behalf of John DeWeese and Mike Schmidt for approximately 47.98 acres west of Double Springs Road.
3. **RZ 99-25:** An ordinance approving a rezoning request from A-1 Agricultural to R-1.5 Moderate Density Residential submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Butch Robertson for 17.0 acres located west of Rupple Road and east of Meadowlands Subdivision.

C. NEW BUSINESS

1. **GREATHOUSE PARK:** Discussion of new information and possible action on Greathouse Park Bridge and tree removal in the park.
2. **RZ 99-28.00:** An ordinance approving a rezoning request from R-1 Low Density Residential to R-2 Medium Density Residential submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for approximately 11.64 acres located at 2200 & 2201 W. Deane Street.
3. **1999 MILLAGE:** An ordinance adopting real and personal property tax rates for 1999 for the Police and Fire Pension Funds. The rate to be adopted is 0.5 mils for real property and 0.5 mils for personal property.
4. **LIBRARY DESIGN:** A resolution approving an architectural agreement with Meyer, Scherer and Rockcastle, Ltd. of Minneapolis, MN for the design of the proposed library (Phase I). And approval of a budget adjustment in the amount of $160,000.
5. **INDUSTRIAL PARK - PROPOSED DEVELOPMENT:** A resolution authorizing the sale of 14 acres of Lot 13.
6. **LAND POSSESSION - HIGHWAY 265:** An ordinance authorizing the possession of certain land owned by Richard and Ethel Mayes located along Highway 265 by the Power of Eminent Domain in association with the required easements for the Highway 265 Water and Sewer Relocations. The total offer amount for this property would be $1,595.00.
7. **CITY COUNCIL CONDUCT:** A resolution establishing the City's lead in exemplifying an attitude of professionalism and consideration of others in its business sessions.

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.