June 1, 2000 Special C.C.

	Roll				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
MAYOR HANNA	✓				
	2A. H.				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	N				
SANTOS	N				
YOUNG	N				
RUSSELL	N				
MAYOR HANNA	✓				
	5-4-0.				
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
MAYOR HANNA					

presented at 6/6/00 C.C.

JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.

City of Fayetteville
113 W Mountain
Fayetteville, AR 72701

6/6/00

Att: Mayor's Office
Re: Grading Permits

Due to previous commitments I will not be able to attend the Council meeting scheduled for 6/6/00 at 6:00 pm. However, I would like to express my opinion regarding the grading permits required for the various developments.

As you probably realize, the production of construction plans for a project is a lengthy process. In addition, the review process can take from 2-16 weeks. The current method of review allows step by step phased permitting. This method allows the contractor to start by installing silt fence and erosion control, tree protection fence and then rough cut of streets and parking areas. While the time consuming preliminary work is being accomplished, the water and sewer plans are being reviewed by the Health Department. The Health Department review is also quite a lengthy process, taking 4-8 weeks.

The current step by step permitting allows the City Engineer's staff to conduct a complete review of each project as it proceeds through the construction process.

It currently takes 45-60 days to submit a project (without Health Department Approval or City review). The City Engineering then takes another 14-21 days for review. Then the State Health Dept. will take 45 days. Therefore, if you waited for total review prior to any construction taking place it will be at least 4.5 months.

The current procedure is very functional and I hope that this process is not changed.

Thank You.

Sincerely.

David L. Jorgensen, P.E.

124 W. SUNBRIDGE DR., SUITE #5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807

presented by Cyrus Young. c.c. 6/6/00

PREVENTING PHASED PERMITS

- ✓ Would afford citizens the protection stated in the Intent sections of the Physical Alteration of Land and the Stormwater Management chapters of the U.D.O.

- ✓ Only trees that are necessary to be removed would be taken down as a result of having a complete set of plans rather than a phased plan.

Steele Crossing (Argus Properties) grading permit only required 3-4 days for approval. That should not be a burden on developers as it takes two days for contractors to have the utilities located before they can begin work.

At the Ordinance Review Committee, the only ones there speaking in favor of Phased Permits were developers and contractors. Citizens in attendance all spoke against Phased Permits.

CHAPTER 169:
PHYSICAL ALTERATION OF LAND

§169.01 INTENT.

A. It is the City's intent to safeguard the health, welfare and safety of Fayetteville citizens by implementing standards and procedure for the physical alteration of land. It is not the City's intent to supersede Federal or State regulations such as, but not limited to, the Occupational Health & Safety Act.

B. The purpose of this chapter is to control excessive grading, clearing, filling, and cutting (or similar activities) which or in combination cause landslides, flooding, excessive run-off, degradation of water quality, erosion and sedimentation in storm sewer systems and water storage basins.

(Code 1991, §161.01; Ord. No. 3551, 6-4-91)

§169.03 PERMITS REQUIRED/ EXCEPTIONS.

A. Permit Required. No grading, filling, excavation or land alteration of any kind shall take place without a grading permit.

CHAPTER 170:
STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL

§ 170.01 INTENT.

A. Intent. It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:

1. Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.

2. Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.

3. Requiring surface and stormwater management practices that comply with the requirements of this chapter.

4. Promoting the development of stormwater facilities that are aesthetically desirable.

§170.03 PERMITS REQUIRED.

A. Applicability. This chapter shall apply to all land within the corporate limits of the City of Fayetteville and the Fayetteville planning area, no person may subdivide and develop, change to a more intensive land, use, construct or reconstruct a structure, or change the size of a structure, except as hereinafter exempted, without first obtaining a stormwater management, drainage and erosion control permit from the City. The City issues two types of storemwater management, drainage, and erosion control permits as identified in the following subsection:

May 30, 2000

City of Fayetteville Council Members
113 W. Mountain
Fayetteville, AR 72701

Dear Council Members:

In June 1997 the City of Fayetteville laid a 6" water line from Dickson Street to Powerhouse Seafood Restaurant. After the water line project was completed, the City reconstructed the street which is now named Powerhouse Avenue. During the process of vibrating crushed rock on the street, damage was done to our building at 601-603-605 W. Dickson. The improper use of the City's Ingersoll-Rand Vibrator Roller DD-90 can result in the duplication of the effects of an earthquake.

I have tried privately on several occasions to settle the issue with the City without success. I must go public now and request the City Council settle the issue before the statute of limitation deadline of June 30, 2000 requires me to take legal action against the City of Fayetteville.

The City's denial of my claim continually mentions that I have no evidence that the City did the damage and that I waited eight months to submit the claim.

On May 12, 1993, the Fayetteville Historic District Commission honored our "efforts in preserving a part of Fayetteville's historical past and proclaimed the structure located at 603 W. Dickson Street as an example of excellence in historic preservation." We received the annual acknowledgement for the best commercial restoration of the year. Any cracks that existed had been repaired and the building painted. The evidence is that cracks caused by the earthquake machine have no paint in them.

I waited eight months to submit the claim. Our parents' ages are in the 90s. Old age death is not immediate; it drags out and causes a lot of pain and disruption in the lives of their spouses and all other relatives around them. From a period of time of 11 months before the damage was done to our building to a period of time of 12 months after the building damage was done, we lost from death on separate occasions my wife's mother, my mother's closest sister's husband, my mother's closest sister, my father, my wife's father. My mother will be 91 this summer and has not completely recovered from the trauma.

During this time we were constantly threatened with our lives because we asked the City to enforce the sound ordinance.

The eight month delay to mention the damage is clearly understandable. The cracks with no paint in them also speak for themselves on this award-winning rehabilitation.

I have requested the Aldermen from my ward, Cyrus Young and Kyle Russell, to present this letter and request the following Resolution be adopted at the Board of Directors meeting of June 6, 2000:

Resolution

The City of Fayetteville resolves that under Arkansas Statute 21-9-302 it has the authority to hear and settle claims against the City, and

Resolve to make a payment to Richard M. Shewmaker in an amount equal to 50% of the damage claim plus 5% consumer price index increase as determined by the U of A Center for Business and Economic Research. Said payment to be $290,769.30. Payment is to be made by June 9, 2000.

Resolve that Hanover Insurance Company is encouraged to make a like payment.

Since 1992 I have until recently been a real estate agent with Lindsey & Associates. As of May 29, 2000 I am no longer associated with Lindsey & Associates, nor do I have an active real estate license in the State of Arkansas. A legal problem with a major city could significantly harm any real estate company. I have visited with Jim Lindsey. He is my friend and always will be. I know also that he has visited recently with the Mayor in an effort to assist in a resolution of this matter.

Enclosed you will find my letter to the City and the City's denials on two separate occasions over the last several years. (The Sound Warehouse owners do not remember the incident.) I will supply other documents and evidence at your council meeting.

Sincerely,

Richard M. Shewmaker

Richard Shewmaker

July 1, 1998

Mr. Kevin Crosson
Public Works Director
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mr. Crosson:

During the summer of 1997 the street next to our building at 603 W. Dickson, known as Powerhouse Avenue, was paved by the city of Fayetteville Street Department. Street Superintendent, Randy Allen, was on vacation.

While in our home on the top floor, the building began to shake, (not vibrate). I received a telephone call from Sound Warehouse wanting to know if the building was falling down. I was afraid! The glasses were banging against one another. I ran out of the building and discovered that the city vibrating roller the size of a large truck was operating next to our building .I yelled and screamed to stop!

The plaster on the east side of the building next to the street is shattered from one end of the building to the other end. The shaking also cracked the front, back and the west side of the building. The interior plaster of the building is also cracked. The building construction is three layers of brick with plaster on each side. The shaking of the building has cracked and separated the plaster from the brick requiring most of it to be removed and replaced. Serious damage was done to our building. We purchased our property on Dickson Street in October 1990 and began renovation of the historic structure. We lead the way in the renovation of Dickson Street property. On May 12, 1993, the Fayetteville Historic District Commission honored, "our efforts in preserving a part of Fayetteville's historical past and proclaimed the structure located at 603 W. Dickson Street as an example of excellence in historic preservation."

I am confident that the City of Fayetteville will act responsibly and enable us again to restore this historic building during the summer while traffic is slower.

If any person wants to inspect the damage, please call me at home at 442-9094 or at work at 521-6611.

Sincerely,

Richard M. Shewmaker

Richard Shewmaker

City of Fayetteville Claim Form

INSTRUCTIONS: Complete this form, clearly stating the reason for the claim and the amount you are claiming. Attach the appropriate documentation, including receipts and/or three estimates, and return to the Mayor's Office at:

City Administration Building
113 W. Mountain Street
Fayetteville, Arkansas 72701

Questions may be directed to the Public Works Department at 575-8330.

CLAIMANT INFORMATION:

Name: Richard M. Shewmaker

Mailing Address: 605 W. Dickson

City, State, ZIP: Fayetteville, Arkansas 72701

Phone #: home 4429094 work 5216611 Social Sec. or Tax ID #: _____

INCIDENT INFORMATION:

Address of Occurrence: 603 W. Dickson, Fay, Ark.

Date of Occurrence: Summer 1997

Nature of Occurrence: Sewer Water Pothole (Other)

Amount Being Claimed: #553,846.30

The undersigned hereby files a claim against the City of Fayetteville for the following reason(s):

see attached letter

Signature: Richard M. Shewmaker Date: _____

Received by: _____ Date: _____

Referred to: _____ Date: _____

Accepted Denied Date: _____

By: _____, Public Works Director

	Ace	Wortman	Albert
1. Motel - 2 months, Holiday Inn Express	$2,986.80	$2,986.80	$2,986.80
2. Rent Reduction 2 months - Sound Warehouse	$6,000	$6,000	$6,000
3. Polywrap Furniture upstairs & downstairs	$4,000	$4,000	$4,000
4. Awnings - remove, store, reinstate	$2,000	$2,000	$2,000
5. Remove two stairways, store, reweld & install	$4,040	$4,040	$4,040
6. Sign removal, store & reinstall	$600	$600	$600
7. Reseal balcony which was separated from building	$2,000	$2,000	$2,000
8. Sandblast	$40,600	$40,600	$40,600
9. Plaster Outside Inside Sheetrock	 $100,632 $165,575	 $104,380 $139,328 $ 30,900	 $124,360 $152,340 $ 30,900
10. Wil-cor, Inc. 997 Armor Plate Labor	$187,412.50 $25,000	$187,412.50 $25,000	$187,412.50 $25,000
11. Clean up	$ 3,000	$ 3,000	$ 3,000
12. Contract Adm. By Owner	$ 10,000	$10,000	$10,000
TOTALS	$553,846.30	$562,247.30	$595,239.30

ACE ACOUSTIC & DRYWALL, INC.

Phone (501) 750-3434
Fax (501) 751-8941

3672 W. Sunset - Suite 3
Springdale, AR 72762
ARK License

Proposal

Page No. of Pages

PROPOSAL SUBMITTED TO RICHARD SHEWMAKER	PHONE 521-6611	DATE 4/13/98
STREET	JOB NAME 603 W. DICKSON	
CITY, STATE AND ZIP CODE	JOB LOCATION FAYETTEVILLE, AR	
ARCHITECT / DATE OF PLANS		JOB PHONE

We hereby propose to furnish materials and labor necessary for the completion of:

MATERIAL & LABOR FOR –

EXTERIOR – PATCHING & REPAIRING, LOOSE PLASTER, RESKIM BASE COAT, AND NEW FINISH COAT ——— $100,632.00

INTERIOR – REMOVE EXISTING SHEETROCK & PATCH ALL INTERIOR WALLS & REFINISH ——— $165,575.00

WE PROPOSE hereby to furnish material and labor – complete in accordance with above specifications, for the sum of:

_____ dollars ($_____).

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature Scot Cochran

Note: This proposal may be withdrawn by us if not accepted within 14 days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outline above.

Signature _____

Date of Acceptance: _____

Signature _____

Wortman Plastering, Inc.
1717 West Poplar
Rogers, Arkansas 72758
Phone 636-3398
Fax 636-1187
Contractor's License #0041420398

COMPANY Richard Shewmaker

ATTENTION

FAX NUMBER 521-3630 DATE 5-20-98

SUBJECT Stucco and plaster repair--603 Dickson

NUMBER OF PAGES FAXING 1

EXTERIOR:
Remove and replace loose stucco, recoat with Dryvit finish. $104,380.00

INTERIOR:
Repair cracked and loose plaster. $139,328.00

These prices are for repair of plaster and stucco only. They do not include removal or reinstallation of any structures currently applied to these walls.

ALBERT PLASTERING CO.,INC

LATH, PLASTER, FIREPROOFING AND SYNTHETIC PLASTER FINISHES
PHONE 501-648-8055 P. O. BOX 180460 FAX # 648-9414
FORT SMITH, ARKANSAS 72918-0460
License # 0002930499

DATE_____JUNE 24,1998

PROJECT_____ 603 DICKSON

QUOTATION

ESTIMATOR
RICHARD SHEWMAKER

Gentlemen:

We propose to furnish all labor, materials, equipment, insurance and taxes necessary to perform all Plastering in accordance with the Architects /Owners/Contractors plans and specifications subject to and superseded by the terms and conditions shown on the reverse side of this sheet and the special notes below for the sum of:
$$

INTERIOR FINISH.
Repair cracked and loose Gypsum Plaster. $152.340.00

EXTERIOR PLASTER.(STUCCO,DRYVIT)
Repair and replace to orginal condition.
No removal of other items by us.
ALL REMOVAL AND REINSTALL BY OTHERS. $124.360.00

Respectfully submitted,

By____JIM ALBERT

END

Circle C Enterprise

May 11, 1998

Dear Mr. Shewmaker

I appreciate the opportunity to present my bid based on our conversation May 5, 1998.

Work to be performed by Circle C Enterprise on the outside walls of the building on Dickson Street Fayetteville, Arkansas. The total square footage of the sandblast job will be 10,150. No more or less, unless agreed upon by both Circle C Enterprise and Mr. Shewmaker. The total cost will be $25,375.00 with the removal of the sand.

May any extra expense acure due to the disposal of any waste materials i.e. old paint the expense will the responsibility of Mr. Shewmaker.

Provided Circle C Enterprise has to confine sand and debris the total job cost will be increased to a new total $40,600.00.

The fee will be paid as follows:
¼ to be paid upon ¼ of job completion
Another 1/4 to be paid upon 1/2 of job completion
Balance due upon final job completion

Sincerely,

Shane Crawford

MC/am

Springdale Acoustics, Inc.

P.O. Box 931
Springdale, AR 72765

501-751-1831 **fax: 501-751-1821**

Date: May 18, 1998

Proposal Submitted To:

Richard Shoemaker
603 West Dickson St.
Fayetteville, AR 72701

Perform the following at interior of building to facilitate exterior plaster repair:

1. Cover all floors and furnishings.
2. Remove wood base and trim as required.
3. Remove all drywall from perimeter walls.
4. Cut access holes in ceiling as required to perform repair work.
5. Dispose of trash.
6. Install new drywall, tape & finish and paint.
7. Re-install all wood trim. (Provide new trim as necessary.)
8. Paint wood trim.
9. Repair holes in ceiling to existing condition.

Total Proposed Price: $30,900.00
Thirty Thousand Nine Hundred Dollars.

By: _____ **Date:** 5-18-98
Springdale Acoustics, Inc.

Accepted By: _____ **Date:** _____

Primary & Secondary Containment Linings
Concrete Pit Linings
Epoxy Floor Coatings

WIL-COR INC.
Armor Plate® Products

Armor Plate® Epoxy Grouts & Adhesives
FRP Repair & Applications
Concrete Restoration

FAX# 281-487-2357

TO: _____ **FAX NBR:** (501) 521-3630

ATTN: Richard Shoemaker **DATE:** 6-3-98

FROM: Rodney Robinson **TOTAL PGS:** 1
(including this cover)

RE: Armor Plate 999 Injectable Epoxy Grout

Estimate 100' x 46' x 35' Tall Building with
A 1" Void w/ Holds Appx 6,130 gallons
of Material.

1,363 ea AP 997 Epoxy Grout 4 1/2 gallon units

1,363 each AP 997 Epoxy Grout 4½ gal/unit x $137.50/each

Total Estimate for Materials $ 187,412.50

Any Questions Please Call

P.O. Box 5646 • Pasadena, Texas 77508 • (281) 487-6547 • Fax (281) 487-2357

JUN 03 '98 11:15AM WIL-COR INC.

COVERAGE AND ESTIMATING

Armor Plate 997 will provide approximately 231 cu. in. of adhesive for each gallon of material.

SHELF LIFE

Armor Plate 997 has a shelf life of at least 1 year when stored in tightly closed containers, in a cool, dry location.

FREIGHT CLASSIFICATION

Resin (part A) ..... Paint Plasticizer
Cure (part B) ..... Corrosive Liquid, N.O.S.
..... (Corrosive Material), Plastic Liquid, N.O.I.

CAUTIONS

- Cure (part B) contains alkaline amines, which are strong sensitizers.
- Provide adequate ventilation. Avoid breathing vapors. Keep containers tightly closed.
- May cause severe burns, allergic reaction or skin sensitization. Wear protective clothing, rubber gloves and goggles when using.
- Prevent contact with eyes, skin and clothing. Wash thoroughly after handling AP 997.
- If contact occurs with skin, wash skin immediately with soap and water. If eye contact occurs, flush eyes with water for 15 minutes and seek immediate medical attention. Wash contaminated clothing thoroughly before reuse. Discard contaminated shoes.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Kevin D. Crosson, Public Works Director

July 31, 1998

Mr. Richard Shewmaker
605 West Dickson
Fayetteville, Arkansas 72701

RE: ***Damage Claim, 605 W. Dickson***

Dear Mr. Shewmaker:

In response to your claim dated July 1, 1998, I have fully evaluated the facts available to me at this time to make a determination pertaining to the damages at your property located on 605 West Dickson.

Your letter states that cracks in your plaster siding are the result of the street work that took place on Powerhouse Avenue the two weeks of June 30 and July 7, 1997. You brought the damage to my attention in April, 1998, roughly nine months after the construction work took place. You met with Mr. Charles Venable on March 2 , 1998, about an unrelated drainage problem at this address, and no mention was made of any plaster damage at that time. This delay in notification makes it impossible for the City to say with certainty that the damage was done by city street work. We have reconstructed and resurfaced numerous miles of city streets and have received no claims for damage of the type which you have described.

As you know, municipalities are granted tort immunity from liability under state statute, except in instances of intentional neglect. Based on all of the above, there is not evidence that the damage being claimed is the result of any actions by the City; therefore, your claim must be denied.

If you have any additional information for us to consider, please feel free to contact me at your convenience.

Sincerely,

Kevin D. Crosson
Director of Public Works

cc: Fred Hanna, Mayor
Fayetteville City Council

113 WEST MOUNTAIN 72701 501 575-8330
FAX 501-575-8257

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 30, 1999

Richard Shewmaker
605 West Dickson Street
Fayetteville, Arkansas 72701

Re: Claim for Damages
605 West Dickson Street

Dear Mr. Shewmaker:

Several weeks ago you and I met to discuss your claim against the City for damages to your residence at 605 West Dickson Street caused by the City's operation of a vibrating compactor near the building. Your claim cited multiple cracks on the exterior all around the building, some cracks inside the building, and other damages. As a result of our meeting I agreed to have the Public Works Staff review your claim again to determine whether or not is, in our opinion, a valid claim.

As part of that claim review, Charles Venable and Don Bunn met with you at your residence on Friday, August 27 and looked at the damage to your building, both inside and outside. In addition, they observed the vibrating compactor in the field to get an idea of the how the compactor operated on the job.

In a memorandum dated September 30, 1999, Mr. Venable and Mr. Bunn stated that, in their opinion, that neither the operation of the City's vibrating compactor nor any other aspect of the City's work around your building could have caused the damages cited by you in your claim against the City. Attached is a copy of their memorandum.

It should be pointed out again that your claim against the City was not filed until about eight months after the alleged damage occurred, and that you presented no evidence of the condition of your building prior to the incident. In view of these facts and the opinion of Mr. Venable and Mr. Bunn as stated in their report to me, the City must affirm its denial of your claim.

If you have any questions, please call me or Charles Venable at 575-8330. Thank you.

Sincerely Yours,

Fred Hanna

Fred Hanna, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

September 30, 1999

To: Mayor Fred Hanna

From: Charles Venable, Public Works Director
Don Bunn, Assistant Public Works Director

Subject: Claim for Damages, Richard Shewmaker
605 West Dickson Street

We have completed our review of the claim for damages as submitted by Richard Shewmaker in connection with street work that the City did adjacent to his residence at 605 West Dickson Street. The claim alleged that the operation of the City's vibrating compactor near his building (within several feet) caused hairline cracks in the masonry all around the building on the outside, caused cracks in the structure near the restroom on the east side which allowed water to enter the building in the restroom area, and other damage.

On Friday, August 27, 1999 we met Richard Shewmaker at this residence and looked at the damage to his building which he feels was caused by our street work. The damage we saw consisted of hairline cracks in the masonry on all sides of the building, a crack on the west wall which caused water entry into a bathroom, a crack in the elevator shaft, a crack in a lintel and other damages.

After we looked at Mr. Shewmaker's building we scheduled a time with Randy Allen to look at the vibrating compactor operating in the field. This took longer than we anticipated to schedule since the compactor was broken down and we had to wait for repairs. Finally, on Tuesday, September 14 we observed the vibrator in operation on Markham Street just west of Razorback Road. The vibration of the compactor could be felt in the immediate vicinity of the machine. At one point the compactor was working immediately adjacent to an old rock wall on the north side of Markham and we could feel the vibration when we placed our hands on the wall. No damage to the wall was observed.

It is our opinion that the City's operation of the compactor did not cause the damage that we saw to the building at 605 West Dickson Street. Our opinion is also based partly on Randy Allen's experience with the compactor in other situations.

It is, therefore, our recommendation that the rejection of the claim for damages submitted by Mr. Shewmaker be confirmed. Our recommendation is based on 1) our opinion concerning the potential of our compactor to cause the damage we observed, 2) the fact that Mr. Shewmaker did not submit a claim for damages until nearly 8 months passed, and 3) Mr. Shewmaker submitted no evidence of the condition of the building prior to the work done by the City.

October 8, 1999

Mayor Fred Hanna
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Freedom of Information request

Dear Mayor Hanna,

I received your letter of September 30, 1999 concerning damage to my building located at 605 West Dickson, Fayetteville, Arkansas. You attached a memo from Don Bunn and Charles Venable. The third paragraph of their memo described an on site evaluation of the use of the vibrating compactor. I requested these people visit the site and describe for recording where and how the test was run. You reported back to me that they refused to do so.

Therefore, I am requesting in writing a detailed description of the construction work on Markham Street, and where the test was run . I need a legal description, a detailed description of what the machine was doing when hands were placed on the wall, as well as whose hands were placed on the wall.

I request the make and model of the machine used, the distance from the wall when tested and which vibration frequency was used as well as amplitude setting, also the speed of the machine. In addition, I need the amount of water in each tank.

Sincerely,

Richard M. Shewmaker

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

October 13, 1999

Mr. Richard M. Shewmaker
605 West Dickson Street
Fayetteville, AR 72701

Dear Mr. Shewmaker:

Reference is made to the Freedom of Information Request, dated October 8, 1999, and which we received on October 12, 1999, regarding my letter of September 30.

The location of the wall is about one block west of Razorback Road on the north side of Markham Street. The pavement is within six inches of the base of the wall. The work consisted of leveling and resurfacing the street with asphaltic concrete hot mix material. The machine being used to roll the asphalt was an Ingersol Rand DD90. The other information you requested, we do not have a record of nor do we keep these type of records.

Sincerely,

Fred Hanna
Mayor

FH:msm

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

May 30, 2000

City of Fayetteville Council Members
113 W. Mountain
Fayetteville, AR 72701

Dear Council Members:

In June 1997 the City of Fayetteville laid a 6" water line from Dickson Street to Powerhouse Seafood Restaurant. After the water line project was completed, the City reconstructed the street which is now named Powerhouse Avenue. During the process of vibrating crushed rock on the street, damage was done to our building at 601-603-605 W. Dickson. The improper use of the City's Ingersoll-Rand Vibrator Roller DD-90 can result in the duplication of the effects of an earthquake.

I have tried privately on several occasions to settle the issue with the City without success. I must go public now and request the City Council settle the issue before the statute of limitation deadline of June 30, 2000 requires me to take legal action against the City of Fayetteville.

The City's denial of my claim continually mentions that I have no evidence that the City did the damage and that I waited eight months to submit the claim.

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The eight month delay to mention the damage is clearly understandable. The cracks with no paint in them also speak for themselves on this award-winning rehabilitation.

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Resolve to make a payment to Richard M. Shewmaker in an amount equal to 50% of the damage claim plus 5% consumer price index increase as determined by the U of A Center for Business and Economic Research. Said payment to be $290,769.30. Payment is to be made by June 9, 2000.

Resolve that Hanover Insurance Company is encouraged to make a like payment.

Since 1992 I have until recently been a real estate agent with Lindsey & Associates. As of May 29, 2000 I am no longer associated with Lindsey & Associates, nor do I have an active real estate license in the State of Arkansas. A legal problem with a major city could significantly harm any real estate company. I have visited with Jim Lindsey. He is my friend and always will be. I know also that he has visited recently with the Mayor in an effort to assist in a resolution of this matter.

Enclosed you will find my letter to the City and the City's denials on two separate occasions over the last several years. (The Sound Warehouse owners do not remember the incident.) I will supply other documents and evidence at your council meeting.

Sincerely,

Richard M. Shewmaker

Richard Shewmaker

July 1, 1998

Mr. Kevin Crosson
Public Works Director
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mr. Crosson:

During the summer of 1997 the street next to our building at 603 W. Dickson, known as Powerhouse Avenue, was paved by the city of Fayetteville Street Department. Street Superintendent, Randy Allen, was on vacation.

While in our home on the top floor, the building began to shake, (not vibrate). I received a telephone call from Sound Warehouse wanting to know if the building was falling down. I was afraid! The glasses were banging against one another. I ran out of the building and discovered that the city vibrating roller the size of a large truck was operating next to our building .I yelled and screamed to stop!

The plaster on the east side of the building next to the street is shattered from one end of the building to the other end. The shaking also cracked the front, back and the west side of the building. The interior plaster of the building is also cracked. The building construction is three layers of brick with plaster on each side. The shaking of the building has cracked and separated the plaster from the brick requiring most of it to be removed and replaced. Serious damage was done to our building. We purchased our property on Dickson Street in October 1990 and began renovation of the historic structure. We lead the way in the renovation of Dickson Street property. On May 12, 1993, the Fayetteville Historic District Commission honored, "our efforts in preserving a part of Fayetteville's historical past and proclaimed the structure located at 603 W. Dickson Street as an example of excellence in historic preservation."

I am confident that the City of Fayetteville will act responsibly and enable us again to restore this historic building during the summer while traffic is slower.

If any person wants to inspect the damage, please call me at home at 442-9094 or at work at 521-6611.

Sincerely,

Richard M. Shewmaker

Richard Shewmaker

City of Fayetteville Claim Form

INSTRUCTIONS: Complete this form, clearly stating the reason for the claim and the amount you are claiming. Attach the appropriate documentation, including receipts and/or three estimates, and return to the Mayor's Office at:

City Administration Building
113 W. Mountain Street
Fayetteville, Arkansas 72701

Questions may be directed to the Public Works Department at 575-8330.

CLAIMANT INFORMATION:

Name: Richard M. Shewmaker

Mailing Address: 605 W. Dickson

City, State, ZIP: Fayetteville, Arkansas 72701

Phone #: home 4429094
work 5216611

Social Sec. or Tax ID #: _____

INCIDENT INFORMATION:

Address of Occurrence: 603 W. Dickson, Fay, Ark,

Date of Occurrence: Summer 1997

Nature of Occurrence: Sewer Water Pothole (Other)

Amount Being Claimed: $53,846.30

The undersigned hereby files a claim against the City of Fayetteville for the following reason(s):

see attached letter

Signature: Richard M. Shewmaker Date: _____

Received by: _____ Date: _____

Referred to: _____ Date: _____

Accepted Denied Date: _____

By: _____, Public Works Director

	Ace	Wortman	Albert
1. Motel - 2 months, Holiday Inn Express	$2,986.80	$2,986.80	$2,986.80
2. Rent Reduction 2 months - Sound Warehouse	$6,000	$6,000	$6,000
3. Polywrap Furniture upstairs & downstairs	$4,000	$4,000	$4,000
4. Awnings - remove, store, reinstate	$2,000	$2,000	$2,000
5. Remove two stairways, store, reweld & install	$4,040	$4,040	$4,040
6. Sign removal, store & reinstall	$600	$600	$600
7. Reseal balcony which was separated from building	$2,000	$2,000	$2,000
8. Sandblast	$40,600	$40,600	$40,600
9. Plaster Outside Inside Sheetrock	 $100,632 $165,575	 $104,380 $139,328 $ 30,900	 $124,360 $152,340 $ 30,900
10. Wil-cor, Inc. 997 Armor Plate Labor	$187,412.50 $25,000	$187,412.50 $25,000	$187,412.50 $25,000
11. Clean up	$ 3,000	$ 3,000	$ 3,000
12. Contract Adm. By Owner	$ 10,000	$10,000	$10,000
TOTALS	$553,846.30	$562,247.30	$595,239.30

ACE ACOUSTIC & DRYWALL, INC.

Phone (501) 750-3434
Fax (501) 751-8941

3672 W. Sunset - Suite 3
Springdale, AR 72762
ARK License

Proposal

PROPOSAL SUBMITTED TO RICHARD SHEWMAKER	PHONE 521-6611	DATE 4/13/98
STREET	JOB NAME 603 W. DICKSON	
CITY, STATE AND ZIP CODE	JOB LOCATION FAYETTEVILLE, AR	
ARCHITECT / DATE OF PLANS		JOB PHONE

We hereby propose to furnish materials and labor necessary for the completion of:

MATERIAL & LABOR FOR -

EXTERIOR - PATCHING & REPAIRING, LOOSE PLASTER, RESKIM BASE COAT, AND NEW FINISH COAT ——— $100,632.00

INTERIOR - REMOVE EXISTING SHEETROCK & PATCH ALL INTERIOR WALLS & REFINISH ——— $165,575.00

WE PROPOSE hereby to furnish material and labor – complete in accordance with above specifications, for the sum of:

_____ dollars ($_____)

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature Scot Cochran

Note: This proposal may be withdrawn by us if not accepted within 14 days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outline above.

Signature _____

Date of Acceptance: _____

Signature _____

Wortman Plastering, Inc.
1717 West Poplar
Rogers, Arkansas 72758

Phone 636-3398

Fax 636-1187

Contractor's License #0041420398

COMPANY Richard Shewmaker

ATTENTION

FAX NUMBER 521-3630 DATE 5-20-98

SUBJECT Stucco and plaster repair--603 Dickson

NUMBER OF PAGES FAXING 1

EXTERIOR:

Remove and replace loose stucco, recoat with Dryvit finish. $104,380.00

INTERIOR:

Repair cracked and loose plaster. $139,328.00

These prices are for repair of plaster and stucco only. They do not include removal or reinstallation of any structures currently applied to these walls.

ALBERT PLASTERING CO.,INC

LATH, PLASTER, FIREPROOFING AND SYNTHETIC PLASTER FINISHES
PHONE 501-648-8055 P. O. BOX 180460 FAX # 648-9414
FORT SMITH, ARKANSAS 72918-0460
License # 0002930499

DATE_____JUNE 24,1998

PROJECT_____ 603 DICKSON

QUOTATION

ESTIMATOR
RICHARD SHEWMAKER

Gentlemen:

We propose to furnish all labor, materials, equipment, insurance and taxes necessary to perform all Plastering in accordance with the Architects /Owners/Contractors plans and specifications subject to and superseded by the terms and conditions shown on the reverse side of this sheet and the special notes below for the sum of:
$$

INTERIOR FINISH.
Repair cracked and loose Gypsum Plaster. $152.340.00

EXTERIOR PLASTER.(STUCCO,DRYVIT)
Repair and replace to orginal condition.
No removal of other items by us.
ALL REMOVAL AND REINSTALL BY OTHERS. $124.360.00

Respectfully submitted,

By___JIM ALBERT

END

Circle C Enterprise

May 11, 1998

Dear Mr. Shewmaker

I appreciate the opportunity to present my bid based on our conversation May 5, 1998.

Work to be performed by Circle C Enterprise on the outside walls of the building on Dickson Street Fayetteville, Arkansas. The total square footage of the sandblast job will be 10,150. No more or less, unless agreed upon by both Circle C Enterprise and Mr. Shewmaker. The total cost will be $25,375.00 with the removal of the sand.

May any extra expense acure due to the disposal of any waste materials i.e. old paint the expense will the responsibility of Mr. Shewmaker.

Provided Circle C Enterprise has to confine sand and debris the total job cost will be increased to a new total $40,600.00.

The fee will be paid as follows:
¼ to be paid upon ¼ of job completion
Another 1/4 to be paid upon 1/2 of job completion
Balance due upon final job completion

Sincerely,

Shane Crawford

MC/am

Springdale Acoustics, Inc.

P.O. Box 931
Springdale, AR 72765

501-751-1831 **fax: 501-751-1821**

Date: May 18, 1998

Proposal Submitted To:

Richard Shoemaker
603 West Dickson St.
Fayetteville, AR 72701

Perform the following at interior of building to facilitate exterior plaster repair:

1. Cover all floors and furnishings.
2. Remove wood base and trim as required.
3. Remove all drywall from perimeter walls.
4. Cut access holes in ceiling as required to perform repair work.
5. Dispose of trash.
6. Install new drywall, tape & finish and paint.
7. Re-install all wood trim. (Provide new trim as necessary.)
8. Paint wood trim.
9. Repair holes in ceiling to existing condition.

Total Proposed Price: $30,900.00
Thirty Thousand Nine Hundred Dollars.

By: _____ **Date:** 5-18-98
Springdale Acoustics, Inc.

Accepted By: _____ **Date:** _____

Primary & Secondary Containment Linings
Concrete Pit Linings
Epoxy Floor Coatings

WIL-COR INC.
Armor Plate ® Products

Armor Plate® Epoxy Grouts & Adhesives
FRP Repair & Applications
Concrete Restoration

FAX# 281-487-2357

TO: _____ **FAX NBR:** (501) 521-3620

ATTN: Richard Shoemaker **DATE:** 6-3-98

FROM: Rodney Robinson **TOTAL PGS:** 1
(including this cover)

RE: Armor Plate 999 Injectable Epoxy Grout

Estimate 100'x46'x35' Tall Building with
A 1" Void Yields Appx 6,130 gallons
of Material.

1,363 ea AP 997 Epoxy Grout 4½ gallon units

1,363 each AP 997 Epoxy Grout 4½ gal/unit x $137.50/each

Total Estimate for Materials $187,412.50

Any Questions Please Call

P.O. Box 5646 • Pasadena, Texas 77508 • (281) 487-6547 • Fax (281) 487-2357

JUN 03 '98 11:15AM WIL-COR INC. P.1

COVERAGE AND ESTIMATING

Armor Plate 997 will provide approximately 231 cu. in. of adhesive for each gallon of material.

SHELF LIFE

Armor Plate 997 has a shelf life of at least 1 year when stored in tightly closed containers, in a cool, dry location.

FREIGHT CLASSIFICATION

Resin (part A) ..... Paint Plasticizer
Cure (part B) ..... Corrosive Liquid, N.O.S.
..... (Corrosive Material), Plastic Liquid, N.O.I.

CAUTIONS

- Cure (part B) contains alkaline amines, which are strong sensitizers.
- Provide adequate ventilation. Avoid breathing vapors. Keep containers tightly closed.
- May cause severe burns, allergic reaction or skin sensitization. Wear protective clothing, rubber gloves and goggles when using.
- Prevent contact with eyes, skin and clothing. Wash thoroughly after handling AP 997.
- If contact occurs with skin, wash skin immediately with soap and water. If eye contact occurs, flush eyes with water for 15 minutes and seek immediate medical attention. Wash contaminated clothing thoroughly before reuse. Discard contaminated shoes.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Kevin D. Crosson, Public Works Director

July 31, 1998

Mr. Richard Shewmaker
605 West Dickson
Fayetteville, Arkansas 72701

RE: ***Damage Claim, 605 W. Dickson***

Dear Mr. Shewmaker:

In response to your claim dated July 1, 1998, I have fully evaluated the facts available to me at this time to make a determination pertaining to the damages at your property located on 605 West Dickson.

Your letter states that cracks in your plaster siding are the result of the street work that took place on Powerhouse Avenue the two weeks of June 30 and July 7, 1997. You brought the damage to my attention in April, 1998, roughly nine months after the construction work took place. You met with Mr. Charles Venable on March 2 , 1998, about an unrelated drainage problem at this address, and no mention was made of any plaster damage at that time. This delay in notification makes it impossible for the City to say with certainty that the damage was done by city street work. We have reconstructed and resurfaced numerous miles of city streets and have received no claims for damage of the type which you have described.

As you know, municipalities are granted tort immunity from liability under state statute, except in instances of intentional neglect. Based on all of the above, there is not evidence that the damage being claimed is the result of any actions by the City; therefore, your claim must be denied.

If you have any additional information for us to consider, please feel free to contact me at your convenience.

Sincerely,

Kevin D. Crosson
Director of Public Works

cc: Fred Hanna, Mayor
Fayetteville City Council

113 WEST MOUNTAIN 72701 501 575-8330
FAX 501-575-8257

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

September 30, 1999

Richard Shewmaker
605 West Dickson Street
Fayetteville, Arkansas 72701

Re: Claim for Damages
605 West Dickson Street

Dear Mr. Shewmaker:

Several weeks ago you and I met to discuss your claim against the City for damages to your residence at 605 West Dickson Street caused by the City's operation of a vibrating compactor near the building. Your claim cited multiple cracks on the exterior all around the building, some cracks inside the building, and other damages. As a result of our meeting I agreed to have the Public Works Staff review your claim again to determine whether or not is, in our opinion, a valid claim.

As part of that claim review, Charles Venable and Don Bunn met with you at your residence on Friday, August 27 and looked at the damage to your building, both inside and outside. In addition, they observed the vibrating compactor in the field to get an idea of the how the compactor operated on the job.

In a memorandum dated September 30, 1999, Mr. Venable and Mr. Bunn stated that, in their opinion, that neither the operation of the City's vibrating compactor nor any other aspect of the City's work around your building could have caused the damages cited by you in your claim against the City. Attached is a copy of their memorandum.

It should be pointed out again that your claim against the City was not filed until about eight months after the alleged damage occurred, and that you presented no evidence of the condition of your building prior to the incident. In view of these facts and the opinion of Mr. Venable and Mr. Bunn as stated in their report to me, the City must affirm its denial of your claim.

If you have any questions, please call me or Charles Venable at 575-8330. Thank you.

Sincerely Yours,

Fred Hanna

Fred Hanna, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

September 30, 1999

To: Mayor Fred Hanna

From: Charles Venable, Public Works Director
Don Bunn, Assistant Public Works Director

Subject: Claim for Damages, Richard Shewmaker
605 West Dickson Street

We have completed our review of the claim for damages as submitted by Richard Shewmaker in connection with street work that the City did adjacent to his residence at 605 West Dickson Street. The claim alleged that the operation of the City's vibrating compactor near his building (within several feet) caused hairline cracks in the masonry all around the building on the outside, caused cracks in the structure near the restroom on the east side which allowed water to enter the building in the restroom area, and other damage.

On Friday, August 27, 1999 we met Richard Shewmaker at this residence and looked at the damage to his building which he feels was caused by our street work. The damage we saw consisted of hairline cracks in the masonry on all sides of the building, a crack on the west wall which caused water entry into a bathroom, a crack in the elevator shaft, a crack in a lintel and other damages.

After we looked at Mr. Shewmaker's building we scheduled a time with Randy Allen to look at the vibrating compactor operating in the field. This took longer than we anticipated to schedule since the compactor was broken down and we had to wait for repairs. Finally, on Tuesday, September 14 we observed the vibrator in operation on Markham Street just west of Razorback Road. The vibration of the compactor could be felt in the immediate vicinity of the machine. At one point the compactor was working immediately adjacent to an old rock wall on the north side of Markham and we could feel the vibration when we placed our hands on the wall. No damage to the wall was observed.

It is our opinion that the City's operation of the compactor did not cause the damage that we saw to the building at 605 West Dickson Street. Our opinion is also based partly on Randy Allen's experience with the compactor in other situations.

It is, therefore, our recommendation that the rejection of the claim for damages submitted by Mr. Shewmaker be confirmed. Our recommendation is based on 1) our opinion concerning the potential of our compactor to cause the damage we observed, 2) the fact that Mr. Shewmaker did not submit a claim for damages until nearly 8 months passed, and 3) Mr. Shewmaker submitted no evidence of the condition of the building prior to the work done by the City.

October 8, 1999

Mayor Fred Hanna
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Freedom of Information request

Dear Mayor Hanna,

I received your letter of September 30, 1999 concerning damage to my building located at 605 West Dickson, Fayetteville, Arkansas. You attached a memo from Don Bunn and Charles Venable. The third paragraph of their memo described an on site evaluation of the use of the vibrating compactor. I requested these people visit the site and describe for recording where and how the test was run. You reported back to me that they refused to do so.

Therefore, I am requesting in writing a detailed description of the construction work on Markham Street, and where the test was run . I need a legal description, a detailed description of what the machine was doing when hands were placed on the wall, as well as whose hands were placed on the wall.

I request the make and model of the machine used, the distance from the wall when tested and which vibration frequency was used as well as amplitude setting, also the speed of the machine. In addition, I need the amount of water in each tank.

Sincerely,

Richard M. Shewmaker

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

October 13, 1999

Mr. Richard M. Shewmaker
605 West Dickson Street
Fayetteville, AR 72701

Dear Mr. Shewmaker:

Reference is made to the Freedom of Information Request, dated October 8, 1999, and which we received on October 12, 1999, regarding my letter of September 30.

The location of the wall is about one block west of Razorback Road on the north side of Markham Street. The pavement is within six inches of the base of the wall. The work consisted of leveling and resurfacing the street with asphaltic concrete hot mix material. The machine being used to roll the asphalt was an Ingersol Rand DD90. The other information you requested, we do not have a record of nor do we keep these type of records.

Sincerely,

Fred Hanna
Mayor

FH:msm

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