Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
April 5, 2005

A meeting of the Fayetteville City Council will be held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report – Public Library Board of Trustees: APPROVED.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the March 15, 2005 City Council meeting minutes.

   PULLED FROM AGENDA.

2. **Skid Steer Loader Purchase:** A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 60-05.

3. **SBC Web Hosting Contract:** A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of $14,100.00 plus $2,820.00 contingency, plus tax annually for five years.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 61-05.

4. **McClelland Consulting Engineers, Inc. Contract Renewal:** A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 62-05.

5. **Off Street Parking Development District No. 1 Lease Agreement:** A resolution approving a one-year lease agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 63-05.

6. **Home Rehabilitation Contract:** A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 64-05.

7. **Design Workshop, Inc. Contract:** A resolution to approve a contract with Design Workshop, Inc. in the amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and to approve a Budget Adjustment of $40,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 65-05.

8. **McClelland Consulting Engineers, Inc. Task Order # 5:** A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $122,750.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 66-05.

9. **McClelland Consulting Engineers, Inc. Task Order # 6:** A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $1,079,316.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 67-05.

10. **Community Development Block Grant Agreement:** A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 68-05.

B. UNFINISHED BUSINESS:

1. **ANX 05-1365 (Wilkins):** An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4688.

2. **RZN 05-1366 (Wilkins):** An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4689.

3. **ANX 05-1370 (Hall):** An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4690.

4. **RZN 05-1371 (Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4691.

5. **RZN 05-1378 (Goff/Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4692.

C. NEW BUSINESS:

1. **Amend Chapter 96: Noise Control:** An ordinance to add § 96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."

   THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

2. **Waive Provisions of § 97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to waive various provisions of § 97.070

Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4693.

3. **Convert Certain Streets to Two-Way and Create Additional Parking:** A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 69-05.

4. **Water and Sewer Operations Evaluation:** A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 70-05.

5. **Water and Sewer Business Relationship Evaluation and Rate Study Audit:** A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 71-05.

6. **Northwest Arkansas Mall Time Limitation Waiver:** An ordinance to waive the time limitation of subsection § 156.05(F) of the Unified Development Code for the variance granted to the Northwest Arkansas Mall.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4694.

D. PUBLIC HEARING:

1. **Dynasty Cab Company Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 72-05.

E. INFORMATIONAL:

Council Tour: None

Meeting adjourned at 8:40 p.m.

Adjourn! 8:40 pm

Alderman Ferrell arrived at 6:02 pm.

City Council Meeting April 5, 2005

Alderman Rhoads arrived at 6:35 pm.

Subject:	Roll			
Motion To:				
Motion By:				
Seconded:				
Rhoads	Absent			
Ferrell	Absent			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Mayor Coody	Absent			

Subject:	Nominating Committee Report			
Motion To:	Approve			
Motion By:	Cook			
Seconded:	Marr			
Rhoads	Absent			
Ferrell	Absent			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Mayor Coody	Absent			

Passed 6-0

6-0

City Council Meeting April 5, 2005

Subject:	Consent			
Motion To:				
Motion By:	Reynolds			
Seconded:	Marr			
Rhoads	absent			
Ferrell	✓			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Mayor Coody	absent			
	7-0			

Passed 7-0 Res. 60-05 to 68-05

Subject:	ANX 05-1365 Wilkins			
Motion To:	3rd read	Pass		
Motion By:	Ferrell			
Seconded:	Lucas			
Rhoads	absent	absent		
Ferrell	✓	✓		
Lucas	✓	✓		
Jordan	✓	✓		
Reynolds	✓	✓		
Thiel	✓	✓		
Cook	✓	N		
Marr	✓	✓		
Mayor Coody				
	7-0	6-1		

B.1. Unfinished

Passed 6-1

4688

City Council Meeting April 5, 2005

Subject:	RZN 05-1366 Wilkins			
Motion To:		3rd read	Pass		
Motion By:		Lucas			
Seconded:		Ferrell			
	Rhoads	absent	absent		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Mayor Coody				
		7-0	7-0		

B.2. Unfinished

Passed 7-0

4689

Subject:	ANX 05-1370 Hall				
Motion To:		3rd read	Pass		
Motion By:		Reynolds			
Seconded:		Ferrell			
	Rhoads	absent	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Marr	✓	N		
	Mayor Coody				
		7-0	6-2		

B.3. Unfinished

6-2

passed

4690

City Council Meeting April 5, 2005

Subject:	RZN. 05-1371 Hall			
Motion To:		3rd read	Pass		
Motion By:		Reynolds			
Seconded:		Cook			

B.4. Unfinished

passed 5-3

4691

Rhoads	✓	✓		
Ferrell	✓	✓		
Lucas	Absent during the vote.	✓		
Jordan	✓	N		
Reynolds	✓	✓		
Thiel	✓	✓		
Cook	✓	N		
Marr	✓	N		
Mayor Coody				
	7-0.	5-3		

Subject:	RZN 05-1378 Goff / Hall			
Motion To:		3rd read	Pass		
Motion By:		Ferrell			
Seconded:		Reynolds			

B.5. Unfinished

passed 5-3

4692

Rhoads	✓	✓		
Ferrell	✓	✓		
Lucas	✓	✓		
Jordan	✓	N		
Reynolds	✓	✓		
Thiel	✓	✓		
Cook	✓	N		
Marr	✓	N		
Mayor Coody				
	8-0	5-3		

City Council Meeting April 5, 2005

Subject:	Amend Chapter 96: Noise Control			
Motion To:				
Motion By:				
Seconded:				
Rhoads				
Ferrell				
Lucas				
Jordan				
Reynolds				
Thiel				
Cook				
Marr				
Mayor Coody				

C.1. New Business

Left on the First Reading

Subject:	Waive Provision of 97.070 Rec. activities at Lake Fay.			
Motion To:	2nd read	3rd read	Pass	
Motion By:	Reynolds	Lucas		
Seconded:	Lucas	Reynolds		
Rhoads	✓	✓	✓	
Ferrell	✓	✓	✓	
Lucas	✓	✓	✓	
Jordan	✓	✓	✓	
Reynolds	✓	✓	✓	
Thiel	✓	✓	✓	
Cook	✓	✓	✓	
Marr	✓	✓	✓	
Mayor Coody				
	8-0	8-0	8-0	

C.2. New Business

passed 8-0

4693

City Council Meeting April 5, 2005

Subject:		Convert Certain Streets to Two-Way.			
Motion To:		Amend to remove Section 1 St. Charles Avenue.			
Motion By:		Thiel			
Seconded:		No Second			
	Rhoads				
	Ferrell				
	Lucas				
	Jordan		Died for Lack of		
	Reynolds				
	Thiel		a Second.		
	Cook				
	Marr				
	Mayor Coody				

C.3. New Business

Subject:		Convert Certain Streets to Two-Way.			
Motion To:		Pass			
Motion By:		No Motion or Second.			
Seconded:					
	Rhoads	Recuse			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

C.3. New Business

7-0 passed

69-05

City Council Meeting April 5, 2005

C.4. New Business

Passed 70-05

Subject:	Water & Sewer Operations Evaluation			
Motion To:	Amend Resolution	Pass		
Motion By:		Cook		
Seconded:		Marr		
Rhoads	✓	✓		
Ferrell	✓	✓		
Lucas	✓	✓		
Jordan	✓	✓		
Reynolds	✓	✓		
Thiel	✓	✓		
Cook	✓	✓		
Marr	✓	✓		
Mayor Coody				
	8-0	8-0		

New Business C.5.

Passed 71-05

Subject:	Water & Sewer Business Relationship Evaluation and Rate			
Motion To:	Approve			
Motion By:				
Seconded:	Cook			
Rhoads	✓			
Ferrell	✓			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Mayor Coody				
	8-0			

City Council Meeting April 5, 2005

C.C. New Business

Subject:	NW Ark. Mall Time Limitation Waiver				
Motion To:		[illegible]	Amend		
Motion By:					
Seconded:					
	Rhoads		✓		
	Ferrell		✓		
	Lucas		✓		
	Jordan		✓		
	Reynolds		✓		
	Thiel		✓		
	Cook		✓		
	Marr		✓		
	Mayor Coody				

C.C. New Business 4694

Subject:	NW Ark. Mall Time Limitation				
Motion To:		2nd read	3rd read	Pass	
Motion By:			Marr		
Seconded:		Ferrell			
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

City Council Meeting April 5, 2005

Subject:	Dynasty Cab Company Cert. of Public Conv. & Nec.			
Motion To:				
Motion By:	Reynolds			
Seconded:	Lucas			
Rhoads	✓			
Ferrell	✓			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Mayor Coody				
	8-0			

D.I.

Public Hearing

passed

72-05

Subject:				
Motion To:				
Motion By:				
Seconded:				
Rhoads				
Ferrell				
Lucas				
Jordan				
Reynolds				
Thiel				
Cook				
Marr				
Mayor Coody				

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Final Agenda
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D. PUBLIC HEARING:

1. **Dynasty Cab Company Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: None

City Council Meeting of: April 5, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: March 16, 2005

SUBJECT: Approval of Task Order #6 with McClelland Consulting Engineers, Inc. for services to design and construct the West Side General Aviation Apron and directing Airport Staff to apply for and accept FAA and Arkansas Department of Aeronautics grant funding to cover the total costs of the project. Total project cost including engineering and construction oversight and a 5% contingency fee estimated to be $1,079,316.00. A budget adjustment is required. The Airport Board approved the project at their March 11, 2005 meeting.

RECOMMENDATION: Approve and execute by signature of the Mayor, Task Order #6 with McClelland Consulting Engineers, Inc. for services in conjunction with a new West Side General Aviation Apron and a budget adjustment in the amount of $1,079,316.00. Direct Airport Staff to apply for and receive FAA and the State of Arkansas Department of Aeronautics grant funding to complete the project. The Airport Board approved the project at their March 11, 2005 meeting.

BACKGROUND: The project will increase the available ramp for aircraft parking and will develop sites for future hangar development to support general aviation aircraft maintenance, storage and specialty businesses. The site is particularly suitable for the project as it is located on South School with easy access for customers, owners and crews. The project will be totally funded through FAA AIP and Arkansas Department of Aeronautics grant programs.

DISCUSSION: There are many instances during the year when Fayetteville Municipal Airport, Drake Field runs out of aircraft parking space. Due to the alignment of the runway, it is difficult to find space on which to increase general aviation parking. This space will allow the construction of an additional 9400 square yards of parking ramp. The new ramp will include development of building sites for new hangars to accommodate the growth anticipated as executive and corporate air travel continues to increase. There are three companies looking for building sites on the airport that could be accommodated on this new ramp

BUDGET IMPACT: The project is totally funded by the FAA and the State of Arkansas. FAA provided 95% which will come from our entitlement funding and discretionary funding. The State will cover the 5% matching funds. When approved by the City Council, we will prepare applications for the grants. Funding has been pre-coordinated with the FAA to include $99,850 for engineering and $979,466 for construction for a total project cost of $1,079,316.00. A budget adjustment is attached.

Attachments: Staff Review Form
Task Order #6, Scope of Work
Budget Adjustment

RESOLUTION NO. ______

A RESOLUTION TO APPROVE TASK ORDER #6 TO A CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $99,850.00 TO DESIGN AND OVERSEE THE CONSTRUCTION OF A NEW WEST SIDE GENERAL AVIATION APRON AND SEWER LINE REPLACEMENT, AND TO APPROVE APPLICATIONS FOR FUNDING FROM THE FAA AND ARKANSAS DEPARTMENT OF AERONAUTICS TO PAY FOR THIS PROJECT AND TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $1,079,316.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $1,079,316.00.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

CIP PROJECT REQUEST FORM

City of Fayetteville, Arkansas

Capital Improvements Program 2004-2008

1 Project Category Airport Improvements	4 Priority in Category 17	7 Department Aviation & Economic Development
2 Project Title West GA Apron	5 Page # in Previous CIP	8 Division Airport
3 Funding Source Airport	6 Project Accounting # 05034	9 Contact Person Ray M. Boudreaux
10 Is the Project? Replacement ___ or Expansion X	11 Is the Project? One Year ___ or Multi-Year X	12 Is Project mandated by a Federal, State, or Local entity? Yes ___ or No X

13 Project Description & Justification: *(attach additional pages if necessary)*

Funds will be used to design and construct a General Aviation (GA) hangar apron North of the terminal building. The project will include an accessway to the main aircraft pavement area, and replacement of the portion of aging sanitary sewer line which conducts through the area.

The project is eligible for 95% funding from DOT/FAA the AIP grant program. The project is also eligible for 5% match funding from the Arkansas Department of Aeronautics. Thus, 100% of the project cost is reimbursable to the City.

14 Scheduling & Project Status (if in progress):

The project is scheduled to begin upon approval by the City Council April 5, 2005.

In the initial funding phase, design, engineering, grading, drainage, and utilities installation work will be undertaken. Pending receipt of the second phase of funding from the FAA in 2006, construction of the pavement will take place. The arrangement is due to the constraint of funding available in 2005, however, the planned schedule will dovetail satisfactorily with the seasonal nature of the construction work.

15 Effect of the Project on Annual Operations:

Minimal, possibly some small increase in utility costs for electricity/lighting.

CIP PROJECT REQUEST FORM

City of Fayetteville, Arkansas

Capital Improvements Program 2004-2008

Project Funding:	16 Fiscal Year 2004	17 Fiscal Year 2005	18 Fiscal Year 2006	19 Fiscal Year 2007	20 Fiscal Year 2008	21 Five Year Total	22 Costs Beyond 2004-2008
23 Operating Funds						$ -	
24 Grants		497,000	582,316			$ 1,079,316	
25 Other (Sales Tax)						$ -	
26 TOTAL FUNDING	$ -	$ 497,000	$ 582,316	$ -	$ -	$ 1,079,316	$ -
Project Expenditures:							
27 Plans & Studies						$ -	
28 Engineering/Architecture						$ -	
29 Land Acquisition						$ -	
30 Construction						$ -	
31 Engineering Contra						$ -	
32 Equipment/Vehicles						$ -	
33 Other (Please Specify)						$ -	
34 TOTAL EXPENDITURE	$ -	$ -	$ -	$ -	$ -	$ -	$ -

35 Annual Effect on Income: X One Time
__ Recurring

Gain from Sale of Property	$	
Generated Revenue		
Other (Grants)		1,075,017
Total	$	1,075,017

36 Annual Impact on Operating Budget
(Positive or Negative in 2003 dollars)

Personnel Services	$	
Utilities		
Maintenance		
Vehicles & Equipment		
Other (Specify)		
Total	$	0

FOR BUDGET & RESEARCH USE ONLY

Sr. Research Analyst Review ______ Date ______

Budget Manager Review ______ Date ______

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr
City Council Meeting Date

Submitted By	Division	Department
Ray M. Boudreaux	Aviation & Economic Development	General Government

Action Required:

Approve Task Order #6 to Contract #917 McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mcclelland-engrs.com, in the amount of $99,850.

$99,850.00	$ 1,079,316.00	West Side GA Apron Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.3960.7820.34	$ -	Airport Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05034.1	$ 1,079,316.00	General Fund / Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [X]

Department Director ______ Date March 23, 2005

City Attorney ______ Date 3-28-05

Finance and Internal Service Director ______ Date ______

Mayor ______ Date ______

Previous Ordinance or Resolution # ______

Original Contract Date: 4/30/2003

Original Contract Number: # 917

Received in City Clerk's Office

Received in Mayor's Office

Comments:
DOT/FAA, Airport Improvement Project (AIP) funding for a portion of the project is tentatively approved. Additional funding approval from DOT/FAA in FY 2006 will be required to complete the project.

ORDINANCE NO. ______

AN ORDINANCE TO ADD §96.09 TO THE CODE OF FAYETTEVILLE TO RESTRICT THE USE OF A COMPRESSION RELEASE ENGINE BRAKE OR "JAKE BRAKE"

WHEREAS, the use of compression release engine brakes, also knows as "jake brakes" within the city limits disturbs citizens and constitutes a nuisance.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 96: Noise Control by enacting and adding a new section as shown below:

"96.09 Compression Release Engine Brake or 'Jake Brake'

(A) "A compression release engine brake or 'jake brake' or other hydraulically operated device that converts a power producing diesel or gas engine into a power absorbing retarding mechanism with a correspondingly increased amount of noise emission shall not be engaged or used within the city limits of Fayetteville except in the case of failure of the service brake system, adverse weather conditions, or other emergency necessitating the compression release engine brake's use."

(B) Fire trucks are exempted from the requirements of this section.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
HDR ENGINEERING, INC.

THIS AGREEMENT is made as of ________________, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and HDR ENGINEERING, INC. with offices located at 500 108th Avenue N.E., Suite 1200, Bellevue, Washington 98004 (hereinafter called HDR).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the 2005 Water & Sewer System Operations Study. Therefore, CITY OF FAYETTEVILLE and HDR in consideration of their mutual covenants agree as follows:

HDR shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of HDR's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of HDR

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

SECTION 2 - BASIC SERVICES OF ________________

Report on Operations of the Water & Sewer System

Initial Meeting and Data Collection

2.1 The initial project component includes preparation of a data request and a meeting with City representatives to identify and discuss key project objectives and major points of interest and concern, collect and discuss data pertinent to the study, and schedule interviews and on-site surveys. Specific tasks anticipated are:

2.2 Prepare and submit an initial request for financial and operational data needed for the study.

2.3 Meet with City representatives to identify major items of interest and concern and to discuss principal objectives and policies.

2.4 Obtain and review financial and operational data and information.

2.5 Prepare instructions and provide assistance to appropriate City data processing, billing, and accounting personnel for the development of historical tabulations of customers' bills for water and sewer service. Summarize the bill and usage distributions for use in forecasting revenues under existing and proposed rates.

2.6 Identify personnel to be interviewed and facilities to be observed, and establish schedules for interviews and onsite observational tours.

Engineering Evaluation

2.7 The engineering evaluation will include interviews of key water and wastewater utility personnel, observational tours of selected major water and wastewater system facilities, review of operation and maintenance policies and procedures, and review of major capital improvement programs.

2.8 The wastewater treatment plant and major lift stations are operated under contract, the City will elicit the contractor's cooperation for interviews and observational tours.

Specific tasks to be performed are:

2.9 Conduct interviews with key water and wastewater utility personnel regarding policies and procedures utilized to achieve safe, efficient and economical operation.

2.10 Review operation and maintenance record keeping practices, records and techniques to evaluate the impact on facility performance, maintenance, and reliability.

2.11 Review operation and maintenance techniques and policies regarding scheduled maintenance, emergency maintenance, adequacy of staffing and equipment, adequacy of funds, and availability of spare parts and replacement items.

2.12 Conduct onsite observational tours of selected above ground or readily observable water and wastewater facilities to determine the general condition of structures, improvements and equipment; and the adequacy of maintenance policy and procedures.

2.13 Review the major capital improvement programs for the water and wastewater utilities to evaluate the adequacy of planned future facilities to meet projected service requirements.

Financial Analysis

2.14 The objective of this project component is to forecast revenue and revenue needs for the water and sanitary sewer utilities based upon existing rates and fee schedules. The adequacy of each utility's forecasted revenues to meet future revenue requirements shall be analyzed to determine the level of revenue adjustments and debt financing, if either is required, to meet forecasted revenue requirements on a sound utility financial basis. This study component shall include the following subtasks prepared for a five year study period separately for each utility:

2.15 Forecasts of accounts and billed volumes will be made for the study period by considering historical growth trends, climatological patterns, local economic conditions, the potential for adding/losing major utility customers, and changes in customer class usage patterns over time. The volume projections will be made based on projected number of utility accounts and a usage per account analysis to differentiate the historical effects of account growth and increased (decreased) usage by existing customers.

2.16 Forecasts of utility revenues under existing rates for the study period will be developed recognizing projected accounts, volumes, and usage patterns by customer class. Future revenues from miscellaneous sources such as interest earnings, service installation charges, late payment penalties, and service initiation fees will also be projected.

2.17 Study period revenue requirements will be developed based on an analysis of historical, currently budgeted, and projected needs. The revenue requirements will be projected on a yearly basis, taking into account expected operational changes, changes in staffing or operating expenditures for new facilities, system growth by new development, anticipated extraordinary expenses, and allowances for inflation. Revenue requirements will include:

- Operation and maintenance expenses, including purchased water and contract operations of the wastewater treatment plant.
- Outlays for routine annual capital additions and replacements.
- Debt service and reserve requirements on existing and proposed bond issues
- Transfers for major capital improvements financing.

- Other cash requirements.

2.18 Forecasts of revenues and revenue requirements will be summarized into five-year cash flow analyses for determination of revenue adequacy on an annual basis. The cash flow analyses will identify annual revisions of water and sewer utility revenues necessary to comply with bond covenant requirements, good utility practice, or sound utility financing considerations recognizing current City policy and planning.

Bond Ordinance Compliance

2.19 Concurrent with the engineering evaluation and financial analysis, Consultant will evaluate the utilities' compliance with certain provisions of the Bond Ordinance No. 3638, No. 3829, No. 4159, and No. 4381, which places certain conditions and requirements on the water and sewer utilities and which are designed to protect the interest of the bond holders. Consultant will:

2.20 Verify that the following required funds have been established and that fund balances and reserves are in compliance with bond covenants:

- Revenue Fund
- Operation and Maintenance Fund
- Bond Fund
- Renewal and Replacement Fund
- Debt Service Reserve Fund
- Construction Fund

2.21 Review insurance coverage of the water and sewer utilities.

2.22 Verify that required debt service coverage tests are being met.

2.23 Review other practices and procedures for compliance with the bond covenants. Items to be reviewed will include, but will not necessarily be limited to, the following:

- Required levels of bond payments are made through the designated Paying Agent on a timely basis.
- Systems are operated on a fiscal year beginning January 1.
- Systems are maintained in good condition and operated in an efficient manner at reasonable cost.
- No free water service is provided.
- The City has not mortgaged or disposed of any substantial portion of the systems.
- Required budgets have been prepared.
- No action has been taken to cause the interest on the bonds to be subject to federal income taxes.

- Improvements authorized by the Bond Ordinances are being or have been constructed.

Reports and Meetings

2.24 Communication with the client is essential during all aspects of the study. Consultant will:

- Maintain ongoing dialogue with City representatives concerning study progress and policy issues through written and telephone communications and periodic meetings.

- Prepare a draft Report on Operations of the Water & Sewer Systems incorporating the findings, conclusions, and recommendations of all facets of the study and submit 5 copies of the report for review by City representatives.

- Prepare a final Report on Operations of the Water & Sewer Systems incorporating any revisions agreed upon as a result of the City's review of the draft report, and submit 25 copies to the City.

- Present a presentation of study findings to Fayetteville Water & Sewer Committee, Fayetteville City Council, Elkins Water & Sewer Committee, Elkins Council, Farmington Water & Sewer Committee, Farmington Council, Greenland Water & Sewer Committee and Greenland Council.

- Develop a project schedule which includes, the steps and milestone dates to be undertaken in the completion of this project. Nonconformance with this schedule by Consultant and its subconsultants may result in the assessment of damages payable to the CITY OF FAYETTEVILLE. The maximum cost liability of Consultant shall be limited to the total gross amount payable to the Consultant authorized under this agreement, including amendments thereto.

- Render monthly Work progress reports to CITY OF FAYETTEVILLE project manager.

- Attend Fayetteville Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.

RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay services of Consultant:

Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

Assist Consultant by placing at Consultant's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement.

PERIOD OF SERVICE

This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. Consultant will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

Compensation

For the Scope of Services described herein, CITY OF FAYETTEVILLE shall pay HDR the lump sum amount of fifty two thousand, eight hundred twenty seven United States Dollars (US $52,827.00), plus estimated reimbursable expenses of seven thousand, seven hundred sixty- six United States Dollars (US $7,766.00), for a total contract not to exceed sixty thousand, six hundred thirty-six United States Dollars (US $60,636.00).

Subject to the City Council approval, adjustment of the lump sum amount may be made, should HDR establish, and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

The lump sum amount as stated in this Section shall be submitted in six (6) equal portions to CITY OF FAYETTEVILLE for services consistent with HDR's normal billing schedule. Reimbursable expenses shall be included applications for payment as accrued. Applications for payment shall be made in accordance with a format to be developed by HDR and approved by CITY OF FAYETTEVILLE. Each month an updated project report by task will be submitted to the CITY OF FAYETTEVILLE as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Project.

Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of HDR's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise HDR in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, HDR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims for payment only against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by HDR to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against HDR or his sureties under this Agreement or applicable performance and payment bonds, if any.

GENERAL CONSIDERATIONS

Insurance

During the course of performance of these services, HDR will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident
Commercial General Liability: Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Professional Liability Insurance	$1,000,000 Each Claim

HDR will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

Professional Responsibility

HDR will exercise reasonable skill, care, and diligence in the performance of HDR's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. HDR agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by HDR 's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of HDR

In addition HDR will be responsible to CITY OF FAYETTEVILLE for damages caused by any negligent conduct to the extent covered by HDR's Commercial General Liability and Automobile Liability Insurance policies as specified above.

Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of HDR's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of HDR

Termination

This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

An opportunity for consultation with the terminating party prior to termination.

This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that HDR is given:

Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

An opportunity for consultation with the terminating party prior to termination.

If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but no amount shall be allowed for anticipated profit on unperformed services or other work,

Any payment due to HDR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of HDR's default.

If termination for default is effected by HDR, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to HDR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by HDR relating to commitments which had become firm prior to the termination.

Upon receipt of a termination action under Paragraphs above, HDR shall:

Promptly discontinue all affected work (unless the notice directs otherwise),

Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by HDR in performing this Agreement, whether completed or in process.

Upon termination CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

If, after termination for failure of HDR to fulfill contractual obligations, it is determined that HDR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided above.

Delays

In the event the services of HDR are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond HDR's reasonable control, HDR shall be entitled to additional compensation and time for reasonable costs incurred by HDR in temporarily closing down or delaying the Project.

Rights and Benefits

HDR's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

Dispute Resolution

Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and HDR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or HDR in the performance of this Agreement, and disputes concerning payment.

Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures have been complied with.

Notice of Dispute

For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give HDR written Notice at the address listed in the contract within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and HDR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of HDR and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to HDR for services rendered by HDR

Indemnification

Computer Models

HDR may use or modify HDR's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or HDR may develop computer models during HDR's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by HDR does not constitute a license to CITY OF FAYETTEVILLE to use or modify HDR's computer models. Said proprietary computer models shall remain the sole property of the CITY OF FAYETTEVILLE and HDR will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use HDR's computer models.

Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE remain the property of CITY OF FAYETTEVILLE. HDR may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by HDR as part of the Services shall become the property of CITY OF FAYETTEVILLE when HDR has been compensated for all Services rendered, provided, however, that HDR shall have the unrestricted right to their use. HDR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of HDR

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. HDR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville
Mayor Dan Coody
113 W. Mountain
Fayetteville, AR 72701

HDR ENGINEERING, INC's address:

500 108th Avenue N.E.
Suite 1200
Bellevue, Washington 98004

Successor and Assigns

CITY OF FAYETTEVILLE and HDR each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor HDR shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

Entire Agreement

This Agreement represents the entire Agreement between HDR and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to HDR a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by HDR, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SPECIAL CONDITIONS

HDR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by HDR's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

HDR's obligations under this clause are in addition to HDR's other obligations under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against HDR for services provided.

Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and HDR arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

Audit: Access to Records

HDR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. HDR shall also maintain the financial information and data used by HDR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF

FAYETTEVILLE, or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. HDR will provide proper facilities for such access and inspection.

Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

This right of access clause (with respect to financial records) applies to:

Negotiated prime agreements:

Negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

With respect to record pertaining directly to subagreement performance, excluding any financial records of HDR;

If there is any indication that fraud, gross abuse or corrupt practices may be involved;

If the subagreement is terminated for default or for convenience.

Covenant Against Contingent Fees

HDR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by HDR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Gratuities

If CITY OF FAYETTEVILLE finds after a notice and hearing that HDR or any of HDR's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to HDR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

In the event this Agreement is terminated as provided above, CITY OF FAYETTEVILLE may pursue the same remedies against HDR as it could pursue in the event of a breach of the Agreement by HDR As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs HDR incurs in providing any such gratuities to any such officer or employee.

Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, HDR will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of $25,000.

DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE

HDR ENGINEERING, INC.

SIGNATURE: Ronald J Owen DATE: 3/25/05

PRINTED NAME: Ronald J. Owes TITLE: Senior Vice President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and HDR, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________________
Mayor

ATTEST:

By: ______________________________
City Clerk

HDR ENGINEERING, INC.

By: Ronald Oliver

Title: Senior Vice President

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

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City of Fayetteville
Work Plan for the Operations Report of the Water and Sewer System

Task 1—Initial Meeting and Data Collection

***Task Objective**: Bring the Consultant, City management and staff together, at the start of the project, to assure that both parties have a mutual understanding of the goals, objectives, issues and concerns related to the study. Review and assess the City's existing water, sewer, and storm water data, and provide a written data request detailing the data required to complete the study.*

The initial project meeting is used as a starting point for the study. It is proposed that the initial project meeting be approximately ½ day in length, and review the goals, objectives and key issues for the operations study. One of the key objectives to be accomplished in the initial project meeting is the scheduling of interviews and on-site surveys. Discussions will be held to determine the appropriate individuals and their availability. A determination will be made of the specific facilities to be surveyed/observed and the method to best accomplish this task. A schedule will be determined and arranged to conduct the survey tours.

At the same time, provide a written data request to the City will be provided to obtain the necessary financial and operational data and information needed to complete the study. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, operational, statistical, customer, etc.).

An important data item is customer billing and bill tabulation information. HDR/EES will work closely with the City's customer service and data processing personnel to obtain the data and information in a format suitable for this study. HDR/EES does not anticipate any major problems obtaining this data and information in a suitable format.

Expected City Staff Support for Task 1:

- Have their key management/project team members attend a ½ day planning meeting.
- Review the on-site facilities to be surveyed and determine a schedule to conduct the on-site surveys
- Gather the data requested in the written data request provided by EES. (Note: typically requires 20 – 40 hours of total staff time to provide.)
- Work with City staff to determine the format for bill tabulation data.

Work Product Deliverables as a Result of Task 1—Initial Kick-off Meeting.

- Face-to-face meeting to identify key objectives, issues and concerns by both parties.
- An initial written data request to the City.
- Identification of any data constraints.
- Schedule for conducting on-site surveys
- Format and approach to obtain bill tabulation data

Task 2—Engineering Evaluation

Task Objective: *Evaluate the operation, and maintenance practices of the water and wastewater utilities to assess the condition, reliability, performance or current infrastructure and major capital improvements planned for the utilities.*

This work will be accomplished through a combination of meetings with City utility/OMI contract staff, field inspections of readily accessible infrastructure, review of operational and maintenance procedures and records, as well as a regulatory review of compliance confirmed by written inspections, correspondence, and personal contact with the appropriate state and local regulatory agencies. Key engineering data requests will be provided the Task 1 as well as contact information for operational staff and regulatory agency personnel.

A summary of each system's major infrastructure will be provided along with reported capacities. Programmatic activities such as monitoring, cross connection control, source protection, conservation, meter reading, industrial pretreatment, I/I control, biosolids management, odor control and others will also be summarized. Levels of certified operators in specialty areas will be compared to regulatory requirements, and record keeping practices will be examined. In addition, recommended capital improvements and summary write ups for their need and justification will be requested and reviewed in relation to the system's most recent utility master plan.

All conditions and criteria outlined in the bond covenants will be compared to the engineering information. Any areas of compliance and/or discrepancy will be noted and observations on areas of improvement will be included. Observations regarding funding priorities for adequate renewal and replacement activities, GASB 34 inventory control and asset management practices, and other issues influencing system integrity will be included.

Expected City Staff Support for Task 2:

- Provide copies of most recent utility plans and all requested data for each system.
- Explain current operating and maintenance practices as well as all planned changes.
- Guide and accompany the consultants in field visits and observations of infrastructure facilities.
- Provide requested information regarding all planned, documented, and anticipated capital improvements.
- Participate in interviews and meetings.

Work Product Deliverables as a Result of Task 2—Engineering Evaluation

- A Report on the Operations of the Water and Sewer Systems.
- Summary table of key infrastructure features.
- Summary of key observations, compliance, and discrepancies.

Task 3—Financial Analysis

Task Objective: *Develop a five-year forecast of the revenues and expenses (i.e. revenue requirements) for the water and sewer utility. The analysis should be summarized to identify the needed annual adjustments to water and sewer rates. The analysis must comply with bond* *covenant requirements, prudent financial planning criteria and sound business practices.*

A five-year forecast of revenues and expenses (i.e. revenue requirements) will be undertaken. This portion of the study entails reviewing, for each utility, the various sources of funds (revenues) and comparing them to the applications of funds (expenses) for the utility. This task considers the prudent and proper funding for O&M and capital expenditures for each utility, and determines the need for any rate adjustments over the five-year time period. A more detailed discussion of the various steps involved in developing the City's financial analysis (revenue requirements) for each utility is provided below.

STEP 1 – SELECTION OF A TEST PERIOD – The first step in the development of the financial analysis is the selection of a "test period". A five-year future test period is required. In this case, a five-year projected time period of CY 2006-2010 is proposed.

STEP 2 – FORECAST OF ACCOUNTS AND BILLED VOLUMES – For the five-year period, the number of accounts and billed volumes will be developed. The forecast of accounts and billed volumes will be developed on a monthly basis for the five-year period and summarized as an annual forecast. In forecasting the accounts and billed volumes, consideration will be given to a number of factors that impact customer growth and consumption. These factors include the local economic climate, climate, changes with major customers and changes in customer usage behavior. HDR/EES will review our account and billed volume forecasts with the City to verify reasonableness. Tables will be developed that compare the last five historical years with the projected five-year period of the number of accounts and billed usage.

STEP 3 – FORECAST OF REVENUES – For each utility, a forecast of the projected revenues will be developed. Based upon the forecasted number of accounts and billed volumes (Step 2), the projection of rate revenues will be at present (current) rate levels. A table will be developed that compares the last five year's historical rate revenues to the projected five-year rate revenues. In addition to rate revenues, the City receives a variety of miscellaneous revenues. The miscellaneous revenues will also be projected for the five year period and summarized.

STEP 4 – PROJECTION OF EXPENSES (REVENUE REQUIREMENTS) – For the five-year period, a projection of the "cash basis" revenue requirements for each utility will be undertaken. The revenue requirements will be projected on an annual basis. Table 1 provides an overview of the "cash basis" revenue requirements to be used in this study.

Table -1
Overview of the "Cash Basis" Revenue Requirements

	Major Components of the "Cash Basis" Methodology
+	O&M Expense
	– Purchased Water (Water Utility)
	– Purchased Contract Operations (Sewer Utility)
	– Other O&M Expenses
+	Taxes or Transfer Payments
+	Capital Projects Financed with Rate Revenues (≥ Deprec. Exp.)
+	Debt Service (P+I)
=	Total Revenue Requirements

The projection of O&M expenses will take into account any changes in operations or anticipated additional personnel over the five-year period. It should also take into account changes due to growth or any extra-ordinary expense anticipated during the five-year time period.

In projecting the capital projects funded from rates, consideration will be given to the City's capital improvement plans and the key findings of the engineering evaluation. HDR/EES is of the understanding that the City funds a portion of their capital infrastructure via sales tax. The balance of infrastructure funding is obtained primarily from rates, connection fees and long-term borrowing.

STEP 5 – SUMMARIZE THE PROJECTION OF REVENUE REQUIREMENTS – Given the projection of revenue and expenses, the results will be summarized into a revenue requirement analysis. This summary will indicate and identify any needed adjustments to water and sewer rates to meet the financial requirements of each utility. The revenue requirements will be developed individually for the water and sewer utility, and summarized on an annual basis for the five-year period. The final revenue requirements must be developed in concert with the engineering evaluation (Task 2) and the bond ordinance compliance (Task 4).

Expected City Staff Support for Task 3:

- Provide "as needed" assistance, via email and telephone, to explain the City's data and information as it relates to developing the revenue requirements.
- Provide "as needed" data refinements or additional data needs as determined during the process of developing the revenue requirements.
- Attend a one-half day project meeting to review the draft revenue requirement analysis.

Work Product Deliverables as a Result of Task 3 —Financial Analysis:

- A five-year projection of the City's water and sewer accounts and billed volumes
- A five-year projection of the City's water and sewer rate revenues and miscellaneous revenues.
- A five-year projection of the City's water and sewer revenue requirements.
- A summary of the anticipated (projected) adjustments to water and sewer rates to support each utility on a financially stable basis and meet the various bond covenants.

Task 4—Bond Ordinance Compliance

***Task Objective**: In conjunction with the engineering evaluation and financial analysis, evaluate each utility's compliance with certain provisions of the outstanding bond ordinances.*

Bond covenants are designed to protect the bond holders and provide assurance that the City's utilities are being operated in a prudent manner and that the rates and charges of the City are sufficient to repay the bonds. In order to make that determination an analysis will be undertaken to review the various bond covenants and report on the City's status of meeting those covenants. An overview of our approach to review compliance with the bond ordinances is provided below.

The first step of reviewing the bond ordinance compliance is to gain an understanding of the various bond ordinances currently in place. To do this, Bond Ordinances No. 3638, 3829, 4159 and 4381 will be reviewed to determine the various conditions and requirements placed upon the City. A simple matrix will be developed to summarize these conditions and requirements imposed by each bond ordinance.

A typical requirement of a bond ordinance is the establishment of various funds and maintenance of minimum balances. In this case, HDR/EES will verify the establishment of the following funds and their balances:

- Revenue Fund
- Operation and Maintenance Fund
- Bond Fund
- Renewal and Replacement Fund
- Debt Service Reserve Fund
- Construction Fund

The bond covenants also require insurance coverage to protect the water and sewer assets of the utility. HDR/EES will verify that any required insurance is in force and meets the minimum requirements of the bond ordinance.

Debt service coverage ratios are a financial measure of the utility's ability to repay debt. Debt service coverage (DSC) ratios will be calculated as a part of the financial analysis (Task 3), and will be calculated in compliance with the rate covenant of each bond ordinance. The DSC is calculated before and after any projected rate adjustments.

A review will be undertaken of other practices and procedures for compliance with bond covenants. Items to be reviewed, but not limited to, include the following:

- Required levels of bond payments are made through the designated Paying Agent and on a timely manner
- Systems are operated on a fiscal year (FY) beginning January 1
- Systems are maintained in good condition and operated in an efficient manner at reasonable cost
- No free water service is provided
- The City has not mortgaged or disposed of any substantial portion of the systems
- Required budgets have been prepared
- No action has been taken to cause the interest on bonds to be subject to federal income taxes (i.e. private use)
- Improvements authorized by the Bond Ordinances are being, or have been, constructed

Expected City Staff Support for Task 4:

- Provide the data and information necessary to review compliance with bond ordinances

Work Product Deliverables as a Result of Task 4 —Bond Ordinance Compliance:

- Matrix of the bond covenants for each bond issue (bond ordinance)
- Verification of the establishment of the required funds and maintenance of minimum balances (if required)
- Verification that required insurance coverage is in force
- Verification and summary of the debt service coverage tests for each bond issue (bond ordinance)
- Review of other practices and procedures required of each bond ordinance.

Task 5—Reports and Meetings

***Task Objective**: Provide a well-written report to summarize the findings, conclusions and recommendations of the rate study. Provide effective public presentations of the findings, results and recommendations of the study.*

Upon completion of the tasks, HDR/EES will develop a written report of the operations study. A draft final version of the operations study will be prepared. Five (5) printed copies of the draft final report will be provided to the City, along with an electronic (PDF) version of the report. The City will provide comments and suggested changes to the operations report, and final reports will be issued. The City has requested twenty-five (25) bound copies of the final operations report and an electronic copy.

Based upon discussions with the City, it is assumed that two (2) public presentations of the results will be provided. Furthermore, these meetings will be coordinated to occur the same day. The first meeting will be with the City's working selection group and the other meeting will be with the the Fayetteville Water and Sewer Committee / Fayetteville City Council.

HDR/EES will be available for additional public meetings to discuss the operations study but this effort will require a revision to the scope and budget.

Expected City Staff Support for Task 5:

- Review the draft operations report and provide comments for the final reports
- Assist in reviewing the proposed handouts for a public meeting and coordinate the meeting time and location during the visit.

Work Product Deliverables as a Result of Task 5 – Reports and Meetings

- Draft and final reports for the Operations Study.
- Development of handouts and attendance at public presentations with the Fayetteville Water and Sewer Committee and Fayetteville City Council to discuss the study and its conclusions, and make recommendations.

Task 6—Project Administration

***Task Objective**: Manage the study to assure that it completed on time and within budget. Coordinate a work plan with the City's project manager to assure that the project meets the goals and objectives of the City. Provide monthly progress reports to the City.*

To assure that the project is completed on time and within budget, the HDR/EES project manager for this study will work closely with the City's project manger to maintain open and clear communication. A work plan will be developed to assure that both parties understand the goals and objectives of each task, along with deliverables for each.

As invoices are prepared, a monthly progress report will be provided to keep the City's project manager aware of any issues or problems that may arise, along with a clear understanding of the status of the budget.

Expected City Staff Support for Task 6:

- Review of the HDR/EES work plan

- Availability of the City's Project Manager to discuss and resolve any problems, issues or concerns of either party.

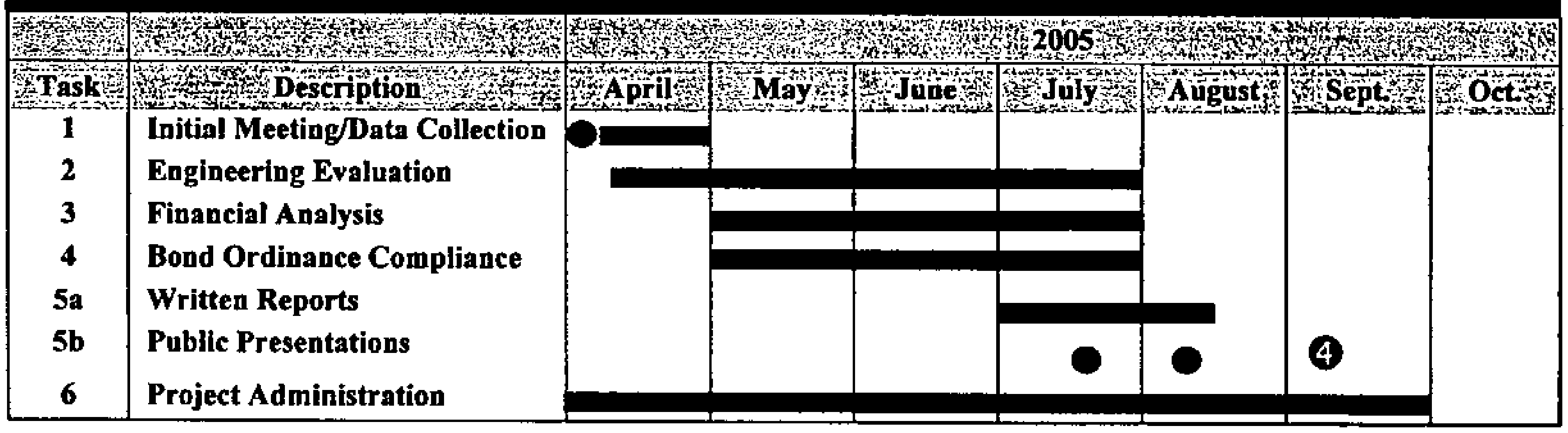
Work Product Deliverables as a Result of Task 6 – Project Administration

- Monthly invoice and project status report

Project Time Schedule

An important element of this study is the time schedule. It is our current understanding that the operations study must be completed prior to September 1, 2005. To achieve this project deadline, the following project time schedule has been developed.

Figure 1
City of Fayetteville
Operations Study Project Time Schedule



Fee Budget By Task

The agreement for professional engineering services has a "lump sum" fee arrangement. Provided below in Table 1 is a summary of the fees by task.

Table -2
Summary of the "Lump Sum" Labor Fees for the Operations Study

Task Description	Total
Labor:	
Task 1: Initial Project Meeting and Data Collection	$2,955
Task 2: Engineering Evaluation	16,890
Task 3: Financial Analysis	11,850
Task 4: Bond Ordinance Compliance	6,985
Task 5: Written Reports and Presentations	11,100
Task 6: Project Administration	3,090
Grand Total Labor Fees (Lump Sum Basis)	**$52,870**
Plus: Estimated Reimbursable Expenses	**$7,766**

The labor portion of the fee is a fixed lump sum amount, while travel and other miscellaneous expenses will be reimbursed. For purposes of Table 2, the expenses have been estimated and are not intended to create a "not to exceed" limit or threshold.

Any additional meetings beyond the original scope of services will be provided for $3,000 per meeting, plus travel and miscellaneous expenses. These meetings must be at the request of the City. Any out of scope work, or additional requested services by the City in 2005, will be provided at the hourly billing rates used to determine the lump sum fee for the original scope of services.

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
HDR ENGINEERING, INC.

THIS AGREEMENT is made as of ________________, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and HDR ENGINEERING, INC. with offices located at 500 108th Avenue N.E., Suite 1200, Bellevue, Washington 98004 (hereinafter called HDR).

CITY OF FAYETTEVILLE requires professional engineering services in connection with the audit of the Water & Wastewater rate study for adherence to the AWWA Rate Model as defined and described in AWWA Manual M1 and other services more fully described in Section 2. Therefore, CITY OF FAYETTEVILLE and HDR in consideration of their mutual covenants agree as follows:

HDR shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of HDR's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of HDR

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

SECTION 2 - BASIC SERVICES OF HDR

2.1 Audit 2003 Water & Sewer Rate Study conducted by Black & Veatch for adherence to AWWA Rate Model.

2.2 Audit City of Elkins water and sewer rates to their retail customers.

2.3 Develop model contracts for service and model franchise agreements that the system can utilize to govern the business relationships between the various owners of the utility service area.

2.4 Assistance in and development of a water service territory.

2.5 Develop a report that explores alternative business relationships with Elkins, Greenland, Farmington and University of Arkansas and Washington Water Authority.

Reports and Meetings

2.24 Communication with the client is essential during all aspects of the study. Consultant will:

- Maintain ongoing dialogue with City representatives concerning progress and issues through written and telephone communications and periodic meetings.
- Prepare a draft Report of the findings, conclusions, and recommendations regarding the audit of the 2003 Water & Sewer Study conducted by Black & Veatch and submit 5 copies of the report for review by City representatives.
- Prepare a draft Report of the alternatives to the existing relationship with Elkins, Greenland, Farmington and the University of Arkansas and Washington Water Authority.
- Conduct a public presentation of findings, including a presentation of how the AWWA Rate Model works, in terms so any citizen can understand, to Fayetteville Water & Sewer Committee, Fayetteville City Council, Elkins City Council, Farmington City Council, Greenland City Council, and Chamber Industrial Committee.
- Attend Fayetteville Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.

RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay services of Consultant:

Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

Assist Consultant by placing at Consultant's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement.

PERIOD OF SERVICE

This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. Consultant will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

Compensation

For the Scope of Services described herein, CITY OF FAYETTEVILLE shall pay HDR the lump sum amount of fifty six thousand, three hundred sixty United States Dollars (US $56,360.00), plus estimated reimbursable expenses of six thousand, nineteen United States Dollars (US $6,019.00), for a total contract not to exceed sixty thousand, six hundred thirty-six United States Dollars (US $62,379.00).

Subject to the City Council approval, adjustment of the lump sum amount may be made should HDR establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

The lump sum amount as stated in this Section shall be submitted in six (6) equal portions to CITY OF FAYETTEVILLE for services consistent with HDR's normal billing schedule. Reimbursable expenses shall be included applications for payment as accrued. Applications for payment shall be made in accordance with a format to be developed by HDR and approved by CITY OF FAYETTEVILLE. Each month an updated project report by task will be submitted to the CITY OF FAYETTEVILLE as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Project.

Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of HDR's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise HDR in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, HDR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by HDR to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against HDR or his sureties under this Agreement or applicable performance and payment bonds, if any.

GENERAL CONSIDERATIONS

Insurance

During the course of performance of these services, HDR will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Professional Liability Insurance	$1,000,000 Each Claim

HDR will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

Professional Responsibility

HDR will exercise reasonable skill, care, and diligence in the performance of HDR's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. HDR agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by HDR 's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of HDR

In addition HDR will be responsible to CITY OF FAYETTEVILLE for damages caused by any negligent conduct to the extent covered by HDR's Commercial General Liability and Automobile Liability Insurance policies as specified above.

Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of HDR's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of HDR

Termination

This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

An opportunity for consultation with the terminating party prior to termination.

This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that HDR is given:

Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

An opportunity for consultation with the terminating party prior to termination.

If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but no amount shall be allowed for anticipated profit on unperformed services or other work,

Any payment due to HDR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of HDR's default.

If termination for default is effected by HDR, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to HDR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by HDR relating to commitments which had become firm prior to the termination.

Upon receipt of a termination action under Paragraphs above, HDR shall:

Promptly discontinue all affected work (unless the notice directs otherwise),

Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by HDR in performing this Agreement, whether completed or in process.

Upon termination CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

If, after termination for failure of HDR to fulfill contractual obligations, it is determined that HDR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided above.

Delays

In the event the services of HDR are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond HDR's reasonable control, HDR shall be entitled to additional compensation and time for reasonable costs incurred by HDR in temporarily closing down or delaying the Project.

Rights and Benefits

HDR's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

Dispute Resolution

Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and HDR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or HDR in the performance of this Agreement, and disputes concerning payment.

Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures have been complied with.

Notice of Dispute

For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give HDR written Notice at the address listed in the contract within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and HDR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of HDR and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to HDR for services rendered by HDR

Indemnification

Computer Models

HDR may use or modify HDR's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or HDR may develop computer models during HDR's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by HDR does not constitute a license to CITY OF FAYETTEVILLE to use or modify HDR's computer models. Said proprietary computer models shall remain the sole property of CITY OF FAYETTEVILLE and HDR will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use HDR's computer models.

Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE remain the property of CITY OF FAYETTEVILLE. HDR may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by HDR as part of the Services shall become the property of CITY OF FAYETTEVILLE when HDR has been compensated for all Services rendered, provided, however, that HDR shall have the unrestricted right to their use. HDR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of HDR

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. HDR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville
Mayor Dan Coody
113 W. Mountain
Fayetteville, AR 72701

HDR ENGINEERING INC.'s address:

500 108th Avenue N.E.
Suite 1200
Bellevue, Washington 98004

Successor and Assigns

CITY OF FAYETTEVILLE and HDR each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor HDR shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

Entire Agreement

This Agreement represents the entire Agreement between HDR and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to HDR a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by HDR, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SPECIAL CONDITIONS

HDR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by HDR's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

HDR's obligations under this clause are in addition to HDR's other obligations under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against HDR for services provided.

Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and HDR arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

Audit: Access to Records

HDR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. HDR shall also maintain the financial information and data used by HDR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF

FAYETTEVILLE, or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. HDR will provide proper facilities for such access and inspection.

Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

This right of access clause (with respect to financial records) applies to:

Negotiated prime agreements:

Negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

With respect to record pertaining directly to subagreement performance, excluding any financial records of HDR;

If there is any indication that fraud, gross abuse or corrupt practices may be involved;

If the subagreement is terminated for default or for convenience.

Covenant Against Contingent Fees

HDR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by HDR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Gratuities

If CITY OF FAYETTEVILLE finds after a notice and hearing that HDR or any of HDR's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to HDR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

In the event this Agreement is terminated as provided above, CITY OF FAYETTEVILLE may pursue the same remedies against HDR as it could pursue in the event of a breach of the Agreement by HDR As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs HDR incurs in providing any such gratuities to any such officer or employee.

Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, HDR will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of $25,000.

DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE

COMPANY NAME: HDR ENGINEERING, INC.

SIGNATURE: Ronald J Owen DATE: 3/25/05

PRINTED NAME: Ronald J. Owes TITLE: Senior Vice President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and HDR, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________
Mayor

ATTEST:

By: ______________________
City Clerk

HDR ENGINEERING, INC.

By: Ronald J Olver

Title: Senior Vice President

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

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City of Fayetteville
Work Plan to Audit the City's 2003 Water & Sewer Rate Study and Provide Other Rate/Contractual Related Services

Task 1—Initial Meeting and Data Collection

***Task Objective**: Bring the Consultant, City management and staff together, at the start of the project, to assure that both parties have a mutual understanding of the goals, objectives, issues and concerns related to the study. Review and assess the City's existing water and sewer data, and provide a written data request detailing the data required to complete the study.*

The initial project meeting is used as a starting point for the study. It is proposed that the initial project meeting be approximately ½ day in length, and review the goals, objectives and key issues for the study. At the same time, provide a written data request to the City to obtain the necessary data and information needed to complete the study. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, statistical, customer, etc.).

Expected City Staff Support for Task 1:

- Have their key management/project team members attend a ½ day planning meeting.
- Gather the data requested in the written data request provided by EES. (Note: typically requires 20 – 40 hours of total staff time to provide.)

Work Product Deliverables as a Result of Task 1—Initial Kick-off Meeting.

- Face-to-face meeting to identify key objectives, issues and concerns by both parties.
- An initial written data request to the City.
- Identification of any data constraints.

Task 2—Rate Study Audit

***Task Objective**: Provide an audit of the City's 2003 Water and Sewer Rate Study. The audit should review the study's adherence to American Water Works Association (AWWA) rate setting methodologies and principles, and the appropriate application of those methodologies and principles to the specific and unique circumstances of the City.*

The audit of the City's 2003 water and rate study has three main objectives. First, the audit must confirm that the study met the contractual requirements of the City's existing wholesale contracts (e.g. methodology to be used, etc.). Next, the audit should confirm the study's adherence to the principles and methodologies contained in the American Water Works Association (AWWA) M-1 Manual, Principles of Water Rates, Fees and Charges. Finally, the audit and review should consider the appropriate application of the AWWA methodologies to the specific circumstances of the City. While the City's rate study likely adheres to the AWWA methodologies, the appropriate application of those methodologies is an important question to be answered. EES will review the City's model in "line by line" detail and discuss it in relation to the requirements of this task. At the end of this task, our conclusions and recommendations will be provided. The written report and presentations associated with the rate study audit are provided under Task 5.

Expected City Staff Support for Task 2:

- Provide any relevant background concerning the 2003 study
- Provide necessary assistance in HDR/EES understanding the City's water and sewer systems and their operational and design characteristics

Work Product Deliverables as a Result of Task 2 – Rate Study Audit.

- Review of the existing wholesale contracts for rate setting provisions/requirements
- Review/audit of the City's 2003 water and sewer rate study for adherence to the AWWA M-1 rate setting methodologies
- Review/audit of the City's 2003 water and sewer rate study for the appropriate application of the AWWA M-1 rate setting methodologies, as they apply to the City's specific circumstances

Task 3—Explore Alternative Business Relationships and Develop Model Contracts

Task Objective: *Explore alternative business relationships with various entities served by the City, and develop model contracts to support those alternative business relationships. The model contracts developed as a part of this task are intended for discussion purposes only.*

The City wants to explore alternative business relationships with various entities and develop model contracts. The first step of this process is to explore the existing business relationships. From the prior task, HDR/EES will have an understanding of the current contractual relationship and the services that the City provides and the responsibilities of the wholesale customer. The City has initially identified Elkins, Greenland, Farmington, University of Arkansas and Washington Water Authority for a review of alternative business relationships. This task will likely identify multiple and different approaches for business relationships. An important aspect of this task is to gain an understanding of the City's goals and objectives for changing an existing business relationship, along with the perspective each City customer. From this task, a matrix of potential business relationships will be developed that will attempt to match each parties needs.

In developing the model contracts, the first step will be a review of other wholesale contracts. HDR/EES already has an extensive library of wholesale contracts. From these contracts, a comparison will be made of the alternative business relationships, and the key components required of each contract. HDR/EES will develop up to three (3) model contracts to reflect the varying business relationship between the parties. HDR/EES will develop a "base" model contract, and this contract will be modified to reflect the alternative business relationships. The model contracts are for discussion purposes only. They are not intended to be implemented without further discussion and negotiation between the parties, along with legal review by the City attorney.

Expected City Staff Support for Task 3:

- Discuss the existing business relationships with the various parties
- Discuss existing concepts/discussions concerning alternative business relationships

Work Product Deliverables as a Result of Task 3 – Explore Alternative Business Relationships and Develop Model Contracts

- Review alternative business relationships and develop a matrix of existing and potential alternative business relationships. Reviews of business relationships will be undertaken for Elkins, Greenland, Farmington, University of Arkansas and Washington Water Authority.
- Review of other utility contracts under alternative business relationships
- Development of up to three (3) model contracts to support alternative business relationships.

Task 4—Reports and Meetings

***Task Objective**: Provide a well-written report to summarize the findings, conclusions and recommendations of the rate study. Provide effective public presentations of the findings, results and recommendations of the study.*

Upon completion of the tasks, HDR/EES will develop written reports for each task. Given the unique nature of each task, a separate written report will be prepared for the rate study audit, the alternative business relationship/model contract task, and the water service territory task. For each report, a draft final version will be prepared. One printed copy will be provided to the City, along with an electronic (PDF) version of the report. The City will provide comments and suggested changes to the report, and final reports will be issues. The City has requested eleven (11) bound copies of each report and an electronic (PDF) copy.

Two public meetings are planned for this study. It is further assumed that these two meetings will occur on the same day to minimize time and travel costs. The first meeting will be to the City's working selection committee. The second meeting will be to the Fayetteville Water and Sewer Committee/Fayetteville City Council.

Individual meetings/presentations to individual cities or City Councils has not been included within our proposed fees. HDR/EES will gladly provide these services on a time and material basis. The estimated fees for an individual meeting would be $2,500 to $4,000 depending upon the amount of preparation time required.

Expected City Staff Support for Task 4:

- Review the draft reports and provide comments for the final reports
- Assist in reviewing the proposed handouts for public meetings and coordinate meeting times and locations

Work Product Deliverables as a Result of Task 4 – Reports and Meetings

- Draft and final reports for the Rate Study Audit and Development of Model Contracts.
- Development of handouts and attendance at up to two (2) public presentations with the working selection committee and the Fayetteville Water and Sewer Committee/Fayetteville City Council to discuss the study and its conclusions, and make recommendations.

Task 5—Project Administration

***Task Objective**: Manage the study to assure that it completed on time and within budget. Coordinate a work plan with the City's project manager to assure that the project meets the* *goals and objectives of the City. Provide monthly progress reports to the City.*

To assure that the project is completed on time and within budget, the HDR/EES project manager for this study will work closely with the City's project manger to maintain open and clear communication. A work plan will be developed to assure that both parties understand the goals and objectives of each task, along with deliverables for each.

As invoices are prepared, a monthly progress report will be provided to keep the City's project manager aware of any issues or problems that may arise, along with a clear understanding of the status of the budget.

Expected City Staff Support for Task 5:

- Review of the HDR/EES work plan
- Availability of the City's Project Manager to discuss and resolve any problems, issues or concerns of either party.

Work Product Deliverables as a Result of Task 5 – Project Administration

- Monthly invoice and project status report

Project Time Schedule

An important element of this study is the time schedule. The rate study audit will begin immediately and a draft report should be completed in approximately forty-five days. HDR/EES understands that the City of Farmington is interested in receiving the results of the audit prior to June. HDR/EES will make every effort to meet this schedule.

The review of alternative business relationships and development of model contracts is anticipated to require 90 to 120 days to complete. These are fairly complex issues and will require sufficient time to understand the issues, determine the alternative approaches and assemble the alternative solutions.

Provided below on Figure 1 is a summary of the projected time schedule for this project.

Figure 1
City of Fayetteville
Rate Study Audit Project Time Schedule

		2005						
Task	**Description**	**April**	**May**	**June**	**July**	**August**	**Sept.**	**Oct.**
1	Initial Meeting/Data Collection							
2	Rate Study Audit							
3	Alt. Business Relationship and Model Contracts							
4a	Written Reports							
4b	Public Presentations					❷		
5	Project Administration							

Fee Budget By Task

The agreement for professional engineering services has a "lump sum" fee arrangement. Provided below in Table 1 is a summary of the total fees (labor and expenses) by task.

Table -1
Summary of the "Lump Sum" Fees for the Rate Study Audit

Task Description	Total
Labor:	
Task 1: Initial Project Meeting and Data Collection	$1,350
Task 2: Rate Study Audit	13,520
Task 3: Alt. Business Relationships and Model Contracts	28,700
Task 5: Written Reports and Presentations	10,790
Task 6: Project Administration	2,000
Grand Total Labor Fees (Lump Sum Basis)	**$56,360**
Plus: Estimated Reimbursable Expenses	**$6,019**

The labor portion of the fee is a fixed lump sum amount, while travel and other miscellaneous expenses will be reimbursed. For purposes of Table 1, the expenses have been estimated and are not intended to create a "not to exceed" limit or threshold.

Any additional meetings beyond the original scope of services will be provided for $3,000 per meeting, plus travel and miscellaneous expenses. These meetings must be at the request of the City. Any out of scope work, or additional requested services by the City in 2005, will be provided at the hourly billing rates used to determine the lump sum fee for the original scope of services.

Added at Agenda Session 3/29/05

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 5, 2005

FROM: ALDERMAN DON MARR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Waive The Time Limitation Of Subsection §156.05(F) Of The Unified Development Code For The Variance Granted To The Northwest Arkansas Mall

APPROVED FOR AGENDA:

Don Marr
Don Marr
Alderman

3/29/05
Date

Kit Williams
Kit Williams
City Attorney (as to form)

3-18-05
Date

ORDINANCE NO. ______

AN ORDINANCE TO WAIVE THE TIME LIMITATION OF SUBSECTION §156.05(F) OF THE UNIFIED DEVELOPMENT CODE FOR THE VARIANCE GRANTED TO THE NORTHWEST ARKANSAS MALL

WHEREAS, the Board of Sign Appeals granted the variance request of the Northwest Arkansas Mall to place five types of uniform signs on light poles in its five area parking lots to assist patrons in locating their parked vehicles; and

WHEREAS, the Northwest Arkansas Mall properly and timely submitted the required information and documentation for three of these types of signs, but, through misunderstanding of the Code's requirements, did not submit the other two types within the permitted time period; and

WHEREAS, the Northwest Arkansas Mall's effort to assist its patrons by identifying the parking lot in which their car is located will be undermined if the time limit of §156.05(f) is not waived in this case.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the requirement of §156.05(f) in this sole case to allow the Northwest Arkansas Mall to complete its parking lot identification plan.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

added at Agenda Session

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 5, 2005

FROM: ROBERT REYNOLDS, Alderman

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Granting A Certificate Of Public Convenience And Necessity To Dynasty Cab Company For The Operation Of Five (5) Taxicabs Within The City Of Fayetteville, Arkansas

APPROVED FOR AGENDA:

Robert E Reynolds

Robert Reynolds,
Alderman

3-29-05
Date

D. J. Whitaker

David Whitaker,
Assistant City Attorney (as to form)

3/29/05
Date

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

19-Apr-05
City Council Meeting Date

Submitted By	Division	Department
Frank Johnson		Police

Action Required:

Schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Dynasty Taxi

N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Frank Johnson — Department Director — Date 3/29/05

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

[signature] — City Attorney — Date 3-29-05

Received in City Clerk's Office

ENTERED 3/29/05

______ Finance and Internal Service Director — Date ______

Received in Mayor's Office

______ Mayor — Date ______

Comments:

added at agenda session

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police FJ

DATE: March 29, 2005

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Dynasty Taxi

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Dynasty Taxi.

Background:

The council recently passed a new ordinance governing taxi and limousine companies in Fayetteville. There have been meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance. Mr. Curry is currently approved for limo service under the same corporation.

Discussion:

Attached are copies of Mr. Curry's application for his certificate, insurance policy and financial statement.

Mr. Curry is making this request for up to 10 vehicles. At this time he has provided proof of insurance for 1 Ford Windstar van.

RESOLUTION NO. ______

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO DYNASTY CAB COMPANY FOR THE OPERATION OF TWO (2) TO TEN (10) TAXICABS WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 5th day of April 2005.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

Certificate of Public Convenience & Necessity
Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

Brice Curry 5631 E. Mission 479-521-1974
Applicant Name **Address** Fay. Ar. 72703 **Phone Number**

Dynasty 521-8294
Name of Business **Phone Number**

2950 W. Old Farmington Road
Business Location

612 N. College Ave.
Mailing Address

Corporation
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Brice Curry 5631 E. Mission Blvd.

Name of person to whom complaints should be directed:

Brice Curry

Financial status of applicant (Attach financial statement or profit and loss statement)

Rec: 032405 21610

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

(NONE)

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

3 YEARS LIMOUSINE SERVICE

Give any facts you believe tend to prove the necessity of granting a certificate:

At the present time the quality of Cab service has not met the growth of the area The area need better service better cars and drivers

List the number of vehicles that will be under your operation or control: 10

Minimum and Maximum number of vehicles to be permitted:

Minimum	Maximum
2	10

List the location of proposed depots and terminals:

2950 W. Old Farmington Road
Fayetteville, Ar. 72704

Describe the color scheme or insignia to be used to designate your vehicle:

Green & White or White & Green

List your days and hours of operation:

To be established

List any days you do not propose to provide taxicab service to the general public:

List your proposed passenger rate schedule:

City Code

Cpt [signature]
Police Department Representative

3-29-05
Date

Personal Financial Statement of Brice R. Curry as of July 10, 2004

Birth Date: 08-27-51 **Address:** 5631 E. Mission Blvd. Fayetteville AR. 72703
Social Sec. No. 429-96-9276
Home Phone: 521-1974 **No of Dependents:** 1 **Bus. or Occupation** Owner/Manager Curry's Inc. **Phone:** 479-521-6724

ASSETS

Cash on Hand & in Banks	26,883.07
Ameritrade On Line Account Policy #	983.00
Paypal Account Acct. #	1,100.00
Antique Coin, Currency, Silver Collection, 24K Gold Stamp Collection, & other Collectibles	20,435.00
Record Vinyl Collection (over 1,500 33RPM Records Present Market Value $4.00 to 18.00 per Record)	5,600.00
1984 BMW 745i (Lic. # YIW970 Serial # WBAFF8403E8402506)	600.00
1993 Chrysler LaBaron Convertiable (Lic.#260BYR Serial # 1C3XU5536PF500615)	1,500.00
1992 Lincoln Continental (Lic.#260BYR Serial # 1LNLM974XNY737435)	1,200.00
1997 Lincoln Continental Limo 1FTDE15F6CHA61316	14,500.00
1993 Lincoln Towncar (Lic.# 244HWP Serial # 1LNLM83W5PY660090)	3,500.00
1997 Ford Contour (Lic.# None Serial # 3FALP653XVM116685)	3,900.00
TOTAL CURRENT ASSETS	96,981..00

Real Estate Owned 100% Interest Property Located at 2020 Baker Dr. Fayetteville, AR. 72703 Real Estate Owned	98,700.00

5631 E. Mission Blvd.	235,000.00
Notes & Accounts Receivable - Doubtful	
Jim Winchell	7,547.00
Paul Bunch	3,000.00
Other Securities - Not Readily Marketable	
Note Receivable Sale of Curry's Video	57,145.44
1/8th of Horizon Investments	5,693.00
100% Special Occasions (Fayetteville)	82,968.38
100% C J Technologies Inc. DBA Computer Systems	00.00
100% Special Occasions (Springdale)	00.00
Personal Property	12,500.00
TOTAL ASSETS	**599,534.82**

Personal Financial Statement of
Brice R. Curry
as of July 10, 2004

LIABILITIES

Notes Due Mortgage	
Homecomings Financial	74,741.94
Note # 0434526182	
Payment 584.00	
Central States Mortgage	
Note # 645169192	171,000.00
Payment	
Notes Due to Banks	
Bank of Rogers	
Note # 2301	Paid
Payment 1,064.43	
Bank of Rogers	
Note # 4591	22,988.33
Line of Credit	
Bank of Rogers	
Note # 5455	
Payment 1,500.00	Paid
Bank of Rogers	
Note # 8740	3,093.42
Payment 395.41	
Bank of Rogers	
Note # 6885	42,551.13
Line of Credit	
Note # 9622	
2nd Mortgage Baker St.	3,110.00
Payment 250.00 Approximately	
Accounts and Bills Payable	27,635.16
Credit Cards & Personal	
Unpaid Taxes Due	0.00
TOTAL LIABILITIES	345,119.98
NET WORTH	**254,414.84**
TOTAL LIABILITIES & NET WORTH	**599,534.82**

Personal Financial Statement of
Brice R. Curry
as of July 10, 2004

SIGNATURE

ARKANSAS INSURANCE IDENTIFICATION CARD
(STATE)

COMPANY NUMBER COMPANY
Natinal Liability& Fire Ins Co

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
73APN282053	04/18/2004	04/18/2005

YEAR	MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
1995	Ford Windstar	2FMDA5145SBC28277

AGENCY/COMPANY ISSUING CARD
McNair & Associates
P O Box 819 (479)521-7800
Fayetteville, AR 72702-0819

INSURED
Brice Curry
612 N College
Fayetteville, AR 72701

SEE IMPORTANT NOTICE ON REVERSE SIDE

THIS CARD MUST BE KEPT IN THE INSURED VEHICLE AND PRESENTED UPON DEMAND

IN CASE OF ACCIDENT: Report all accidents to your Agent/Company as soon as possible. Obtain the following information:

1. Name and address of each driver, passenger and witness.
2. Name of Insurance Company and policy number for each vehicle Involved.

ACORD 50 (1/83)

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
April 5, 2005

A meeting of the Fayetteville City Council will be held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report – Public Library Board of Trustees

A. CONSENT:

1. **Approval of the Minutes:** Approval of the March 15, 2005 City Council meeting minutes.

2. **Skid Steer Loader Purchase:** A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.

3. **SBC Web Hosting Contract:** A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of $14,000.00 plus $2,820.00 contingency, plus tax annually for five years.

4. **McClelland Consulting Engineers, Inc. Contract Renewal:** A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.

5. **Off Street Parking Development District No. 1 Lease Agreement:** A resolution approving a one-year lease agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

6. **Home Rehabilitation Contract:** A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.

7. **Design Workshop, Inc. Contract:** A resolution to approve a contract with Design Workshop, Inc. in the amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and to approve a Budget Adjustment of $40,000.00.

8. **McClelland Consulting Engineers, Inc. Task Order # 5:** A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $122,750.00.

9. **McClelland Consulting Engineers, Inc. Task Order # 6:** A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $102,900.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project.

B. UNFINISHED BUSINESS:

1. **ANX 05-1365 (Wilkins):** An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

2. **RZN 05-1366 (Wilkins):** An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

3. **ANX 05-1370 (Hall):** An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

4. **RZN 05-1371 (Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

5. **RZN 05-1378 (Goff/Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

C. NEW BUSINESS:

1. **Community Development Block Grant Agreement:** A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

2. **Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."

3. **Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to waive various provisions of §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.

4. **Convert Certain Streets to Two-Way and Create Additional Parking:** A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.

5. **Water and Sewer Operations Evaluation:** A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.

6. **Water and Sewer Business Relationship Evaluation and Rate Study Audit:** A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.

D. INFORMATIONAL:

Council Tour: April 4, 2005 – 4:30 pm

Fayetteville
ARKANSAS

City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager

Date: March 11, 2005

Subject: Approval for the use of funds from the In-House Pavement Improvements project for the purchase of a New Holland Bobcat S205 Skid Steer Loader with forklifts, a 24" Hi-flo planer attachment and a hydraulic breaker attachment.

Recommendation: Transportation Division staff recommends the approval to purchase a New Holland Bobcat S205 Skid Steer Loader with forklifts, a 24" Hi-flo planer attachment and a hydraulic breaker attachment using funds budgeted in the 2005 In-House Pavement Improvements project.

Background: The Transportation Division's production has steadily increased over the past two years, from 8.9 miles of asphalt overlay completed in 2002 to 11.03 miles in 2003 and 12.42 miles in 2004. The division is currently working towards an aggressive overlay goal of 18.61 miles in 2005.

During the past year, the Transportation Division expanded with the addition of asphalt preparation and patch crews, consisting of six full-time employees. The addition of these employees has enabled the division to continue its overall increase in production. The purchase of a skid steer loader is necessary in order to maximize the efficiency of the asphalt preparation, patch, and overlay crews.

Discussion: The purchase of an additional skid steer loader with the forklift, hi-flo planer and hydraulic breaker attachments will allow for precise trimming around sewer manholes and water valves and can also be utilized during the repair of utility street cuts. This will result in improvements to the quality of asphalt overlays as well as the overall appearance of street repair and rehabilitation projects.

Budget Impact: The New Holland Bobcat S205 Skid Steer Loader, with the forklift, 24" Hi-Flo Planer and Hydraulic Breaker attachments, can be purchased for a total price of $41,110.41. In addition, the monthly motor pool charges will be $986.00 for a total motor pool expense of $6,902.00 for the remainder of 2005. Funding for this expansion is available within the In-House Pavement Improvements project. Increased efficiency through improved organization and work methods has enabled the Transportation Division to save money in multiple aspects of the construction process, thus allowing the surplus funds to be invested in this additional equipment with no reduction in street improvement goals.

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE USE OF FUNDS BUDGETED IN THE 2005 IN-HOUSE PAVEMENT IMPROVEMENTS PROJECT FOR THE PURCHASE OF ONE (1) SKID STEER LOADER WITH A HYDRAULIC BREAKER ATTACHMENT, A 24" HI-FLO PLANER ATTACHMENT, AND A FORKLIFT ATTACHMENT IN THE AMOUNT OF $48,012.41 FOR USE BY THE TRANSPORTATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.

PASSED and **APPROVED** this 5th day of April 2005.

APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

April 5, 2005
City Council Meeting Date

Terry Gulley	Transportation	Operations
Submitted By	Division	Department

Action Required:

The Transportation Division requests approval for the use of funds budgeted in the 2005 In-House Pavement Improvements project for the purchase of a New Holland Bobcat S205 Skid Steer Loader with forklifts, a 24" Hi-flo planer attachment and a hydraulic breaker attachment.

$ 48,012.41	$ 1,603,804.82	In-House Pavement Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.~~5802.00~~ 5803.70	$ 196,897.70	In-House Pavement Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02052 / 1	$ 1,406,907.12	Capital Improvement Const
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # ____

Original Contract Date: ____

Original Contract Number: ____

Department Director 3-11-05 Date

City Attorney 3/11/05 Date

Mayor 3/15/05 Date

Received in City Clerk's Office

Received in Mayor's Office

Comments:

ENTERED 3/14/05 PH

ENTERED 3-11-05 aw

City of Fayetteville
113 W Mountain
Fayetteville, AR 72701
479-575-8320
www.accessfayetteville.com

City Council Agenda Meeting

To: Mayor and City Council

Thru: Steve Davis, Finance and Internal Services Director

From: Lesa Brosch, Business Systems Analyst

Date: February 2, 2005

Subject: SBC Web Hosting Contract

RECOMMENDATION
The Information Technology staff recommends approval of a five year dedicated web hosting contract with Southwestern Bell Communications in an amount $ 14,100.00 annually to include a $ 2,820.00 contingency annually to total $ 16,920.00 (plus tax) annually.

BACKGROUND
On March 5, 2002 a resolution (40-02) was approved to contract with Southwestern Bell Communications for a dedicated web-site hosting services for three years in an amount not to exceed $ 21,408.00 (plus tax) annually.

DISCUSSION
The current contract with Southwestern Bell Communications expires March 2005.

RFP, 05-09 was released March 2, 2005 and received back on March 11, 2005. Three vendors, IF World Inc., Southwestern Bell and American Data Technology, Inc responded.

The selection committee reviewed and approved the selection of Southwestern Bell Communications.

The cost of dedicated web hosting is $ 14,100.00 annually. A request is being made for a 20% contingency for unforeseen overages (i.e. backup overage).

BUDGET IMPACT

5 Year Contract at $ 14,100.00 annually
Contingency $ 2,820.00
Total............$ 16,920.00 (plus tax) annually

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A WEB HOSTING CONTRACT WITH SOUTHWESTERN BELL COMMUNICATIONS, INC. IN THE AMOUNT OF $14,100.00 PLUS $2,820.00 CONTINGENCY, PLUS TAX ANNUALLY FOR FIVE YEARS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the web hosting contract with Southwestern Bell Communications, Inc., as attached as Exhibit "A" in the amount of $14,100.00 plus $2,820.00 contingency, plus tax annually for five years .

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

SBC E-Services, Inc.

Master Services Agreement for

City of Fayetteville

Managed Hosting

Last Updated – November 4, 2003

Prepared by: Brian Cottrell

Prepared on: 01/18/05

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (THE "*AGREEMENT*") BETWEEN SBC E-SERVICES, INC. (SBC) AND CITY OF FAYETTEVILLE ("*CUSTOMER*") IS MADE EFFECTIVE ("the Effective Date") on the date of the last signature made by a party to this Agreement. The term for each Statement of Work will commence on the Service Commencement Date indicated in the Statement of Work. SBC and Customer are referred to herein individually as a "Party" and collectively as the "Parties".

1. **OVERVIEW**

1.1*General.* This Agreement, including the attachments, which are incorporated herein, states the terms and conditions by which SBC will provide and Customer will receive and pay for hosting services described in Exhibit A, and other agreed upon services at SBC's Internet Data Center facility, as set forth in the initial Statement of Work attached as Exhibit A (collectively referred to as "Services"). This specifically does not include regulated telecommunications services provided to Customer any SBC Affiliate or third party. Customer may, during the course of this Agreement, submit to SBC additional Statements of Work that, if accepted by SBC, shall become part of this Agreement and attached as Exhibits. A rejected Statement of Work, when modified and resubmitted, shall be considered a new Statement of Work submission. Each Statement of Work submitted by Customer, accepted by SBC, and executed by both Parties is hereby incorporated by reference into this Agreement.

1.2 *Definitions.*

(a) "Affiliate" of any Party means any other Party directly or indirectly controlling, directly or indirectly controlled by or under direct or indirect, common control with such Party. As used in this definition, the term "control," "controlling" or "controlled by" shall mean in possession, directly or indirectly, of the power either to (i) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Party or (ii) direct or cause the direction of the actions, management or policies of such Party, whether through the ownership of voting securities or interest, by contract or otherwise, excluding in each case, any lender of such Party or any Affiliate of such lender.

(b) "Commencement Date" shall have the meaning specified in the applicable Statement of Work.

(c) "Contact Information form" means the list, set-forth in Exhibit A that contains the names and contact information (e.g. pager, email and telephone numbers) of Customer and the individuals authorized by Customer to make decisions regarding Customer's account. This form may be amended in writing from time to time by Customer.

(d) "Internet Data Center(s)" or "IDC" means any of the facilities used by SBC to provide the Data Center Hosting Service(s).

(e) "Representatives" mean the individuals identified in writing on the Contact Information form attached hereto as Exhibit A and authorized by Customer to make decisions regarding Customer's account.

(f) "SBC Acceptable Use Policy" for Data Center Hosting means the general terms and conditions governing Customer's use of Services as set forth at WWW.SBCHOST.COM and described further in Section 6.2, hereby incorporated into this Agreement by reference including, but not limited to, online conduct, and the obligations of Customer and its Representatives in the Internet Data Centers.

(g) "Service(s)" means the specific service(s), provided by SBC as described in the Statement(s) of Work and in any Addenda or Exhibit to this Agreement.

(h) "Service Level Agreement" or "SLA" means the service level commitments in Exhibit B.

(i) "Statement of Work" or "SOW" means the detailed description(s) of the Services, the Customer Site Environment (referenced in Exhibit B) Customer Area, and any equipment that SBC may make available for Customer use at the IDC in the Customer Area. The initial SOW is set forth in Exhibit A to this Agreement.

(j) "Megabyte" shall be abbreviated with "MB".

(k) "Gigabyte" shall be abbreviated with "GB".

2. **TERM**

2.1 *Term.* The term of this Agreement and the initial Statement of Work will begin on the Commencement Date and continue for the period indicated on the initial Statement of Work ("Initial Term"). All subsequent Statements of Work and Addenda or Exhibits submitted by Customer and accepted by SBC in association with this Agreement, shall have terms that operate concurrently with the initial Statement of Work, and renew or terminate simultaneously with the initial Statements of Work, unless otherwise specifically stated in the relevant Statement of Work or Addendum.

2.2 *Renewal Term(s).* This Agreement and each Statement of Work will continue automatically for additional one (1) year terms ("Renewal Terms"), unless otherwise agreed to in writing by the Parties or terminated upon notice by either Party, at SBC's then-current rates and charges for such term. During each Renewal Term, Customer's Service will be subject to SBC's then-current Service Level Agreement.

3. **FEES AND PAYMENT TERMS**

3.1 *Fees and Expenses.* Customer will pay all fees due according to the prices and terms listed in the Statements of Work. The prices listed in the Statements of Work will remain in effect during the Initial Term.

3.2 *Payment Terms.* Customer's initial invoice will generally include the non-recurring charges indicated in the Statement of Work and the monthly recurring charges for the first month of the term. Monthly recurring charges for all other months will be billed monthly in advance of the provision of Services. All other charges for Services received during a month will be billed at the end of the month in which the Services were provided. Payment for all fees is due upon receipt of each SBC invoice. All payments will be made in the United States in U.S. dollars. SBC reserves the right to modify any billing, including back billing to the extent permissible by applicable law, to reflect corrections or adjustments for billed services.

3.3 *Late Payments.* Any payment not received within thirty (30) days after the invoice date will accrue a service charge at a rate of one and one-half percent (1 ½%) per month, or the highest rate allowed by applicable law, whichever is lower. If Customer is delinquent in its payments by more than sixty (60) or more days, SBC has the right to limit bandwidth access to 10 GBs of Transfer or 1MB per second at its discretion. If Customer is delinquent in its payments by more than ninety (90) consecutive days, or in excess of thirty (30) days more than three (3) times during the Initial Term, Customer will be given written notice and five (5) days to cure. If Customer fails to pay fees by the end of the cure period, SBC may suspend or terminate Service and SBC may, upon written notice to Customer, modify the payment terms to require advance payment or deposit before the provision of any or all Services, or require other assurances to secure Customer's payment obligations hereunder.

3.4 *Taxes.* All fees charged by SBC for Services are exclusive of all taxes. Customer will be responsible for, and will pay in full, all federal, state, and local, sales, use, excise, gross receipts, and similar taxes, and all fees now in force or enacted in the future that are imposed on or with respect to the products and/or Services provided under this Agreement or Statement of Work; including those taxes and fees imposed on SBC but excluding taxes based upon SBC's net income. Customer shall reimburse SBC for the amount of any such taxes or fees that SBC is required to pay or collect for Services. To the extent that Customer claims that a sale is eligible for the resale tax exemption, Customer shall furnish SBC with a proper resale exemption certificate as authorized or required by statute or regulation by the jurisdiction providing the tax exemption. No exemption will be allowed to Customer unless and until a valid certificate is provided.

4. **CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY OWNERSHIP; LICENSE GRANTS; TITLE**

4.1 *Confidential Information.*

(a) *Nondisclosure of Confidential Information.* Each Party acknowledges that it may have access to certain confidential information of the other party concerning the other Party's business, plans, customers, technology, and products, and other information held in confidence by the other Party ("*Confidential Information*"). Confidential Information will include all information in tangible or intangible form that is marked or designated as confidential or that, under the circumstances of its disclosure, reasonably should be considered confidential. Confidential Information will also include, but not be limited to, SBC developed technology, Customer developed technology, and the terms and conditions of this Agreement. Each Party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by, or required to achieve the purposes of, this Agreement, nor disclose to any third party (except as required by law or to that Party's attorneys, accountants and other advisors as reasonably necessary), any of the other Party's Confidential Information, and will take reasonable precautions to protect the confidentiality of such Information, at least as stringent as it takes to protect its own Confidential Information.

(b) *Exceptions.* Information will not be deemed Confidential Information hereunder if such information: (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party; or (iv) is independently developed by the receiving Party. The receiving party may disclose Confidential Information pursuant to the requirements of a governmental agency or by operation of law, provided that it gives the disclosing Party reasonable prior written notice to permit the disclosing Party to contest such disclosure.

4.2 ***Intellectual Property.***

(a) *Ownership.* Except for the rights expressly granted herein and the assignment expressly made in paragraph 4.3(a), this Agreement does not transfer from SBC to Customer any SBC developed technology, and

all right, title and interest in and to such technology will remain solely with SBC. Except for the rights expressly granted herein, this Agreement does not transfer from Customer to SBC any Customer developed technology, and all right, title and interest in and to such technology will remain solely with Customer. Each Party each agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from the other Party's developed technology.

(b) ***General Skills and Knowledge.*** **Notwithstanding anything to the contrary in this Agreement, SBC will not be prohibited or enjoined at any time by Customer from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of SBC.**

4.3 *License Grants.*

(a) *By SBC.* SBC hereby grants to Customer a nonexclusive, non-transferable, royalty-free license, during the term of this Agreement, to use the SBC developed technology solely for purposes of using the Service(s). Customer shall have no right to use such technology for any purpose other than using the Service(s). Customer also agrees to comply with the terms and conditions applicable to the use of any Microsoft Software provided in connection with the Services, as such terms and conditions are listed on Exhibit D and as may be updated by Microsoft from time to time.

(b) *By Customer.* Customer agrees that if, in the course of performing the Service(s), it is necessary for SBC to access Customer equipment and use Customer developed technology, SBC is hereby granted and shall have permission to access the Customer equipment and a nonexclusive, royalty-free license, during the term of this Agreement, and to use such Customer equipment and developed technology solely for the purposes of delivering the Service(s) to Customer. SBC shall have no right to use the Customer equipment and developed technology for any purpose other than providing the Service(s) hereunder, unless permission to do so is otherwise obtained.

(c) ***Technology Rights.*** **To the extent that Customer or its employees or contractors participates with SBC in the creation or development of technology, Customer, on behalf of itself and its employees and contractors, hereby assigns to SBC all right, title and interest, including all intellectual property rights, in the technology.**

4.4 *Title. Except for Customer equipment owned and provided by Customer,* SBC owns the hardware components provided by SBC and necessary for the delivery of this Service and hereby grants Customer the limited right to use that hardware for the term of this Agreement solely in accordance with the terms and conditions set forth herein. Nothing contained herein, nor any actions or inactions of SBC or Customer shall be construed to grant Customer any right, title, interest, or physical access to such hardware.

5 SBC REPRESENTATIONS AND WARRANTIES

5.1 *Authority and Performance of SBC.* SBC represents and warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, and (ii) the performance of its obligations and delivery of the Services to Customer will not violate any applicable U.S. laws or regulations, including OSHA requirements. In the event of a breach of the warranties set forth in this paragraph, Customer's sole remedy shall be termination pursuant to Section 9 of this Agreement.

5.2 *Service Level Warranty.* SBC agrees to meet the service levels set forth in the Service Level Agreement ("SLA") in Exhibit B. In the event SBC fails to adhere to the Service Levels set forth therein, Customer shall be entitled to receive, upon Customer's request in accordance with this Exhibit B, a Service Credit to Customer's account as described in Exhibit B.

5.3 *Termination Option for Repeatedly Failing to Meet the Service Level Agreement.* Customer may terminate this Agreement for cause and without penalty by notifying SBC in writing within five (5) days following the end of a calendar month in which SBC fails to meet its SLA, other than Network Availability, three (3) times. If SBC fails to meet its Network Availability SLA three (3) times within a six (6) month period, Customer may terminate this Agreement for cause and without penalty by notifying SBC, in writing, within five (5) days after the third missed SLA. Termination under this provision will be effective thirty (30) days after receipt of such notice by SBC.

5.4 *Applying the SLA.* The service level warranty set forth in this Agreement and Exhibit B shall only apply to the Service(s) provided by SBC under this Agreement and any Addenda hereto, does not apply to any other products or services received by Customer from any SBC company; or any Service(s) that expressly exclude this service level warranty. This Section states Customer's sole and exclusive remedy for any failure by SBC to provide Service(s).

5.5 *No Other Warranty.* Except for the express warranties set forth in this Section 5, the Services are provided on an "as is" basis, and Customer's use of the Services is at its own risk. SBC does not make, and hereby disclaims, any and all other express and/or implied warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose, and any warranties arising from a course of dealing, usage, or trade practice. SBC does not warrant that the Services will be uninterrupted, error-free, or completely secure.

5.6 Disclaimer of Actions Caused by and/or Under the Control of Third Parties. SBC does not and cannot control the flow of data to or from SBC's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Although SBC will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, SBC cannot guarantee that such events will not occur. Accordingly, SBC disclaims any and all liability resulting from or related to such events.

5.7 Disclaimer of Actions Caused by and/or Under the Control of Account Holder. **SBC SHALL NOT BE RESPONSIBLE FOR ANY FAILURES, REPAIRS OR MODIFICATIONS NECESSITATED BY CUSTOMER ALTERATION OF ANY OF SBC'S OPERATING SYSTEM, INCLUDING ANY AND ALL OPERATIONAL ISSUES WHICH MAY ARISE AS A RESULT OF THE ADDITION OF SOFTWARE BY CUSTOMER. SBC SHALL NOT BE LIABLE FOR ANY DELAY IN PROVIDING OR ANY FAILURE TO PROVIDE SERVICES IF SUCH DELAY IS CAUSED BY FORCES BEYOND THE REASONABLE CONTROL OF SBC. ALL UTILITY PATCHES AND/OR UPGRADES TO OPERATING SYSTEMS ARE THE RESPONSIBILITY OF THE CUSTOMER DURING THE COURSE OF THIS AGREEMENT. SBC WILL NOT BE LIABLE FOR MALFUNCITONS OF CUSTOMER SUPPLIED SOFTWARE.**

6. **CUSTOMER OBLIGATIONS**

6.1 *Warranties of Customer.*

(a) *General.* Customer represents and warrants that (i) the performance of its obligations and use of the Services (by Customer, its customers and users) will not violate any applicable laws, regulations or cause a breach of any agreements with any third parties or unreasonably interfere with other SBC customers' use of SBC services, ***(ii) it will strictly comply with the SBC Acceptable Use Policy*** as updated by SBC from time to time; and (iii) all equipment, materials, software, hardware, and other tangible items used by Customer in conjunction with the Services provided herein will be used in compliance with all applicable manufacturer specifications.

(b) *Breach of Warranties.* In the event of any breach of any of the foregoing warranties, in addition to any other remedies available at law or in equity, SBC will have the right, in its sole reasonable discretion, to immediately suspend or terminate any related Services if deemed necessary by SBC to prevent any harm to SBC and its business. SBC will provide notice and an opportunity to cure, if practicable, depending on the nature of the breach. Once cured, SBC will promptly restore the Service(s).

6.2 Compliance with Law and SBC Acceptable Use Policy. Customer agrees that it will use the Service(s) only for lawful purposes and in accordance with this Agreement. SBC may change the SBC Acceptable Use Policy upon notice to Customer, which notice may be provided by posting such new SBC Acceptable Use Policy for Data Center Hosting at the SBC Web site www.sbchost.com and notifying Customer through electronic mail, at the address designated by Customer on the Customer Registration Form, that such change has been posted. The SBC Acceptable Use Policy and Terms and Conditions contain restrictions on Customer's and Customer's users' online conduct (including prohibitions against unsolicited commercial email) and may contain financial penalties for violations of such restrictions. Customer acknowledges that SBC exercises no control whatsoever over the content of the information passing through Customer's site(s) and that it is the sole responsibility of Customer to ensure that the information it and its users transmit and receive complies with all applicable laws and regulations and the SBC Acceptable Use Policy.

6.3 Restrictions on Use of Services. Customer shall not, without the prior written consent of SBC (which may be withheld in its sole discretion), resell the Services to any third parties.

7. **LIMITATIONS OF LIABILITY**

7.1 Service Interruption. SBC will use its best efforts to maintain a full time Internet presence for the Customer. The Customer hereby acknowledges that the network may, at various time intervals, be down due, but not limited to, but not limited to, utility interruption, equipment failure, natural disaster, acts of God, or human error. In no event shall SBC be liable to the Customer for any damages resulting from or related to any failure or delay of SBC in providing access to the Internet under this Agreement.

7.2 *CONSEQUENTIAL DAMAGES WAIVER.* EXCEPT FOR A BREACH OF SECTION 4.1 ("CONFIDENTIAL INFORMATION") OF THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE OR RESPONSIBLE TO THE OTHER FOR ANY TYPE OF INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, LOSS OF DATA, OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

7.3 Basis of the Bargain; Failure of Essential Purpose. The parties acknowledge that SBC has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the Parties. The Parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

10 **INDEMNIFICATION**

8.1 *Indemnification.* Each Party will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "*Losses*") resulting from any claim, suit, action, or proceeding (each, an "*Action*") brought by any third party against the other Party or its Affiliates alleging (i) the infringement or misappropriation of any intellectual property right relating to the delivery or use of the Service(s) (but excluding any infringement contributorily caused by the other party); or (ii) personal injury or damage to real or tangible personal property caused by the negligence or willful misconduct of such Party. Customer will indemnify, defend and hold SBC, its affiliates and customers harmless from and against any and all Losses resulting from or arising out of any Action brought against SBC, its affiliates or customers which is caused, directly, or indirectly, by Customer's breach of this Agreement, breach of any representation or warranty made in this Agreement, or failure to comply or otherwise observe the Acceptable Use Policy.

8.2 *Notice.* Each Party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.

9. **TERMINATION**

9.1 *Termination For Cause.* Either Party may terminate this Agreement if: (i) the other Party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after the Effective Date of Notice (as defined in Section 10.10 below) of the same, except in the case of failure to pay fees, which must be cured within five (5) days after receipt of written notice from SBC; (ii) the other Party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) the other Party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

9.2 *Suspension Pending Termination.* In the event SBC reasonably determines, in its sole discretion, that the activities of Customer in connection with the Services provided under this Agreement pose an immediate risk of harm to SBC's business or other customers, SBC may immediately suspend Service and terminate in accordance with this paragraph 9. Any activities conducted in connection with this provision will be conducted solely for the SBC's benefit, and not for the benefit of Customer or any third party

9.3 *Liability for Termination.* Neither Party will be liable to the other for any termination or expiration of any Service or this Agreement in accordance with its terms. In the case of Customer's termination or cancellation without cause of the Agreement, or applicable Statement of work, prior to expiration of the applicable term, Customer shall be immediately liable to SBC for all rates and charges through the term, less SBC's reasonable avoided costs.

9.4 *Effect of Termination.* Unless otherwise stated in this Agreement, termination will be effective at the end of the thirtieth (30^{th}) day after the date of written notice of termination. Upon the effective date of termination of this Agreement:

(a) SBC will immediately cease providing the Service(s);

(b) any and all payment obligations of Customer under this Agreement for Service(s) provided through the date of termination will immediately become due;

(c) within thirty (30) days after such termination, each party will return all Confidential Information of the other Party in its possession (or destroy it, keeping only such copy as is needed for historical files) and will not make or retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement; and

9.5 *Survival.* The following provisions will survive any expiration or termination of the Agreement: Sections 3, 4.1, 4.2, 7, 8, 9 and 10.

10. **MISCELLANEOUS PROVISIONS**

10.1 *Force Majeure.* Except for the obligation to make payments, neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including, but not limited to, acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of SBC), provided that the delayed party: (a) gives the other Party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If SBC is unable to provide Service(s) for a period of thirty (30) consecutive days as a result of a continuing force majeure event, Customer may cancel the Service(s), but there shall be no liability on the part of SBC.

10.2 *Audit Rights.* SBC reserves the right to audit Customer's site, and the materials comprising the site, at any time. If the audit reveals any act or omission that, in SBC's sole opinion, constitutes a violation of any local, state, federal or foreign law or regulation, SBC may immediately shut down the site, and notify Customer of the action. Customer agrees that it waives any cause of action or claim it may have against SBC for such action.

10.3 *Marketing.* Customer agrees that during the term of this Agreement SBC may publicly refer to Customer, orally and in writing, as a Customer of SBC. Any other reference to Customer by SBC requires the written consent of Customer.

10.4 *Government Regulations.* Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

10.5 *No Third Party Beneficiaries.* SBC and Customer agree that, except as otherwise expressly provided in this Agreement, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the customers of Customer.

10.6 *Governing Law; Dispute Resolution.*

(a) *Governing Law.* This Agreement is made under and will be governed by and construed in accordance with the laws of the state in which the Services are rendered (except that body of law controlling conflicts of law) and specifically excluding from application to this Agreement the United Nations Convention on the International Sale of Goods.

(b) *Dispute Resolution; Escalation/Arbitration.* The Parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims whatsoever related to this Agreement. If the Parties are unable to resolve any dispute, controversy, cause of action, or claim arising out of or relating to this Agreement, notice of such dispute and invocation of this escalation procedure ("Dispute Letter") shall be submitted in writing in accordance with this Agreement. The primary contact person for each Party shall then escalate the dispute to an individual at the level of vice-president or above for resolution and shall reply to the other Party, in writing ("Reply Letter"), within five (5) business days, with the name of and contact information for the individual who will negotiate the dispute. If the vice-presidents are unable to resolve the dispute within ten (10) business days of the date of the last Reply Letter, then the dispute, other than those disputes described in subparagraph (b) below , will be resolved by arbitration in accordance with the Commercial Arbitration Rules (and if Customer is a non-U.S. entity, the International Arbitration Rules) of the American Arbitration Association then obtaining, except with respect to discovery as stated in subparagraph (d) below. All disputes, to be considered under this provision, shall be brought to the other party's attention no later than one year after the claim has accrued.

(c) *Arbitration.* There will be three (3) arbitrators ("Arbitration Panel"). SBC shall choose one arbitrator, and Customer shall choose one arbitrator within 30 business days of the date a dispute is submitted to the executive officers of each Party and no resolution is achieved. The third arbitrator shall be chosen by the two arbitrators, which were selected by the parties, within twenty-five (25) days after the date the parties' individual arbitrators are chosen. The language of the arbitration shall be English.

(d) *Discovery.* To the extent the arbitrators permit discovery, the following limitations shall be placed on discovery: (i) depositions shall be limited to three (3) depositions per side; (ii) interrogatories shall be limited to twenty-five (25) per side; and (iii) requests for production of documents will be limited to twenty-five (25) per side; (iv) where efficient and reasonable and based upon the proponent's statement of the facts and issues in dispute, a threshold deposition of not more than eight (8) hours (not to be included in the limitation described above or imposed by the Arbitration Panel) or an initial disclosure may be obtained by a Party seeking relevant information for the purpose of identifying the persons most likely to have the most probative information bearing on the disputed facts and issues. If a Party elects a deposition under subparagraph (d) below, the opposing Party shall make every reasonable, good faith effort to produce the person most knowledgeable of the proponent's statement of facts and issues.

(e) *Punitive damages; Expenses.* The arbitrators will not have the authority to award punitive damages to either Party. Each Party shall bear its own expenses, but the Parties will share equally the expenses of the Arbitration.

(f) *Award as Final; Appeal.* The decision of the Arbitration Panel will be the sole and exclusive remedy between the parties regarding any and all claims and counterclaims with respect to the subject matter of the arbitrated dispute. The decision of the Arbitration Panel will not be appealable, will not be subject to collateral review by any Court, and will not be used by the parties in any proceeding or forum that is not subject to this Agreement with the only exception being that either party may appeal a final arbitration decision to a federal court with jurisdiction, or alternatively to any appropriate judicial authority, where there is a final decision in excess of $10 million and/or a decision that has a financial impact on the party's operations in excess of $10 million.

(g) *Matters Not Subject to Arbitration.* The matters which, as referred to above, are not subject to the general rule set forth herein regarding the arbitration of disputes include those referred to in Section 4.1 of this Agreement, claims for preliminary injunctive relief, other pre-judgment remedies, and claims for Customer's failure to pay for Services in accordance with this Agreement, which may be brought in a state or federal court in the United States with jurisdiction over the subject matter and parties.

10.7 *Severability; Waiver.* In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in full force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

10.8 *Assignment.* Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of SBC, and any attempted assignment or delegation without such consent will be void. SBC may assign this Agreement in whole or part to an Affiliate. SBC also may delegate the performance of certain Services to third parties, including SBC's Affiliates. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

10.9 *Notice.* Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving Party as listed on the Statement of Work or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered, mailed, emailed, faxed or sent, whichever is earlier ("Effective Date of Notice").

10.10 *Relationship of Parties.* SBC and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between SBC and Customer. Neither SBC nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

10.11 *Entire Agreement; Counterparts; Originals.* This Agreement, including all Exhibits, Addenda, and documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Any additional or different terms in any purchase order or other response by Customer shall be deemed objected to by SBC without need of further notice of objection, and shall be of no effect nor in any way binding upon SBC. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, facsimile) is considered an original. Except with respect to the SBC Acceptable Use Policy, which SBC may change from time to time, this Agreement may be changed only by a written document signed by authorized representatives of SBC and Customer in accordance with this Section. For purposes of this Agreement, the term "written" means anything reduced to a tangible form by a party, including a printed or hand written document, e-mail or other electronic format.

10.12 *Interpretation of Conflicting Terms.* In the event of a conflict between or among the terms in this Agreement, the Statement of Work(s), the Acceptable Use Policy, and any other document made a part hereof, the documents shall control in the following order: the Acceptable Use Policy, the Statement of Work, this Agreement and other documents.

Authorized representatives of Customer and SBC have read the foregoing and all documents incorporated therein and agree to and accept such terms.

CUSTOMER		**SBC**	
Signature:		Signature:	Mick Maggi
Print Name:	Dan Coody	Print Name:	MICK MAGGI
Title:	Mayor	Title:	SR Acct Mgr.
Date:		Date:	3-17-05

Exhibit A: Dedicated Hosting Statement of Work (SOW)

This Statement of Work ("SOW") is made to the SBC E-Services ("SBC") Managed Hosting Services Agreement between SBC and Customer (the "Agreement"), signed by Customer on 03/16/05. This Attachment is subject to and hereby incorporates by reference, the terms and conditions set forth in the Agreement. The terms contained herein shall be in addition to those set forth in the Agreement and to the extent possible, read consistently therewith. To the extent there is an irreconcilable conflict in terms and conditions between this SOW and the Agreement, the terms and conditions set forth herein shall govern.

☐	New Customer	☒	Existing Customer (if so, indicate number of remaining months in contract):

IN WITNESS WHEREOF, the parties hereto have executed this document.

City of Fayetteville	**SBC**
By:	**By:** Mick Maggi
Printed Name: Dan Coody	**Printed Name:** Mick Maggi
Title: Mayor	**Title:** 3/17/05
Date:	**Date:**

FOR SBC INTERNAL USE ONLY	
Customer Account Number	
Customer Service Order Number	
Sales Channel	

I. TERM
60 Months.

II. CUSTOMER INFORMATION

A. Company Information

Company Name	City of Fayetteville
Company Address	113 W Mountain
City, State	Fayetteville, AR
Domain Name	www.accessfayetteville.org
13-Digit BTN	

B. Technical or Primary Contact (Required)

Contact Name	Lesa Brosch	Title	Business Sys. Analyst
Street Address	113 W Mountain	Phone	479-575-8214
Room / Suite		Mobile	479-549-8052
City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us
Preferred Contact Method			

C. Secondary Contact (Optional)

Contact Name	Scott Huddleston	Title	
Street Address	113 W Mountain	Phone	479-575-8320
Room / Suite		Mobile	479-263-8656

City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us

D. Billing Contact (Required)

Contact Name	Lesa Brosch	Title	Business Sys. Analyst
Billing Address	113 W Mountain	Phone	479-575-8214
Room / Suite		Mobile	479-549-8052
City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us

III. SBC INFORMATION

A. SBC Sales Contact (Sales Code required to process order)

Name	Position	Phone	Email Address	Sales Code
Brian Cottrell	Hosting Inside Sales Specialist	214-576-7224	bc1859@txmail.sbc.com	
Brad Shepard	TSE	479-466-5176	Bs7892@sbc.com	
Mick Maggi	AM	479-571-6660	Rx900a@sbc.com	

B. SBC Region (Required)

To select a region corresponding to where Customer is located, place an "X" next to the applicable region:

X	Southwest (MO, OK, KS, AR, TX)		East (CT)
	West (CA, NV)		Out of Region (All other U.S. states)
	Midwest (IL, IN, MI, OH, WI)		International

IV. DEDICATED HOSTING ("DH") SERVICE PARAMETERS

A. Startup Pack Dedicated Hosting

1. SBC shall provide a managed hosted production environment for Customer that includes:
   - Managed network covering core Internet Data Center ("IDC") network and Internet Access from the server to the Internet.
   - Shared Firewall with predefined standard firewall rules as specified in the Dedicated Hosting Enhanced Services Attachment.
   - Preconfigured, standard build single server hardware with single power supply.
   - Standard operating system ("OS") build (Microsoft Windows Server 2003 Standard Edition or Red Hat Linux Enterprise 3.0ES) with SBC required agents and no Tape Backup client software or services.
   - Limited to unauthenticated Service Provider License Agreement (SPLA) for Microsoft Windows.
   - Managed Monitoring Lite package as defined in the Dedicated Hosting Enhanced Services Attachment.
   - One IP address for the Customer's server.
   - 100 GB aggregate data transfer per month.
   - No hardware or software options available other than selection of OS.

2. SBC shall perform the following deployment activities in support of Customer's hosted environment:
   - Procurement, staging, configuration, setup, installation and turn-up of the system.
   - Standard OS build including current security patches available at time of install.
   - Provisioning of administrative logins for Customer access.
   - Notification of Customer primary technical contact of completion of server provisioning; see Section VIII of this SOW for billing implications.

- SBC will not install third-party applications except for those expressly defined by SBC for remote administration.

3. SBC will provide the following ongoing hosting and maintenance services:
   - System monitoring as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - Network monitoring – bandwidth utilization, transfer rate, and network availability including latency and packet-loss as set forth in SBC E-Services' Service Level Agreement.
   - Physical monitoring and management – temperature, humidity, fire, flood, moisture, power and site security.
   - Change management – tracking of all potential service impacting network, hardware, and system changes through the SBC ticketing system.
   - Hardware maintenance – responsible for notification, trouble isolation and resolution, including SBC-determined need for system repair or replacement.
   - Links to current OS patches, for elective installation by the Customer.

B. Biz or Performance Pak Dedicated Hosting

1. SBC shall provide a managed hosted production environment for Customer that includes:
   - Managed network covering core IDC network and Internet Access from the server(s) to the Internet.
   - Dedicated Firewall with option for customizable firewall rules as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW; default firewall rules will be used if not otherwise specified.
   - Hardware for one or two servers with single power supply, selected from supported products list with option for multiple hard drives with RAID, depending on platform.
   - Standard OS build (Microsoft Windows Server 2003 Standard Edition, Red Hat Linux Enterprise 3.0 ES or Sun Solaris 9.0) with SBC required agents and Tape Backup client software.
   - A10 Tape Backup package with 10 GB streamed backup traffic included monthly, with option to upgrade to a larger A-Series Tape Backup package, as specified in Section VI of this SOW.
   - Limited to unauthenticated Service Provider License Agreement (SPLA) for Microsoft Windows.
   - Managed Monitoring Lite package with option for Basic or Professional Managed Monitoring packages as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - The option to purchase Basic Website or Professional Website Metrics as defined in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - One IP address with option for up to 26 additional IP addresses.
   - 100 GB aggregate data transfer per month with option for additional bandwidth up to 500 GB monthly.
   - Managed Dedicated Switch mandatory for two-server configurations.
   - No clustering or load balancing services and no external direct attached, network attached or SAN attached storage devices.

2. SBC shall perform the following deployment activities in support of Customer's hosted environment:
   - Procurement, staging, configuration, setup, installation and turn-up of the system.
   - Standard OS build including current security patches available at time of install.
   - Provisioning of administrative logins for Customer access.
   - Notification of Customer primary technical contact of completion of server provisioning; see Section VIII of this SOW for billing implications.
   - SBC will not install third-party applications except for those expressly defined by SBC for remote administration.

3. SBC will provide the following ongoing hosting and maintenance services:
   - System monitoring as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - Network monitoring – bandwidth utilization, transfer rate, and network availability including latency and packet-loss as set forth in SBC E-Services' Service Level Agreement.
   - Physical monitoring and management – temperature, humidity, fire, flood, moisture, power and site security.
   - Change management – tracking of all potential service impacting network, hardware, and system changes through the SBC ticketing system.
   - Hardware maintenance – responsible for notification, trouble isolation and resolution, including SBC-determined need for system repair or replacement.

- Links to current OS patches, for elective installation by the Customer.
- Tape Backup services as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW

V. CUSTOMER ENVIRONMENT

A. Customer Service Overview

1. Type of Dedicated Hosting Customer Environment
To select an option, place an "X" in the appropriate box:

	Startup Pak
	Biz Pak (HP)
	Biz Pak (Sun)
X	Performance Pak (HP)
	Performance Pak (Sun)

2. Managed Servers
The following is a general description of the managed servers to be provided by SBC (see Paragraph B of this Section for detailed part numbers and itemized components):

Server Description	Server Option(s)	Quantity

Startup Pak DH customers are limited to a maximum of one (1) managed server. Biz and Performance Pak DH customers are limited to a maximum of two (2) servers.

3. IDC Internet Bandwidth

100	Monthly data transfer (Gb per month)	$5.00	Monthly transfer overage rate ($ per Gb)
	Burstable bandwidth (95th percentile data transfer rate in Mb/s)	$	Burstable bandwidth overage rate ($ per Mb/s)

B. Bill of Materials

The following is the Bill of Materials ("BOM") for the Customer's managed hosting environment:

[insert BOM here, including part number, item description and quantity]

Quantity	Part #	Description
1		Perf Pack - HP ProLiant DL 380 G3
1		Single Xeon 3.06 GHz (default)
1		Red Hat Linux 3.0 - package
1		RAM:1 GB (default)
1		3x72 GB SCSI (default)
1		2-port 7781 NIC
1		Monitoring Lite
1		A50 (Upgrade From A10)
1		Netscreen 5GT (Default)
1		1 Additonal IP Address
1		**DALLAS – IDC Provisioning**

Customer – 101688 - Upgrading to new server, replacing DWH28

A. DNS Hosting Configuration

Domain Name	Host Name	Alias	Other

Exhibit A: Dedicated Hosting Statement of Work (SOW)

C. Domain Instructions

Customer is responsible for registering the Customer's domain(s). Instructions for SBC with respect to domain configuration are the following:

D. Business Email Instructions

IP Address	
Domain Name	
Email Contact	
Additional Email Accounts	
Additional Email Storage	

VI. ENHANCED SERVICES

A. Firewall Services

To select an option, enter the quantity ordered into the appropriate box:

	Shared Firewall (For Startup Pak Only)

Dedicated Firewall Package	
1	NetScreen 5GT (Default for Biz and Performance Paks)
	NetScreen 25
	Cisco PIX 515R

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Shared Firewall is available for Startup Pak DH customers only, and Dedicated Firewall is available for Biz and Performance Pak DH customers only. Dedicated Firewall Services requires completion of the Firewall Services Questionnaire.

B. Managed Monitoring (Servers)

To select an option, enter the quantity ordered into the appropriate box:

1	Lite Monitoring
	Basic Monitoring
	Professional Monitoring *

* For Professional Monitoring, select up to three (3) additional detailed report sets from the following six (6) options by placing an "X" in the appropriate box:

	System interface detail report		System detail report
	System CPU detail report		System disk detail report
	System disk partition report		Process set detail report

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Lite Monitoring is included as the base monitoring level for all DH customers. Biz or Performance Pak DH customers may upgrade to one of the other Managed Monitoring packages. Startup Pak DH customers are restricted to Lite Monitoring only.

C. Tape Backup Services

To select an option, enter the quantity ordered into the appropriate box:

	A10
1	A50
	A100
	A250
	A500
	A1000

1	Total number of servers to be provisioned for Tape Backup Services
$5	Per GB fee for monthly streamed backup traffic overages

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Tape Backup Services are available for Biz or Performance Pak DH only; Startup Pak DH customers are not eligible. Biz or Performance Pak DH packages include A10 Tape Backup by default. Tape Backup Services requires completion of a Tape Backup Questionnaire.

D. Website Metrics Services

To select an option, enter the quantity ordered into the appropriate box:

Package		No. of Servers	No. of Domains	No. of Filters	No. of Profiles
	Basic Website Metrics				
	Professional Website Metrics				

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Website Metrics Services are available for Biz or Performance Pak DH only; Startup Pak DH customers are not eligible. Biz or Performance Pak DH packages include Basic Website Metrics by default. Website Metrics Services requires completion of a Website Metrics Questionnaire.

E. Monthly Bandwidth Transfer Rate (option only for Biz and Performance Paks)

To select an option, place an X into the appropriate box:

X	100 GB per month (Default, bundled with Package Price)
	200 GB per month
	300 GB per month
	500 GB per month

VII. RESPONSIBILITIES

A. Customer Responsibilities

Customer responsibilities include the following:

- Customer shall provide/develop, install, configure, manage, and maintain/support all content and software necessary for their application services, to include Web servers, FTP servers and remote management clients.
- Customer is responsible for any malfunction, delays, downtime, or other negative impacts to Service caused by Customer software or applications.
- Customer is responsible for performing their own operating system patch management, anti-virus, anti-spam and server security management, including Virtual Hands charges for system rebuilds resulting from operating system or software related attacks, except for specific SBC-provided services identified in the Operating System Management Attachment

B. SBC Responsibilities

SBC responsibilities include the following:

- Provide 24x7 Customer care and support.
- Vendor coordination for all hardware and software under its responsibility.
- Staff the SBC IDC with trained engineers who are capable of providing professional installation for Customer network and server hardware.
- Provide as much notice as is reasonably practicable prior to commencing any emergency and/or mandatory maintenance of the Customer environment.
- Monitoring availability of all SBC managed systems utilizing the SBC E-Services services network.
- SBC is not responsible for any downtime related to application malfunction, development mishaps, content from customer, software exploits in customer's application, or non-SBC managed networks.
- SBC will utilize change management procedures that are consistent with industry standards to apply scheduled and emergency patches to the customer environment. In the event that customer opts to veto a patch that SBC recommends for implementations in the production environment in order to address critical operations or security-related issues, SBC cannot to be held responsible for any services level metrics or security comprises that arises out of the vetoed omission of this patch.

VIII. BILLING TERMS

A. Setup Fees and Recurring Charges

The following is a summary for non-recurring charges and monthly recurring charges for all Services ordered, as reflected in this SOW:

Non-Recurring Charge (NRC)	$ 0.00
Monthly Recurring Charge (MRC)	$ 1,175 – 60 month agreement

Note that this pricing reflects the configuration and features selected by Customer as of the date of this SOW. Any additions to the variables, options or Service elements that may be requested at a future date may affect these fees.

B. Overage Fees and Charges

1. Bandwidth: Customers who have transfer rate bandwidth, overage charges include, but are not limited to, data Transfer Above Limit according to the entitlements and rates set forth in Section V of this SOW. Customers who have burstable bandwidth will be billed for additional bandwidth usage at the Variable Bursting Rate based on the 95th percentile measurement and billing policy, according to the entitlements and rates set forth in Section V of this SOW. SBC will take a sample of the customer's Internet traffic every five minutes for the duration of the month. SBC will discard the top 5% of the customer samples and bill the customer at the 95th percentile. The variable burstable bandwidth portion will be billed in arrears.
2. Enhanced Services: Usage-based overage charges apply for the following Enhanced Services; see the Dedicated Hosting Enhanced Services Attachment for additional details:
   - Firewall Services – labor hours for rule changes beyond the initial included three (3) per month, billed as Premium Virtual Hands.
   - Tape Backup Services – monthly streamed backup traffic in excess of included allotment (per GB), labor hours for restores in excess of included allotment, and number of tape copies requested per month.
   - Website Metrics Services – ad hoc reports requested by Customer, billed as Premium Virtual Hands.

C. Service Commencement Date

The Service Commencement Date for this SOW will be the date on which Services provided by SBC under this SOW are made available to the Customer, as defined by the date on which SBC provides notification to Customer that provisioning of the Customer's hosting environment has been completed. The contract term and billing will begin on the Service Commencement Date. Without incurring any obligation or liability for SBC, the following is the targeted Service Commencement Date:

	Targeted Service Commencement Date

D. Contract Renewals

Contract renewal for managed hardware, software or operating systems (OS) cannot take place for components that have been identified by the vendor as "end-of-life". Customer migration to current and supported components may be required at SBC's discretion, prior to contract renewal.

E. Statement of Work Changes

This SOW shall be treated as a comprehensive, self-contained document containing a description of the full scope of Managed Hosting services to be provided by SBC. Any modifications to services identified in this SOW or additions of new services during the course of Customer's Managed Hosting engagement at SBC shall be reflected in a comprehensive, updated SOW that will supersede and replace this SOW in its entirety.

END OF DOCUMENT

Dedicated Hosting Enhanced Services Attachment

This Attachment ("Attachment") is made to the SBC E-Services ("SBC") Managed Hosting Services between SBC and Customer (the "Agreement"), signed by Customer on 03/16/05. This Attachment is subject to and hereby incorporates by reference, the terms and conditions set forth in the Agreement. The terms contained herein shall be in addition to those set forth in the Agreement and to the extent possible, read consistently therewith. To the extent there is an irreconcilable conflict in terms and conditions between this Attachment and the Agreement, the terms and conditions set forth herein shall govern.

I. TERM

This Attachment shall be co-terminus with the Agreement.

II. SCOPE

This Attachment describes the standard service packages, service parameters and service level warranties for Enhanced Services that are available for Dedicated Hosting. The specific types and quantities of Enhanced Services that Customer has ordered shall be detailed in the Advanced Hosting Statement of Work ("SOW") and shall be for the equipment and/or systems set forth in the SOW. "Enhanced Services" shall mean additional managed, operational, professional and/or infrastructure services provided by SBC to augment or supplement Customer's environment hosted in an SBC Internet Data Center ("IDC"). Enhanced Services governed by this Attachment shall be further defined as follows:

A. "Firewall Services" shall mean installation and provisioning of firewall hardware and/or software intended to limit unauthorized access to Customer servers, applications and/or data, as well as the optional administration, monitoring and technical assistance associated with the firewall hardware and/or software.
B. "Managed Monitoring" shall mean the monitoring, alarming, notification and reporting of statistics such as usage, availability, performance and errors that are pertinent to the system, software or application being monitored.
C. "Tape Backup Services" shall mean copying of data files from one or more Customer servers, recording to magnetic tape media, and providing restoral of data file(s) from backup copies in the event of source data corruption, deletion or system failure.
D. "Website Metrics Services" shall mean the collection of statistics and generation of reports on website metrics provided in an authenticated customer portal.
E. "Premium Virtual Hands Charges" shall mean the number of labor hours incurred multiplied by the hourly rate for Premium Virtual Hands services established in the SOW, or $250 per hour if not specified. Premium Virtual Hands services are tracked and billed in 15-minute increments.
F. "Normal Business Hours" shall mean 8:00am to 5:00pm local time for the IDC, Monday through Friday, excluding SBC holidays.

Any change to the equipment and/or systems listed in the SOW shall be made in writing and agreed to by SBC. The Enhanced Services provided hereunder are provided based upon representations by Customer regarding the configurations and software associated with the equipment and/or systems set forth in the SOW. **SBC shall not be responsible for any failure or inability to provision these services arising out of a change in or misrepresentation regarding the software and/or configurations after the initial testing and acceptance of the equipment and/or systems by SBC unless otherwise agreed to by SBC in writing.**

III. SERVICE PACKAGES

The Enhanced Services package(s), options, entitlements and applicable equipment and/or systems that the Customer has ordered shall be detailed in the SOW. The following provides a summary of the available Enhanced Services packages:

A. Firewall Services

1. Dedicated Firewall:
   a. SBC shall install and provision the firewall hardware and software specified in the SOW and initiate the Firewall Service.
   b. SBC shall provide telephone-based technical assistance, including providing technical information and assistance in diagnosing and resolving firewall-related problems, as well as access to any free software updates, patches or bug-fixes that may be released by equipment manufacturers. Customer user authentication is required and will take place when trouble ticket is opened.
   c. In case of a firewall hardware or software failure, SBC shall provide engineering support for Customer. If Customer is providing its own approved firewall hardware, Customer is responsible for providing maintenance on such hardware.
   d. Firewall(s) is (are) to be SNMP managed or made accessible via Telnet for remote diagnostics and troubleshooting. SBC requires that a secure shell (SSH) access be configured should it become necessary to remotely access the network for troubleshooting.
2. Shared Firewall:
   a. SBC shall assign a port to Customer on the shared Firewall Services platform, which will be provisioned such that multiple customers are protected utilizing Firewall Services.

b. Shared Firewall Services provides basic port filtering via assignment of a port from the shared firewall.

B. Managed Monitoring Services

1. Servers:
    a. Lite Monitoring: Monitoring parameters include server availability (ping IP address) and customer selected service availability parameters, including HTTP, HTTPS, FTP, POP3 and SMTP. Provides monthly reports including At-A-Glance reports for network latency, network availability, site availability and errors; and Trend reports for network (bits per second, for burstable customers only) and bandwidth (% utilization).
    b. Basic Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides weekly reports for usage, availability, performance and errors.
    c. Professional Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides daily reports for usage, availability, performance and errors, and Customer may also select up to three additional detailed report sets. Options for detailed report sets include system interface detail, system detail, system CPU detail, system disk detail, system disk partition, and process set detail.
    d. Predictive Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides daily reports for usage, availability, performance and errors, and weekly predictive reports. Daily reports include detailed report sets for system interface detail, system detail, system CPU detail, system disk detail and process set detail. Weekly predictive reports include exception summary report for all servers combined, detailed exception list for each server, total network volume by day, average network volume by hour, average health index by hour, situations to watch, volume leaders in bytes, health index leaders, volume change leaders, health index change leaders, element volume (in bytes) versus baseline by day, CPU utilization, partition utilization, element health index, availability, reachability, latency and standard service profile.
2. Database Servers:
    a. Database Server Monitoring: Customer is responsible for the installation and licensing of Microsoft SQL Server software. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.
    b. Managed Standard Database Server Monitoring: SBC shall provide and install Microsoft SQL Server Standard Edition software for use by Customer. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.
    c. Managed Enterprise Database Server Monitoring: SBC shall provide and install Microsoft SQL Server Enterprise Edition software for use by Customer. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.

C. Tape Backup Services

The following comprise SBC's standard Tape Backup Services packages:

Tape Backup Services Package	Included Cumulative Streamed Backup Traffic Per Month	Backup Start Time	Included Restores Per Month
A10	10 GB	Fixed	1
A50	50 GB	Fixed	1
A100	100 GB	Fixed	2
A250	250 GB	Fixed	2
A500	500 GB	Flexible	3
A1000	1,000 GB	Flexible	3

D. Website Metrics Services

1. Basic Website Metrics: Website traffic reports provided daily include snapshot, summary, hourly graph, daily graph and monthly graph. Website pages reports provided daily include top pages, directory tree, file types, status errors and posted form.
2. Professional Website Metrics: Website traffic reports provided daily include snapshot, summary, hourly graph, daily graph and monthly graph. Website pages reports provided daily include top pages, directory tree, file types, status errors and posted form. Additional reports include referrals, domains, browsers and tracking.

IV. SERVICE PARAMETERS

A. Firewall Services

1. Firewall Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW.
2. After initial configuration and acceptance, Customer is allowed three rule changes per month for Dedicated Firewall and Shared Firewall. Rule changes include the defining of a service or port, and the addition, deletion,

or modification of a policy or access list to allow or deny access to the defined service or port. Rule changes beyond the included three are billed as Premium Virtual Hands Charges.

3. Operating hours for firewall rule change requests are Normal Business Hours, and are typically implemented on the next business day. Emergency rule change requests are accepted by the SBC Operations Service Center (OSC) on a 24x7 basis.. Emergency rule changes are implemented within 2 hours from the time the request was taken. If SBC determines that the requested change creates a potential security risk, SBC will contact the Customer to review the requested firewall rule changes. User authentication will be required for firewall rule changes to be performed.
4. The standard Dedicated Firewall security policy configuration shall allow all users on the internal network full access to Internet services (outbound traffic), while blocking all inbound traffic (all connection requests originating from the Internet), with the exception of traffic destined for DNS and/or email gateways residing on the Customer's private network, including SMTP (port 20), POP3 (port 110), SSMTP (port 465), SIMAP (port 993), SPOP3 (port 995), IMAP (port 25), HTTP (port 80), HTTPS (port 443) and FTP (ports 20 and 21).
5. Any desired custom Dedicated Firewall security policies or configurations shall be outlined in the SOW and/or Firewall Services Questionnaire and are subject to hourly Premium Virtual Hands Charges.
6. The security policy configuration for Shared Firewall Services is fixed by SBC and may not be modified or changed by Customer. Any configurations beyond those defined by SBC could expose the Customer's network to security risks.
7. The standard Shared Firewall security policy configuration shall allow all users on the internal network full access to Internet services (outbound traffic), while blocking all inbound traffic (all connection requests originating from the Internet), with the exception of traffic destined for DNS and/or email gateways residing on the Customer's private network, including SMTP (port 20), POP3 (port 110), SSMTP (port 465), SIMAP (port 993), SPOP3 (port 995), IMAP (port 25), HTTP (port 80), HTTPS (port 443), FTP (ports 20 and 21), SSH (port 22), Webmin (port 10000) and PcAnywhere (port 5631).
8. "Redundant" Dedicated Firewall Services shall mean a firewall system that is equipped with redundant components such that the firewall will be continuously operational in the event of a component failure.
9. Virtual Private Network ("VPN") shall mean the establishment of a site to site IPSec tunnel between the managed firewall located in the IDC and an IPSec compatible VPN device. The VPN is limited to providing administrative access for 10 VPN clients to Customer's IDC network and is not to be construed as providing a fully managed VPN. Included in the setup charge is four hours for a site to site VPN; additional hourly Premium Virtual Hands Charges may apply for time intensive implementations. Ongoing support and management of the VPN tunnel and firewalls are not included in the base price.
10. SBC shall provide notification to Customer upon discovering or suspecting that a Customer system has been hacked or otherwise compromised. Such notification shall create no obligation for SBC to take action for resolving the issue, unless specifically outlined as an included custom service in Customer's SOW.
11. Customer is responsible for any bandwidth overages or other charges that may apply as a result of a compromised system, and for taking remedial action to return the system to an uncompromised state. Customer may request special assistance from SBC for security analysis, troubleshooting, reconfiguration and system rebuilds; such services would be billed hourly as Premium Virtual Hands Charges.
12. At SBC's sole discretion, SBC may remove a compromised system from the SBC network at any time, if necessary to protect the integrity of the network or service availability for other customers hosted in the IDC.
13. SBC provides no representation or guarantee that Firewall Services will protect Customer servers against all potential security threats, including but not limited to viruses, worms, hackers, denial of service or other Internet attacks.

B. Managed Monitoring Services

1. Managed Monitoring Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW. SBC may provide ad hoc reports upon Customer's request, which shall be billed as hourly Premium Virtual Hands Charges.
2. "At-a-Glance Reports" shall mean reports that provide performance indicators for an entire system during the specified report period. "Trend Reports" shall mean reports that show the value of one or more variables over a specified report period.
3. Except as specified with respect to Managed Monitoring for Database Servers, software agents for querying databases and applications are not included in the standard pricing. Pricing for any software agents that may be required to provide Managed Monitoring Services will be set forth in the SOW.
4. Managed Monitoring Services software installation will occur upon completion of a healthy server installation. Customer will be required to reboot Customer systems prior to software installation.
5. Customer server(s) must be configured with a secondary network port to be connected to a secure back-end services network managed by SBC, and have the Concord SysEdge Agent installed.
6. Managed Monitoring for Database Servers is available for Microsoft SQL Server only.
7. Managed Monitoring for Database Servers provides standard monitoring parameters including time since last database backup, time since last transaction log backup, number of user connections, average lock wait time (all

locks), disk space utilization, log cache hit ratio, CPU utilization, physical memory used and virtual memory used. Standard daily reports include utilization (CPU, memory, disk space), time since last backup (database, transaction log), frequency of hits within Microsoft SQL Server caches, number of user connections and average lock wait times (all locks).

8. Managed Monitoring for Database Servers includes monitoring, reporting and Customer notification only, and does not include database administration or performance tuning of Customer's database. If Customer desires for SBC to take corrective action, contracted Database Services and/or Premium Virtual Hands Charges would apply.
9. Managed Monitoring Services reports shall be archived and maintained by SBC as follows: daily reports for 45 days, 5 minute samples for 60 days, hourly samples for 8 weeks, daily samples for 70 weeks, weekly reports for 60 days, and monthly reports for 60 days.

C. Tape Backup Services

1. Tape Backup Services shall involve the recording of information selected by the Customer for backup as set forth in the SOW and Tape Backup Questionnaire, provided such information is present on the equipment and/or system at the time of the backup.
2. For standard servers, one (1) full backup shall be performed each week and one (1) incremental backup shall be performed daily, except on days in which a full backup is performed. For database agents, one (1) full backup shall be performed daily. Backup tape information shall be maintained on site for a period of four (4) weeks for weekly backups and two (2) weeks for daily backups.
3. Monthly backup quantity for billing purposes is calculated as the cumulative total backup data streamed during each calendar month period, including all full and incremental backup jobs. An overage fee will be charged for backup data streamed during the calendar month that is in excess of the Customer's contracted Tape Backup Services package. This overage will be calculated on a per Gigabyte (GB) basis and rounded up to the next full GB for partial GBs.
4. Customer is responsible for managing the size of data volumes to be backed up and for any monthly overage charges that may apply. Unless specific drives, directories or sub-directories are specified in the Tape Backup Questionnaire, the default will be to back up all of the server's local drives that are present at the time that the Tape Backup Service is provisioned.
5. Customer may request an alternate backup schedule that is less frequent than the default schedule and may also request use of differential incremental instead of cumulative incremental backups. Customer should indicate such special requests on the Tape Backup Questionnaire, and SBC shall make reasonable effort to accommodate.
6. Tape Backup Services may be provided for two (2) or more Customer servers either by ordering a single Tape Backup Services package to be shared across the Customer's servers or by ordering a Tape Backup Services package for each server. Each Customer server may be associated with only one Tape Backup Services package; multiple packages may not be added together for use on a single server.
7. The standard Tape Backup Services packages are intended for source data volumes to be backed up that do not exceed a sum total of 250 GB across all Customer server(s). Backup configurations that involve more than 250 total GB per full backup job may require custom network connections or a dedicated backup infrastructure, and therefore shall require design by EPEG and may require Individual Case Basis ("ICB") pricing. Without such customization, for source data volumes larger than 250 GB it is unlikely that the backup operation will satisfactorily complete.
8. Standard Tape Backup Service pricing includes coverage for one (1) Customer server per Tape Backup Services package. Each additional server to be included under a single Tape Backup Services package shall be billed a separate charge.
9. Offsite Vaulting of tape copies for Customer backup data is available as an optional, ICB priced service.
10. Tape copies may be made available to Customer for $250 per tape in the VERITAS backup image format that will include one (1) hour of labor; labor beyond one (1) hour shall be billed as hourly Premium Virtual Hands Charges. Customer is responsible for providing the tape(s) and prepaid shipping waybill to IDC location(s).
11. Tape Backup Services are designed to restore only the user data that has been backed up; the service does not support automated, complete recovery of a failed server ("bare metal restore"). Restore of backed up data includes one (1) hour of labor; labor beyond one (1) hour shall be billed as hourly Premium Virtual Hands Charges.
12. Restores included in a Tape Backup Services package that are unused in a given month do not roll over to the following month. Requests for additional restores in a given month above the number included in the Tape Backup Services package shall be billed as hourly Premium Virtual Hands Charges.
13. Unless requiring manual intervention or support by SBC personnel, restores for database agents that are initiated directly by Customer through the backup software client interface are not counted against the monthly restore allotment included in the Tape Backup Services package and are not billed as restore overages.
14. Tape Backup Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW.

15. All backup software, including client software to be installed on Customer server(s), that is provided by SBC in delivery of the Tape Backup Service shall remain licensed to SBC and such licenses will not be transferred from SBC to Customer. Software agents for querying databases and applications are not included in the standard Tape Backup Services package pricing.
16. Backup software installation will occur upon completion of a healthy server installation. Customers will be required to reboot their systems prior to software installation.
17. SBC will notify Customer at least twenty-four (24) hours in advance of any scheduled or planned maintenance that could interrupt service availability.
18. Scheduling windows for backup start times shall be determined and scheduled by SBC for the A10, A50, A100 and A250 Tape Backup Services packages. Scheduling windows for backup start times for A500 and A1000 Tape Backup Services packages or ICB Tape Backup Services shall be mutually agreed upon and approved by both parties in writing.
19. Due to factors such as server processor utilization and network interface card (NIC) performance, SBC makes no representations or guarantees as to the length of time that a scheduled full or incremental backup job or a restore may take to complete.

D. Website Metrics Services

1. The standard Website Metrics Services packages include a maximum of one (1) server, ten (10) domains, ten (10) log sources, 1 GB total daily transfer, filtering for ten (10) IP subnets, three (3) profiles, and one (1) user per profile. Customer requirements in excess of these restrictions will require additional fees.
2. "Log Sources" shall mean any type of log file that has been configured for processing in the Website Metrics Services system. A web server could have more than one website configured on it and each website would have its own access log. "Filters" shall mean a text string or regular expression that is used to either include or exclude certain hits from a Website Metrics Services report. Filters are commonly used to filter out certain content such as internal company traffic or to set up special reports for specific types of content such as a Web site subsection. "Profiles" shall mean a set of reports; a profile is created by adding domains, log sources and filters together.
3. Website Metrics Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW. SBC may provide ad hoc reports upon Customer's request, which will be billed as hourly Premium Virtual Hands Charges.
4. SBC shall archive and maintain Website Metrics Services reports for 60 days and raw log files for 24 hours.
5. The Customer's server must have a virtual Website bound on port 8118 or the services IP address and allow directory browsing and HTTP transfer of .log files for anonymous users, in order to allow the Urchin application to gather access logs. This "web logs" site will be restricted to allow access from the Urchin server only.
6. Customer must run a nightly web server log file rotation script that timestamps the web server's access/error/e-commerce log file(s) and places them in a directory accessible from the "web logs" site specified above. Failure to run these scripts will interfere with SBC's ability to provide Website Metrics Services.
7. For viewing Website Metrics Services reports, Customer shall have Internet access and a compatible Internet browser with 128-bit encryption.
8. Customer web server(s) must be configured with a secondary network port to be connected to a secure back-end services network managed by SBC, and write logs in either W3C (Weblogic) or Extended/Combined format (Apache, Netscape, iPlanet, etc.). Log files must be stored in a separate directory (e.g., e:/logfiles/) and should not remain in the System 32 directory on Windows servers.
9. Customer must complete the Website Metrics Questionnaire provided by SBC. Reporting shall begin upon completion of the Website Metrics Questionnaire and Customer final signoff of acceptance.

V. SERVICE LEVEL WARRANTIES

A. Firewall Services

SBC shall provide Firewall Services such that the operational availability of the firewall system adheres to the same Service Level Warranty established in the Agreement for Customer's hosted network in the SBC IDC.

B. Managed Monitoring Services

Service level warranties are not provided for Managed Monitoring Services.

C. Tape Backup Services

SBC shall provide Tape Backup Services in accordance with the following:

1. Scheduled backup processes will be queued to be performed within five (5) minutes of the scheduled start time of transaction.
2. Restore process for on-site backup data shall be queued for restoral within thirty (30) minutes following notification by Customer to SBC Operations Service Center (OSC) of request.

3. Restore process for archived off-site backup data shall be queued for restoral within thirty (30) minutes of arrival of the tape from the offsite facility.

D. Website Metrics Services

Service level warranties are not provided for Website Metrics Services.

VI. SERVICE CREDITS

Service credits, if applicable, will be available to Customer for each failure of SBC to meet the Service Level Warranties set forth in Section V of this Attachment. "Service Credit" shall mean an amount equal to the pro-rata charges for one monthly billing statement for one (1) day of SBC Managed Hosting Services. In order to receive a Service Credit set forth in this Section, Customer must notify the SBC Operations Service Center (OSC) within five (5) days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit.

VII. ADDITIONAL LIMITATION OF LIABILITY

SBC's aggregate liability under this Attachment in a given month shall not exceed the monthly charge for SBC Managed Hosting Services that month. Any failure of SBC to meet Service Level Warranties set forth in Section V of this Attachment shall be governed by and limited to the Service Credits set forth in Section VI of this Attachment. In no event shall SBC have additional liability under this attachment for consequential damages or any other damages based on alleged harm to customer's business or property.

VIII. CUSTOMER PERMISSION

Customer expressly grants SBC, for the purpose of providing the Enhanced Services described, the right to access the Customer systems and the right to reproduce the files.

IX. GENERAL

A. Firewall Services are provided to help mitigate security threats for Customer hosted servers, but are not intended to provide a comprehensive security solution. SBC shall only be responsible for providing the Firewall Services contracted by Customer and such Services shall be limited to the terms and conditions set forth in this Attachment and the Agreement.
B. Tape Backup Services are not intended to provide a comprehensive business continuance solution. The configuration selected by the Customer shall define the parameters of the Service to be provided and such Services shall be limited to the terms and conditions set forth in this Attachment and the Agreement.
C. SBC shall not be liable for failing to provide Enhanced Services or meet the Service Level Warranties or terms and conditions set forth in this Attachment due to Customer's failure to perform any of the Customer responsibilities as set forth in the SOW and Section IV of this Attachment.

END OF DOCUMENT

Firewall Services Questionnaire

I. GENERAL

This Firewall Services Questionnaire is used to provide the SBC Internet Data Center (IDC) operations staff with information that is necessary for provisioning and setup of Firewall Services, as well as for changes subsequent to initial turn-up of the service. This Questionnaire is not a contract or agreement to provide Firewall Services. For information regarding your contracted Firewall Services, please refer to your Master Services Agreement (MSA), Statement of Work (SOW), Firewall Services Attachment and/or Enhanced Services Attachment, or contact your SBC Sales Representative. For existing customers wishing to make a change, please send the completed Questionnaire via email to idcdalpm@sbc.com.

Date	01/18/05	Telephone no.	479-575-8214
Company name	City of Fayetteville	Alternate telephone no.	479-549-8052
Contact name	Lesa Brosch	Email address	lbrosch@ci.fayetteville.ar.us

II. SERVICE PACKAGES

Enter the quantity of Dedicated Firewall Services packages ordered into the appropriate box, according to the current SOW:

x	NetScreen 5GT	
	NetScreen 25	
	NetScreen 50	
	NetScreen 50 with Redundant Firewall	Active/Standby only
	NetScreen 204	
	NetScreen 204 with Redundant Firewall	Active/Standby only
	NetScreen 208	
	NetScreen 208 with Redundant Firewall	Select Active/Active or Active/Standby:
	Cisco PIX 515R	
	Cisco PIX 515UR	
	Cisco PIX 515UR with Redundant Firewall	Active/Standby only
	Cisco PIX 525R	
	Cisco PIX 525UR	
	Cisco PIX 525UR with Redundant Firewall	Active/Standby only
	Cisco PIX 535R	
	Cisco PIX 535UR	
	Cisco PIX 535UR with Redundant Firewall	Active/Standby only
	Administrative Client to Site VPN	

III. CUSTOMER CONFIGURATION

A. Interface Configuration

Interface	IP Address	Network Mask
Untrust or Internet		
DMZ		
Trust		

B. Standard Configuration

The following is the standard firewall configuration:

Source	Destination	Service / Port	Allow or Deny
Any	Any	SMTP (port 25)	Allow
Any	Any	POP3 (port 110)	Allow
Any	Any	SSMTP (port 465)	Allow
Any	Any	SIMAP (port 993)	Allow
Any	Any	SPOP3 (port 995)	Allow
Any	Any	IMAP (port 25)	Allow
Any	Any	HTTP (port 80)	Allow
Any	Any	HTTPS (port 443)	Allow
Any	Any	FTP (port 21)	Allow

Source	Destination	Service / Port	Allow or Deny
Any	Any	FTP-Data (port 20)	Allow
Any	Any	SQL Services, TCP (ports 1433, 1434)	Allow
Any	Any	PcAnywhere (ports 5631, 5632)	Allow
Any	Any	Terminal Services (port 3389)	Allow
Customer Trust/DMZ	Any	Any	Allow

C. Customized Configuration

If Customer desires any customized configurations for the firewall device, hourly Premium Virtual Hands Charges may apply. Any configurations beyond those defined by SBC may expose Customer's network to security risks. Enter any desired customized configuration parameters in the following table:

Source	Destination	Service / Port	Allow or Deny

Additional requests may be specified in Paragraph E below.

D. Administrative Client to Site VPN

Virtual Private Network ("VPN") means the establishment of a site to site IPSec tunnel between the managed firewall located in the IDC and an IPSec compatible VPN device. The VPN is limited to providing administrative access for 10 VPN clients to Customer's IDC network and is not to be construed as providing a fully managed VPN. Included in the setup charge is four hours for a site to site VPN; additional charges may apply for time intensive implementations. Ongoing support and management of the VPN tunnel and firewalls are not included in the base price. Enter the information pertaining to up to 10 administrative clients:

No.	Name	Email Address	Alias	Company
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

By default, all services will be allowed through the VPN tunnel. Standard configuration for Administrative Client to Site VPN includes IPSec in ESP (AES-128, SHA-1, DH-g2) Tunnel mode, utilizing IKE with pre-shared keys. Additional requests may be specified in paragraph E below.

E. Additional Firewall Rules Definitions

Item No.	Description

Item No.	Description

END OF DOCUMENT

Tape Backup Questionnaire

I. GENERAL

This Tape Backup Questionnaire is used to provide the SBC Internet Data Center (IDC) operations staff with information that is necessary for provisioning and setup of Tape Backup Services, as well as for changes subsequent to initial turn-up of the service. This Questionnaire is not a contract or agreement to provide Tape Backup Services. For information regarding your contracted Tape Backup Services, please refer to your Master Services Agreement (MSA), Statement of Work (SOW), Tape Backup Attachment and/or Enhanced Services Attachment, or contact your SBC Sales Representative. For existing customers wishing to make a change, please send the completed Questionnaire via email to idcdalpm@sbc.com.

Date	3/16/05	Telephone no.	479-575-8214
Company name	City of Fayetteville	Alternate telephone no.	479-549-8052
Contact name	Lesa Brosch	Email address	lbrosch@ci.fayetteville.ar.us

II. SERVICE PACKAGES

Enter the quantity ordered into the appropriate box, according to the current SOW:

	Tape Backup Package		Database Agent (Optional)
	A10		Microsoft Exchange
x	A50		Microsoft SQL Server
	A100		IBM DB2
	A250		Lotus Notes
	A500		Oracle
	A1000		

1	Total number of servers to be provisioned for Tape Backup Services
$5	Per GB fee for monthly streamed backup traffic overages

III. CUSTOMER CONFIGURATION

Please fill out the requested information for each source server (i.e., backup client) that should be connected to the Tape Backup service. Customers with only one server to be backed up would only need to fill out the *Server #1* table. This form can be used for up to 10 source servers. For more than 10 servers, please attach an additional copy of this form to cover each set of 10 servers.

Customers may select data to be backed up at the drive, directory or sub-directory level. Please fill out the *Directory pathname for backup* field carefully. Unless otherwise specified, the default will be to back up all local underscore drives that are present at the time of installation of the Tape Backup service. The customer is responsible for managing the size of data volumes to be backed up, as well as any overage charges that may apply for exceeding the monthly allotment for backup traffic, which includes all full and incremental backup jobs streamed during the calendar month.

For the *Database agent* field, enter the type of database (e.g., Exchange, SQL Server, Oracle, DB2, or Lotus Notes). The backup start times indicated here are the desired times only; the actual backup start time will be set by the SBC IDC staff depending on the entitlements of the Tape Backup package that you have ordered.

The standard Tape Backup service includes one (1) full backup and six (6) cumulative incremental backups per week, which is a well-established backup framework that should meet most customer's needs. The default schedule for database agents is a daily full backup. If they wish, customers may select less frequent backup jobs and may also opt for differential incremental instead of cumulative incremental backups. These options can provide an additional mechanism for customers to adjust their total backup traffic that would be streamed during the calendar month. The SBC IDC staff recommends that customers utilize the standard service parameters unless there is a compelling reason to change them and the customer fully understands the tradeoffs involved with any requested changes.

Server #1

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	

Tape Backup Questionnaire

Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #2

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #3

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #4

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #5

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	

Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*
Database backup schedule	[schedule]	*Note: default is daily full backup*
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]	

Server #6

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #7

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #8

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

Server #9

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	

Tape Backup Questionnaire

Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]

Server #10

Server host name	[server host name]	Server domain name	[server domain name]
Server O/S and version	[O/S and version]	Database agent	[database type]
Day of Week for Full Backup	[desired day of week]	Note: schedules fixed by SBC for A10 through A250	
Full backup start time	[desired time, 5pm to 8am]	Incremental backup start time	[desired time, 5pm to 8am]
Full backup schedule	[schedule]	*Note: default full backup schedule is one (1) per week*	
Incremental backup schedule	[schedule]	*Note: default incremental backup schedule is six (6) per week*	
Incremental backup type	[cumulative or differential]	*Note: default is cumulative incremental backup*	
Database backup schedule	[schedule]	*Note: default is daily full backup*	
Directory pathname for backup	[qualified pathname(s) of the directory(ies) to be backed up.]		

END OF DOCUMENT

Exhibit B
SBC Service Level Agreements (SLAs)

SBC PremierSERV℠ Hosting solutions provide a vault-like facility with abundant reliable bandwidth provided through a Cisco powered network and always-on power where Customers can house their mission-critical servers and databases. The SBC Internet Data Centers (IDCs) are staffed 24 X 7 X 365 by highly trained and certified engineers that monitor all security, network, and power systems to ensure maximum uptime. Customers get a solution that is optimized for their business needs. This document provides information regarding SBC E-Services' comprehensive service level commitments.

Definitions

For purposes of this Agreement, the following definitions shall apply:

(i) "Ambient Room Temperature" shall mean the temperature as measured by ambient room probes mounted on the columns and walls of the IDC.

(ii) "Core IDC Network" – shall mean the network from the customer-facing port at SBC E-Services' serving switch to the outbound port of the Internet edge routers (Ded routers) that connects to the SBC Internet Bandwidth. The SLA will cover all links in between. Redundant ports will have diverse paths and terminate on separate switches.

(iii) "SBC Internet Backbone" — shall mean the physical SBC Internet Backbone MegaPOPs that serve as key traffic aggregation points on the SBC Internet Backbone network. MegaPOPs connect to other ISPs' and Content Providers' networks, interconnect to other SBC MegaPOPs via SBC Internet Backbone, and interconnect to SBC MiniPOPs. MegaPOPs located in states where SBC E-Services' affiliates are not authorized to provide InterLATA service are excluded from the SLA measurements.

(iii) "Customer Site Environment" – shall mean the platform from which Customer operates its applications within the Internet Data Center.

(iv) "Downtime"-- shall mean failure to meet the standards set forth below with respect to latency, packet loss, core network, and power availability.

(v) "Latency" shall mean the average response time in milliseconds for a response path. At each polling interval, the response agent sends packets from the source to the destination. The average response is the total response time for all packets that returned successfully divided by the number of packets that returned successfully.

(vi) "Network Availability" shall mean the measurement of the ability of a source to obtain a response from a destination. A service is unavailable when the failed attempts (Packet Loss) rate during a polling interval is 100%.

(vii) "Packet Loss" shall mean a single packet of data that does not reach the router at the POP(s) designated by SBC E-Services from the IDC, but shall not include intentionally dropped packets due to Customer sending data faster than the Internet bandwidth that it has purchased. Network packet delivery guarantees ensure that data transmissions between recipient and SBC E-Services are sound and reliable.

(viii) "Power Availability" shall mean Electrical Power to outbound port on Customer serving power plugs in the Customer areas within the IDC. The Power Availability SLA only applies to Customers utilizing both the primary and redundant power plugs for each device located in the Customer areas of the IDC.

Service Levels

The following SLAs apply to all SBC PremierSERV Hosting Customers in the SBC IDCs:

- *Response Time* - SBC will respond to any service impacting issue within 15 minutes for Dedicated and Data Center Hosting Customers, and within 5 minutes for Advanced Hosting Customers.
- *Power Availability* – Power at the Data Center will be at 100% availability.
- *HVAC Availability* - Ambient Room Temperature will not exceed 75 Degrees F in the server area. Relative humidity in the IDC will not exceed 55% in the server area.

The following SLAs apply to SBC PremierSERV Hosting Customers that have purchased bandwidth with a redundant port from SBC E-Services:

- *Network Availability* – The Core IDC Network and SBC Internet Backbone will have a combined availability of 99.97%. The combined network availability SLA metric is the average of the Core IDC Network Availability and the SBC Internet Backbone Network Availability. Network Availability for the SBC Internet Backbone is based upon the monthly average between SBC-selected MegaPOP endpoints on the SBC Internet Backbone.
- *Aggregate Network Latency* – will not exceed Core IDC network latency of 30 milliseconds plus SBC Internet Backbone network latency of 50 milliseconds or a total of 80 milliseconds. Latency will be measured by averaging samples taken during a calendar month.

- *Packet Loss*—During any calendar month, packet loss on the SBC Internet Backbone will not exceed 0.3% based upon monthly average. SBC E-Services' packet loss warranty is averaged between SBC-selected MegaPOP endpoints within the SBC Internet Backbone.

The following SLA shall apply to SBC Dedicated and Advanced Hosting Customers only:

- *Site Availability* – Excluding exceptions, Customer's Site Environment will be available **99.9%** of the time each month for SBC Dedicated Hosting and **99.99%** of the time each month for SBC Advanced Hosting.

Exceptions

Although scheduled maintenance is not expected to impact the network, power or other service levels, the Service Level Agreement is not effective during scheduled maintenance periods, in conditions of Force Majeure, or for Customer enabled faults. Customer is responsible for all content and applications that reside on the server, therefore, any downtime or failure to meet an SLA that is directly or indirectly caused by content, applications, Customer Equipment, Customer or third party actions or inaction, or third party equipment not within the sole control of SBC E-Services will not be covered by these SLAs

Core Component Failure

Within 15 minutes of core IDC component failure (5 minutes for Advanced Hosting Customers), Customers will be notified via bulk email or public web site regarding any potential downtime. Core component failure is defined as a failure of any component of the IDC that has the potential of effecting more than one customer.

Individual Customer Failure

For individual Customer failure, Customer will be notified via fax, pager, email, or phone within 15 minutes of failure (5 minutes for Advanced Hosting Customers). Individual customer failure is defined as a failure of any component of the IDC that will only affect an individual Customer (cabling, port, etc). This will include any failure resulting in inability of IDC operations to "test" customer server via a ping watch (including reasons outside of IDC control, i.e. Customer server failure, etc).

Service Credits

Service Credits for missed SLAs, except Network Availability, shall be an amount equal to the pro-rata recurring charge for one day of Service. A Service Credit schedule is attached hereto as Attachment A for the Network Availability SLA. Customer will be eligible to receive from SBC a Service Credit for each Downtime period, with a maximum aggregate Service Credit of one-month's billing charges for all Downtime incidents that occur during such month.

In order to receive a Service Credit, Customer must notify SBC within thirty (30) calendar days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit.

Time related to Service Credit requests will be measured from the issuance of a trouble ticket to trouble resolution. Trouble tickets will be issued upon Customer's call to the IDC to report Downtime.

Attachment A to Exhibit B
to SBC E-Services Service Level Agreements

Network Availability Service Credit Matrix

From	To	Credit Days
99.96%	99.90%	1
99.89%	99.85%	1.5
99.84%	99.80%	2
99.79%	99.75%	2.5
99.74%	99.70%	3
99.69%	99.65%	3.5
99.64%	99.60%	4
99.59%	99.55%	4.5
99.54%	99.50%	5
99.49%	99.45%	5.5
99.44%	99.40%	6
99.39%	99.35%	6.5
99.34%	99.30%	7
99.29%	99.25%	7.5
99.24%	99.20%	8
99.19%	99.15%	8.5
99.14%	99.10%	9
99.09%	99.05%	9.5
99.04%	99.00%	10
98.99%	98.95%	10.5
98.94%	98.90%	11
98.89%	98.85%	11.5
98.84%	98.80%	12
98.79%	98.75%	12.5
98.74%	98.70%	13
98.69%	98.65%	13.5
98.64%	98.60%	14
98.59%	98.55%	14.5
98.54%	98.50%	15
98.49%	98.45%	15.5
98.44%	98.40%	16
98.39%	98.35%	16.5
98.34%	98.30%	17
98.29%	98.25%	17.5
98.24%	98.20%	18
98.19%	98.15%	18.5
98.14%	98.10%	19
98.09%	98.05%	19.5
98.04%	98.00%	20
97.99%	97.95%	20.5
97.94%	97.90%	21
97.89%	97.85%	21.5
97.84%	97.80%	22

From	To	Credit Days
97.79%	97.75%	22.5
97.74%	97.70%	23
97.69%	97.65%	23.5
97.64%	97.60%	24
97.59%	97.55%	24.5
97.54%	97.50%	25
97.49%	97.45%	25.5
97.44%	97.40%	26
97.39%	97.35%	26.5
97.34%	97.30%	27
97.29%	97.25%	27.5
97.24%	97.20%	28
97.19%	97.15%	28.5
97.14%	97.10%	29
97.09%	97.05%	29.5
97.04%	97.00%	30

Exhibit C
IP Address Management Guidelines
(Only needed if additional IP addresses are being issued)

As a responsible member of the INTERNET community, SBC must abide by the policies set forth by ICANN and ARIN in regard to address allocation to Customers. The address space that is currently unassigned in IPv4 space (32-bit addressing) is becoming constricted, and measures to ensure the future viability of the Internet may cause conflicts with Customer network planning unless responsible and efficient usage of subnet space is agreed upon between providers and their customer base.

In cooperation with our customers, SBC must plan to make the most efficient use of allocated network space so that we can continue to route traffic and obtain new network address space when requested. SBC encourages and supports our customers in the growth of their networks, and we will assign addresses to customers who genuinely require the address space for their networks. However, we must examine all requests for address space with care to validate the use of the IP numbers that are allocated.

Background

ARIN allocates blocks of IP addresses to Internet Service Providers (ISPs) for the purpose of reassigning that space to their customers. ARIN takes guidance from allocation policies and procedures set forth in RFC 2050. ISPs are required to use a utilization efficiency criterion in providing address space to their customers. **To this end, ISPs should have documented justification available for each allocation.** ARIN may request this justification at any time. If the justification is not provided, this may impact future receipt of allocations. In extreme cases, existing allocations may be affected.

Because the number of available IP addresses on the Internet is limited, many factors must be considered in the determination of address space assignment. Utilization rate of address space will be a key factor, but not the only factor, in network number assignment.

Responsibility and Authority

The assignment and management of IP addresses is the responsibility of SBC E-Services. SBC E-Services will be charged with obtaining addresses (referred to as blocks) from the organization(s) who dispense them to backbone service providers.

The governing organization is the American Registry for Internet Numbers (ARIN) in North and South America. The Sales and Sales Engineering Departments will be responsible for providing address justification as part of a customer's order. Once the order is turned over to the provisioning group, provisioning will work with the customer's technical representative on an ongoing basis to that the IP addresses fulfill their business requirements.

SBC E-Services will conduct audits of all address blocks, including subnets provided to customers, to ensure efficient usage of assigned addresses. This auditing will be conducted frequently to ensure effective usage of currently assigned blocks and the availability of new blocks. The auditing will be conducted through a variety of methods including, but not limited to, ping sweeps, reverse DNS lookups, and periodic reviews of customer IP justification forms. The detailed results of these audits will be made available upon request to the Sales Department, in case specific account management is required to maintain a healthy customer relationship.

Conclusion SBC E-Services will provide the customer with as many addresses as needed to operate on the Internet. The customer is expected to utilize these addresses effectively and not simply based on convenience. .All requests for a change in a customers IP allocation should be called in to 888-Web-Host to discuss the necessary documentation.

Number of IP Addresses Requested (to select an option, place an "X" next to the desired offering)

	# of IP Addresses	
x	Up to 2 (2 maximum)	**IP address approvals are at SBC Communications discretion based on our ability to determine your immediate or future need. SBC reserves the right to refuse IP address requests.**
	Up to 16 (16 maximum)	
	Up to 32 (32 maximum)	
	Up to 64 (64 maximum)	
	Up to 128 (128 maximum)	
	Up to 256 (256 maximum)	

Evaluation Criteria / Questionnaire

While SBC has offered multiple IP addresses with their Dedicated Hosting packages, the implementation of IP addresses is limited by ARIN's new policies for IP Address justification. These new policies state that use of IP addresses for IP based virtual hosts will not be accepted as justification for new IP addresses. What this means to you is that you MUST use name-based hosting where possible. Below please find additional guidelines in ARIN justification requests:

1) Do you have client machines that do not need a fixed IP address?
Consideration should be given towards employing name-based instead of IP-based virtual domain hosting. This will allow you to host an unlimited number of domains (subject to the limits of your web server software/hardware) per web server without needing a separate IP address per domain.

Do you have client machines that do not need a fixed IP address?	[Yes/No]

2) Are you employing the web hosting services for primary or secondary DNS?
If so, DNS servers meet ARIN justifications for hard-coded IP address implementation.

Are you employing the webhosting services for primary or secondary DNS?	[Yes/No]

3) Are you installing SSL certificates for secure transactions?
If so, SSL cert providers require a hard-coded IP address. Therefore this falls into adequate ARIN justification.

Are you installing SSL certificates for secure transactions?	[Yes/No]

4) Are you employing Mail or Database services on your dedicated Web hosting server?
If you are you are employing a separate, dedicated mail or database server, this would fall within ARIN guidelines for a dedicated IP address.

Are you employing Mail or Database services on your dedicated Web hosting server?	[Yes/No]

IP Justification Form

Initial_______

Exhibit D
Terms and Conditions Regarding Use of Microsoft Software

This document concerns your use of Microsoft software, which includes computer software provided to you by SBC E-Services, Inc. as described below, and may include associated media, printed materials, and "online" or electronic documentation (individually and collectively "SOFTWARE PRODUCTS"). SBC E-Services, Inc. does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which SBC E-Services, Inc. needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with SBC E-Services, Inc., and to your understanding of, compliance with and consent to the following terms and conditions, which SBC E-Services, Inc. does not have authority to vary, alter or amend

1. **DEFINITIONS.**

"Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," or other electronic device.

"Server Software" means software that provides services or functionality on a computer acting as a server.

"Redistribution Software" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

2. **OWNERSHIP OF SOFTWARE PRODUCTS.** The SOFTWARE PRODUCTS are licensed to **SBC E-Services, Inc.** from an affiliate of the Microsoft Corporation ("Microsoft"). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to you.

3. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices by **SBC E-Services, Inc.** only in accordance with the instructions, and only in connection with the services, provided to you by **SBC E-Services, Inc.**.

4. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to you by **SBC E-Services, Inc.**, you may have access to certain "sample," "redistributable" and/or software development ("SDK") software code and tools (individually and collectively "Redistribution Software"). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO SBC E-Services, Inc., WHICH TERMS MUST BE PROVIDED TO YOU BY SBC E-Services, Inc.**. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by **SBC E-Services, Inc.**.

5. **COPIES.** You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by **SBC E-Services, Inc.**; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with **SBC E-Services, Inc.**, upon notice from **SBC E-Services, Inc.** or upon transfer of your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

6. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.

7. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS.

8. **TERMINATION.** Without prejudice to any other rights, **SBC E-Services, Inc.** may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the SOFTWARE PRODUCTS, and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.

9. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY **SBC E-Services, Inc.** AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.

10. **PRODUCT SUPPORT.** Any product support for the SOFTWARE PRODUCTS is provided to you by **SBC E-Services, Inc.** and is not provided by Microsoft or its affiliates or subsidiaries.

11. **NOT FAULT TOLERANT.** THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

12. **EXPORT RESTRICTIONS.** The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see http://www.microsoft.com/exporting/.

13. LIABILITY FOR BREACH. In addition to any liability you may have to SBC E-Services, Inc., you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

SBC E-Services, Inc.

Master Services Agreement for
City of Fayetteville
Managed Hosting

Last Updated – November 4, 2003
Prepared by: Brian Cottrell
Prepared on: 01/18/05

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (THE "*AGREEMENT*") BETWEEN SBC E-SERVICES, INC. (SBC) AND CITY OF FAYETTEVILLE ("*CUSTOMER*") IS MADE EFFECTIVE ("the Effective Date") on the date of the last signature made by a party to this Agreement. The term for each Statement of Work will commence on the Service Commencement Date indicated in the Statement of Work. SBC and Customer are referred to herein individually as a "Party" and collectively as the "Parties".

1. **OVERVIEW**

1.1 *General.* This Agreement, including the attachments, which are incorporated herein, states the terms and conditions by which SBC will provide and Customer will receive and pay for hosting services described in Exhibit A, and other agreed upon services at SBC's Internet Data Center facility, as set forth in the initial Statement of Work attached as Exhibit A (collectively referred to as "Services"). This specifically does not include regulated telecommunications services provided to Customer any SBC Affiliate or third party. Customer may, during the course of this Agreement, submit to SBC additional Statements of Work that, if accepted by SBC, shall become part of this Agreement and attached as Exhibits. A rejected Statement of Work, when modified and resubmitted, shall be considered a new Statement of Work submission. Each Statement of Work submitted by Customer, accepted by SBC, and executed by both Parties is hereby incorporated by reference into this Agreement.

1.2 *Definitions.*

(a) "Affiliate" of any Party means any other Party directly or indirectly controlling, directly or indirectly controlled by or under direct or indirect, common control with such Party. As used in this definition, the term "control," "controlling" or "controlled by" shall mean in possession, directly or indirectly, of the power either to (i) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Party or (ii) direct or cause the direction of the actions, management or policies of such Party, whether through the ownership of voting securities or interest, by contract or otherwise, excluding in each case, any lender of such Party or any Affiliate of such lender.

(b) "Commencement Date" shall have the meaning specified in the applicable Statement of Work.

(c) "Contact Information form" means the list, set-forth in Exhibit A that contains the names and contact information (e.g. pager, email and telephone numbers) of Customer and the individuals authorized by Customer to make decisions regarding Customer's account. This form may be amended in writing from time to time by Customer.

(d) "Internet Data Center(s)" or "IDC" means any of the facilities used by SBC to provide the Data Center Hosting Service(s).

(e) "Representatives" mean the individuals identified in writing on the Contact Information form attached hereto as Exhibit A and authorized by Customer to make decisions regarding Customer's account.

(f) "SBC Acceptable Use Policy" for Data Center Hosting means the general terms and conditions governing Customer's use of Services as set forth at WWW.SBCHOST.COM and described further in Section 6.2, hereby incorporated into this Agreement by reference including, but not limited to, online conduct, and the obligations of Customer and its Representatives in the Internet Data Centers.

(g) "Service(s)" means the specific service(s), provided by SBC as described in the Statement(s) of Work and in any Addenda or Exhibit to this Agreement.

(h) "Service Level Agreement" or "SLA" means the service level commitments in Exhibit B.

(i) "Statement of Work" or "SOW" means the detailed description(s) of the Services, the Customer Site Environment (referenced in Exhibit B) Customer Area, and any equipment that SBC may make available for Customer use at the IDC in the Customer Area. The initial SOW is set forth in Exhibit A to this Agreement.

(j) "Megabyte" shall be abbreviated with "MB".

(k) "Gigabyte" shall be abbreviated with "GB".

2. **TERM**

2.1 *Term.* The term of this Agreement and the initial Statement of Work will begin on the Commencement Date and continue for the period indicated on the initial Statement of Work ("Initial Term"). All subsequent Statements of Work and Addenda or Exhibits submitted by Customer and accepted by SBC in association with this Agreement, shall have terms that operate concurrently with the initial Statement of Work, and renew or terminate simultaneously with the initial Statements of Work, unless otherwise specifically stated in the relevant Statement of Work or Addendum.

2.2 *Renewal Term(s).* This Agreement and each Statement of Work will continue automatically for additional one (1) year terms ("Renewal Terms"), unless otherwise agreed to in writing by the Parties or terminated upon notice by either Party, at SBC's then-current rates and charges for such term. During each Renewal Term, Customer's Service will be subject to SBC's then-current Service Level Agreement.

3. **FEES AND PAYMENT TERMS**

3.1 *Fees and Expenses.* Customer will pay all fees due according to the prices and terms listed in the Statements of Work. The prices listed in the Statements of Work will remain in effect during the Initial Term.

3.2 *Payment Terms.* Customer's initial invoice will generally include the non-recurring charges indicated in the Statement of Work and the monthly recurring charges for the first month of the term. Monthly recurring charges for all other months will be billed monthly in advance of the provision of Services. All other charges for Services received during a month will be billed at the end of the month in which the Services were provided. Payment for all fees is due upon receipt of each SBC invoice. All payments will be made in the United States in U.S. dollars. SBC reserves the right to modify any billing, including back billing to the extent permissible by applicable law, to reflect corrections or adjustments for billed services.

3.3 *Late Payments.* Any payment not received within thirty (30) days after the invoice date will accrue a service charge at a rate of one and one-half percent (1 ½%) per month, or the highest rate allowed by applicable law, whichever is lower. If Customer is delinquent in its payments by more than sixty (60) or more days, SBC has the right to limit bandwidth access to 10 GBs of Transfer or 1MB per second at its discretion. If Customer is delinquent in its payments by more than ninety (90) consecutive days, or in excess of thirty (30) days more than three (3) times during the Initial Term, Customer will be given written notice and five (5) days to cure. If Customer fails to pay fees by the end of the cure period, SBC may suspend or terminate Service and SBC may, upon written notice to Customer, modify the payment terms to require advance payment or deposit before the provision of any or all Services, or require other assurances to secure Customer's payment obligations hereunder.

3.4 *Taxes.* All fees charged by SBC for Services are exclusive of all taxes. Customer will be responsible for, and will pay in full, all federal, state, and local, sales, use, excise, gross receipts, and similar taxes, and all fees now in force or enacted in the future that are imposed on or with respect to the products and/or Services provided under this Agreement or Statement of Work; including those taxes and fees imposed on SBC but excluding taxes based upon SBC's net income. Customer shall reimburse SBC for the amount of any such taxes or fees that SBC is required to pay or collect for Services. To the extent that Customer claims that a sale is eligible for the resale tax exemption, Customer shall furnish SBC with a proper resale exemption certificate as authorized or required by statute or regulation by the jurisdiction providing the tax exemption. No exemption will be allowed to Customer unless and until a valid certificate is provided.

4. **CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY OWNERSHIP; LICENSE GRANTS; TITLE**

4.1 *Confidential Information.*

(a) *Nondisclosure of Confidential Information.* Each Party acknowledges that it may have access to certain confidential information of the other party concerning the other Party's business, plans, customers, technology, and products, and other information held in confidence by the other Party (*"Confidential Information"*). Confidential Information will include all information in tangible or intangible form that is marked or designated as confidential or that, under the circumstances of its disclosure, reasonably should be considered confidential. Confidential Information will also include, but not be limited to, SBC developed technology, Customer developed technology, and the terms and conditions of this Agreement. Each Party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by, or required to achieve the purposes of, this Agreement, nor disclose to any third party (except as required by law or to that Party's attorneys, accountants and other advisors as reasonably necessary), any of the other Party's Confidential Information, and will take reasonable precautions to protect the confidentiality of such Information, at least as stringent as it takes to protect its own Confidential Information.

(b) *Exceptions.* Information will not be deemed Confidential Information hereunder if such information: (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party; or (iv) is independently developed by the receiving Party. The receiving party may disclose Confidential Information pursuant to the requirements of a governmental agency or by operation of law, provided that it gives the disclosing Party reasonable prior written notice to permit the disclosing Party to contest such disclosure.

4.2 ***Intellectual Property.***

(a) ***Ownership.*** **Except for the rights expressly granted herein and the assignment expressly made in paragraph 4.3(a), this Agreement does not transfer from SBC to Customer any SBC developed technology, and**

all right, title and interest in and to such technology will remain solely with SBC. Except for the rights expressly granted herein, this Agreement does not transfer from Customer to SBC any Customer developed technology, and all right, title and interest in and to such technology will remain solely with Customer. Each Party each agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from the other Party's developed technology.

(b) *General Skills and Knowledge.* Notwithstanding anything to the contrary in this Agreement, SBC will not be prohibited or enjoined at any time by Customer from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of SBC.

4.3 *License Grants.*

(a) *By SBC.* SBC hereby grants to Customer a nonexclusive, non-transferable, royalty-free license, during the term of this Agreement, to use the SBC developed technology solely for purposes of using the Service(s). Customer shall have no right to use such technology for any purpose other than using the Service(s). Customer also agrees to comply with the terms and conditions applicable to the use of any Microsoft Software provided in connection with the Services, as such terms and conditions are listed on Exhibit D and as may be updated by Microsoft from time to time.

(b) *By Customer.* Customer agrees that if, in the course of performing the Service(s), it is necessary for SBC to access Customer equipment and use Customer developed technology, SBC is hereby granted and shall have permission to access the Customer equipment and a nonexclusive, royalty-free license, during the term of this Agreement, and to use such Customer equipment and developed technology solely for the purposes of delivering the Service(s) to Customer. SBC shall have no right to use the Customer equipment and developed technology for any purpose other than providing the Service(s) hereunder, unless permission to do so is otherwise obtained.

(c) *Technology Rights.* To the extent that Customer or its employees or contractors participates with SBC in the creation or development of technology, Customer, on behalf of itself and its employees and contractors, hereby assigns to SBC all right, title and interest, including all intellectual property rights, in the technology.

4.4 *Title. Except for Customer equipment owned and provided by Customer,* SBC owns the hardware components provided by SBC and necessary for the delivery of this Service and hereby grants Customer the limited right to use that hardware for the term of this Agreement solely in accordance with the terms and conditions set forth herein. Nothing contained herein, nor any actions or inactions of SBC or Customer shall be construed to grant Customer any right, title, interest, or physical access to such hardware.

5 SBC REPRESENTATIONS AND WARRANTIES

5.1 *Authority and Performance of SBC.* SBC represents and warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, and (ii) the performance of its obligations and delivery of the Services to Customer will not violate any applicable U.S. laws or regulations, including OSHA requirements. In the event of a breach of the warranties set forth in this paragraph, Customer's sole remedy shall be termination pursuant to Section 9 of this Agreement.

5.2 *Service Level Warranty.* SBC agrees to meet the service levels set forth in the Service Level Agreement ("SLA") in Exhibit B. In the event SBC fails to adhere to the Service Levels set forth therein, Customer shall be entitled to receive, upon Customer's request in accordance with this Exhibit B, a Service Credit to Customer's account as described in Exhibit B.

5.3 *Termination Option for Repeatedly Failing to Meet the Service Level Agreement.* Customer may terminate this Agreement for cause and without penalty by notifying SBC in writing within five (5) days following the end of a calendar month in which SBC fails to meet its SLA, other than Network Availability, three (3) times. If SBC fails to meet its Network Availability SLA three (3) times within a six (6) month period, Customer may terminate this Agreement for cause and without penalty by notifying SBC, in writing, within five (5) days after the third missed SLA. Termination under this provision will be effective thirty (30) days after receipt of such notice by SBC.

5.4 *Applying the SLA.* The service level warranty set forth in this Agreement and Exhibit B shall only apply to the Service(s) provided by SBC under this Agreement and any Addenda hereto, does not apply to any other products or services received by Customer from any SBC company; or any Service(s) that expressly exclude this service level warranty. This Section states Customer's sole and exclusive remedy for any failure by SBC to provide Service(s).

5.5 *No Other Warranty.* Except for the express warranties set forth in this Section 5, the Services are provided on an "as is" basis, and Customer's use of the Services is at its own risk. SBC does not make, and hereby disclaims, any and all other express and/or implied warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose, and any warranties arising from a course of dealing, usage, or trade practice. SBC does not warrant that the Services will be uninterrupted, error-free, or completely secure.

5.6 Disclaimer of Actions Caused by and/or Under the Control of Third Parties. SBC does not and cannot control the flow of data to or from SBC's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Although SBC will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, SBC cannot guarantee that such events will not occur. Accordingly, SBC disclaims any and all liability resulting from or related to such events.

5.7 Disclaimer of Actions Caused by and/or Under the Control of Account Holder. SBC SHALL NOT BE RESPONSIBLE FOR ANY FAILURES, REPAIRS OR MODIFICATIONS NECESSITATED BY CUSTOMER ALTERATION OF ANY OF SBC'S OPERATING SYSTEM, INCLUDING ANY AND ALL OPERATIONAL ISSUES WHICH MAY ARISE AS A RESULT OF THE ADDITION OF SOFTWARE BY CUSTOMER. SBC SHALL NOT BE LIABLE FOR ANY DELAY IN PROVIDING OR ANY FAILURE TO PROVIDE SERVICES IF SUCH DELAY IS CAUSED BY FORCES BEYOND THE REASONABLE CONTROL OF SBC. ALL UTILITY PATCHES AND/OR UPGRADES TO OPERATING SYSTEMS ARE THE RESPONSIBILITY OF THE CUSTOMER DURING THE COURSE OF THIS AGREEMENT. SBC WILL NOT BE LIABLE FOR MALFUNCITONS OF CUSTOMER SUPPLIED SOFTWARE.

6. CUSTOMER OBLIGATIONS

6.1 *Warranties of Customer.*

(a) *General.* Customer represents and warrants that (i) the performance of its obligations and use of the Services (by Customer, its customers and users) will not violate any applicable laws, regulations or cause a breach of any agreements with any third parties or unreasonably interfere with other SBC customers' use of SBC services, ***(ii) it will strictly comply with the SBC Acceptable Use Policy*** as updated by SBC from time to time; and (iii) all equipment, materials, software, hardware, and other tangible items used by Customer in conjunction with the Services provided herein will be used in compliance with all applicable manufacturer specifications.

(b) *Breach of Warranties.* In the event of any breach of any of the foregoing warranties, in addition to any other remedies available at law or in equity, SBC will have the right, in its sole reasonable discretion, to immediately suspend or terminate any related Services if deemed necessary by SBC to prevent any harm to SBC and its business. SBC will provide notice and an opportunity to cure, if practicable, depending on the nature of the breach. Once cured, SBC will promptly restore the Service(s).

6.2 *Compliance with Law and SBC Acceptable Use Policy.* Customer agrees that it will use the Service(s) only for lawful purposes and in accordance with this Agreement. SBC may change the SBC Acceptable Use Policy upon notice to Customer, which notice may be provided by posting such new SBC Acceptable Use Policy for Data Center Hosting at the SBC Web site www.sbchost.com and notifying Customer through electronic mail, at the address designated by Customer on the Customer Registration Form, that such change has been posted. The SBC Acceptable Use Policy and Terms and Conditions contain restrictions on Customer's and Customer's users' online conduct (including prohibitions against unsolicited commercial email) and may contain financial penalties for violations of such restrictions. Customer acknowledges that SBC exercises no control whatsoever over the content of the information passing through Customer's site(s) and that it is the sole responsibility of Customer to ensure that the information it and its users transmit and receive complies with all applicable laws and regulations and the SBC Acceptable Use Policy.

6.3 Restrictions on Use of Services. Customer shall not, without the prior written consent of SBC (which may be withheld in its sole discretion), resell the Services to any third parties.

7. LIMITATIONS OF LIABILITY

7.1 *Service Interruption.* SBC will use its best efforts to maintain a full time Internet presence for the Customer. The Customer hereby acknowledges that the network may, at various time intervals, be down due, but not limited to, but not limited to, utility interruption, equipment failure, natural disaster, acts of God, or human error. In no event shall SBC be liable to the Customer for any damages resulting from or related to any failure or delay of SBC in providing access to the Internet under this Agreement.

7.2 *CONSEQUENTIAL DAMAGES WAIVER.* EXCEPT FOR A BREACH OF SECTION 4.1 ("CONFIDENTIAL INFORMATION") OF THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE OR RESPONSIBLE TO THE OTHER FOR ANY TYPE OF INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, LOSS OF DATA, OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

7.3 *Basis of the Bargain; Failure of Essential Purpose.* The parties acknowledge that SBC has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the Parties. The Parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

10 INDEMNIFICATION

8.1 *Indemnification.* Each Party will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "*Losses*") resulting from any claim, suit, action, or proceeding (each, an "*Action*") brought by any third party against the other Party or its Affiliates alleging (i) the infringement or misappropriation of any intellectual property right relating to the delivery or use of the Service(s) (but excluding any infringement contributorily caused by the other party); or (ii) personal injury or damage to real or tangible personal property caused by the negligence or willful misconduct of such Party. Customer will indemnify, defend and hold SBC, its affiliates and customers harmless from and against any and all Losses resulting from or arising out of any Action brought against SBC, its affiliates or customers which is caused, directly, or indirectly, by Customer's breach of this Agreement, breach of any representation or warranty made in this Agreement, or failure to comply or otherwise observe the Acceptable Use Policy.

8.2 *Notice.* Each Party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.

9. **TERMINATION**

9.1 *Termination For Cause.* Either Party may terminate this Agreement if: (i) the other Party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after the Effective Date of Notice (as defined in Section 10.10 below) of the same, except in the case of failure to pay fees, which must be cured within five (5) days after receipt of written notice from SBC; (ii) the other Party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) the other Party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

9.2 *Suspension Pending Termination.* In the event SBC reasonably determines, in its sole discretion, that the activities of Customer in connection with the Services provided under this Agreement pose an immediate risk of harm to SBC's business or other customers, SBC may immediately suspend Service and terminate in accordance with this paragraph 9. Any activities conducted in connection with this provision will be conducted solely for the SBC's benefit, and not for the benefit of Customer or any third party

9.3 *Liability for Termination.* Neither Party will be liable to the other for any termination or expiration of any Service or this Agreement in accordance with its terms. In the case of Customer's termination or cancellation without cause of the Agreement, or applicable Statement of work, prior to expiration of the applicable term, Customer shall be immediately liable to SBC for all rates and charges through the term, less SBC's reasonable avoided costs.

9.4 *Effect of Termination.* Unless otherwise stated in this Agreement, termination will be effective at the end of the thirtieth (30th) day after the date of written notice of termination. Upon the effective date of termination of this Agreement:

(a) SBC will immediately cease providing the Service(s);

(b) any and all payment obligations of Customer under this Agreement for Service(s) provided through the date of termination will immediately become due;

(c) within thirty (30) days after such termination, each party will return all Confidential Information of the other Party in its possession (or destroy it, keeping only such copy as is needed for historical files) and will not make or retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement; and

9.5 *Survival.* The following provisions will survive any expiration or termination of the Agreement: Sections 3, 4.1, 4.2, 7, 8, 9 and 10.

10. **MISCELLANEOUS PROVISIONS**

10.1 *Force Majeure.* Except for the obligation to make payments, neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including, but not limited to, acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of SBC), provided that the delayed party: (a) gives the other Party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If SBC is unable to provide Service(s) for a period of thirty (30) consecutive days as a result of a continuing force majeure event, Customer may cancel the Service(s), but there shall be no liability on the part of SBC.

10.2 *Audit Rights.* SBC reserves the right to audit Customer's site, and the materials comprising the site, at any time. If the audit reveals any act or omission that, in SBC's sole opinion, constitutes a violation of any local, state, federal or foreign law or regulation, SBC may immediately shut down the site, and notify Customer of the action. Customer agrees that it waives any cause of action or claim it may have against SBC for such action.

10.3 *Marketing*. Customer agrees that during the term of this Agreement SBC may publicly refer to Customer, orally and in writing, as a Customer of SBC. Any other reference to Customer by SBC requires the written consent of Customer.

10.4 *Government Regulations*. Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

10.5 *No Third Party Beneficiaries*. SBC and Customer agree that, except as otherwise expressly provided in this Agreement, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the customers of Customer.

10.6 *Governing Law; Dispute Resolution.*

(a) *Governing Law*. This Agreement is made under and will be governed by and construed in accordance with the laws of the state in which the Services are rendered (except that body of law controlling conflicts of law) and specifically excluding from application to this Agreement the United Nations Convention on the International Sale of Goods.

(b) *Dispute Resolution; Escalation/Arbitration.* The Parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims whatsoever related to this Agreement. If the Parties are unable to resolve any dispute, controversy, cause of action, or claim arising out of or relating to this Agreement, notice of such dispute and invocation of this escalation procedure ("Dispute Letter") shall be submitted in writing in accordance with this Agreement. The primary contact person for each Party shall then escalate the dispute to an individual at the level of vice-president or above for resolution and shall reply to the other Party, in writing ("Reply Letter"), within five (5) business days, with the name of and contact information for the individual who will negotiate the dispute. If the vice-presidents are unable to resolve the dispute within ten (10) business days of the date of the last Reply Letter, then the dispute, other than those disputes described in subparagraph (b) below , will be resolved by arbitration in accordance with the Commercial Arbitration Rules (and if Customer is a non-U.S. entity, the International Arbitration Rules) of the American Arbitration Association then obtaining, except with respect to discovery as stated in subparagraph (d) below. All disputes, to be considered under this provision, shall be brought to the other party's attention no later than one year after the claim has accrued.

(c) *Arbitration.* There will be three (3) arbitrators ("Arbitration Panel"). SBC shall choose one arbitrator, and Customer shall choose one arbitrator within 30 business days of the date a dispute is submitted to the executive officers of each Party and no resolution is achieved. The third arbitrator shall be chosen by the two arbitrators, which were selected by the parties, within twenty-five (25) days after the date the parties' individual arbitrators are chosen. The language of the arbitration shall be English.

(d) *Discovery.* To the extent the arbitrators permit discovery, the following limitations shall be placed on discovery: (i) depositions shall be limited to three (3) depositions per side; (ii) interrogatories shall be limited to twenty-five (25) per side; and (iii) requests for production of documents will be limited to twenty-five (25) per side; (iv) where efficient and reasonable and based upon the proponent's statement of the facts and issues in dispute, a threshold deposition of not more than eight (8) hours (not to be included in the limitation described above or imposed by the Arbitration Panel) or an initial disclosure may be obtained by a Party seeking relevant information for the purpose of identifying the persons most likely to have the most probative information bearing on the disputed facts and issues. If a Party elects a deposition under subparagraph (d) below, the opposing Party shall make every reasonable, good faith effort to produce the person most knowledgeable of the proponent's statement of facts and issues.

(e) *Punitive damages; Expenses.* The arbitrators will not have the authority to award punitive damages to either Party. Each Party shall bear its own expenses, but the Parties will share equally the expenses of the Arbitration.

(f) *Award as Final; Appeal.* The decision of the Arbitration Panel will be the sole and exclusive remedy between the parties regarding any and all claims and counterclaims with respect to the subject matter of the arbitrated dispute. The decision of the Arbitration Panel will not be appealable, will not be subject to collateral review by any Court, and will not be used by the parties in any proceeding or forum that is not subject to this Agreement with the only exception being that either party may appeal a final arbitration decision to a federal court with jurisdiction, or alternatively to any appropriate judicial authority, where there is a final decision in excess of $10 million and/or a decision that has a financial impact on the party's operations in excess of $10 million.

(g) *Matters Not Subject to Arbitration.* The matters which, as referred to above, are not subject to the general rule set forth herein regarding the arbitration of disputes include those referred to in Section 4.1 of this Agreement, claims for preliminary injunctive relief, other pre-judgment remedies, and claims for Customer's failure to pay for Services in accordance with this Agreement, which may be brought in a state or federal court in the United States with jurisdiction over the subject matter and parties.

10.7 *Severability; Waiver.* In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in full force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

10.8 *Assignment.* Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of SBC, and any attempted assignment or delegation without such consent will be void. SBC may assign this Agreement in whole or part to an Affiliate. SBC also may delegate the performance of certain Services to third parties, including SBC's Affiliates. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

10.9 *Notice.* Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving Party as listed on the Statement of Work or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered, mailed, emailed, faxed or sent, whichever is earlier ("Effective Date of Notice").

10.10 *Relationship of Parties.* SBC and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between SBC and Customer. Neither SBC nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

10.11 *Entire Agreement; Counterparts; Originals.* This Agreement, including all Exhibits, Addenda, and documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Any additional or different terms in any purchase order or other response by Customer shall be deemed objected to by SBC without need of further notice of objection, and shall be of no effect nor in any way binding upon SBC. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, facsimile) is considered an original. Except with respect to the SBC Acceptable Use Policy, which SBC may change from time to time, this Agreement may be changed only by a written document signed by authorized representatives of SBC and Customer in accordance with this Section. For purposes of this Agreement, the term "written" means anything reduced to a tangible form by a party, including a printed or hand written document, e-mail or other electronic format.

10.12 *Interpretation of Conflicting Terms.* In the event of a conflict between or among the terms in this Agreement, the Statement of Work(s), the Acceptable Use Policy, and any other document made a part hereof, the documents shall control in the following order: the Acceptable Use Policy, the Statement of Work, this Agreement and other documents.

Authorized representatives of Customer and SBC have read the foregoing and all documents incorporated therein and agree to and accept such terms.

CUSTOMER		**SBC**	
Signature:	Dan Coody	Signature:	[signature]
Print Name:	Dan Coody	Print Name:	BW SHEPARD
Title:	Mayor	Title:	TSE II
Date:		Date:	03-08-2005

Exhibit B
SBC Service Level Agreements (SLAs)

SBC PremierSERV℠ Hosting solutions provide a vault-like facility with abundant reliable bandwidth provided through a Cisco powered network and always-on power where Customers can house their mission-critical servers and databases. The SBC Internet Data Centers (IDCs) are staffed 24 X 7 X 365 by highly trained and certified engineers that monitor all security, network, and power systems to ensure maximum uptime. Customers get a solution that is optimized for their business needs. This document provides information regarding SBC E-Services' comprehensive service level commitments.

Definitions

For purposes of this Agreement, the following definitions shall apply:

(i) "Ambient Room Temperature" shall mean the temperature as measured by ambient room probes mounted on the columns and walls of the IDC.

(ii) "Core IDC Network" – shall mean the network from the customer-facing port at SBC E-Services' serving switch to the outbound port of the Internet edge routers (Ded routers) that connects to the SBC Internet Bandwidth. The SLA will cover all links in between. Redundant ports will have diverse paths and terminate on separate switches.

(iii) "SBC Internet Backbone" — shall mean the physical SBC Internet Backbone MegaPOPs that serve as key traffic aggregation points on the SBC Internet Backbone network. MegaPOPs connect to other ISPs' and Content Providers' networks, interconnect to other SBC MegaPOPs via SBC Internet Backbone, and interconnect to SBC MiniPOPs. MegaPOPs located in states where SBC E-Services' affiliates are not authorized to provide InterLATA service are excluded from the SLA measurements.

(iii) "Customer Site Environment" – shall mean the platform from which Customer operates its applications within the Internet Data Center.

(iv) "Downtime"– shall mean failure to meet the standards set forth below with respect to latency, packet loss, core network, and power availability.

(v) "Latency" shall mean the average response time in milliseconds for a response path. At each polling interval, the response agent sends packets from the source to the destination. The average response is the total response time for all packets that returned successfully divided by the number of packets that returned successfully.

(vi) "Network Availability" shall mean the measurement of the ability of a source to obtain a response from a destination. A service is unavailable when the failed attempts (Packet Loss) rate during a polling interval is 100%.

(vii) "Packet Loss" shall mean a single packet of data that does not reach the router at the POP(s) designated by SBC E-Services from the IDC, but shall not include intentionally dropped packets due to Customer sending data faster than the Internet bandwidth that it has purchased. Network packet delivery guarantees ensure that data transmissions between recipient and SBC E-Services are sound and reliable.

(viii) "Power Availability" shall mean Electrical Power to outbound port on Customer serving power plugs in the Customer areas within the IDC. The Power Availability SLA only applies to Customers utilizing both the primary and redundant power plugs for each device located in the Customer areas of the IDC.

Service Levels

The following SLAs apply to all SBC PremierSERV Hosting Customers in the SBC IDCs:

- *Response Time* - SBC will respond to any service impacting issue within **15** minutes for Dedicated and Data Center Hosting Customers, and within **5** minutes for Advanced Hosting Customers.
- *Power Availability* – Power at the Data Center will be at **100%** availability.
- *HVAC Availability* - Ambient Room Temperature will not exceed 75 Degrees F in the server area. Relative humidity in the IDC will not exceed 55% in the server area.

The following SLAs apply to SBC PremierSERV Hosting Customers that have purchased bandwidth with a redundant port from SBC E-Services:

- *Network Availability* – The Core IDC Network and SBC Internet Backbone will have a combined availability of 99.97%. The combined network availability SLA metric is the average of the Core IDC Network Availability and the SBC Internet Backbone Network Availability. Network Availability for the SBC Internet Backbone is based upon the monthly average between SBC-selected MegaPOP endpoints on the SBC Internet Backbone.
- *Aggregate Network Latency* – will not exceed Core IDC network latency of 30 milliseconds plus SBC Internet Backbone network latency of 50 milliseconds or a total of 80 milliseconds. Latency will be measured by averaging samples taken during a calendar month.

- *Packet Loss*—During any calendar month, packet loss on the SBC Internet Backbone will not exceed 0.3% based upon monthly average. SBC E-Services' packet loss warranty is averaged between SBC-selected MegaPOP endpoints within the SBC Internet Backbone.

The following SLA shall apply to SBC Dedicated and Advanced Hosting Customers only:

- *Site Availability* – Excluding exceptions, Customer's Site Environment will be available **99.9%** of the time each month for SBC Dedicated Hosting and **99.99%** of the time each month for SBC Advanced Hosting.

Exceptions

Although scheduled maintenance is not expected to impact the network, power or other service levels, the Service Level Agreement is not effective during scheduled maintenance periods, in conditions of Force Majeure, or for Customer enabled faults. Customer is responsible for all content and applications that reside on the server, therefore, any downtime or failure to meet an SLA that is directly or indirectly caused by content, applications, Customer Equipment, Customer or third party actions or inaction, or third party equipment not within the sole control of SBC E-Services will not be covered by these SLAs

Core Component Failure

Within 15 minutes of core IDC component failure (5 minutes for Advanced Hosting Customers), Customers will be notified via bulk email or public web site regarding any potential downtime. Core component failure is defined as a failure of any component of the IDC that has the potential of effecting more than one customer.

Individual Customer Failure

For individual Customer failure, Customer will be notified via fax, pager, email, or phone within 15 minutes of failure (5 minutes for Advanced Hosting Customers). Individual customer failure is defined as a failure of any component of the IDC that will only affect an individual Customer (cabling, port, etc). This will include any failure resulting in inability of IDC operations to "test" customer server via a ping watch (including reasons outside of IDC control, i.e. Customer server failure, etc).

Service Credits

Service Credits for missed SLAs, except Network Availability, shall be an amount equal to the pro-rata recurring charge for one day of Service. A Service Credit schedule is attached hereto as Attachment A for the Network Availability SLA. Customer will be eligible to receive from SBC a Service Credit for each Downtime period, with a maximum aggregate Service Credit of one-month's billing charges for all Downtime incidents that occur during such month.

In order to receive a Service Credit, Customer must notify SBC within thirty (30) calendar days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit.

Time related to Service Credit requests will be measured from the issuance of a trouble ticket to trouble resolution. Trouble tickets will be issued upon Customer's call to the IDC to report Downtime.

Attachment A to Exhibit B to SBC E-Services Service Level Agreements

Network Availability Service Credit Matrix

From	To	Credit Days
99.96%	99.90%	1
99.89%	99.85%	1.5
99.84%	99.80%	2
99.79%	99.75%	2.5
99.74%	99.70%	3
99.69%	99.65%	3.5
99.64%	99.60%	4
99.59%	99.55%	4.5
99.54%	99.50%	5
99.49%	99.45%	5.5
99.44%	99.40%	6
99.39%	99.35%	6.5
99.34%	99.30%	7
99.29%	99.25%	7.5
99.24%	99.20%	8
99.19%	99.15%	8.5
99.14%	99.10%	9
99.09%	99.05%	9.5
99.04%	99.00%	10
98.99%	98.95%	10.5
98.94%	98.90%	11
98.89%	98.85%	11.5
98.84%	98.80%	12
98.79%	98.75%	12.5
98.74%	98.70%	13
98.69%	98.65%	13.5
98.64%	98.60%	14
98.59%	98.55%	14.5
98.54%	98.50%	15
98.49%	98.45%	15.5
98.44%	98.40%	16
98.39%	98.35%	16.5
98.34%	98.30%	17
98.29%	98.25%	17.5
98.24%	98.20%	18
98.19%	98.15%	18.5
98.14%	98.10%	19
98.09%	98.05%	19.5
98.04%	98.00%	20
97.99%	97.95%	20.5
97.94%	97.90%	21
97.89%	97.85%	21.5
97.84%	97.80%	22
97.79%	97.75%	22.5
97.74%	97.70%	23
97.69%	97.65%	23.5
97.64%	97.60%	24
97.59%	97.55%	24.5
97.54%	97.50%	25
97.49%	97.45%	25.5
97.44%	97.40%	26
97.39%	97.35%	26.5
97.34%	97.30%	27
97.29%	97.25%	27.5
97.24%	97.20%	28
97.19%	97.15%	28.5
97.14%	97.10%	29
97.09%	97.05%	29.5
97.04%	97.00%	30

Exhibit C
IP Address Management Guidelines
(Only needed if additional IP addresses are being issued)

As a responsible member of the INTERNET community, SBC must abide by the policies set forth by ICANN and ARIN in regard to address allocation to Customers. The address space that is currently unassigned in IPv4 space (32-bit addressing) is becoming constricted, and measures to ensure the future viability of the Internet may cause conflicts with Customer network planning unless responsible and efficient usage of subnet space is agreed upon between providers and their customer base.

In cooperation with our customers, SBC must plan to make the most efficient use of allocated network space so that we can continue to route traffic and obtain new network address space when requested. SBC encourages and supports our customers in the growth of their networks, and we will assign addresses to customers who genuinely require the address space for their networks. However, we must examine all requests for address space with care to validate the use of the IP numbers that are allocated.

Background

ARIN allocates blocks of IP addresses to Internet Service Providers (ISPs) for the purpose of reassigning that space to their customers. ARIN takes guidance from allocation policies and procedures set forth in RFC 2050. ISPs are required to use a utilization efficiency criterion in providing address space to their customers. **To this end, ISPs should have documented justification available for each allocation.** ARIN may request this justification at any time. If the justification is not provided, this may impact future receipt of allocations. In extreme cases, existing allocations may be affected.

Because the number of available IP addresses on the Internet is limited, many factors must be considered in the determination of address space assignment. Utilization rate of address space will be a key factor, but not the only factor, in network number assignment.

Responsibility and Authority

The assignment and management of IP addresses is the responsibility of SBC E-Services. SBC E-Services will be charged with obtaining addresses (referred to as blocks) from the organization(s) who dispense them to backbone service providers.

The governing organization is the American Registry for Internet Numbers (ARIN) in North and South America. The Sales and Sales Engineering Departments will be responsible for providing address justification as part of a customer's order. Once the order is turned over to the provisioning group, provisioning will work with the customer's technical representative on an ongoing basis to that the IP addresses fulfill their business requirements.

SBC E-Services will conduct audits of all address blocks, including subnets provided to customers, to ensure efficient usage of assigned addresses. This auditing will be conducted frequently to ensure effective usage of currently assigned blocks and the availability of new blocks. The auditing will be conducted through a variety of methods including, but not limited to, ping sweeps, reverse DNS lookups, and periodic reviews of customer IP justification forms. The detailed results of these audits will be made available upon request to the Sales Department, in case specific account management is required to maintain a healthy customer relationship.

Conclusion SBC E-Services will provide the customer with as many addresses as needed to operate on the Internet. The customer is expected to utilize these addresses effectively and not simply based on convenience. .All requests for a change in a customers IP allocation should be called in to 888-Web-Host to discuss the necessary documentation.

Number of IP Addresses Requested (to select an option, place an "X" next to the desired offering)

	# of IP Addresses	
x	Up to 2 (2 maximum)	**IP address approvals are at SBC Communications discretion based on our ability to determine your immediate or future need.** **SBC reserves the right to refuse IP address requests.**
	Up to 16 (16 maximum)	
	Up to 32 (32 maximum)	
	Up to 64 (64 maximum)	
	Up to 128 (128 maximum)	
	Up to 256 (256 maximum)	

Evaluation Criteria / Questionnaire

While SBC has offered multiple IP addresses with their Dedicated Hosting packages, the implementation of IP addresses is limited by ARIN's new policies for IP Address justification. These new policies state that use of IP addresses for IP based virtual hosts will not be accepted as justification for new IP addresses. What this means to you is that you MUST use name-based hosting where possible. Below please find additional guidelines in ARIN justification requests:

1) Do you have client machines that do not need a fixed IP address?
Consideration should be given towards employing name-based instead of IP-based virtual domain hosting. This will allow you to host an unlimited number of domains (subject to the limits of your web server software/hardware) per web server without needing a separate IP address per domain.

Do you have client machines that do not need a fixed IP address?	[Yes/No]

2) Are you employing the web hosting services for primary or secondary DNS?
If so, DNS servers meet ARIN justifications for hard-coded IP address implementation.

Are you employing the webhosting services for primary or secondary DNS?	[Yes/No]

3) Are you installing SSL certificates for secure transactions?
If so, SSL cert providers require a hard-coded IP address. Therefore this falls into adequate ARIN justification.

Are you installing SSL certificates for secure transactions?	[Yes/No]

4) Are you employing Mail or Database services on your dedicated Web hosting server?
If you are you are employing a separate, dedicated mail or database server, this would fall within ARIN guidelines for a dedicated IP address.

Are you employing Mail or Database services on your dedicated Web hosting server?	[Yes/No]

IP Justification Form

Initial______

Exhibit D
Terms and Conditions Regarding Use of Microsoft Software

This document concerns your use of Microsoft software, which includes computer software provided to you by SBC E-Services, Inc. as described below, and may include associated media, printed materials, and "online" or electronic documentation (individually and collectively "SOFTWARE PRODUCTS"). SBC E-Services, Inc. does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which SBC E-Services, Inc. needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with SBC E-Services, Inc., and to your understanding of, compliance with and consent to the following terms and conditions, which SBC E-Services, Inc. does not have authority to vary, alter or amend

1. **DEFINITIONS.**

   "Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

   "Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," or other electronic device.

   "Server Software" means software that provides services or functionality on a computer acting as a server.

   "Redistribution Software" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

2. **OWNERSHIP OF SOFTWARE PRODUCTS.** The SOFTWARE PRODUCTS are licensed to **SBC E-Services, Inc.** from an affiliate of the Microsoft Corporation ("Microsoft"). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to you.

3. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices by **SBC E-Services, Inc.** only in accordance with the instructions, and only in connection with the services, provided to you by **SBC E-Services, Inc.**.

4. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to you by **SBC E-Services, Inc.**, you may have access to certain "sample," "redistributable" and/or software development ("SDK") software code and tools (individually and collectively "Redistribution Software"). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO SBC E-Services, Inc., WHICH TERMS MUST BE PROVIDED TO YOU BY SBC E-Services, Inc.**. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by **SBC E-Services, Inc.**.

5. **COPIES.** You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by **SBC E-Services, Inc.**; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with **SBC E-Services, Inc.**, upon notice from **SBC E-Services, Inc.** or upon transfer of your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

6. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.

7. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS.

8. **TERMINATION.** Without prejudice to any other rights, **SBC E-Services, Inc.** may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the SOFTWARE PRODUCTS, and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.

9. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY **SBC E-Services, Inc.** AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.

10. **PRODUCT SUPPORT.** Any product support for the SOFTWARE PRODUCTS is provided to you by **SBC E-Services, Inc.** and is not provided by Microsoft or its affiliates or subsidiaries.

11. **NOT FAULT TOLERANT.** THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

12. **EXPORT RESTRICTIONS.** The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see http://www.microsoft.com/exporting/.

13. LIABILITY FOR BREACH. In addition to any liability you may have to SBC E-Services, Inc., you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

Dedicated Hosting Enhanced Services Attachment

This Attachment ("Attachment") is made to the SBC E-Services ("SBC") Managed Hosting Services between SBC and Customer (the "Agreement"), signed by Customer on 01/18/05. This Attachment is subject to and hereby incorporates by reference, the terms and conditions set forth in the Agreement. The terms contained herein shall be in addition to those set forth in the Agreement and to the extent possible, read consistently therewith. To the extent there is an irreconcilable conflict in terms and conditions between this Attachment and the Agreement, the terms and conditions set forth herein shall govern.

I. TERM

This Attachment shall be co-terminus with the Agreement.

II. SCOPE

This Attachment describes the standard service packages, service parameters and service level warranties for Enhanced Services that are available for Dedicated Hosting. The specific types and quantities of Enhanced Services that Customer has ordered shall be detailed in the Advanced Hosting Statement of Work ("SOW") and shall be for the equipment and/or systems set forth in the SOW. "Enhanced Services" shall mean additional managed, operational, professional and/or infrastructure services provided by SBC to augment or supplement Customer's environment hosted in an SBC Internet Data Center ("IDC"). Enhanced Services governed by this Attachment shall be further defined as follows:

A. "Firewall Services" shall mean installation and provisioning of firewall hardware and/or software intended to limit unauthorized access to Customer servers, applications and/or data, as well as the optional administration, monitoring and technical assistance associated with the firewall hardware and/or software.
B. "Managed Monitoring" shall mean the monitoring, alarming, notification and reporting of statistics such as usage, availability, performance and errors that are pertinent to the system, software or application being monitored.
C. "Tape Backup Services" shall mean copying of data files from one or more Customer servers, recording to magnetic tape media, and providing restoral of data file(s) from backup copies in the event of source data corruption, deletion or system failure.
D. "Website Metrics Services" shall mean the collection of statistics and generation of reports on website metrics provided in an authenticated customer portal.
E. "Premium Virtual Hands Charges" shall mean the number of labor hours incurred multiplied by the hourly rate for Premium Virtual Hands services established in the SOW, or $250 per hour if not specified. Premium Virtual Hands services are tracked and billed in 15-minute increments.
F. "Normal Business Hours" shall mean 8:00am to 5:00pm local time for the IDC, Monday through Friday, excluding SBC holidays.

Any change to the equipment and/or systems listed in the SOW shall be made in writing and agreed to by SBC. The Enhanced Services provided hereunder are provided based upon representations by Customer regarding the configurations and software associated with the equipment and/or systems set forth in the SOW. **SBC shall not be responsible for any failure or inability to provision these services arising out of a change in or misrepresentation regarding the software and/or configurations after the initial testing and acceptance of the equipment and/or systems by SBC unless otherwise agreed to by SBC in writing.**

III. SERVICE PACKAGES

The Enhanced Services package(s), options, entitlements and applicable equipment and/or systems that the Customer has ordered shall be detailed in the SOW. The following provides a summary of the available Enhanced Services packages:

A. Firewall Services

1. Dedicated Firewall:
   a. SBC shall install and provision the firewall hardware and software specified in the SOW and initiate the Firewall Service.
   b. SBC shall provide telephone-based technical assistance, including providing technical information and assistance in diagnosing and resolving firewall-related problems, as well as access to any free software updates, patches or bug-fixes that may be released by equipment manufacturers. Customer user authentication is required and will take place when trouble ticket is opened.
   c. In case of a firewall hardware or software failure, SBC shall provide engineering support for Customer. If Customer is providing its own approved firewall hardware, Customer is responsible for providing maintenance on such hardware.
   d. Firewall(s) is (are) to be SNMP managed or made accessible via Telnet for remote diagnostics and troubleshooting. SBC requires that a secure shell (SSH) access be configured should it become necessary to remotely access the network for troubleshooting.
2. Shared Firewall:
   a. SBC shall assign a port to Customer on the shared Firewall Services platform, which will be provisioned such that multiple customers are protected utilizing Firewall Services.

b. Shared Firewall Services provides basic port filtering via assignment of a port from the shared firewall.

B. Managed Monitoring Services

1. Servers:
   a. Lite Monitoring: Monitoring parameters include server availability (ping IP address) and customer selected service availability parameters, including HTTP, HTTPS, FTP, POP3 and SMTP. Provides monthly reports including At-A-Glance reports for network latency, network availability, site availability and errors; and Trend reports for network (bits per second, for burstable customers only) and bandwidth (% utilization).
   b. Basic Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides weekly reports for usage, availability, performance and errors.
   c. Professional Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides daily reports for usage, availability, performance and errors, and Customer may also select up to three additional detailed report sets. Options for detailed report sets include system interface detail, system detail, system CPU detail, system disk detail, system disk partition, and process set detail.
   d. Predictive Monitoring: Monitoring parameters include system CPU, memory, disk and partition. Provides daily reports for usage, availability, performance and errors, and weekly predictive reports. Daily reports include detailed report sets for system interface detail, system detail, system CPU detail, system disk detail and process set detail. Weekly predictive reports include exception summary report for all servers combined, detailed exception list for each server, total network volume by day, average network volume by hour, average health index by hour, situations to watch, volume leaders in bytes, health index leaders, volume change leaders, health index change leaders, element volume (in bytes) versus baseline by day, CPU utilization, partition utilization, element health index, availability, reachability, latency and standard service profile.
2. Database Servers:
   a. Database Server Monitoring: Customer is responsible for the installation and licensing of Microsoft SQL Server software. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.
   b. Managed Standard Database Server Monitoring: SBC shall provide and install Microsoft SQL Server Standard Edition software for use by Customer. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.
   c. Managed Enterprise Database Server Monitoring: SBC shall provide and install Microsoft SQL Server Enterprise Edition software for use by Customer. Standard database monitoring parameters and reports apply, as defined in Section IV of this Attachment.

C. Tape Backup Services

The following comprise SBC's standard Tape Backup Services packages:

Tape Backup Services Package	Included Cumulative Streamed Backup Traffic Per Month	Backup Start Time	Included Restores Per Month
A10	10 GB	Fixed	1
A50	50 GB	Fixed	1
A100	100 GB	Fixed	2
A250	250 GB	Fixed	2
A500	500 GB	Flexible	3
A1000	1,000 GB	Flexible	3

D. Website Metrics Services

1. Basic Website Metrics: Website traffic reports provided daily include snapshot, summary, hourly graph, daily graph and monthly graph. Website pages reports provided daily include top pages, directory tree, file types, status errors and posted form.
2. Professional Website Metrics: Website traffic reports provided daily include snapshot, summary, hourly graph, daily graph and monthly graph. Website pages reports provided daily include top pages, directory tree, file types, status errors and posted form. Additional reports include referrals, domains, browsers and tracking.

IV. SERVICE PARAMETERS

A. Firewall Services

1. Firewall Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW.
2. After initial configuration and acceptance, Customer is allowed three rule changes per month for Dedicated Firewall and Shared Firewall. Rule changes include the defining of a service or port, and the addition, deletion,

or modification of a policy or access list to allow or deny access to the defined service or port. Rule changes beyond the included three are billed as Premium Virtual Hands Charges.

3. Operating hours for firewall rule change requests are Normal Business Hours, and are typically implemented on the next business day. Emergency rule change requests are accepted by the SBC Operations Service Center (OSC) on a 24x7 basis.. Emergency rule changes are implemented within 2 hours from the time the request was taken. If SBC determines that the requested change creates a potential security risk, SBC will contact the Customer to review the requested firewall rule changes. User authentication will be required for firewall rule changes to be performed.
4. The standard Dedicated Firewall security policy configuration shall allow all users on the internal network full access to Internet services (outbound traffic), while blocking all inbound traffic (all connection requests originating from the Internet), with the exception of traffic destined for DNS and/or email gateways residing on the Customer's private network, including SMTP (port 20), POP3 (port 110), SSMTP (port 465), SIMAP (port 993), SPOP3 (port 995), IMAP (port 25), HTTP (port 80), HTTPS (port 443) and FTP (ports 20 and 21).
5. Any desired custom Dedicated Firewall security policies or configurations shall be outlined in the SOW and/or Firewall Services Questionnaire and are subject to hourly Premium Virtual Hands Charges.
6. The security policy configuration for Shared Firewall Services is fixed by SBC and may not be modified or changed by Customer. Any configurations beyond those defined by SBC could expose the Customer's network to security risks.
7. The standard Shared Firewall security policy configuration shall allow all users on the internal network full access to Internet services (outbound traffic), while blocking all inbound traffic (all connection requests originating from the Internet), with the exception of traffic destined for DNS and/or email gateways residing on the Customer's private network, including SMTP (port 20), POP3 (port 110), SSMTP (port 465), SIMAP (port 993), SPOP3 (port 995), IMAP (port 25), HTTP (port 80), HTTPS (port 443), FTP (ports 20 and 21), SSH (port 22), Webmin (port 10000) and PcAnywhere (port 5631).
8. "Redundant" Dedicated Firewall Services shall mean a firewall system that is equipped with redundant components such that the firewall will be continuously operational in the event of a component failure.
9. Virtual Private Network ("VPN") shall mean the establishment of a site to site IPSec tunnel between the managed firewall located in the IDC and an IPSec compatible VPN device. The VPN is limited to providing administrative access for 10 VPN clients to Customer's IDC network and is not to be construed as providing a fully managed VPN. Included in the setup charge is four hours for a site to site VPN; additional hourly Premium Virtual Hands Charges may apply for time intensive implementations. Ongoing support and management of the VPN tunnel and firewalls are not included in the base price.
10. SBC shall provide notification to Customer upon discovering or suspecting that a Customer system has been hacked or otherwise compromised. Such notification shall create no obligation for SBC to take action for resolving the issue, unless specifically outlined as an included custom service in Customer's SOW.
11. Customer is responsible for any bandwidth overages or other charges that may apply as a result of a compromised system, and for taking remedial action to return the system to an uncompromised state. Customer may request special assistance from SBC for security analysis, troubleshooting, reconfiguration and system rebuilds; such services would be billed hourly as Premium Virtual Hands Charges.
12. At SBC's sole discretion, SBC may remove a compromised system from the SBC network at any time, if necessary to protect the integrity of the network or service availability for other customers hosted in the IDC.
13. SBC provides no representation or guarantee that Firewall Services will protect Customer servers against all potential security threats, including but not limited to viruses, worms, hackers, denial of service or other Internet attacks.

B. Managed Monitoring Services

1. Managed Monitoring Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW. SBC may provide ad hoc reports upon Customer's request, which shall be billed as hourly Premium Virtual Hands Charges.
2. "At-a-Glance Reports" shall mean reports that provide performance indicators for an entire system during the specified report period. "Trend Reports" shall mean reports that show the value of one or more variables over a specified report period.
3. Except as specified with respect to Managed Monitoring for Database Servers, software agents for querying databases and applications are not included in the standard pricing. Pricing for any software agents that may be required to provide Managed Monitoring Services will be set forth in the SOW.
4. Managed Monitoring Services software installation will occur upon completion of a healthy server installation. Customer will be required to reboot Customer systems prior to software installation.
5. Customer server(s) must be configured with a secondary network port to be connected to a secure back-end services network managed by SBC, and have the Concord SysEdge Agent installed.
6. Managed Monitoring for Database Servers is available for Microsoft SQL Server only.
7. Managed Monitoring for Database Servers provides standard monitoring parameters including time since last database backup, time since last transaction log backup, number of user connections, average lock wait time (all

locks), disk space utilization, log cache hit ratio, CPU utilization, physical memory used and virtual memory used. Standard daily reports include utilization (CPU, memory, disk space), time since last backup (database, transaction log), frequency of hits within Microsoft SQL Server caches, number of user connections and average lock wait times (all locks).

8. Managed Monitoring for Database Servers includes monitoring, reporting and Customer notification only, and does not include database administration or performance tuning of Customer's database. If Customer desires for SBC to take corrective action, contracted Database Services and/or Premium Virtual Hands Charges would apply.
9. Managed Monitoring Services reports shall be archived and maintained by SBC as follows: daily reports for 45 days, 5 minute samples for 60 days, hourly samples for 8 weeks, daily samples for 70 weeks, weekly reports for 60 days, and monthly reports for 60 days.

C. Tape Backup Services

1. Tape Backup Services shall involve the recording of information selected by the Customer for backup as set forth in the SOW and Tape Backup Questionnaire, provided such information is present on the equipment and/or system at the time of the backup.
2. For standard servers, one (1) full backup shall be performed each week and one (1) incremental backup shall be performed daily, except on days in which a full backup is performed. For database agents, one (1) full backup shall be performed daily. Backup tape information shall be maintained on site for a period of four (4) weeks for weekly backups and two (2) weeks for daily backups.
3. Monthly backup quantity for billing purposes is calculated as the cumulative total backup data streamed during each calendar month period, including all full and incremental backup jobs. An overage fee will be charged for backup data streamed during the calendar month that is in excess of the Customer's contracted Tape Backup Services package. This overage will be calculated on a per Gigabyte (GB) basis and rounded up to the next full GB for partial GBs.
4. Customer is responsible for managing the size of data volumes to be backed up and for any monthly overage charges that may apply. Unless specific drives, directories or sub-directories are specified in the Tape Backup Questionnaire, the default will be to back up all of the server's local drives that are present at the time that the Tape Backup Service is provisioned.
5. Customer may request an alternate backup schedule that is less frequent than the default schedule and may also request use of differential incremental instead of cumulative incremental backups. Customer should indicate such special requests on the Tape Backup Questionnaire, and SBC shall make reasonable effort to accommodate.
6. Tape Backup Services may be provided for two (2) or more Customer servers either by ordering a single Tape Backup Services package to be shared across the Customer's servers or by ordering a Tape Backup Services package for each server. Each Customer server may be associated with only one Tape Backup Services package; multiple packages may not be added together for use on a single server.
7. The standard Tape Backup Services packages are intended for source data volumes to be backed up that do not exceed a sum total of 250 GB across all Customer server(s). Backup configurations that involve more than 250 total GB per full backup job may require custom network connections or a dedicated backup infrastructure, and therefore shall require design by EPEG and may require Individual Case Basis ("ICB") pricing. Without such customization, for source data volumes larger than 250 GB it is unlikely that the backup operation will satisfactorily complete.
8. Standard Tape Backup Service pricing includes coverage for one (1) Customer server per Tape Backup Services package. Each additional server to be included under a single Tape Backup Services package shall be billed a separate charge.
9. Offsite Vaulting of tape copies for Customer backup data is available as an optional, ICB priced service.
10. Tape copies may be made available to Customer for $250 per tape in the VERITAS backup image format that will include one (1) hour of labor; labor beyond one (1) hour shall be billed as hourly Premium Virtual Hands Charges. Customer is responsible for providing the tape(s) and prepaid shipping waybill to IDC location(s).
11. Tape Backup Services are designed to restore only the user data that has been backed up; the service does not support automated, complete recovery of a failed server ("bare metal restore"). Restore of backed up data includes one (1) hour of labor; labor beyond one (1) hour shall be billed as hourly Premium Virtual Hands Charges.
12. Restores included in a Tape Backup Services package that are unused in a given month do not roll over to the following month. Requests for additional restores in a given month above the number included in the Tape Backup Services package shall be billed as hourly Premium Virtual Hands Charges.
13. Unless requiring manual intervention or support by SBC personnel, restores for database agents that are initiated directly by Customer through the backup software client interface are not counted against the monthly restore allotment included in the Tape Backup Services package and are not billed as restore overages.
14. Tape Backup Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW.

15. All backup software, including client software to be installed on Customer server(s), that is provided by SBC in delivery of the Tape Backup Service shall remain licensed to SBC and such licenses will not be transferred from SBC to Customer. Software agents for querying databases and applications are not included in the standard Tape Backup Services package pricing.
16. Backup software installation will occur upon completion of a healthy server installation. Customers will be required to reboot their systems prior to software installation.
17. SBC will notify Customer at least twenty-four (24) hours in advance of any scheduled or planned maintenance that could interrupt service availability.
18. Scheduling windows for backup start times shall be determined and scheduled by SBC for the A10, A50, A100 and A250 Tape Backup Services packages. Scheduling windows for backup start times for A500 and A1000 Tape Backup Services packages or ICB Tape Backup Services shall be mutually agreed upon and approved by both parties in writing.
19. Due to factors such as server processor utilization and network interface card (NIC) performance, SBC makes no representations or guarantees as to the length of time that a scheduled full or incremental backup job or a restore may take to complete.

D. Website Metrics Services

1. The standard Website Metrics Services packages include a maximum of one (1) server, ten (10) domains, ten (10) log sources, 1 GB total daily transfer, filtering for ten (10) IP subnets, three (3) profiles, and one (1) user per profile. Customer requirements in excess of these restrictions will require additional fees.
2. "Log Sources" shall mean any type of log file that has been configured for processing in the Website Metrics Services system. A web server could have more than one website configured on it and each website would have its own access log. "Filters" shall mean a text string or regular expression that is used to either include or exclude certain hits from a Website Metrics Services report. Filters are commonly used to filter out certain content such as internal company traffic or to set up special reports for specific types of content such as a Web site subsection. "Profiles" shall mean a set of reports; a profile is created by adding domains, log sources and filters together.
3. Website Metrics Services pricing is subject to Customer requested modifications; such customization must be mutually agreed upon and approved by both parties in the SOW. SBC may provide ad hoc reports upon Customer's request, which will be billed as hourly Premium Virtual Hands Charges.
4. SBC shall archive and maintain Website Metrics Services reports for 60 days and raw log files for 24 hours.
5. The Customer's server must have a virtual Website bound on port 8118 or the services IP address and allow directory browsing and HTTP transfer of .log files for anonymous users, in order to allow the Urchin application to gather access logs. This "web logs" site will be restricted to allow access from the Urchin server only.
6. Customer must run a nightly web server log file rotation script that timestamps the web server's access/error/e-commerce log file(s) and places them in a directory accessible from the "web logs" site specified above. Failure to run these scripts will interfere with SBC's ability to provide Website Metrics Services.
7. For viewing Website Metrics Services reports, Customer shall have Internet access and a compatible Internet browser with 128-bit encryption.
8. Customer web server(s) must be configured with a secondary network port to be connected to a secure back-end services network managed by SBC, and write logs in either W3C (Weblogic) or Extended/Combined format (Apache, Netscape, iPlanet, etc.). Log files must be stored in a separate directory (e.g., e:/logfiles/) and should not remain in the System 32 directory on Windows servers.
9. Customer must complete the Website Metrics Questionnaire provided by SBC. Reporting shall begin upon completion of the Website Metrics Questionnaire and Customer final signoff of acceptance.

V. SERVICE LEVEL WARRANTIES

A. Firewall Services

SBC shall provide Firewall Services such that the operational availability of the firewall system adheres to the same Service Level Warranty established in the Agreement for Customer's hosted network in the SBC IDC.

B. Managed Monitoring Services

Service level warranties are not provided for Managed Monitoring Services.

C. Tape Backup Services

SBC shall provide Tape Backup Services in accordance with the following:

1. Scheduled backup processes will be queued to be performed within five (5) minutes of the scheduled start time of transaction.
2. Restore process for on-site backup data shall be queued for restoral within thirty (30) minutes following notification by Customer to SBC Operations Service Center (CSC) of request.

3. Restore process for archived off-site backup data shall be queued for restoral within thirty (30) minutes of arrival of the tape from the offsite facility.

D. Website Metrics Services
Service level warranties are not provided for Website Metrics Services.

VI. SERVICE CREDITS

Service credits, if applicable, will be available to Customer for each failure of SBC to meet the Service Level Warranties set forth in Section V of this Attachment. "Service Credit" shall mean an amount equal to the pro-rata charges for one monthly billing statement for one (1) day of SBC Managed Hosting Services. In order to receive a Service Credit set forth in this Section, Customer must notify the SBC Operations Service Center (OSC) within five (5) days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit.

VII. ADDITIONAL LIMITATION OF LIABILITY

SBC's aggregate liability under this Attachment in a given month shall not exceed the monthly charge for SBC Managed Hosting Services that month. Any failure of SBC to meet Service Level Warranties set forth in Section V of this Attachment shall be governed by and limited to the Service Credits set forth in Section VI of this Attachment. In no event shall SBC have additional liability under this attachment for consequential damages or any other damages based on alleged harm to customer's business or property.

VIII. CUSTOMER PERMISSION

Customer expressly grants SBC, for the purpose of providing the Enhanced Services described, the right to access the Customer systems and the right to reproduce the files.

IX. GENERAL

A. Firewall Services are provided to help mitigate security threats for Customer hosted servers, but are not intended to provide a comprehensive security solution. SBC shall only be responsible for providing the Firewall Services contracted by Customer and such Services shall be limited to the terms and conditions set forth in this Attachment and the Agreement.
B. Tape Backup Services are not intended to provide a comprehensive business continuance solution. The configuration selected by the Customer shall define the parameters of the Service to be provided and such Services shall be limited to the terms and conditions set forth in this Attachment and the Agreement.
C. SBC shall not be liable for failing to provide Enhanced Services or meet the Service Level Warranties or terms and conditions set forth in this Attachment due to Customer's failure to perform any of the Customer responsibilities as set forth in the SOW and Section IV of this Attachment.

END OF DOCUMENT

Exhibit A: Dedicated Hosting Statement of Work (SOW)

This Statement of Work ("SOW") is made to the SBC E-Services ("SBC") Managed Hosting Services Agreement between SBC and Customer (the "Agreement"), signed by Customer on 03/16/05. This Attachment is subject to and hereby incorporates by reference, the terms and conditions set forth in the Agreement. The terms contained herein shall be in addition to those set forth in the Agreement and to the extent possible, read consistently therewith. To the extent there is an irreconcilable conflict in terms and conditions between this SOW and the Agreement, the terms and conditions set forth herein shall govern.

☐	New Customer	☒	Existing Customer (if so, indicate number of remaining months in contract):

IN WITNESS WHEREOF, the parties hereto have executed this document.

City of Fayetteville	**SBC**
By: Dan Coody	**By:** Mick Maggi
Printed Name: Dan Coody	**Printed Name:** Mick Maggi
Title: Mayor	**Title:** Sr Acct Manager
Date:	**Date:** 3/16/2005

FOR SBC INTERNAL USE ONLY	
Customer Account Number	
Customer Service Order Number	
Sales Channel	

I. TERM

60 Months.

II. CUSTOMER INFORMATION

A. Company Information

Company Name	City of Fayetteville
Company Address	113 W Mountain
City, State	Fayetteville, AR
Domain Name	www.accessfayetteville.org
13-Digit BTN	

B. Technical or Primary Contact (Required)

Contact Name	Lesa Brosch	Title	Business Sys. Analyst
Street Address	113 W Mountain	Phone	479-575-8214
Room / Suite		Mobile	479-549-8052
City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us
Preferred Contact Method			

C. Secondary Contact (Optional)

Contact Name	Scott Huddleston	Title	
Street Address	113 W Mountain	Phone	479-575-8320
Room / Suite		Mobile	479-263-8656

City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us

D. Billing Contact (Required)

Contact Name	Lesa Brosch	Title	Business Sys. Analyst
Billing Address	113 W Mountain	Phone	479-575-8214
Room / Suite		Mobile	479-549-8052
City	Fayetteville	Pager	
State	AR	Fax	
ZIP Code	72701	Other	
Country	USA	Email Address	lbrosch@ci.fayetteville.ar.us

III. SBC INFORMATION

A. SBC Sales Contact (Sales Code required to process order)

Name	Position	Phone	Email Address	Sales Code
Brian Cottrell	Hosting Inside Sales Specialist	214-576-7224	bc1859@txmail.sbc.com	
Brad Shepard	TSE	479-466-5176	Bs7892@sbc.com	
Mick Maggi	AM	479-571-6660	Rx900a@sbc.com	

B. SBC Region (Required)

To select a region corresponding to where Customer is located, place an "X" next to the applicable region:

X	Southwest (MO, OK, KS, AR, TX)		East (CT)
	West (CA, NV)		Out of Region (All other U.S. states)
	Midwest (IL, IN, MI, OH, WI)		International

IV. DEDICATED HOSTING ("DH") SERVICE PARAMETERS

A. Startup Pack Dedicated Hosting

1. SBC shall provide a managed hosted production environment for Customer that includes:
   - Managed network covering core Internet Data Center ("IDC") network and Internet Access from the server to the Internet.
   - Shared Firewall with predefined standard firewall rules as specified in the Dedicated Hosting Enhanced Services Attachment.
   - Preconfigured, standard build single server hardware with single power supply.
   - Standard operating system ("OS") build (Microsoft Windows Server 2003 Standard Edition or Red Hat Linux Enterprise 3.0ES) with SBC required agents and no Tape Backup client software or services.
   - Limited to unauthenticated Service Provider License Agreement (SPLA) for Microsoft Windows.
   - Managed Monitoring Lite package as defined in the Dedicated Hosting Enhanced Services Attachment.
   - One IP address for the Customer's server.
   - 100 GB aggregate data transfer per month.
   - No hardware or software options available other than selection of OS.

2. SBC shall perform the following deployment activities in support of Customer's hosted environment:
   - Procurement, staging, configuration, setup, installation and turn-up of the system.
   - Standard OS build including current security patches available at time of install.
   - Provisioning of administrative logins for Customer access.
   - Notification of Customer primary technical contact of completion of server provisioning; see Section VIII of this SOW for billing implications.

- SBC will not install third-party applications except for those expressly defined by SBC for remote administration.

3. SBC will provide the following ongoing hosting and maintenance services:
   - System monitoring as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - Network monitoring – bandwidth utilization, transfer rate, and network availability including latency and packet-loss as set forth in SBC E-Services' Service Level Agreement.
   - Physical monitoring and management – temperature, humidity, fire, flood, moisture, power and site security.
   - Change management – tracking of all potential service impacting network, hardware, and system changes through the SBC ticketing system.
   - Hardware maintenance – responsible for notification, trouble isolation and resolution, including SBC-determined need for system repair or replacement.
   - Links to current OS patches, for elective installation by the Customer.

B. Biz or Performance Pak Dedicated Hosting

1. SBC shall provide a managed hosted production environment for Customer that includes:
   - Managed network covering core IDC network and Internet Access from the server(s) to the Internet.
   - Dedicated Firewall with option for customizable firewall rules as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW; default firewall rules will be used if not otherwise specified.
   - Hardware for one or two servers with single power supply, selected from supported products list with option for multiple hard drives with RAID, depending on platform.
   - Standard OS build (Microsoft Windows Server 2003 Standard Edition, Red Hat Linux Enterprise 3.0 ES or Sun Solaris 9.0) with SBC required agents and Tape Backup client software.
   - A10 Tape Backup package with 10 GB streamed backup traffic included monthly, with option to upgrade to a larger A-Series Tape Backup package, as specified in Section VI of this SOW.
   - Limited to unauthenticated Service Provider License Agreement (SPLA) for Microsoft Windows.
   - Managed Monitoring Lite package with option for Basic or Professional Managed Monitoring packages as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - The option to purchase Basic Website or Professional Website Metrics as defined in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - One IP address with option for up to 26 additional IP addresses.
   - 100 GB aggregate data transfer per month with option for additional bandwidth up to 500 GB monthly.
   - Managed Dedicated Switch mandatory for two-server configurations.
   - No clustering or load balancing services and no external direct attached, network attached or SAN attached storage devices.

2. SBC shall perform the following deployment activities in support of Customer's hosted environment:
   - Procurement, staging, configuration, setup, installation and turn-up of the system.
   - Standard OS build including current security patches available at time of install.
   - Provisioning of administrative logins for Customer access.
   - Notification of Customer primary technical contact of completion of server provisioning; see Section VIII of this SOW for billing implications.
   - SBC will not install third-party applications except for those expressly defined by SBC for remote administration.

3. SBC will provide the following ongoing hosting and maintenance services:
   - System monitoring as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW.
   - Network monitoring – bandwidth utilization, transfer rate, and network availability including latency and packet-loss as set forth in SBC E-Services' Service Level Agreement.
   - Physical monitoring and management – temperature, humidity, fire, flood, moisture, power and site security.
   - Change management – tracking of all potential service impacting network, hardware, and system changes through the SBC ticketing system.
   - Hardware maintenance – responsible for notification, trouble isolation and resolution, including SBC-determined need for system repair or replacement.

- Links to current OS patches, for elective installation by the Customer.
- Tape Backup services as specified in the Dedicated Hosting Enhanced Services Attachment and Section VI of this SOW

V. CUSTOMER ENVIRONMENT

A. Customer Service Overview

1. Type of Dedicated Hosting Customer Environment
To select an option, place an "X" in the appropriate box:

	Startup Pak
	Biz Pak (HP)
	Biz Pak (Sun)
X	Performance Pak (HP)
	Performance Pak (Sun)

2. Managed Servers
The following is a general description of the managed servers to be provided by SBC (see Paragraph B of this Section for detailed part numbers and itemized components):

Server Description	Server Option(s)	Quantity

Startup Pak DH customers are limited to a maximum of one (1) managed server. Biz and Performance Pak DH customers are limited to a maximum of two (2) servers.

3. IDC Internet Bandwidth

100	Monthly data transfer (Gb per month)	$5.00	Monthly transfer overage rate ($ per Gb)
	Burstable bandwidth (95th percentile data transfer rate in Mb/s)	$	Burstable bandwidth overage rate ($ per Mb/s)

B. Bill of Materials

The following is the Bill of Materials ("BOM") for the Customer's managed hosting environment:

[insert BOM here, including part number, item description and quantity]

Quantity	Part #	Description
1		Perf Pack - HP ProLiant DL 380 G3
1		Single Xeon 3.06 GHz (default)
1		Red Hat Linux 3.0 - package
1		RAM:1 GB (default)
1		3x72 GB SCSI (default)
1		2-port 7781 NIC
1		Monitoring Lite
1		A50 (Upgrade From A10)
1		Netscreen 5GT (Default)
1		1 Additonal IP Address
1		**DALLAS – IDC Provisioning**

Customer – 101688 - Upgrading to new server, replacing DWH28

A. DNS Hosting Configuration

Domain Name	Host Name	Alias	Other

C. Domain Instructions

Customer is responsible for registering the Customer's domain(s). Instructions for SBC with respect to domain configuration are the following:

D. Business Email Instructions

IP Address	
Domain Name	
Email Contact	
Additional Email Accounts	
Additional Email Storage	

VI. ENHANCED SERVICES

A. Firewall Services

To select an option, enter the quantity ordered into the appropriate box:

	Shared Firewall (For Startup Pak Only)

Dedicated Firewall Package	
1	NetScreen 5GT (Default for Biz and Performance Paks)
	NetScreen 25
	Cisco PIX 515R

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Shared Firewall is available for Startup Pak DH customers only, and Dedicated Firewall is available for Biz and Performance Pak DH customers only. Dedicated Firewall Services requires completion of the Firewall Services Questionnaire.

B. Managed Monitoring (Servers)

To select an option, enter the quantity ordered into the appropriate box:

1	Lite Monitoring
	Basic Monitoring
	Professional Monitoring *

* For Professional Monitoring, select up to three (3) additional detailed report sets from the following six (6) options by placing an "X" in the appropriate box:

	System interface detail report		System detail report
	System CPU detail report		System disk detail report
	System disk partition report		Process set detail report

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Lite Monitoring is included as the base monitoring level for all DH customers. Biz or Performance Pak DH customers may upgrade to one of the other Managed Monitoring packages. Startup Pak DH customers are restricted to Lite Monitoring only.

C. Tape Backup Services

To select an option, enter the quantity ordered into the appropriate box:

	A10
1	A50
	A100
	A250
	A500
	A1000

1	Total number of servers to be provisioned for Tape Backup Services
$5	Per GB fee for monthly streamed backup traffic overages

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Tape Backup Services are available for Biz or Performance Pak DH only; Startup Pak DH customers are not eligible. Biz or Performance Pak DH packages include A10 Tape Backup by default. Tape Backup Services requires completion of a Tape Backup Questionnaire.

D. Website Metrics Services

To select an option, enter the quantity ordered into the appropriate box:

	Package	No. of Servers	No. of Domains	No. of Filters	No. of Profiles
	Basic Website Metrics				
	Professional Website Metrics				

Refer to the Dedicated Hosting Enhanced Services Attachment for additional service details. Website Metrics Services are available for Biz or Performance Pak DH only; Startup Pak DH customers are not eligible. Biz or Performance Pak DH packages include Basic Website Metrics by default. Website Metrics Services requires completion of a Website Metrics Questionnaire.

E. Monthly Bandwidth Transfer Rate (option only for Biz and Performance Paks)

To select an option, place an X into the appropriate box:

X	100 GB per month (Default, bundled with Package Price)
	200 GB per month
	300 GB per month
	500 GB per month

VII. RESPONSIBILITIES

A. Customer Responsibilities

Customer responsibilities include the following:

- Customer shall provide/develop, install, configure, manage, and maintain/support all content and software necessary for their application services, to include Web servers, FTP servers and remote management clients.
- Customer is responsible for any malfunction, delays, downtime, or other negative impacts to Service caused by Customer software or applications.
- Customer is responsible for performing their own operating system patch management, anti-virus, anti-spam and server security management, including Virtual Hands charges for system rebuilds resulting from operating system or software related attacks, except for specific SBC-provided services identified in the Operating System Management Attachment

B. SBC Responsibilities

SBC responsibilities include the following:

- Provide 24x7 Customer care and support.
- Vendor coordination for all hardware and software under its responsibility.
- Staff the SBC IDC with trained engineers who are capable of providing professional installation for Customer network and server hardware.
- Provide as much notice as is reasonably practicable prior to commencing any emergency and/or mandatory maintenance of the Customer environment.
- Monitoring availability of all SBC managed systems utilizing the SBC E-Services services network.
- SBC is not responsible for any downtime related to application malfunction, development mishaps, content from customer, software exploits in customer's application, or non-SBC managed networks.
- SBC will utilize change management procedures that are consistent with industry standards to apply scheduled and emergency patches to the customer environment. In the event that customer opts to veto a patch that SBC recommends for implementations in the production environment in order to address critical operations or security-related issues, SBC cannot to be held responsible for any services level metrics or security comprises that arises out of the vetoed omission of this patch.

VIII. BILLING TERMS

A. Setup Fees and Recurring Charges

The following is a summary for non-recurring charges and monthly recurring charges for all Services ordered, as reflected in this SOW:

Non-Recurring Charge (NRC)	$ 0.00
Monthly Recurring Charge (MRC)	$ 1,175 – 60 month agreement

Note that this pricing reflects the configuration and features selected by Customer as of the date of this SOW. Any additions to the variables, options or Service elements that may be requested at a future date may affect these fees.

B. Overage Fees and Charges

1. Bandwidth: Customers who have transfer rate bandwidth, overage charges include, but are not limited to, data Transfer Above Limit according to the entitlements and rates set forth in Section V of this SOW. Customers who have burstable bandwidth will be billed for additional bandwidth usage at the Variable Bursting Rate based on the 95th percentile measurement and billing policy, according to the entitlements and rates set forth in Section V of this SOW. SBC will take a sample of the customer's Internet traffic every five minutes for the duration of the month. SBC will discard the top 5% of the customer samples and bill the customer at the 95th percentile. The variable burstable bandwidth portion will be billed in arrears.
2. Enhanced Services: Usage-based overage charges apply for the following Enhanced Services; see the Dedicated Hosting Enhanced Services Attachment for additional details:
   - Firewall Services – labor hours for rule changes beyond the initial included three (3) per month, billed as Premium Virtual Hands.
   - Tape Backup Services – monthly streamed backup traffic in excess of included allotment (per GB), labor hours for restores in excess of included allotment, and number of tape copies requested per month.
   - Website Metrics Services – ad hoc reports requested by Customer, billed as Premium Virtual Hands.

C. Service Commencement Date

The Service Commencement Date for this SOW will be the date on which Services provided by SBC under this SOW are made available to the Customer, as defined by the date on which SBC provides notification to Customer that provisioning of the Customer's hosting environment has been completed. The contract term and billing will begin on the Service Commencement Date. Without incurring any obligation or liability for SBC, the following is the targeted Service Commencement Date:

	Targeted Service Commencement Date

D. Contract Renewals

Contract renewal for managed hardware, software or operating systems (OS) cannot take place for components that have been identified by the vendor as "end-of-life". Customer migration to current and supported components may be required at SBC's discretion, prior to contract renewal.

E. Statement of Work Changes

This SOW shall be treated as a comprehensive, self-contained document containing a description of the full scope of Managed Hosting services to be provided by SBC. Any modifications to services identified in this SOW or additions of new services during the course of Customer's Managed Hosting engagement at SBC shall be reflected in a comprehensive, updated SOW that will supersede and replace this SOW in its entirety.

END OF DOCUMENT

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr-05
~~1-Mar-05~~
City Council Meeting Date

Submitted By	Division	Department
Lesa Brosch	Information Technology	Finance and Internal Services

Action Required:

Approval of SBC dedicated web hosting service

$ 11,750.00 (2005 cost)	$ 17,808.00	Contract Services
Cost of this request	Category/Project Budget	Program Category / Project Name
1010 6600 5315 00	$ 3,353.00	Service Charges
Account Number	Funds Used to Date	Program / Project Category Name
-	$ 14,455.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — 3-22-05 Date

City Attorney — 3-23-05

Finance and Internal Service Director — 3-22-05 Date

Mayor — 3/22/05 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office

Received in Mayor's Office

Comments: Remaining Balance is for the the last seven months of the year.

City Council Meeting of: N/A
Agenda Item Number: N/A

STAFF CONTRACT REVIEW MEMO

TO: Mayor

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: March 3, 2005

SUBJECT: Contract renewal with McClelland Consulting Engineers

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RECOMMENDATION: Execute by signature of the Mayor the contract renewal for the 2nd renewal to the McClelland Consulting Engineer Inc. contract to provide airport engineering services. The contract was approved following RFP and selection in 2003. At the end of this renewal term, another RFP will be issued and another selection process will be initiated. The Airport Board approved the renewal at their March 11, 2005 meeting.

BACKGROUND: MCE has provided services to the airport for many years with intervening contracts with Garver Engineering, Inc. MCE has been by far the long term consultant for the development of Fayetteville Municipal Airport, Drake Field, working with management, the FAA and the State to secure funds for projects that will continue to grow and maintain the airport for the citizens and visitors that use FMA Drake.

DISCUSSION: We are planning several projects for the 2005 fiscal year including a new West side GA Ramp, an updated Master Plan, a new entrance for the Terminal Parking lot, a Terminal building update and a new sprinkler system for the Arkansas air Museum building. Each of these projects will require engineering work as the State Law requires any project over $25,000.00 must be designed and supervised by a registered architect or engineer.

BUDGET IMPACT: There is no budget impact with the contract as budget is tied to task orders which are approved by project.

Attachments: Staff Review Form
Consulting Engineering Contract Amendment #2

RESOLUTION NO. ______

A RESOLUTION TO AGREE TO EXTEND FOR ONE YEAR THE EXISTING CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. PURSUANT TO ITS OPTION TO RENEW PROVISION

WHEREAS, McClelland Consulting Engineers, Inc. was previously selected as the engineer for the Fayetteville Airport and has now sought to renew its contract for the second and last allowed annual renewal (through April 2006).

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment #2 to the Basic Agreement with McClelland Consulting Engineers, Inc. to extend this agreement through April, 2006 and authorizes the Mayor to execute such renewal attached as Exhibit A.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

February 24, 2005

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Amendment 2 to Basic Agreement
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Amendment 2 to our Basic Agreement for an additional one (1) year contract extension through April 2006.

Please advise if you need further information regarding this Amendment.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Amendment No 2 to Basic Agreement (3 copies)

J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0224-Amend-2.wpd:ch

AMENDMENT NO. 2
TO
AGREEMENT FOR ENGINEERING SERVICES
FAYETTEVILLE MUNICIPAL AIRPORT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

The basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, is hereby amended. The referenced basic agreement pertains to proposed improvements to Fayetteville Municipal Airport, Drake Field. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville and McClelland Consulting Engineers (ENGINEER) extends the duration of the contract for the second of a possible three years, as allowed in the first paragraph on page 1 of the basic agreement. This action is taken to allow the ENGINEER to undertake design and construction administration services beyond contract expiration date of April 30, 2005. As a result, the amended contract expiration date becomes April 30, 2006.

SECTION I - PROJECT DESCRIPTION

The types of projects to be undertaken by the ENGINEER during this extended period include the type of projects listed in Section II of the Basic Agreement and any additional services related to the Fayetteville Municipal Airport as may be included by the City of Fayetteville.

SECTION II - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

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

FOR THE CITY OF FAYETTEVILLE:

By: ______________________________ Attest: ______________________________
Mayor

Date: ______________________________

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: R Wayne Jones Attest: John C. Quinn
Vice-President

Date: 2/24/25

AMENDMENT NO. 2
TO
AGREEMENT FOR ENGINEERING SERVICES
FAYETTEVILLE MUNICIPAL AIRPORT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

The basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, is hereby amended. The referenced basic agreement pertains to proposed improvements to Fayetteville Municipal Airport, Drake Field. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville and McClelland Consulting Engineers (ENGINEER) extends the duration of the contract for the second of a possible three years, as allowed in the first paragraph on page 1 of the basic agreement. This action is taken to allow the ENGINEER to undertake design and construction administration services beyond contract expiration date of April 30, 2005. As a result, the amended contract expiration date becomes April 30, 2006.

SECTION I - PROJECT DESCRIPTION

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SECTION II - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

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

FOR THE CITY OF FAYETTEVILLE:

By: ____________________ Attest: ____________________
Mayor

Date: ____________________

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: R. Wayne Jones Attest: John C. Quinn
Vice-President

Date: 2/24/05

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

~~NA~~ April 5, 2005
City Council Meeting Date

Ray M. Boudreaux	Aviation & Economic Development	General Government
Submitted By	Division	Department

Action Required:

Approve Amendment #2 to the Basic Agreement with McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mcclelland-engrs.com. The Amendment will extend the existing agreement for Engineering services for an additional year through April 2006. This is the 2nd and final annual option to extend the Agreement.

$0.00	$ 620,834.50	U of A Hangar Construction
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5804.00	$ 604,386.56	Other Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
03027.1	$ 16,447.94	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

[signature] 3/17/05
Department Director — Date

[signature] 3/18/05
City Attorney

[signature] 3-15-05
Finance and Internal Service Director — Date

Mayor — Date

Previous Ordinance or Resolution # 64-03 (T O #1)
Original Contract Date: 4/30/2003
Original Contract Number: 917

Received in City Clerk's Office — ENTERED 3-18-05

Received in Mayor's Office — ENTERED 3/18/05

Comments:

CONTRACT REVIEW MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Jenkins, Parking Manager

DATE: March 8, 2005

SUBJECT: Renewal of Lease Agreement with Off-Street Parking Development District No. 1

RECOMMENDATION

Staff recommends renewing the Lease Agreement with the Off-Street Parking Development District No. 1. The term of this Agreement will only be for one (1) year at this time in anticipation of the completion of the overall Downtown Master Plan and any parking related issues that may be affected.

BACKGROUND

The City entered into the original Lease Agreement with the Off-Street Parking Development District No. 1 in March, 1990. The term of the lease ran for a period of ten years and was renewed in March 2000 for another five years. The Agreement provides for the City to lease the 4 parking lots owned by the District and operate them as revenue producing off-street parking lots. The City equips the premises with parking meters and/or access control devices, collects parking revenues through parking programs and meter revenues, and provides parking enforcement for the leased premises. The City then pays to the District the net operating revenues derived from the leased premises ("net operating revenues" are the gross revenues less all costs of equipping, maintaining, and operating the leased premises by the City.

BUDGET IMPACT

The revenues collected and retained by the City for operating costs help to offset existing expenses already incurred by the City for the management of downtown parking. For the year 2004, a total of $17,371 was received from this source to offset employee salaries. Actual costs for equipment and supplies are offset directly from this source.

RESOLUTION NO. ______

A RESOLUTION APPROVING A ONE-YEAR LEASE AGREEMENT WITH OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 FOR THE CITY OF FAYETTEVILLE TO OPERATE CERTAIN OFF-STREET PARKING LOTS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a one-year Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots. A copy of the Lease Agreement marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 5th day of April 2005.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

LEASE AGREEMENT

This lease Agreement executed this _____ day of March, 2005, by and between OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 of the City of Fayetteville, Arkansas (hereinafter referred to as "OSPDD"), and the CITY OF FAYETTEVILLE, Arkansas (hereinafter referred to as "the City").

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

1. OSPDD hereby leases to the City, and the City hereby leases from OSPDD, the real property described in Exhibit A, attached hereto and made a part hereof.

2. The term of this Lease shall be for a period of one (1) year commencing on the date of execution hereof.

3. The City hereby agrees that during the term of this Lease, or any extension thereof, the City shall operate the leased premises as revenue producing off-street parking lots; the City agrees to equip the leased premises with parking meters or parking gates; the City agrees to collect the revenues from the parking meters or parking gates located on the leased premises; and the City agrees to police the lease premises to insure that motorists parking thereon are paying required usage fees as are now, or as may hereafter, be established by the City.

4. The City agrees to pay over to OSPDD during the term of this Lease, or any extension thereof, the net operating revenues derived from the leased premises. The term "net operating revenues" shall mean gross revenues less all costs of equipping, maintaining, and operating the lease premises as off-street parking lots. Said revenues shall be paid to OSPDD quarterly.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date first above written.

OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 OF THE CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________
Commissioner

____
Commissioner

____
Commissioner

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

EXHIBIT A

Lots 1 and 2 in Block 13;
Lots 7, 8, 9, and 10 in Block 17;
Lots 1 and part of lot 2 in Block 25;
Lots 8, 9, 14 and 15 in Block 30

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

April 5, 2005
City Council Meeting Date

Sharon Jenkins	Parking Management Division	Operations Department
Submitted By	Division	Department

Action Required:

Approval of Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain leased premises as revenue producing off-street parking lots. This Agreement is a continuation of previous Agreements that have been ongoing since March, 1990.

$0.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
		Off-Street Parking
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — Date: 3-11-05

City Attorney — Date: 3/11/05

Finance and Internal Service Director — Date: 3-12-05

Mayor — Date: 3/15/05

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office — ENTERED 3/11/05

Received in Mayor's Office — ENTERED 3/11/05

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, CRCC Director

Date: March 8, 2005

Subject: Approval of Contract for Rehabilitation

RECOMMENDATION

Staff recommends approval of contract to rehabilitate home.

BACKGROUND

Home belongs to single female who qualifies with the low -to-moderate income verification. Home is in need of a complete rehabilitation including, new windows, doors, upgrade plumbing, electrical and install HVAC system. We have received bids on this project, low bid being $24,070.00. The total cost for this project would be $24,070.00 with contingency amount of $1,000.00.

DISCUSSION

The City of Fayetteville Community Development Block Grant (CDBG) office has funding available to assisit income eligible Fayetteville residents with rehabilitation to their homes. The program available includes both minor rehablitation and moderate rehabitiation. Moderate rehab is addressed as applicants number comes up on the CDBG waiting list. Individuals are qualified through a process established by HUD and the local CDBG guidelines. Applicants must first complete an application and then the CDBG staff will review and determine if qualified. Once qualified the scope ofwork is written and bid out to the lowest bidder. After this process the rehabilitation is completed on the home bringing it up to code, making it energy efficient and addressing any lead base paint issues.

BUDGET IMPACT

The City of Fayetteville's Rehabilitation Program under CDBG would pay the contractor the sum of $24,070.00 to complete this project with contingency of $1000.00.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT BETWEEN ERIN JENKINS AND RANDY EVANS FOR THE REHABILITATION ON ERIN JENKINS' HOME USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS IN THE AMOUNT OF $24,070.00 WITH A CONTINGENCY OF $1,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

By: DRAFT ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

City of Fayetteville
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STANDARD BID PROPOSAL FORM

PROJECT NUMBER: 02123-0501 **DATE ISSUED:** January 4, 2005

DATE AND TIME OF OPENING: Sunday, January 9, 2005

OWNER'S NAME: Erin Jenkins

PROJECT ADDRESS: 219 S. Willow, Fayetteville, Arkansas 72701

Windows 2,950

Interior Window Trim 2,200

Caulking & Painting 1,000

Vinyl Siding 3,850

Doors 2250

Plumbing 2,500

Electrical 2,120

HVAC 6,500

Water Heater Closet 500

Clean-up 200

MY TOTAL BID PRICE FOR THIS PROJECT IS $ 24,070.00

Upon signing this Bid, the bidder certifies that they have viewed the property, read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

City of Fayetteville
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Complete Business Address:

Name of Firm: Evans Handy Man Service Phone # 530-0801

Street address or P O Box # 14934 Blue Jay

City / State/ Zip Code Fayetteville, AR. 72704

Printed Name: Randall C. Evans

Signature: Randall C Evans Title: Owner

Federal ID #:______________________ Date: 1/18/05

This page must be return to the Community Resources Division in a sealed envelope. Envelope shall be marked with the project number, project address and contractors name and address on or before the Bid Closing date and time.

City of Fayetteville
FAYETTEVILLE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

REHABILITATION CONTRACT

THIS CONTRACT, executed this 17 day of March, 2005,

BETWEEN
Erin Jenkins
219 S. Willow
Fayetteville, AR 72701

Hereinafter referred to as the "Owner" whom resides at the stated property, and

Randy Evans
14934 Blue Jay
Fayetteville, AR 72704

hereinafter referred to as the "Contractor" whom warrants themselves to be licensed and qualified to perform the work specified herein, and

APPROVED BY the City of Fayetteville, hereinafter referred to as the "City,"

IN CONSIDERATION OF THEIR MUTUAL COVENANTS, THE PARTIES AGREE AS FOLLOWS:

1. **EFFECTIVE DATE:** This document shall have no force or effect unless and until executed by the Owner and Contractor, approved by City of Fayetteville. A properly executed and approved copy shall be mailed to the Contractor at the address shown above. The date on which the copy is mailed shall be referred to as the "Effective Date." If a properly executed and approved copy of this Contract is not mailed on or before **thirty (30) consecutive calendar days** from the date of execution, the Contractor is not bound by the terms of this Contract. If however, a properly executed and approved copy of this Contract is mailed after that date, and the Contractor subsequently performs work on or delivers materials to the Property, the Contractor shall be bound by this Contract. The Contractor shall not be compensated under this Contract for work commenced or materials delivered to the Property before the Effective Date.

2. **THE CONTRACT:** This Contract consists only of this Part I (Specific Terms), Part II (Standard Terms), and the following attachments:
   A. Description of Work Specifications – (dated 1/05)
   B. Community Resources, Housing Rehabilitation General Specifications
   C. Payment Schedule

3. **TIME FOR COMMENCEMENT AND COMPLETION:** The Contractor agrees to commence, or cause to be commenced, the actual work described in the Description of Work within thirty (30) days after the Effective Date. The Contractor agrees to complete, free of liens or rights of liens of contractors, mechanics, material men or laborers, all work listed in the Description of Work within **sixty (60) consecutive calendar days** after

a Notice to Proceed is issued. If work has not been completed by such date, subject to extensions approved by the Owner and the City for the period of any excusable delays (e.g. strikes, acts of nature or other reasons beyond the control of the Owner or Contractor) the Contractor shall be assessed liquidated damages in favor of the City in the amount of Twenty-five Dollars ($25.00) per day for each calendar day proceeding the effective date, as stated above. If, for any cause, the Contractor fails to fulfill in a timely and proper manner the obligations under this contract, the City shall have the right to terminate this contract by giving a written notice to the Contractor of such termination and specifying the effective date of such termination.

Upon termination of a contract, the work accomplished in the specified man under this contract shall be compensated for in a manner based upon the itemized bid submitted by the Contractor prior to the initiation of this contract. If work has not been started by said date, this contract may be considered null and void, all housing assistance contracts of the Contractor, approved but for which Notices to Proceed have not been issued, may be considered null and void, and the "City" will have the right to consider the Contractor ineligible to bid future projects.

4. **CONTRACT PRICE:** The Contractor agrees to accomplish work as described in the Description of Work in accordance with each and every term and condition of this Contract, for a total contract price of **Twenty-Four Thousand Seventy Dollars ($24,070.00).** The price of specific items of work is stated in the Description of Work and/or the Bid Proposal Form

5. **PROGRESS PAYMENTS:** The Contractor agrees that the total contract price shall be paid in one payment 100% completion, two payments 50% progress and 100% completion, or three payments 40% progress, 70% progress, and 100% completion, based upon the value of the work completed at the time the progress payment is requested. Such progress payments shall be disbursed at the time and in the amounts specified in the Payment Schedule (attachment C), after inspection and approval of the work by the Owner and the City, less a retainage of ten percent (10%) of the price of the work completed. The retainage shall be retained until final payment in order to protect the Owner from any default by the Contractor. In the event the Contractor defaults, the retainage shall be disbursed in accordance with Part II, paragraph 10 of this Contract. Final payment shall be due upon satisfactory completion and acceptance of the work as in compliance with this Contract by the Owner and the City, permit sign-off, submission of satisfactory wavier(s) of liens satisfactory to the Owner and the City indemnifying the Owner against any lien, and submission of all warranties and guarantees. The Owner shall not withhold payment to the Contractor except for noncompliance with the terms of this Contract, and shall not request the Contractor to perform work outside the scope of this Contract as a condition of receiving payment. Retainages will be held until all inspections required by the City have been performed and passed. The Contractor acknowledges that it is a material breach of this Contract to request or accept a progress or final payment which is in excess of the price of the work completed at the time such payment is requested, less the required retainage.

6. **WARRANTY:** The Contractor warrants that all improvements, hardware and fixtures of whatever kind or nature to be installed or constructed on the Property by the Contractor or Contractor's subcontractors will be of good quality, suitable for their purpose and free from defects in workmanship or materials, or other deficiencies. The Contractor agrees that before final payment is made on a completed and approved project, the Contractor will furnish the Owner and City, (1) manufactures warranties and/or guarantees on all warrantable products and materials installed in the project, including but not limited to: asphalt shingles, water heaters, and furnaces and other heating equipment and (2) Contractor's warranty which is valid for one (1) year from the date of final inspection. The Contractor agree to remedy any defects in the Contractor's work and materials and any damage resulting there from which may appear within a period of one (1) year from the date of final acceptance of the work which is the date upon which final inspection was preformed.

7. **PARTIES TO CONTRACT:** The Owner and Contractor agree that they are the sole parties to this Contract and are solely responsible for its performance. The parties agree that the City or the United States Department of Housing and Urban Development assumes any liability or responsibility whatsoever for the performance of any term of this Contract. The owner(s) WILL NOT perform or hire another contractor to perform any type of construction related repairs, improvements, or modifications to his/her/their home as of the date of this contract through the final inspection phase which will be performed by the City or Community Resources Division.

   Failure to comply with this section will cause this project to be placed on hold until the unauthorized repairs, improvements, or modifications have been completed. The Owner agrees that only the items listed in the Contract and Description of Work are to be accomplished by the rehabilitation project. The owner agrees that he or she will provide notice of defects in workmanship or materials installed in the project within a reasonable period of time (30 calendar days). The Contractor will not be responsible for defects caused by acts of the occupants, by occupant's abuse, neglect or inadequate maintenance, or by Acts of God. It is recognized by the parties that the City shall make a grant and/or loan to the Owner which shall be used to pay in whole or in part the cost of the contract, subject to additions and deductions in written and signed change orders, as provided in the Description of Work and Housing Specs of the contract. The Contractor agrees that the Housing Specialist shall have the right to act for the owners in taking all actions necessary to insure the full and complete performance of the obligations of the Contractor under this contract, and the Contractor agrees to hold the City harmless from and indemnify and the City against any and all claims from the owner or any third persons arising from the action of the Contractor with reference to this contract.

8. **CONTRACT LIMITS:** This Contract shall be deemed to be the entire Contract and no other work shall be done or monies paid for such work unless advance notice thereof is given to the City of Fayetteville Community Resources Division and the specific procedures set forth in the General conditions for Rehabilitation are followed.

9. **STATEMENT OF WORK:** The Contractor does hereby agree that, according to this Contract and for the price set forth hereinabove, he will furnish supervision, technical, personnel, labor, materials, tools, equipment, fixtures and services including transportation services, and perform and complete all work required in an efficient and workmanlike manner for the Rehabilitation of Property listed above. The Contractor shall not assign this Rehabilitation Contract without prior written consent of the Owner and said request for assignment of the Contract shall be submitted to the City of Fayetteville Community Resources Division.

EQUAL OPPORTUNITY PROVISIONS

1. CIVIL RIGHTS ACT OF 1964 COMPLIANCE

During the performance of this contract, the contractor agrees to comply with the following requirement: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

2. SECTION 503 HANDICAPPED COMPLIANCE (IF $2,500 OR OVER)

During the performance of this contract, the contractor agrees to comply with the following requirements:

AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified.
b) The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
c) The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
d) In the event of the CONTRACTOR'S noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
e) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
f) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment of physically and mentally

handicapped individuals.

g) The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contractor Compliance Programs may direct to enforce such provisions, including action for noncompliance.

3. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 COMPLIANCE

During the performance of this contract, the contractor agrees to comply with the following requirements:

a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

b) Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the Governor of such State or the Chief Executive Officer of such unit of local government of the noncompliance and shall request the Governor or the Chief Executive Officer to secure compliance. If within a reasonable period of time, not to exceed sixty (60) days, the Governor or the Chief Executive Officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that appropriate civil action be instituted; (2) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d); (3) exercise the powers and functions provided for in Section III (A) of this Act; or (4) take such other action as may be provided by law.

c) When a matter is referred to the attorney General pursuant to subsection (b), or whenever he has reason to believe that a State Government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this Section, the Attorney General may bring a civil action in any appropriate United States District Court for such relief as may be appropriate, including injunctive relief.

EXECUTION/SIGNATORIES TO AGREEMENT PROVIDED ON SUCCEEDING PAGE

City of Fayetteville
FAYETTEVILLE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

Erin Jenkins, Homeowner

Randy Evans, Contractor

Approved by the City on 3.17.05.

By ______________ Community Development Block Grant Program Director
Yolanda Fields

Mailed to Contractor and Effective 3.18.05.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr-05
City Council Meeting Date

Deidre Uselton	Com Res & Code Comp	Com Plan & Engr Services
Submitted By	Division	Department

Action Required:

Approval of contract with Randy Evans dba Evans Handyman Service for Rehabilitation of residence at 219 S. Willow Ave. Total Cost of project $24, 070 with contingency amount of $1,000.

$25,070	Rehabilitation $297,507	Housing Rehabilitation
Cost of this request	Category/Project Budget	Program Category / Project Name
2180 4940 5315 00	$ 21,421.84	Housing Rehabilitation
Account Number	Funds Used to Date	Program / Project Category Name
02123-0501	$ 276,085.16	Community Development
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] Budget Adjustment Attached [ ]

Department Director 3.18.05 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

City Attorney 3-18-05

Received in City Clerk's Office ENTERED 3/18/05

SIGN HERE

Finance and Internal Service Director 3-22-05 Date

Received in Mayor's Office ENTERED 3/18/05

Mayor 3/22/05 Date

Comments:

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Mayor Dan Coody Fayetteville City Council
FROM:	Tim Conklin, Director of Planning and Development Management T.C.
DATE:	March 18, 2005
SUBJECT:	A resolution to approve a contract with Design Workshop, Inc., in the amount of $32, 550.00 plus reimbursables in the amount of $ 6, 000.00, to assist the City in the development of a hillside preservation ordinance and to approve a budget adjustment in the amount of $40, 000.00.

RECOMMENDATION

Staff recommends approval of a contract with Design Workshop, Inc., in the amount of $32, 550.00 plus reimbursables in the amount of $ 6, 000.00, to assist the City in the development of a hillside preservation ordinance and to approve a budget adjustment in the amount of $40, 000.00.

BACKGROUND

In August of 2002 the City Council passed resolution (130-02) for the City Planning Staff to perform a "rezoning study and zoning map amendment to consider changing the zoning classification for areas shown as R-2 (Medium Density Residential) to R-1 (Low Density Residential) for those areas that have 15 percent or greater slope, and other areas zoned R-2 where recorded platted subdivisions exist with substandard infrastructure."

Additionally, the City Council's Strategic Plan 2004-2009 identifies hillside preservation as a part of the overall goals for 2009.

In 2002 staff began preparing an analysis of existing conditions for the developed area on western Mt. Sequoyah. Specifically, staff looked at developed and undeveloped areas, density in units per acre, and total build out density according to existing residential zoning. A determination was made that downzoning presented numerous issues and that a broader approach was needed to achieve the goal of promoting responsible hillside development.

In 2003, the Fayetteville Planning Commission appointed three members to form a Hillside Task Force. The task force's goal was to evaluate methods used by other municipalities to regulate hillside development, and then to recommend standards for the

City to adopt in order to achieve appropriate development on slopes greater than 15 %.

Staff and the task force worked intermittently for two years researching ordinances, reviewing methods, and drafting preliminary ordinances. In 2004, Staff presented the recommendations of the Task Force at a public hearing consisting of elected officials, concerned citizens and members of the development community.

In 2004, a new Hillside Task Force was formed consisting of two members of the City Council and three members of the Planning Commission. A series of public meetings were held, and the Task Force reviewed the previously completed work. Through the course of numerous public meetings it became apparent that a compromise solution and an acceptable form of regulation was tenuous at best.

At this time, the City Administration is recommending that an outside consultant be hired to complete an ordinance that would achieve the City Council's objectives. In March of 2005, Design Workshop was chosen as the consultant for this project.

BUDGET IMPACT

A budget adjustment in the amount of $ 40,000.00 will need to be approved by the City Council to fund this project.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A CONTRACT WITH DESIGN WORKSHOP, INC. IN THE AMOUNT OF $32,550.00 PLUS REIMBURSABLES NOT TO EXCEED $6,000.00 AND TO APPROVE A BUDGET ADJUSTMENT OF $40,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Professional Services Agreement (attached as Exhibit A) with Design Workshop, Inc. in the amount of $32,550.00, plus reimbursables not to exceed $6,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjust of $40,000.00 attached as Exhibit B.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2005	Department: General Government Division: Miscellaneous Program: Miscellaneous	4/5/2005	

Project or Item Added/Increased:
$40,000 in the Professional Services Account.

Project or Item Deleted/Reduced:
None. Use of fund balance is proposed.

Justification of this Increase:
To fund a contract in the amount of $32,550 and reimbursables in the amount of $6,000 to Design Workshop, Inc. for the development of a hillside preservation ordinance and $1,450 in miscellaneous costs (meetings, etc.).

Justification of this Decrease:
Sufficient funding remains to comply with City policies.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	1010	6600	5314	00	40,000	05033	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	40,000		

Approval Signatures

Requested By	Date
Budget Manager	Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval	Initial	Date
Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

SERVICES AGREEMENT
OR
PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into this ___ day of _____________, 2005 by and between the City of Fayetteville, a municipal corporation of the State of Arkansas ("City") and Design Workshop Inc., a Colorado Corporation with offices located at 14 S. Pack Square, Suite 500 in Asheville N.C. 28801, hereafter called the "Design Workshop".

In consideration of the mutual covenants and promises herein contained, Design Workshop and the City agree as follows:

TERMS:

1. TERM: The term of this Agreement shall be 3.5 months, commencing on the effective date hereof. Design Workshop agrees that it will be able to complete performance of the Contract Services within the Initial Term, subject, however, to delays beyond Design Workshop's reasonable control.

2. SCOPE OF SERVICE:

A. Design Workshop agrees to provide the Services as specifically described, and subject to the special terms and conditions set forth in Attachment "A" hereto, which by this reference is incorporated into and made a part of this Agreement.

B. Design Workshop represents and warrants to the City that: (i) it possesses all qualifications, licenses and expertise required for the performance of the Services; (ii) it is not delinquent in the payment of any sums due the City, including payment of permits fees, occupational licenses, etc., nor in the performance of any obligations to the City, (iii) all personnel assigned to perform the Services are and shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; and (iv) the Services will be performed in the manner described in Attachment "A".

3. COMPENSATION:

A. The amount of compensation payable by the City to Design Workshop shall be based on the rates and schedules described in Attachment "B" hereto, which by this reference is incorporated into this Agreement; provided, however, that in no event shall the amount of compensation exceed $38,500.00, including all labor compensation and direct and normal expenses incurred in completing its professional research and advisory services to the City's Planning Division.

B. Design Workshop shall send invoices to the City no more frequently than once per month, reflecting compensation due for services rendered by Design Workshop and reimbursement due for expenses incurred by Design Workshop. All invoices are payable upon receipt by the City. If payment for an invoice is not received within sixty (60) days of the invoice date, Design Workshop reserves the right to suspend performance of Contract Services until Design Workshop receives all payments due.

All submitted invoices from Design Workshop shall be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should City require one to be performed.

4. OWNERSHIP OF DOCUMENTS: To assist Design Workshop in performing the Contract Services, the City shall furnish to Design Workshop, without charge, copies of all available background reports, memoranda, correspondence, ordinances, legislation, rules and regulations, technical data and other information reasonably requested by Design Workshop that is relevant to the Contract Services to be provided by Design Workshop. In addition, the City shall be responsible for taking, in cooperation with Design Workshop, such actions as may be necessary to obtain required reviews and approvals from appropriate public agencies. Design Workshop understands and agrees that any information, document, report or any other material whatsoever which is given by the City to Design Workshop is and shall at all times remain the property of the City. Design Workshop agrees not to use any such information, document, report or material for any other purpose, other than general corporate promotion/qualification purposes, without the written consent of the City, which may be withheld or conditioned by the City in its sole discretion.

Notwithstanding the completion, suspension, termination, or expiration of this Agreement, the following provisions in this section shall apply with respect to ownership of documents produced by Design Workshop:

A. Final Work Products. Final work products shall be delivered to and become property of the City in the format specified in Attachment A. City shall have a right to retain, use, and reproduce final work products.

5. **AUDIT AND INSPECTION RIGHTS:**

A. The City may, at reasonable times, and for a period of up to three (3) years following the date of final payment by the City to Design Workshop under this Agreement, audit, or cause to be audited, those books and records of Design Workshop which are related to Design Workshop's performance under this Agreement. Design Workshop agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement.

B. The City may, at reasonable times during the term hereof, inspect Design Workshop's facilities and perform such tests, as the City deems reasonably necessary, to determine whether the goods or services required to be provided by Design Workshop under this Agreement conform to the terms hereof, if applicable. Design Workshop shall make available to the City all reasonable facilities and assistance to facilitate the performance of tests or inspections by City representatives.

.1 6. **AWARD OF AGREEMENT:** Design Workshop represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

7. **ARKANSAS FREEDOM OF INFORMATION ACT** City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared

while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, Design Workshop will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS: Design Workshop understands that agreements between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, record keeping, etc. Design Workshop agrees to comply with and observe all applicable federal, state and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

9. INDEMNIFICATION: Design Workshop shall indemnify, defend and hold harmless the City and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of Design Workshop or its employees, agents or subcontractors (collectively referred to as "Design Workshop"), or the failure of Design Workshop to comply with any of the paragraphs herein or the failure of Design Workshop to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Agreement. Design Workshop expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Design Workshop, or any of its subcontractors, as provided above, for which Design Workshop's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

10. <u>CITY'S TERMINATION RIGHTS:</u>

A. The City shall have the right to terminate this Agreement, in its sole discretion, at any time, by giving written notice to Design Workshop at least ten (10) business days prior to the effective date of such termination. In such event, the City shall pay to Design Workshop compensation for services rendered and expenses incurred prior to the effective date of termination. In no event shall the City be liable to Design Workshop for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

B. The City shall have the right to terminate this Agreement, without notice or liability to Design Workshop, upon the occurrence of an event of default thereunder. In such event, the City shall not be obligated to pay any amounts to Design Workshop while Design Workshop was in default under this Agreement.

11. **<u>INSURANCE:</u>** Design Workshop shall, at all times during the term hereof, maintain such insurance coverage as may be reasonably required by the City. All such insurance, including renewals, shall be subject to the approval of the City for adequacy of protection and evidence of such coverage shall be furnished to the City on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be canceled during the performance of the services under this contract without thirty (30) calendar days prior written notice to the City. Completed Certificates of Insurance shall be filed with the City prior to the performance of services thereunder, provided, however, that Design Workshop shall at any time upon request file duplicate copies of the policies of such insurance with the City.

If, in the judgment of the City, prevailing conditions warrant the provision by Design Workshop of additional liability insurance coverage or coverage which is different in kind, the City reserves the right to require the provision by Design Workshop of an amount of coverage different from the amounts or kind previously required, then Design Workshop shall obtain such specific coverage requested as an additional cost to the City for such, and shall afford written notice of such change in requirements thirty (30) days prior to the date on which the requirements shall take effect.

12. **<u>NONDISCRIMINATION:</u>** Design Workshop represents and warrants to the City that Design Workshop does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Design Workshop's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Design Workshop further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

13. **ASSIGNMENT:** This Agreement shall not be assigned by Design Workshop, in whole or in part, without the prior written consent of the City's, which may be withheld or conditioned, in the City's sole discretion.

14. **NOTICES:** All notices or other communications required under this Agreement shall be in writing and shall be given by hand-delivery or by registered or certified U.S. Mail, return receipt requested, addressed to the other party at the address indicated herein or to such other address as a party may designate by notice given as herein provided. Notice shall be deemed given on the day on which personally delivered; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

TO DESIGN WORKSHOP:
Jim Pitts, Principal
Design Workshop, Inc
14 South Pack Square, Suite 500
Asheville, NC 28801

TO THE CITY:
Mayor Dan Coody
City of Fayetteville, Arkansas
113 W. Mountain
Fayetteville, Arkansas 72701

15. **MISCELLANEOUS PROVISIONS:**

A. This Agreement shall be construed and enforced within the legal jurisdiction of Washington County, Arkansas according to the laws of the State of Arkansas.

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

C. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

D. Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Arkansas or the City of Fayetteville, Arkansas, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

E. This Agreement constitutes the sole and entire agreement between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

16. <u>SUCCESSORS:</u> This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, and successors. This agreement may not be assigned.

17. <u>ENTIRE AGREEMENT:</u> This instrument and its attachments constitute the sole and only agreement of the parties relating to the subject matter hereof and correctly set forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

18. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year above written.

"City"

ATTEST:

CITY OF FAYETTEVILLE, a municipal corporation

Sondra Smith
City Clerk

By:____________________
Dan Coody
Mayor

"Design Workshop"

ATTEST:

Design Workshop

Print Name:
Title:

By: Jim Pitts
Jim Pitts
Title: Principal

Hillside Ordinance
Fayetteville, Arkansas
03/18/05

ATTACHMENT B

PROJECT DESCRIPTION

This planning scope of work is for the hillside ordinance revision and recommendations for the City of Fayetteville, Arkansas.

SCOPE OF SERVICES

The scope of work to be performed by Design Workshop (DW) in connection with this agreement is separated into six separate tasks as described below:

Task One: Evaluation of Current UDC, Policies, and Development Practices
Task Two: Draft Hillside Development Best Practices Portfolio
Task Three: Project Kick-off and Task Force Work Session
Task Four: Developer and Public Input Work Sessions
Task Five: Draft hillside preservation and protection ordinances, code revisions & update of best practices portfolio
Task Six: Prepare final recommendations, policies and Hillside Development Best Practices Portfolio

The project scope is as follows:

Task One: Evaluation of Current UDC, Policies, and Development Practices

Task one focuses on reviewing all the previously completed studies and research by the city. The goal of the first task is to take a critical look at the previous process to to determine a strategy to find common ground between the city, the public and private interests. Specific tasks include:

- Review of Existing Unified Development Code Regulations as they relate to individual lot development and new green field development for slope and land use density and intensity. The consultant shall specifically review the grading ordinance, storm water ordinance (existing and proposed), tree preservation ordinance, and zoning.
- Review current development and platting practices as they relate to land disturbance, tree preservation, and impervious surface on individual platted lots and green field development.
- Review previously completed research, similar codes and proposed ordinance amendments complied by City staff and the Task Force.
- Review and research methods of delineating hillside areas or boundaries
- Review previously completed GIS mapping studies

Deliverables

- Summary of current regulations regarding hillside development
- Summary of the city's previously conducted research of adopted ordinances from other municipalities
- Summary of City Staff's recommendations for hillside development regulations and proposed Hillside Overlay Boundary.

Hillside Ordinance
Fayetteville, Arkansas
03/18/05

Task Two: Draft Hillside Development Best Practices Portfolio

This task will set the framework for what will be accomplished by the revised ordinance and development standards. The portfolio will show examples of best practices in hillside areas so that we can tailor our work to the desired outcome frolm the beginning. Task will include:

- Prepare a draft Hillside Development Best Practices Portfolio including roadway construction, home placement, driveway access, tree clearing and development patterns.

Deliverables:
- Draft Hillside Development Best Practices Portfolio
- Draft Power Point for presentation including background information designed to educate the public in regards to hillside development.

Task Three: Project Kick-off and Task Force Work Session

This task will set the stage for the rest of the recommendation process. The consultant will conduct a work session to accomplish the following:

- Revisit guiding principles and establish goals and objects
- Review city development practices and trends
- Designate special sites and corridors and areas of concern.
- Brainstorm ordinance amendments and ways of delineating hillside areas

Deliverables
- Work session summary memo

Task Four: Developer and Public Input Work Sessions

Task three is focused on gaining feedback on the initial direction established by the consultant and Task Force. The ability to gain unbiased feedback will be possible from two separate work sessions. Tasks include:
- Conduct Developer/Engineer/Designer work session to interview and allow input for the development and design professional community.
- Conduct pubic work session to gain input from the community on current issues, concerns regarding hillside development and areas of special interest.

Deliverables
- Composition, summary and analysis of public input to gauge citizen and developer input.

Task Five: Draft hillside preservation and protection ordinances, code revisions and update of best practices

Task four, the most involved and time intensive, will focus on studying areas of concern and creating recommendations specific to those areas. By creating a Best Practices Portfolio, both the public and private stakeholders can see the code recommendations in action and facilitate easier interpretation. A meeting will both the Task Force and the Stakeholders will allow feedback before the final recommendations are made. Tasks include:

- Study city-wide elevation and slope to facilitate the identification of high slope areas, high visibility areas and second priority preservation areas.
- Identify the land tracts that may be prone to development.
- Evaluate significant hillsides and view corridors as identified by the Task Force with regard to existing land use intensity and density and anticipated development.
- Propose methodology of delineating boundaries or areas to be managed by the provisions of the proposed ordinance.
- Prepare recommendations regarding how existing regulations can be modified to manage hillside development.

- Update the Hillside Development Best Practices Portfolio including roadway construction, home placement, driveway access, tree clearing, development patterns and preservation technique and criteria.
- Task Force meeting to present the updated portfolio, draft recommendations and gain feedback.
- Developer/Engineer/Designer meeting to present the updated portfolio, draft recommendation and gain feed back.

Deliverables

- Maps and graphics of the city-wide elevation, slope, viewshed analysis and development opportunities and draft ordinance overlay area.
- Draft ordinance and code recommendations
- Updated Hillside Development Best Practices Portfolio and power point.
- Two separate meetings with the Task Force and the stakeholders

Task Six: Prepare final recommendations, policies and Hillside Development Best Practices Portfolio

Based on the feedback from the previous task, the consultant will revise the draft recommendations and present them to the City, conduct a joint session with the Task Force and stakeholders and a public presentation. Tasks include:

- Amend ordinances and recommendations based on feed back received in draft ordinance work sessions
- Amend Hillside Development Best Management Practices Portfolio
- Task Force meeting to present final recommendations.
- Developer/Engineer/Designer Meeting to present final recommendations
- Formal presentation to the Community.

Deliverables

- Final draft of ordinances and recommendations
- Final Hillside Development Best Management Practices Portfolio
- Final official regulating map.
- Three separate meetings with City Council, both the Task Force and the stakeholders and a public presentation.

Deliverable Work Products and Presentations of Final Draft Plan and Report
(All final work products to be provided in both a paper and digital format)

EXCLUSIONS TO SCOPE OF SERVICES

Owner shall provide the following information or services as required for performance of the work. Design Workshop assumes no responsibility for the accuracy of such information or services, and shall not be liable for errors or omissions therein. Should Design Workshop be required to provide services in obtaining or coordinating compilation of this information, such services shall be identified as Additional Services and approved in writing prior to the work being performed.

1. Additional detailed mapping, testing and/or engineering.
2. Existing site engineering and utility base information.
3. Overhead aerial photographs at controlled scale.

4. Preparation and presentation of graphic exhibits and/ or text documents other than those described in the Scope of Services in order to aid the Owner in securing approvals for the project.
5. Meetings or coordination of consultants other than listed in this attached scope.
6. Copies of any local, jurisdictional controls such as zoning and subdivision ordinances.
7. Environmental research, evaluations and associated data prepared prior to this scope of work for wetlands, flood, soils, etc.

ASSUMPTIONS

It is our assumption that all previously completed research, recommendations, copies of applicable city codes, ordinances, and policies and digital survey data (inclusive of topographic with elevation data, roadway, parcel line, parcel data, city boundaries, aerial photographs, etc in shape
file format) will be provided to Design Workshop upon the start of this project. We assume that we will not need to complete any additional base mapping or tracking down of any documentation completed by the city or its consultants. We also assume that any travel will be by air and we will make every attempt to combine meetings to make best use of travel time.

PROJECT TEAM

Design Workshop typically organizes projects in a team format with key responsibilities divided between the Principal-in-Charge and Project Manager although, other roles may be added as required given the nature of the project scope or additional services that may be agreed-upon during the course of the work. The key team members for your project are listed below:

Principal-in-Charge – **Jim Pitts**
Jim will serve as Principal-in-Charge of the project and will have primary responsibility for the overall content and quality of the work prepared by Design Workshop and our consultant team.

Project Manager – **Bret Frk**
Bret will serve as the Project Manager for the project and will be responsible for leading all planning and design efforts associated with the work. His responsibilities will include the coordination of Design Workshop's in-house design/ planning team as well as regular communication and coordination with all members of the City's or Design Workshop's consultant team.

Project Landscape Architect – TBD
At the appropriate time a Project Landscape Architect will be identified and will assist in the planning and design efforts associated with the work.

SCHEDULE

Design Workshop is prepared to begin work immediately upon receipt of a signed copy of this proposal from either the Owner or an authorized representative. At this time, the following generalized schedule is anticipated.

Task One:	**Evaluation of Current UDC, Policies, and Development Practices**	**14 days**
Task Two:	**Draft Hillside Development Best Practices Portfolio**	**21 days**
Task Three:	**Project Kick-off and Task Force Work Session**	**7 days**
Task Four:	**Developer and Public Input Work Sessions**	**7 days**
Task Five:	**Draft hillside preservation and protection ordinances, code revisions & update of best practices portfolio**	**21 days**
Task Six:	**Prepare final recommendations, policies and Hillside Development Best Practices Portfolio**	**21 days**
	Total Timeframe	**3.5 months**

FEES AND EXPENSES

All services to be performed here under shall be performed pursuant to the fee schedule below and based on the following assumptions and according to the terms and conditions of Exhibit A. The parties understand and agree that Design Workshop acts as consultant and not as a general contractor, general partner, joint venturer, limited partner, or project manager.

1. Basic Services

Compensation to Design Workshop for the services described herein and in accordance with the Conditions of this Agreement shall be on a lump sum basis and billed as a percentage complete monthly per Design Workshop's published rate schedule.

The estimated fees are as follows:

Task One:	**Evaluation of Current UDC, Policies, and Development Practices**	**$2,910**
Task Two:	**Draft Hillside Development Best Practices Portfolio**	**$5,260**
Task Three:	**Project Kick-off and Task Force Work Session**	**$4,260**
Task Four:	**Developer and Public Input Work Sessions**	**$4,640**
Task Five:	**Draft hillside preservation and protection ordinances, code revisions & update of best practices portfolio**	**$8,790**
Task Six:	**Prepare final recommendations, policies and Hillside Development Best Practices Portfolio**	**$6,640**
	Sub-Total	**$32,500**
	Reimbursable Expenses	**$6,000**
	TOTAL PROJECT	**$38,500**

1. Reimbursable Expenses

Reimbursable Expenses are in addition to compensation for Basic Services. Reimbursable expenses incurred by Design Workshop and consultants directly related to the project such as, but not limited to, travel, photography, telephone charges, video conference charges, and printing expenses shall be billed at a lump sum not to exceed $6,000.00. This amount assumes that Design Workshop will travel with two people for three separate trips. Additional trips will be considered an additional service and invoiced as the current published billing rate plus $1,000 travel expenses, per person for each trip.

2. Additional Services

Services in addition to those described above are to be compensated on a Time and Materials basis per Design Workshop's current published rate schedule (see exhibit A). Additional services will include (but are not limited to) redesign of previously approved work, major revisions to program and/or expansion of scope of services. Whenever practical, changes, additions, or modifications to the scope of services shall be authorized by written change request; however, the absence of such a written change order shall not act as a bar to payment of fees due Design Workshop, provided the change was in fact approved and ordered by the Owner.

EXHIBIT A - FEE SCHEDULE

Principal	$175/Hr
Project Manager	$90/Hr
Project Landscape Architect	$75/Hr
Support Staff/Project Assistant	$65/Hr

PAYMENT TERMS

1. Invoices will be mailed from Design Workshop's office by the 10th of each month. Invoices are payable within 30 days of the date of billing. Invoicing shall be specific to each major task and will describe the completed portion of the services.

2. Extensive itemized breakdowns of hourly activities or provision of detailed backup for reimbursed expenses for accounting purposes are not a normal procedure; however, at the Owner's request, Design Workshop will provide this service at an hourly rate of $65 (sixty-five dollars) per hour.

ATTACHMENT B

Fayetteville Hillside Ordinance Fee Estimate

	Description	PIC $ 175.00	PM $ 90.00	PLA $ 75.00	TOTALS
I.	**Evaluation of Current UDC, Policies and Dev. Practices**				$ 2,910.00
1	Review existing UDC	1	2		
2	Review development practice and platting process	1	2		
3	Review previous research compiled by city			4	
4	Research and review methods of hillside deliniation	1		4	
5	Review previously completed GIS mapping		4		
6	Summary memo of current regulations	1	2		
7	Summary memo of research	1	2		
8	Summary memo of city recommendation	1	2		
II.	**Draft Hillside Development Best Practices Portfolio**				$ 5,260.00
1	Roadway construction		2	4	
2	Driveway access		2	4	
3	Home placement	1	2	8	
4	Tree clearing		2	4	
5	Development Pattern	1	2	12	
6	Format portfolio	1	2	8	
7	Draft Power Point	1	2	4	
III.	**Task Force Work-session**				$ 4,260.00
1	Guiding Principles and establish goals and objectives	1	2	2	
2	Prepare for city development practices and trends	1	2	2	
3	Prepare base maps for special site, corrodors and areas of concern			2	
4	Prepare for ordinance amendments	1	2		
5	Prepare for hill side deliniation	1	2		
6	Work session with Task Force	6	6		
7	Work session summary memo		1		
8	Travel	2	2		
9	Summary Memo		2		
IV.	**Developer and Public Input Work Session**				$ 4,640.00
1	Preparation	4	8	4	
2	Developer Engineer Work Session	4	4		
3	Public Worksession	4	4		
4	Travel	2	2		
5	Summary Memo		3		
V.	**Draft Ordinance, Code Revision and Update Best Practices Portfolio**				$ 8,790.00
1	City wide slope map		4		
2	Land Tract development study	2		12	
3	View Corridor Study		16		
4	Boundary Definition Methodology	2	6		
5	Update Best Practices Portfolio			8	
6	Draft Ordinance Recommendations	2	8		
7	Task Force Meeting	4	4		
8	Stakeholder Meeting	4	4		
8	Travel	4	4		
V.	**Final Recommendation & Policies; Best Practices Portfolio**				$ 6,640.00
1	Creat final ordinance and recommendation		12		
2	Create final Best Practices Portfolio			4	
3	Create final regulating map		8	4	
4	Task Force and Stakeholder Meeting	4	4		
5	City Council meeting	4	4		
6	Public Meeting	4	4		
7	Travel	4	4		

	PIC	PM	PLA	
SUB-TOTAL HOURS	70	150	90	
TOTAL FEE	$ 12,250.00	$ 13,500.00	$ 6,750.00	$ 32,500.00
SUBTOTAL				$ 32,500.00
Total Reimbursables (Travel, Meals, Lodging, Supplies, Postage)*				$ 6,000.00
* Assumes 3 trips with two attendees				
TOTAL				$ 38,500.00

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

4/5/2005
City Council Meeting Date

Submitted By	Division	Department
Tim Conklin	Operations	Planning

Action Required:

A resolution to approve a contract with Design Workshop, In., in the amount of $32, 550.00 plus reimbursables in the amount of $ 6, 000.00 to assist the City in the development of a hillside preservation ordinance and to approve a budget adjustment in the amount of $ 40, 000.00.

$40, 000.00		Hillside Preservation Ordinance Development
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6600.5314.00		Other Capital Projects
Account Number	Funds Used to Date	Program / Project Category Name
05033.1	$ -	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [X]

Department Director 3-18-05 Date

City Attorney 3-18-05

Finance and Internal Service Director 3-22-05 Date

Mayor 3/22/05 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office ENTERED 3/18/05

Received in Mayor's Office

Comments:

City Council Meeting of: April 5, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: March 3, 2005

SUBJECT: Approval of Task Order #5 with McClelland Consulting Engineers, Inc. for services to produce an Airport Master Plan including an updated Airport Layout Plan in the amount of $122,742.00 and direct the Airport Staff to apply for and secure FAA AIP grant funding and State of Arkansas Matching SAAG funding to cover the total cost of the project. The Airport Board approved the project at their March 11, 2005 meeting.

RECOMMENDATION: Approve and execute by signature of the Mayor, Task Order #5 with McClelland Consulting Engineers, Inc. for services in conjunction with a new Airport Master Plan including an updated Airport Layout Plan. Approve application to the FAA and the State of Arkansas Department of Aeronautics for grant funding to complete the project.

BACKGROUND: The current Master Plan was done beginning in 1994 and published in 1999. The Master Plan is one of the essential documents that the FAA uses to grant funds for Airport Improvement Projects (AIP). Typically the FAA likes to see Master Plans no older than five (5) years. Included with this project will be a new and complete Airport Layout Plan (ALP).

DISCUSSION: The Master Plan will discuss all aspects of airport development and will document projects for future grant funding. The Airport Board will be actively involved in the planning process and at least two public meetings will brief the public on how the planning is going and ask for input. The Master Plan will layout a specific five year course of action and will identify projects for the out-years up to 20 years. Accurate estimates of anticipated growth will be included in the study so that plans can be made to meet the load.

BUDGET IMPACT: The project is totally funded by the FAA and the State of Arkansas. FAA provided 95% which will come from our entitlement funding. The State will cover the 5% matching funds. When approved by the City Council, we will prepare applications for the grants. Funding has been pre-coordinated.

Attachments: Staff Review Form
Task Order #5, Scope of Work

RESOLUTION NO. ______

A RESOLUTION TO APPROVE TASK ORDER #5 TO THE CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $122,742.00 TO PRODUCE AN AIRPORT MASTER PLAN AND TO APPROVE APPLICATIONS FOR GRANT FUNDING FROM THE FAA AND ARKANSAS DEPARTMENT OF AERONAUTICS TO PAY FOR THIS PROJECT, AND TO APPROVE A BUDGET ADJUSTMENT OF $122,750.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and approves applications for grant funding from the FAA and Arkansas Department Of Aeronautics to pay for this project, and approves a budget adjustment of $122,750.00 as attached.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

By: ______________________
DAN COODY, Mayor

DRAFT

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2005	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	3/1/2005	

Project or Item Added/Increased:
$122,750 is requested in the AIP Capital Projects account.

Project or Item Deleted/Reduced:
None. To recognize $116,6113 in grant revenue from DOT/FAA.

To recognize $6,137 in grant revenue from AR Dept of Aeronautics

Justification of this Increase:
The funding is requested to provide for an Airport Master Plan Update.

Justification of this Decrease:
100% of the project cost is provided by grants from outside entities.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Master Plan Update	5550	3960	7820	33	122,750	05029	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Master Plan Update	5550	0955	6820	33	116,613	05029	1
State grants on Fed proj	5550	0955	6803	00	6,137	05029	1

Approval Signatures

	Date
Requested By	3-17-05
Budget Manager	
Department Director	3/17/05
Finance & Internal Services Director	3-21-05
Mayor	

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

CIP PROJECT REQUEST FORM

City of Fayetteville, Arkansas

Capital Improvements Program 2004-2008

1 Project Category Airport Improvements	4 Priority in Category 16	7 Department Aviation & Economic Development
2 Project Title Master Plan Update	5 Page # in Previous CIP	8 Division Airport
3 Funding Source Airport	6 Project Accounting #	9 Contact Person Ray M. Boudreaux

10 Is the Project? Replacement ___ or Expansion ___	11 Is the Project? One Year X or Multi-Year ___	12 Is Project mandated by a Federal, State, or Local entity? Yes X or No ___

13 Project Description & Justification: *(attach additional pages if necessary)*

Funds will be used to update the Airport Master Plan. Through extensive research and analysis, the Master Plan will identify and examine the role of the airport within the region's system of airports, and formulate a strategic plan and program that bests represents the goals of the community and airport and sets forth a realistic and achievable direction and plan of action for the development of the airport and its environs.

The project is eligible for 95% funding from DOT/FAA the AIP grant program. The project is also eligible for 5% match funding from the Arkansas Department of Aeronautics. Thus, 100% of the project cost is reimbursable to the City.

14 Scheduling & Project Status (if in progress):

The project is scheduled to begin upon approval by the City Council April 5, 2005.

15 Effect of the Project on Annual Operations:

None

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

February 24, 2005

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Proposed Task Order No. 5
Master Plan Update
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No. 5 to include the Master Plan Update.

Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R Wayne Jones

R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No. 5 (3 copies)

J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0224-TO-05.wpd:ch

TASK ORDER NO. 5

AIRPORT MASTER PLAN UPDATE

FAYETTEVILLE MUNICIPAL AIRPORT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled AGREEMENT FOR ENGINEERING SERVICES BETWEEN McCLELLAND CONSULTING ENGINEERS, INC. AND THE CITY OF FAYETTEVILLE, ARKANSAS, executed on April 30, 2003. The referenced basic agreement pertains to proposed improvements to Fayetteville Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and professional fees related to the preparation of an Airport Master Plan Update.

SECTION I - PROJECT DESCRIPTION

The description of the project is as described in Exhibit "A" to this Task Order.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), MCE will endeavor to provide the draft Airport Master Plan Update within 9 months. After review and comments by the FAA, MCE will endeavor to complete the final Airport Master Plan Update within 90 calendar days.

SECTION III - SCOPE OF SERVICES

MCE shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, the Master Plan project is to include the Program of Services as outlined in Exhibit "A".

SECTION IV - FEES AND PAYMENTS

A Lump Sum fee of $ 122,742.000 is to be paid to McClelland for the work associated with the described project. The basis for this fee is presented in Exhibit B.

SECTON V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT shall remain in full force as originally approved and executed.

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

FOR THE CITY OF FAYETTEVILLE:

By: ______________________________

Mayor

Attest: ______________________________

Date: ______________________________

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: ______________________________

President

Attest: ______________________________

Vice President

Exhibit A

Program of Services

Fayetteville Municipal Airport/Drake Field Planning Program

Introduction

The City of Fayetteville wishes to update the master plan and program for the development of Fayetteville Municipal Airport/Drake Field, identifying and examining the role of the airport within the region's system of airports, and formulating a strategic plan and program that best represents the goals of the community and airport and sets forth a realistic and achievable direction and plan of action for the development of the airport and its environs.

The Consultant will work in close liaison with the City of Fayetteville, Airport Management, Airport Advisory Board, interested parties, and the Federal Aviation Administration to make certain that the plan for Fayetteville Municipal Airport truly reflects the airport's development and strategic needs. The following work program describes the effort required to successfully complete the planning program for Fayetteville Municipal Airport, addressing the development needs of the airport and providing a program for realistic implementation. This study will consider, at a minimum, the numerous elements described in FAA's Advisory Circular 150/5070-6A, *Airport Master Plans*, and AC 150/5300, *Airport Design*.

Element One/**Project Management and Organization**

Task 1.1. Project Coordination

Description: The Consultant will work in close liaison with the City of Fayetteville, Airport Management, interested parties, and the Federal Aviation Administration to make certain that the plan truly reflects the airport development needs. Regular meetings and discussions will be held between the Consultant and Airport Management. (Airport Management shall include the City of Fayetteville, Airport Staff, and the Airport Advisory Board). It is envisioned that the meetings will be held on approximately monthly basis during the course of the study (maximum of six meetings), supported by telephone discussions. The purpose of the meetings will be to report on progress made on the study since the prior meeting, receive input from the participants, report on important phases or sub-phases that have been completed, identify problems encountered for the purpose of resolution, evaluate and select alternatives presented, and generally afford an opportunity to review the work and findings at various stages of completion.

The Consultant will develop a schedule for conducting the planning program, updating it as appropriate with the approval of Airport Management.

Product: Meetings will be held with Airport Management on approximately monthly basis, as necessary, supported by regular communication, verbal and written during the course of the planning program.

Task 1.2. Public Information Program

Description: Two (2) Public Information Meetings will be held as a means of informing the Airport Management, users and the public about the project and obtaining comments. The initial Public Information Meeting will be held following the development of the forecasts of aviation activity and the development and analysis of alternatives, and the second Public Information Meeting will be held following the formulation of the recommended development plan, environmental review, and implementation plan.

The Consultant will be responsible for conducting the meetings, reviewing the scope of the project, presenting the findings and recommendations of the plan and program, and responding to any technical and professional questions and concerns. The Consultant shall plan the format, graphics, and handouts needed for the meetings. Following each meeting, and for all meetings held in conjunction with the development of the planning program for Fayetteville Municipal Airport, the Consultant will prepare meeting notes and, upon approval, shall make these meeting notes a part of the record for the project. The City of Fayetteville shall be responsible for the meeting location.

Product: Two Public Information Meetings as a means of informing the Airport Management, users and public about the study and its findings and recommendations.

Element Two/**Background Information Inventories**

This phase of the project involves the establishment of a sound basis for plan and program development through the assimilation and documentation of appropriate base data. Maximum utilization of existing information that is current and applicable to the objectives and overall intent of this study will be made to avoid redundancy and unnecessary data collection.

Task 2.1. Identification of Available Information, Inventory of Existing Planning Data, and Collection of Socioeconomic Data

Description: Existing (secondary) data and information, such as, but not necessarily limited to, documents, maps, studies and projects currently underway or in the planning stages (on and off airport property and in the vicinity) that may directly or indirectly influence this study effort will be identified, reviewed, and documented. Such information would, for example, include a review of any existing regional and state system plans, airport layout plans, environs plans, surface transportation plans, terminal plans, utility plans, engineering reports, community master plans, airport security plans, among others.

The Consultant will collect, analyze and incorporate information from local, regional and state aeronautical studies, comprehensive planning documents, and ground transportation studies as related to the development of Fayetteville Municipal Airport.

In addition, historic and forecast socioeconomic data for Fayetteville and the region will be collected from secondary sources.

Product: Identification, review and documentation of existing data and information for use as input to future tasks. Collection and analysis of relevant information that could impact this study and the recommendations that are ultimately formulated.

Task 2.2. Facilities Inventory

Description: The Consultant will inventory all facilities within the boundaries of Fayetteville Municipal Airport, including buildings, runways, taxiways, aprons, internal roadways, navigational and electronic aids. This will result in a complete facilities inventory recording, serving as information for the demand/capacity analysis and overall database and informational program. The building inventory will include a very brief assessment of each building as to age and function-ability . The facilities information that is gathered will result in written and graphic documentation in the master plan, as well as a technical drawing file documentation (AutoCAD©) for use in preparation of the Airport Layout Plans.

Product: Recording all facilities within airport bounds to serve as input to future tasks.

Task 2.3. Building Height Survey

Description: The Consultant will determine the height of each building and structure within the bounds of the airport. This information will be used on the Airport Layout Plan and can be included in any data base management program established for the airport.

Product: A determination and recording of the height of each building and structure within airport bounds. To be used as required information on the Airport Layout Plan.

Task 2.4. Inventory Existing Land Use and Zoning

Description: Review and update as necessary and appropriate existing land use and zoning maps and accompanying narrative within the airport environs, including that area anticipated to be encompassed by the existing and/or future noise contours resulting from this study effort. General boundaries can be initially established for ascertaining land use and zoning patterns based on current noise contours. This environs area would then be refined, but would extend a minimum of one mile off each runway end and one-half mile off the sides of the runway, following ownership lines or other definable landmarks, for inventory purposes. Existing land use within the airport environs shall be reviewed. Noise sensitive uses/areas shall be identified. In addition, natural characteristics that shall impact development and planning on and off airport property shall be identified. Key transportation routes shall be identified.

Product: Documentation of existing land use and zoning within the airport environs to be used as input to future tasks.

Task 2.5. Airspace and NAVAIDS Inventory

Description: The Consultant will identify and present existing airspace utilization factors for the area surrounding Fayetteville Municipal Airport. This will provide an inventory of local instrument approach procedures, as well as a verbal and graphic depiction of regional airspace considerations.

Product: An inventory and assessment of airspace structure surrounding and affecting Fayetteville Municipal Airport; to be used as input to future tasks.

Task 2.6. Financial Inventory

Description: The objective of this task is to gather documents which affect the financial management of airport operations and capital development and to develop an understanding of the structure, constraints, requirements and opportunities for financing airport activities as related to the development of a capital improvement program. The documents gathered and preliminarily reviewed will be used to complete subsequent tasks.

Potential funding sources for airport capital improvements and for subsidizing airport operations, if applicable, will be identified. A compilation and summarization of this financial information to be used in subsequent tasks relating to alternative evaluations as well as final plan recommendations will be provided which will indicate the anticipated flow of funds for each year for each projects.

Product: A compilation and summary of financial information as input to the development of the capital improvement program and funding resource recommendations.

Element Three/**Forecasts of Aviation Activity**

The importance of assessing future trends relating to airport utilization and operational activity levels is especially significant in the development of the planning program for Fayetteville Municipal Airport in that many of the proposals and recommendations of the ultimate plan for the facility is principally based, in many cases, on such aviation activity forecasts. This aspect of the master planning process, in essence, acts as the hub for the remainder of the plan. In many cases, the decision to proceed with projects is based on the anticipated levels – including numbers as well as types of aircraft – of activity. Therefore, the importance of accurate and defensible forecasts cannot be overemphasized, nor can the need to present a sound basis for the forecasts, which is an accurate portrayal of the existing level and composition of aviation activity coupled with historical levels of such activity.

The primary and certainly the dominant objective of forecasting is the use of such information in the determination of future demand at the airport, and within the airport system as a whole, which enable the determination of potential impacts created by the type and magnitude of future operational activity at the airport and within the system. Because of the importance and long-term effects of aviation activity forecasts, they must be reasonable, appropriate and defensible. Prudent management and implementation decisions are based on conditions and occurrences that are expected to transpire in the future.

All the aviation activity forecasts will be summarized and presented in a one-table format.

Task 3.1. Collect and Evaluate Existing Operational Data

Description: This task will focus on reviewing and evaluating existing operational data for airport operations, collecting and updating, as appropriate, the aircraft mix and flight track utilization, flight procedures, and aircraft profiles specific to Fayetteville Municipal Airport. Sources of information include local, regional and national economic determinants and trends, approach control records, airport advisory records, airport tenants, and, very importantly, ground observations. Data needed to generate the long-term noise contours as a part of the development of the planning program for the airport, include numbers of current operations of aircraft, aircraft fleet mix, flight tracks, flight profiles, and typical operational procedures. This element will ensure that the noise contours generated for the airport will reflect the actual flight tracks and operational procedures.

Product: A documented evaluation of existing operational data for Fayetteville Municipal Airport. Input to future tasks.

Task 3.2. Aviation Activity Evaluation and Projections

Description: The Consultant will compile a summary of aviation activity and operational data for Fayetteville Municipal Airport to indicate historical growth and present a basis for statistical analysis of based aircraft, aircraft mix, annual aircraft operations, and related factors for the airport within the airport system.

The operational forecasts will be made by the following categories: based aircraft by mix, local and itinerant operations by aircraft type and mix, instrument activity and busy-hour operations. Critical aircraft at Fayetteville Municipal Airport will be identified by Airport Reference Code and forecasts for such aircraft at the airport will be developed as well.

The forecasts will be developed for a 20-year planning period and broken down into short-term, intermediate-term, and long-term (6 year, 10 year and 20 year, respectively) time periods, with specific forecast years to correspond, as appropriate, with those used by local and regional planning agencies. A summary of forecasts of aviation activity will be provided and presented in a manner that corresponds with heading formats used in the FAA's Terminal Area Forecasts documentation. In addition, operational fleet mix will be summarized by Airport Reference Code with anticipated growth in fuel sales.

Product: Preparation of operational, aircraft, cargo and passenger forecasts. Serves as input for several subsequent tasks.

Task 3.3. Develop Working Paper

Description: The Consultant will develop a detailed working paper describing the tasks outlined above. The technical portions of the paper will be in terms that are easily understandable to the layman. The working paper will be considered a draft of a chapter of the Study document and will provide information for subsequent decisions. Fifteen (15) copies of the Working Paper will be prepared, two (2) of which will be submitted to the FAA.

Product: A written and graphical summary of the findings from completion of the foregoing tasks, becoming a chapter in the final report. Fifteen (15) copies of the Working Paper will be prepared, two (2) of which will be submitted to the FAA.

Element Four/**Capacity Analysis**

Task 4.1. Capacity Analysis

Description: The ability of an airport to accommodate both existing operations and projected operations for the future is paramount. It is basic to the development of the airport. Insufficient capacity can reduce existing airport capabilities as well as the development of aviation potential. Airport operating capability is determined and expressed in terms of Annual Service Volume (ASV) and Capacity, relating to both visual flight rules and instrument flight rules [including Visual Flight Rules (VFR) and Instrument Flight Rules (IFR) Arrival Rates]. The capacity of an airfield is primarily a function of the major aircraft traffic surfaces that compose the facility and the configuration of those surfaces (runways and taxiways). However, it is also related to and considered in conjunction with wind coverage, airspace utilization and capacity, ground access capacity, the types of aircraft that utilize the facility, and the availability and type of navigational aids. An instrument approach analysis will be prepared as a part of this study.

Helping to achieve and maintain a balance between demand and capacity is a direct benefit of the planning program. The use of the plan in identifying projects for implementation and making decisions concerning to what extent the demand for facilities should be satisfied, should be a primary objective. Both airside and landside capacity determinations are made as a part of this analysis.

Product: Determination and documentation of the existing and future airside and landside demand placed on Fayetteville Municipal Airport and the existing and potential capacity for accommodating future airside and landside needs; input to future tasks.

Element Five/**Facility Requirements**

Airport capacities analyzed in the preceding task, both existing and future for airside and landside facilities at Fayetteville Municipal Airport, shall be utilized in the determination of the type and magnitude of facilities to be ultimately planned and programmed for the airport.

Specific allocations of the type and magnitude of such facilities shall be noted as a basis for the recommendations. The facilities requirements analysis focuses on the actual physical facilities and associated improvements needed to safely and efficiently accommodate the projected demand at the airport.

For airside development, runway orientation, length and grade is specified and dimensional criteria relating to runway width, taxiway width, taxiway exits, safety areas, runway protection zones, and setbacks is documented, all in accordance with the standard dimensional criteria set forth in FAA *Advisory Circular 150/5300-13*. For landside development, the quantity and areas needed for development of apron areas, hangars, parking areas, maintenance buildings, among others, are calculated and presented. The calculation for needed landside development is based on a conversion of many considerations to specific figures that are premised on accepted design standards. These considerations include the number and type of projected aircraft operations; the type of aircraft utilizing and expected to utilize the airport; the number and type of projected based aircraft; projected vehicular movements; and, similar considerations.

During the determination of both airside and landside facilities requirements, the Consultant shall coordinate with the Federal Aviation Administration to ensure that all Standards and Safety Requirements, as defined in *AC 150/5300-13* and as determined by the FAA during field investigations, are met in this analysis and included in the recommended facilities for the development of the airport. The FAA Airport Design Program Version 4.2d, or latest version will initially be used to help in determining runway length and dimensional criteria, with the results being incorporated into the plan narrative. Additionally, a copy of the actual printout from the Airport Design Program, indicating runway length requirements, dimensional standards and declared distances, shall be included in an Appendix to the appropriate working paper as well as to the final Master Plan Update document. The appropriate Airport Reference Code (ARC) shall be recommended as a part of the study effort, based upon forecast demand and airport role. A table listing all deviations from current FAA design standards pertaining to the recommended ARC shall be provided in the Master Plan Update report, including proposed disposition of the deviations. Disposition would entail recommended improvements and/or recommended FAA approval of modification to standards. Any requests for modification of standards shall be submitted in an FAA acceptable format.

Task 5.1. Determine Aircraft Operational Requirements

Description: In accordance with the above described aviation demand forecasts, the Consultant shall identify the types of aircraft expected to operate at Fayetteville Municipal Airport , with particular attention being given to the critical aircraft as prescribed by *AC 150/5300-13*. The Consultant shall analyze the operational requirements of these aircraft to assist in the determination of facility standards, including the airport design category in accordance with *AC 150/5300-13*.

Product: Determination of aircraft types and associated operational requirements. To be used as input to future tasks.

Task 5.2. Airside Facilities Requirements Determination

Description: In accordance with the above described aviation forecasts and capacity analysis, and in consideration of established facility standards and airport system influences and characteristics, the Consultant shall convert the aeronautical demand forecast into the number, type, and amount of airside facilities needed including runway, taxiway, NAVAIDS and approaches, lighting and approximate land area needs, based on the different development scenarios that would affect airside requirements. An evaluation of the safety areas shall be accomplished, with recommendations made for resolution, and any deviations from Federal Aviation Administration design standards shall be noted in the Master Plan Update document as well as on the Airport Layout Plan. Consideration shall also be given to any navigational aid facilities needed for the continued safe and effective use and development of the airport and the location of such facilities. The Consultant shall work with the Federal Aviation Administration to determine the most appropriate facilities and the location of the facilities.

Product: Identification and presentation of airside facility needs and requirements based on the forecasts of aviation activity.

Task 5.3. Landside Facilities Requirements Determination

Description: Considering established facility standards and airport system influences and characteristics, the Consultant shall convert the aeronautical demand forecast into the number, type, amount and nature of aprons, terminal building, ARFF facilities, terminal area aircraft parking spaces, hangars, automobile parking, access roads, security fencing and facilities, regional roadway network interfaces, automobile parking requirements, maintenance buildings, fueling facilities location, rental car facilities, and the approximate land area needed. The Consultant shall also identify land that should be acquired for aviation purposes as well as land that is currently not and shall not be suitable for future airport uses, if any.

The findings from this analysis shall serve as the basis for identifying various development alternatives, the allocation of various uses at the airport, and the specific layout of the facilities at each airport as noted above.

Product: Identification and presentation of landside facility needs and requirements based on the forecasts of aviation activity.

Task 5.4. Develop Working Paper

Description: The Consultant shall develop a detailed working paper describing the tasks outlined above. The technical portions of the paper shall be in terms that are easily understandable to the layman. The working paper shall be considered a draft of a chapter of the Master Plan Update document and shall provide information for subsequent decisions. This working paper shall be submitted to the Federal Aviation Administration as well for review and comment. Fifteen (15) copies of the Working Paper shall be prepared, two (2) of which shall be submitted to the FAA.

Product: A written and graphical summary of the findings from completion of the foregoing tasks, becoming a chapter in the final report.

Element Six/**Development Plan**

Based on established goals and desires of the City of Fayetteville, Airport Management and others as appropriate, as well as an evaluation of potential alternatives, a specific plan and program for airport development at Fayetteville Municipal Airport will be prepared.

Task 6.1. Goals Development

Description: Based on inventory findings, demand considerations, forecasts of aviation activity and input from the City of Fayetteville, Airport Management, and the Consultant will assemble a series of goals that subscribe to the intent, direction and purpose of and for the airport. These goals will, after thorough review and approval by the appropriate entities, serve as the basis for the preparation of the Development Plan for Fayetteville Municipal Airport and will help to ensure a commonalty in terms of communication, direction and cohesiveness of future improvements at the airport.

Product: Documented goals that will serve as the basis for various decisions regarding airport development and implementation mechanisms, and a basis on which to evaluate future projects and any changes in the plan or any part of the plan in the future.

Task 6.2. Prepare Development Alternatives

Description: The Consultant will be responsible for identifying and documenting feasible alternatives for airside and landside facility modifications and improvements at Fayetteville Municipal Airport, in light of individual airport considerations as well as system-wide factors. Specifically, this will include alternatives related to the configuration of the runway and taxiway systems and alternatives related to airport development, including operational scenarios, additional navigational facilities, environmental enhancement considerations, general aviation development areas, cargo development areas, user development areas, vehicular accommodation and surface transportation development (i.e., access/entrance roadways, parking, service roadways, internal roadway systems, etc.), terminal area development, utilities, off-airport development, land acquisition, site development projects and programs, regional roadway and other airport proposals and programs, as well as many other considerations to be determined as the planning process evolves. The process of alternative development will begin with a "brainstorming" session with the Airport Management. Two or three such sessions may be appropriate as various alternatives, concepts and potential directions are identified and considered. It is important that the alternative analysis and evaluation give adequate consideration to the engineering feasibility, environmental impact potential, noise exposure implications and development costs, all of which are included in various sections of this work program.

All viable alternatives will be considered and each will be evaluated in the process of establishing the development plan and program for the airport, with generalized implications and consequences of each alternative being presented in written and graphic form. In doing so, the alternatives will be tested against established criteria, goals for the airport and of the City of Fayetteville, and consistency with Federal requirements. The results of this effort will assist in yielding a positive and unified direction for specific projects and establishing an overall framework for airport development.

Alternative development concepts will be prepared and presented, serving as the basis for ultimate plan and program recommendations. Each of the alternatives and potential development alternative derivatives will be described in narrative form and graphically illustrated in report form and large-scale presentation form, and presented to the above noted entities for review and consideration as a prelude to plan and program development based on a selected alternative or series of alternatives.

Product: A presentation and evaluation of the various alternatives that may be available for airport development and growth throughout the planning period. Input to later tasks.

Task 6.3. Prepare Development Plan and Program.

Description: The Consultant shall prepare a Development Plan and Program for Fayetteville Municipal Airport in both narrative and graphic form, as a precedent to the preparation of the Airport Layout Plan. The Development Plan and Program shall depict specific projects in conjunction with a staging program for implementation. The implementation program for each facility will be "demand based" to facilitate timed development activities that are focused on project need, available resources, anticipated activity levels and prevailing conditions. As a part of this assessment and determination of facilities and projects, all physical and operational aspects of each airport will be evaluated. Such considerations may include regional activities and issues, relationships with other area aviation facilities, as well as airport specific issues.

Product: Presentation of a development plan and implementation program for Fayetteville Municipal Airport stemming from the forecasts presented earlier and a thorough alternatives analysis.

Task 6.4. Develop Working Paper.

Description: The Consultant will develop a detailed working paper describing the tasks outlined above. The technical portions of the paper will be in terms that are easily understandable to the layman. The working paper will be considered a draft of a chapter of the Master Plan document and will provide information for subsequent decisions. This working paper will be submitted to the Federal Aviation Administration as well as for review and comment. Fifteen (15) copies of the Working Paper will be prepared, two (2) of which will be submitted to the FAA.

Product: A written and graphical summary of the findings from completion of the foregoing tasks, becoming a chapter in the final report. Fifteen (15) copies of the Working Paper will be prepared, two (2) of which will be submitted to the FAA.

Element Seven/**Environmental Review**

The Consultant shall prepare an Environmental Review to identify significant environmental issues that may be of concern with the proposed development at Fayetteville Municipal Airport. This document shall summarize the general impacts associated with the Preferred Alternative for the airport in a non-quantified fashion and identify the likely environmental processing necessary for the improvements. Following is a summary of the tasks to complete this review.

Task 7.1. Data Collection

Description: The following information necessary to understand the existing environmental conditions shall be collected:

- State and local wetland inventories, water resource inventories;
- State inventories of endangered and threatened species in the vicinity;
- State inventories of historic and archaeological sites;
- Topographical maps and earth/soil information;
- State data concerning air quality in the Airport vicinity;
- Airport policies and procedures, including a wildlife management plan and any operating permits;

Data collected for other aspects of the planning program, such as historic airport activity and area demographics shall be incorporated in this analysis. Additionally, a summary map(s) shall be prepared that describes/documents these conditions, as appropriate, based on both historical results and current findings.

Product: Collection and documentation of information relating to environmental issues.

Task 7.2. Existing and Future Noise Contours

Description: The Consultant shall generate existing noise contours for current airport development and operational levels and future noise contours for the recommended development alternative at Fayetteville Municipal Airport. The contours shall be generated utilizing the most recent version of the Integrated Noise Model and shall reflect the end of the twenty-year planning period. Noise sensitive land uses shall be identified and evaluated for each alternative. The noise contours shall be illustrated for DNL 65, 70, and 75, and, at the City's discretion, for the DNL 55 and 60.

Product: Existing and future noise contours reflective of current and forecasted operational levels and aircraft types.

Task 7.3. Existing Conditions Analysis

Description: The Consultant shall develop a characterization of the existing conditions at Fayetteville Municipal Airport. A general site conditions description shall be prepared that summarizes earth, air quality, surface and ground water wetlands, landfill locations, plants and animals, energy and natural resources, land use resources.

Product: Documentation and presentation of current conditions within the vicinity of Fayetteville Municipal Airport.

Task 7.4. Future Conditions Impact

Description: Based on the understanding of the existing conditions, the impact of the proposed Master Plan Update actions at the airport shall be considered. The environmental screening analysis shall identify the probable change in impacts that could be caused by the actions selected for inclusion in the Master Plan Update. While specific impacts shall not be numerically quantified, the degree of change over existing conditions shall be described. Focus shall be placed on environmental conditions that shall be most affected by the Master Plan Update actions.

Product: Documentation and presentation of future conditions within the vicinity of Fayetteville Municipal Airport.

Task 7.5. Prepare Working Paper

Description: The Consultant shall prepare a Working Paper describing the tasks outlined above. The technical portions of the paper shall be in terms that are easily understandable to the layman. The working paper shall be considered a draft of a chapter of the Master Plan document and shall provide information for subsequent decisions. This working paper shall be submitted to the Federal Aviation Administration as well for review and comment. Fifteen (15) copies of the Working Paper shall be prepared, two (2) of which shall be submitted to the FAA.

Product: A written and graphical summary of the findings from completion of the above tasks. This working paper shall become a chapter in the final report.

Element Eight/**Airport Plans**

Task 8.1. Airport Layout Plan and Exhibit "A"

Description: An Airport Layout Plan (ALP) shall be prepared for Fayetteville Municipal Airport in accordance with the findings, recommendations and approvals resulting from the study. The ALP shall be developed utilizing the current ALP electronic files, supplemented with new aerial information, and AutoCAD© Map 2004 or the most current version. The ALP will depict the configuration and general dimensioning of the initial and proposed airport facilities, including building height of all buildings on airport property obtained from the aerial photography and mapping work element. The Airport Layout Plan will include such information as: 1) Airport Layout; 2) Existing and Future Boundaries; 3) Location Map; 4) Vicinity Map; 5) Basic Data Tables; 6) Utility Data; and, 7) Wind Information.

Each of these components of the Airport Layout Plan will contain the information as required in FAA *Advisory Circular 150/5300-13*. No new land or aeronautical surveying work is included in this program.

The Airport Layout Plans will be depicted in two forms: one as a line drawing; and, one as a color drawing. One reproducible copy of the Airport Layout Plan will be provided to the Sponsor. Ten (10) copies of the line drawing and ten (10) copies of the color drawing (or aerial drawing) [with seven (7) of each version of the final ALP being provided to the Federal Aviation Administration] for the airport will be provided. In addition, the data files developed using AutoCAD© Map 2004 or the most current version will be supplied in electronic format. Prior to the finalization of the ALP, one (1) copy of a preliminary draft ALP will be provided to the FAA for review and seven (7) copies of the final draft ALP will be provided to the FAA.

As a part of the process of developing the Airport Layout Plan, an Airport Property Map (Exhibit "A"), using existing survey information (including existing property map data/drawings along with existing local, state, and federal mapping and charts) will be prepared in accordance with the guidelines provided by the FAA.

Any deviations to FAA design standards will be noted on the Airport Layout Plan as well as in the Master Plan narrative. Large-scale reproducible drawings shall be prepared on a sheet size no smaller than 24" by 36".

Product: Preparation of Airport Layout Plans and Airport Property Maps in AutoCAD© Map 2004 format and in full color as well as reproducible formats. All existing and proposed modifications of FAA design standards will be identified, with rationale for any proposed modifications provided on the ALP and/or in the Master Plan document, as appropriate. A Declared Distances table will be included on the ALP.

Task 8.2. On-Airport Individual Area Plans

Description: The Consultant will prepare a set of Individual Area Plans for various areas within the bounds of airport property. The plans will generally be comprised of, but not necessarily limited to, the terminal area, the general aviation area, commercial and industrial complexes, hangar areas, and other special use areas. The Individual Area Plans will illustrate existing and proposed facilities, including such elements as building configuration and location, taxiway and apron development, vehicle access roads (including recommendations for service road locations) and parking areas, specifically indicating those facilities which currently exist and those which are proposed and labeling the various components of each of the Individual Areas Plans. The relationship with appropriate immediately surrounding airfield and landside components (i.e., runway, taxiways, object free area, runway protection zones, external roadways, on-airport navigational aids, airport boundary, among other considerations) will also be illustrated, as will available topographical characteristics.

Specific utilization for undeveloped/underdeveloped areas on the airport will be considered and recommendations made, with particular emphasis placed on potential development/redevelopment areas and expansion areas. Plans shall be established for these areas to guide improvement activity for the benefit of the airport and the airports environs in keeping with the overall objectives established for airport enhancement.

The information on these drawings shall be depicted at a scale not less that 1"=100', unless another scale is mutually agreed upon by the Sponsor, the FAA, and the Consultant.

Product: A set of plan drawings for various airport areas as noted, provided on AutoCAD© Map 2004, in color and as a reproducible.

Task 8.3. Land Use Plan

Description: A Land Use Plan for Fayetteville Municipal Airport will be developed which depicts existing and recommended uses of all land within the ultimate airport property line (on-airport) and within the vicinity of the airport (off-airport). Land uses will be depicted by general land use categories, including such categories as agriculture, residential, industrial, commercial, parks and open space, aviation-related, public, flood plains, DOT Section 4f, among others as appropriate, but including special note of noise sensitive uses. The Consultant will prepare a height zoning ordinance for controlling the height of objects around the airport.

The Land Use Plan will be illustrated on a drawing (same sheet size as the ALP) and described within the body of the Master Plan Update document. Findings resulting from this study effort will be incorporated into environs land use recommendations that will be provided to affected governmental jurisdictions in the vicinity of the airport. Draft portions of land use control ordinances will be provided, as appropriate, for review, consideration and appropriate action by the Sponsor. As appropriate and applicable, an Airport Overlay Zone will be prepared for Fayetteville Municipal Airport, suitable for incorporation into the City's Comprehensive Plan.

Product: Development of a Land Use Plan that depicts existing and recommended uses of all land within the ultimate airport property line (on-airport) and within the vicinity of the airport (off-airport).

Task 8.4. Airport Airspace Drawing and Inner Portion of the Approach Surface Drawing

Description: The Airport Layout Plan set also includes an Airport Airspace Drawing and an Inner Portion of the Approach Surface Drawing. Based on *AC 150/5300-13* entitled *Airport Design*, an Airport Airspace Drawing and an Inner Portion of the Approach Surface Drawing shall be prepared in accordance with the findings, recommendations and approvals resulting from the study. These drawings supplement information on the Airport Layout Plan.

A plan showing the existing and the ultimate runway protection and approach zones will be developed for each runway end at Fayetteville Municipal Airport. Plan and profile views of each area will be developed identifying all physical obstructions. Obstruction data will be gathered from secondary sources (existing airport planning documents, obstruction charts, utility companies, U.S.G.S. maps, etc.). Dimension lines will note the obstruction's height and location. Any obstruction requiring removal or relocation to meet FAA standards will be noted and an action plan identified.

The Inner Portion of the Approach Surface Drawing will be prepared depicting the following: 1) Areas under imaginary surfaces as defined in FAR Part 77, *Objects Affecting Navigable Airspace*; 2) Existing and planned approach slopes and any height zoning ordinance limitations; 3) A plan and profile of runway protection zones and approach areas showing controlling structures and other objects penetrating the runway protection zones and approach areas; 4) Location and elevation of obstructions exceeding runway protection zone requirements [using current NOAA Obstruction Chart information]; and, 5) Areas attracting large numbers of birds or other potential hazards to aircraft flight within the approach zones.

A height zoning analysis, per FAR Part 77, will be performed to determine existing obstructions and the potential for future obstructions. A map will be prepared showing the Part 77 surfaces, the existing structures, existing variances from the Part 77 criteria and areas of potential development that will not affect airspace utilization or present a hazard to aircraft.

Like the ALP, the Airport Airspace Drawing and the Inner Portion of the Approach Surface Drawing will be developed utilizing AutoCAD© Map 2004 or the most current version.

Product: Development of an Airport Airspace Drawing and Runway Protection Zone Drawings in AutoCAD© Map 2004, in a reproducible format. An Obstruction Disposition Table will be illustrated on the Airport Airspace Drawing and/or the Runway Protection Zone Drawings, as necessary. Fifty-foot (50') contour intervals will be shown for all FAR Part 77 sloping imaginary surfaces. The Airport Airspace Drawings and Runway Protection Zone Drawings will depict, in plan and profile views, the full length of all approach surfaces. Any considerations relating to potential instrument approach procedures will be coordinated with the FAA Arkansas ADO and Southwest Regional Office prior to any recommendations for such being made.

Element Nine/**Implementation Program**

To provide a program for development and to assist in establishing economic viability, the costs associated with the proposals contained in the Development Plan and Program for Fayetteville Municipal Airport shall be presented.

Task 9.1. Prepare Cost Estimates

Description: Cost estimates of facility requirements, based on current dollars for immediate projects and adjusted for future projects based on a representative escalation amount commensurate with inflation, shall be prepared for the first six-year period; a more generalized cost breakdown shall be prepared for the ten-year period; and a facility breakdown with costs shall be prepared for the twenty-year period. These facility requirements include potentially, for example, such items as runway strengthening or rehabilitating, runway lengthening, taxiways, aprons, hangars, access roads, perimeter roads, safety areas, lighting and signing, fencing, terminal building, auto parking, airport maintenance, fuel facilities, among others as appropriate. Facility costs shall be prepared using unit prices extended by the size of the particular facility tempered with some specific considerations. Cost estimates are intended to be used for planning purposes only and are not to be construed as construction estimates.

The following criteria shall be used in determining the estimates of project costs. First, the type of project estimate is determined. This may be an order of magnitude estimate or a budget estimate. The budget estimates are then developed by itemizing major unit items, i.e. pavement areas, building square footage, etc. Second, a price is determined for the unit bid items by using existing airport bid tabulations, published cost estimating materials, local supplier and distributor price quotes, and our own recent project history. This data is then reviewed and analyzed for specific factors that may influence costs. These factors include airport operational constraints, project schedule, utility locations, future projections of material and labor costs and any other special project requirements.

Product: Cost estimates for all improvement projects proposed for the planning period at Fayetteville Municipal Airport.

Task 9.2. Implementation Schedule

Description: The implementation schedule identifies all airport development projects within the 6-year, 10-year and 20-year planning periods. The short-term (6-year) plan is an immediate action program recognizing and identifying realistic local, state and federal funding levels. The short-term plan is identified within the Capital Improvement Program (CIP) and shall be noted with indicators, or triggers, that represent action measures and associated requirements. The intermediate-term (10-year) plan is a detailed description for sizing airport requirements and layout. Intermediate projects may be identified within the CIP. The long-term (20-year) plan identifies the ultimate role of each airport, airport design type and the concept for accommodating ultimate facility requirements. Some long-term projects may also be identified with the CIP. The report's drawings shall include colored phasing, depicting the short-term, intermediate-term and long-term development stages.

Product: Identification of all airport development projects at the airport within the planning period, incrementally presented, and the resultant phasing.

Task 9.3. Capital Improvement Program (CIP)

Description: The Capital Improvement Program (CIP) generally consists of projects identified within the short-term (6-year) period. As previously noted, intermediate-term (10-

year) and long-term (20-year) projects may be identified within the CIP as well. The CIP identifies development projects, noting total development costs, project priorities, and appropriate types of FAA funds to be programmed for implementation. The existing CIP shall be used to the maximum extent possible, and updated as the master plan recommendations necessitate. The CIP shall be coordinated with state and federal agencies. A CIP will be provided that incorporates projects recommended during the planning period for the airport.

Product: A Capital Improvements Program describing the projects, their associated costs, and relative priorities.

Task 9.4. Financial Plan

Description: The financial plan identifies the funding source needed to implement airport development. The plan identifies the amount of federal, state and local funds necessary for each project identified within the CIP and for each phase of development. Bid tabulations from area airport construction projects shall be used.

Product: Identification and presentation of funding sources to support the Implementation Plan.

Task 9.5. Develop Working Paper

Description: The Consultant shall develop a detailed working paper describing the tasks outlined above. The technical portions of the paper shall be in terms that are easily understandable to the layman. The working paper shall be considered a draft of a chapter of the Master Plan document and shall provide information for subsequent decisions. This working paper shall be submitted to the Federal Aviation Administration as well for review and comment. Fifteen (15) copies of the Working Paper shall be prepared, two (2) of which shall be submitted to the FAA.

Product: A written and graphical summary of the findings from completion of the above tasks. This working paper shall become a chapter in the final report.

Element Ten/**Documentation**

It is particularly important to be able to communicate the ideas, thoughts, findings and recommendations of a project. The importance of report preparation and graphic ability is realized here to ensure clarity, understanding and general public relations.

Task 10.1. Master Plan Draft and Final Reports

Description: Report preparation shall include writing, editing and typing the master plan report, determining the composition of the report with figures, charts, graphs and illustrations, and the printing of Fifteen (15) copies of the draft report and twenty-five (25) copies of the final report, with two (2) copies of the draft report and three (3) copies of the final report being furnished to the FAA. The draft and final report will contain the recommendations, plans and supporting documentation for the airport. The draft report shall not necessarily include color graphs, charts or illustrations while the final report shall include such where appropriate. The final report shall be contained in a three-ring loose-leaf notebook specifically designed for the Fayetteville Municipal Airport Master Plan Update.

Product: Fifteen copies (15) of the Master Plan Update Draft Report and twenty-five (25) copies of the Master Plan Update Final Report, the latter of which shall be contained in a three-ring loose-leaf notebook.

Task 10.2. Reproducible Drawings

Description: The Consultant shall prepare a reproducible drawing at an appropriate scale on a sheet no smaller than 24" by 36" for each of the following maps: Airport Layout Plans; Airport Airspace Drawings; Runway Protection Zone Drawings; and Building Facilities Area Plans. All airport drawings shall be compatible with AutoCAD© Map 2004 or the most current version. The Consultant shall furnish electronic files for each of these drawings to the Sponsor.

Product: A set of reproducible drawings and electronic files of all drawings included in the Airport Layout Plan Drawing Sets prepared for Fayetteville Municipal Airport.

EXHIBIT B
FEE BASIS
FAYETTEVILLE MUNICIPAL AIRPORT/DRAKE FIELD MASTER PLANNING SERVICES
Fayetteville, Arkansas

February 24, 2005
Barnard Dunkelberg & Company/McClelland Consulting Engineers

PERSONNEL CATEGORY, HOURS AND LABOR COST

Hourly Rates by Personnel Category	PD	Labor Cost $177	PM	Labor Cost $152	SAP	Labor Cost $121	AP	Labor Cost $102	T	Labor Cost $85	C	Labor Cost $75	Total Person Hours	Total Labor Cost	Direct Expenses	TOTAL COST
Element One. PROJECT MANAGEMENT AND ORGANIZATION	8	$1,416	32	$4,864	0	$0	0	$0	0	$0	8	$600	48	$6,880	$0	$6,880
1.1. Project Coordination	8	$1,416	32	$4,864	0	$0	0	$0	0	$0	8	$600	48	$6,880	$0	$6,880
1.2. Public Involvement Program	0	$0	0	$0	0	$0	0	$0	0	$0	0	$0	0	$0	$0	$0
Element Two. BACKGROUND INFORMATION INVENTORIES	0	$0	16	$2,432	8	$968	36	$3,672	36	$3,060	0	$0	96	$10,132	$0	$10,132
2.1. Identification of Available Information	0	$0	2	$304	0	$0	8	$816	4	$340	0	$0	14	$1,460	$0	$1,460
2.2. Facilities Inventory	0	$0	2	$304	0	$0	16	$1,632	16	$1,360	0	$0	34	$3,296	$0	$3,296
2.3. Building Height Survey	0	$0	0	$0	0	$0	0	$0	0	$0	0	$0	0	$0	$0	$0
2.4. Inventory Existing Land Use & Zoning	0	$0	4	$608	0	$0	12	$1,224	12	$1,020	0	$0	28	$2,852	$0	$2,852
2.5. Airspace and NAVAIDS Analysis	0	$0	4	$608	0	$0	0	$0	4	$340	0	$0	8	$948	$0	$948
2.6. Financial Inventory	0	$0	4	$608	8	$968	0	$0	0	$0	0	$0	12	$1,576	$0	$1,576
Element Three. FORECASTS OF AVIATION ACTIVITY	2	$354	6	$912	12	$1,452	20	$2,040	16	$1,360	2	$150	58	$6,268	$500	$6,768
3.1. Collect/Evaluate Existing Operational Data	0	$0	2	$304	0	$0	4	$408	0	$0	0	$0	6	$712	$0	$712
3.2. Aviation Activity Evaluation and Projections	2	$354	2	$304	12	$1,452	0	$0	0	$0	0	$0	16	$2,110	$0	$2,110
3.3. Develop Working Paper	0	$0	2	$304	0	$0	16	$1,632	16	$1,360	2	$150	36	$3,446	$500	$3,946
Element Four/DEMAND/CAPACITY ANALYSIS	0	$0	2	$304	0	$0	8	$816	0	$0	0	$0	10	$1,120	$0	$1,120
4.1. Airfield Capacity Analysis	0	$0	2	$304	0	$0	8	$816	0	$0	0	$0	10	$1,120	$0	$1,120
Element Five/FACILITY REQUIREMENTS DETERMINATION	0	$0	12	$1,824	0	$0	44	$4,488	16	$1,360	2	$150	74	$7,822	$500	$8,322
5.1. Determine Aircraft Operational Requirements	0	$0	4	$608	0	$0	8	$816	0	$0	0	$0	12	$1,424	$0	$1,424
5.2. Airside Facilities Requirements Determination	0	$0	2	$304	0	$0	12	$1,224	0	$0	0	$0	14	$1,528	$0	$1,528
5.3. Landside Facilities Requirements Determinatio	0	$0	2	$304	0	$0	12	$1,224	0	$0	0	$0	14	$1,528	$0	$1,528
5.4. Develop Working Paper	0	$0	4	$608	0	$0	12	$1,224	16	$1,360	2	$150	34	$3,342	$500	$3,842
Element Six/AIRPORT DEVELOPMENT ALTERNATIVES & RECOMMENDED PLAN	10	$1,770	44	$6,688	0	$0	84	$8,568	84	$7,140	2	$150	224	$24,316	$500	$24,816
6.1. Goals Development	2	$354	8	$1,216	0	$0	0	$0	0	$0	0	$0	10	$1,570	$0	$1,570
6.2. Prepare Development Alternatives	4	$708	16	$2,432	0	$0	32	$3,264	40	$3,400	0	$0	92	$9,804	$0	$9,804
6.3. Prepare Development Plan and Program	2	$354	16	$2,432	0	$0	40	$4,080	36	$3,060	0	$0	94	$9,926	$0	$9,926
6.4. Develop Working Paper	2	$354	4	$608	0	$0	12	$1,224	8	$680	2	$150	28	$3,016	$500	$3,516

Element Seven/ENVIRONMENTAL REVIEW	**0**	**$0**	**16**	**$2,432**	**0**	**$0**	**56**	**$5,712**	**22**	**$1,870**	**2**	**$150**	**96**	**$10,164**	**$500**	**$10,664**
7.1. Data Collection	0	$0	2	$304	0	$0	8	$816	0	$0	0	$0	10	$1,120	$0	$1,120
7.2. Existing and Future Noise Contours	0	$0	2	$304	0	$0	12	$1,224	6	$510	0	$0	20	$2,038	$0	$2,038
7.3. Existing Conditions Analysis	0	$0	2	$304	0	$0	12	$1,224	4	$340	0	$0	18	$1,868	$0	$1,868
7.4. Future Conditions Impact	0	$0	2	$304	0	$0	12	$1,224	4	$340	0	$0	18	$1,868	$0	$1,868
7.5. Prepare Working Paper	0	$0	8	$1,216	0	$0	12	$1,224	8	$680	2	$150	30	$3,270	$500	$3,770
Element Eight/AIRPORT PLANS	**6**	**$1,062**	**8**	**$1,216**	**0**	**$0**	**72**	**$7,344**	**140**	**$11,900**	**0**	**$0**	**226**	**$21,522**	**$1,400**	**$22,922**
8.1. Airport Layout Plan and Exhibit A	2	$354	2	$304	0	$0	12	$1,224	60	$5,100	0	$0	76	$6,982	$300	$7,282
8.2. On-Airport Individual Area Plans	2	$354	2	$304	0	$0	40	$4,080	40	$3,400	0	$0	84	$8,138	$500	$8,638
8.3. Land Use Plan	2	$354	2	$304	0	$0	16	$1,632	16	$1,360	0	$0	36	$3,650	$300	$3,950
8.5. Airspace Drawing, IPAS Drawing	0	$0	2	$304	0	$0	4	$408	24	$2,040	0	$0	30	$2,752	$300	$3,052
Element Nine/IMPLEMENTATION PLAN	**0**	**$0**	**14**	**$2,128**	**32**	**$3,872**	**96**	**$9,792**	**20**	**$1,700**	**2**	**$150**	**164**	**$17,642**	**$500**	**$18,142**
9.1. Prepare Cost Estimates	0	$0	2	$304	8	$968	36	$3,672	0	$0	0	$0	46	$4,944	$0	$4,944
9.2. Implementation Schedule	0	$0	2	$304	6	$726	20	$2,040	6	$510	0	$0	34	$3,580	$0	$3,580
9.3. Capital Improvement Program	0	$0	2	$304	6	$726	24	$2,448	6	$510	0	$0	38	$3,988	$0	$3,988
9.4. Financial Plan	0	$0	4	$608	12	$1,452	0	$0	0	$0	0	$0	16	$2,060	$0	$2,060
9.5. Develop Working Paper	0	$0	4	$608	0	$0	16	$1,632	8	$680	2	$150	30	$3,070	$500	$3,570
Element Ten/DOCUMENTATION	**4**	**$708**	**8**	**$1,216**	**0**	**$0**	**36**	**$3,672**	**48**	**$4,080**	**8**	**$600**	**104**	**$10,276**	**$2,700**	**$12,976**
10.1. Master Plan Update Draft and Final Reports	4	$708	8	$1,216	0	$0	36	$3,672	40	$3,400	8	$600	96	$9,596	$2,200	$11,796
10.2. Reproducible Drawings	0	$0	0	$0	0	$0	0	$0	8	$680	0	$0	8	$680	$500	$1,180
TOTALS	30	$5,310	158	$24,016	52	$6,292	452	$46,104	382	$32,470	26	$1,950	1,100	$116,142	$6,600	$122,742

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr
City Council Meeting Date

Ray M. Boudreaux	Aviation & Economic Development	General Government
Submitted By	Division	Department

Action Required:

Approve Task Order #5 to Contract #917 McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mcclelland-engrs.com, in the amount of $122,742.00

$122,742.00	$ 122,742.00	Master Plan Update
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.3960.7820.33	$ -	Airport Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05029.1	$ 122,742.00	General Fund / Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [X]

Department Director — 3/17/05 Date

City Attorney — 3/18/05

Finance and Internal Service Director — 3-23-05 Date

Mayor — 3/23/05 Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office ENTERED 3-18-05

Received in Mayor's Office ENTERED 3/18/05

Comments:
DOT/FAA, Airport Improvement Project (AIP) funding for the project is tentatively approved. Grant application process is underway.

City Council Meeting of: April 5, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: March 16, 2005

SUBJECT: Approval of Task Order #6 with McClelland Consulting Engineers, Inc. for services to design and construct the West Side General Aviation Apron and directing Airport Staff to apply for and accept FAA and Arkansas Department of Aeronautics grant funding to cover the total costs of the project. The Airport Board approved the project at their March 11, 2005 meeting.

RECOMMENDATION: Approve and execute by signature of the Mayor, Task Order #6 with McClelland Consulting Engineers, Inc. for services in conjunction with a new West Side General Aviation Apron. Direct Airport Staff to apply for and receive FAA and the State of Arkansas Department of Aeronautics grant funding to complete the project. The Airport Board approved the project at their March 11, 2005 meeting.

BACKGROUND: The project will increase the available ramp for aircraft parking and will develop sites for future hangar development to support general aviation aircraft maintenance, storage and specialty businesses. The site is particularly suitable for the project as it is located on South School with easy access for customers, owners and crews. The project will be totally funded through FAA AIP and Arkansas Department of Aeronautics grant programs.

DISCUSSION: There are many instances during the year when Fayetteville Municipal Airport, Drake Field runs out of aircraft parking space. Due to the alignment of the runway, it is difficult to find space on which to increase general aviation parking. This space will allow the construction of an additional 9400 square yards of parking ramp. The new ramp will include development of building sites for new hangars to accommodate the growth anticipated as executive and corporate air travel continues to increase. There are three companies looking for building sites on the airport that could be accommodated on this new ramp.

BUDGET IMPACT: The project is totally funded by the FAA and the State of Arkansas. FAA provided 95% which will come from our entitlement funding and discretionary funding. The State will cover the 5% matching funds. When approved by the City Council, we will prepare applications for the grants. Funding has been pre-coordinated.

Attachments: Staff Review Form
Task Order #6 Scope of Work

RESOLUTION NO. ______

A RESOLUTION TO APPROVE TASK ORDER #6 TO A CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $102,900.00 TO DESIGN AND OVERSEE THE CONSTRUCTION OF A NEW WEST SIDE GENERAL AVIATION APRON AND SEWER LINE REPLACEMENT, AND TO APPROVE APPLICATIONS FOR FUNDING FROM THE FAA AND ARKANSAS DEPARTMENT OF AERONAUTICS TO PAY FOR THIS PROJECT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $102,900.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED: DRAFT

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

CIP PROJECT REQUEST FORM

City of Fayetteville, Arkansas | Capital Improvements Program 2004-2008

1 Project Category Airport Improvements	4 Priority in Category 17	7 Department Aviation & Economic Development
2 Project Title West GA Apron	5 Page # in Previous CIP	8 Division Airport
3 Funding Source Airport	6 Project Accounting #	9 Contact Person Ray M. Boudreaux

10 Is the Project? Replacement ___ or Expansion X	11 Is the Project? One Year ___ or Multi-Year X	12 Is Project mandated by a Federal, State, or Local entity? Yes ___ or No X

13 Project Description & Justification: *(attach additional pages if necessary)*

Funds will be used to design and construct a General Aviation (GA) hangar apron North of the terminal building. The project will include an accessway to the main aircraft pavement area, and replacement of the portion of aging sanitary sewer line which conducts through the area.

The project is eligible for 95% funding from DOT/FAA the AIP grant program. The project is also eligible for 5% match funding from the Arkansas Department of Aeronautics. Thus, 100% of the project cost is reimbursable to the City.

14 Scheduling & Project Status (if in progress):

The project is scheduled to begin upon approval by the City Council April 5, 2005.

In the initial funding phase, design, engineering, grading, drainage, and utilities installation work will be undertaken. Pending receipt of the second phase of funding from the FAA in 2006, construction of the pavement will take place. The arrangement is due to the constraint of funding available in 2005, however, the planned schedule will dovetail satisfactorily with the seasonal nature of the construction work.

15 Effect of the Project on Annual Operations:

Minimal, possibly some small increase in utility costs for electricity/lighting.

CIP PROJECT REQUEST FORM

City of Fayetteville, Arkansas

Capital Improvements Program 2004-2008

Project Funding:	16 Fiscal Year 2004	17 Fiscal Year 2005	18 Fiscal Year 2006	19 Fiscal Year 2007	20 Fiscal Year 2008	21 Five Year Total	22 Costs Beyond 2004-2008
23 Operating Funds						$ -	
24 Grants		497,000	578,017			$ 1,075,017	
25 Other (Sales Tax)						$ -	
26 TOTAL FUNDING	$ -	$ 497,000	$ 578,017	$ -	$ -	$ 1,075,017	$ -
Project Expenditures:							
27 Plans & Studies						$ -	
28 Engineering/Architecture						$ -	
29 Land Acquisition						$ -	
30 Construction						$ -	
31 Engineering Contra						$ -	
32 Equipment/Vehicles						$ -	
33 Other (Please Specify)						$ -	
34 TOTAL EXPENDITURE	$ -	$ -	$ -	$ -	$ -	$ -	$ -

35 Annual Effect on Income: X One Time; ___ Recurring

Gain from Sale of Property	$
Generated Revenue	
Other (Grants)	1,075,017
Total	$ 1,075,017

36 Annual Impact on Operating Budget (Positive or Negative in 2003 dollars)

Personnel Services	$
Utilities	
Maintenance	
Vehicles & Equipment	
Other (Specify)	
Total	$ 0

FOR BUDGET & RESEARCH USE ONLY

Sr. Research Analyst Review ______ Date ______

Budget Manager Review ______ Date ______

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2005	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	4/5/2005	

Project or Item Added/Increased:	Project or Item Deleted/Reduced:
$1,079,316.00 is requested in the AIP Capital Projects account.	None. To recognize 1,025,350.00 in grant revenue from DOT/FAA. To recognize 53,966.00 in grant revenue from AR Dept of Aeronautics

Justification of this Increase:	Justification of this Decrease:
The funding is requested to provide to design/construct the West-side General Aviation Apron project	100% of the project cost is provided by grants from outside entities.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
West Gen Aviation Apron	5550	3960	7820	34	1,079,316	05034	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
West Gen Aviation Apron	5550	0955	6820	34	1,025,350	05034	1
State grants on Fed proj	5550	0955	6803	00	53,966	05034	1

Approval Signatures

Requested By	Date 3-23-05
Budget Manager	Date
Department Director	Date 3/23/05
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

March 4, 2005

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Proposed Task Order No. 6
West Side Hangar Complex
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

In response to your request, please find four (4) copies of Task Order No. 6 to include the West Side Hangar Complex.

Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

John Quinn, P.E.

Enclosure: Task Order No. 6 (4 copies)

J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0304-TO-6.wpd:ch

TASK ORDER NO. 6
WEST SIDE GA APRON IMPROVEMENTS

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on April 30, 2003. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the West Side GA Apron Improvements, Drake Field.

SECTION I - PROJECT DESCRIPTION

The project is to consist of the West Side GA Apron (9400 SY) and sewer line replacement. The services to be performed include: Surveying; Preliminary Design; Preliminary Cost Estimates; Detailed Design; Construction Admin and Observation services; Construction Materials Testing; and review fees for State or Federal Agencies.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland Consulting Engineers, Inc. will endeavor to execute the project within the following time periods:

Task	Completion After NTP
A. Surveying:	20 calendar days
B. Preliminary Design & Cost Estimates:	50 calendar days
C. Detailed Design,	90 calendar days
D. Advertise for bids:	100 calendar days

SECTION III - SCOPE OF SERVICES

McClelland Consulting Engineers, Inc. shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, the project is likely to include:

A. Surveying for the West Side GA Apron.

B. Geotechnical Investigation

C. Performing preliminary engineering services for the West Side GA Apron; formulating preliminary construction cost estimates, and meeting with the City to discuss the project.

D. Performing the detailed design of the West Side GA Apron.

E. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

F. Construction Administration, Observation and prepare "Record Drawings" for the completion of construction based upon the Contractor's mark-ups.

G. Construction staking of a baseline.

H. Construction Materials Testing.

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Surveying:	a lump sum of $ 2,850.
B. Geotechnical Investigation	a lump sum of $ 2,550.
C. Preliminary Engineering; Cost Estimates, and Application	a lump sum of $ 22,000.
D. Detailed Plans & Specs for:	a lump sum of $ 24,300.
E. Bidding Service:	a lump sum of $ 3,000.
F. Construction Administration & Inspection:	hourly rates, estimated to be
Contr. Admin	$ 5,000.
Observation	$32,200.
Record Drawings	$ 1,950.
G. Construction Baseline Staking:	a lump sum of $ 650.00.
H. Construction materials testing:	hourly rates & unit prices, estimated to be $4,850.
I. Ark Health Dept Review Fee	Fee Amount NTE $500.00

Appendix B presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

Appendix A presents the basis of payments to the ENGINEER.

SECTON V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

APPENDIX "A"

BASIS FOR PAYMENTS TO THE ENGINEER

TASK ORDER NO. 6
WEST SIDE GA APRON COMPLEX
FAYETTEVILLE MUNICIPAL AIRPORT

LINE	TASK DESCRIPTION (CLASSIFICATION » / HOURLY RATE »)	PROJECT DIRECTOR $120.00	PROJECT MGR./ENGR. $110.00	PROJECT ENGINEER $85.00	ENGINEERING TECHNICIAN $60.00	CADD OPER. 1 $60.00	CADD OPER. 2 $50.00	CADD OPER. 3 $40.00	LICENSED SURVEYOR $75.00	SURVEY CREW $100.00	CLERK TYPIST $40.00	INSPECTOR $55.00	MILEAGE $0.36	SUB.-CONS. FEE	DIRECT EXPENSE	EXTENDED TOTAL
A	APPLICATION TO STATE FOR FUNDING	0	2	2												
	ARK hEALTH DEPT REVIEW FEE						3									
											2					
B	SURVEYING													$0.00	$20.00	$640.00
	TOPOGRAPHIC SURVEY														$500.00	$500.00
			2	2	8											
									4	16			40		$66	$2,850.00
C	GEOTECHNICAL. INVESTIGATION															
			0.5													
D	PRELIMINARY ENGINEERING														$2,495.00	$2,850.00
	SCOPING MEETING															
	SURVEYING	1	3	4												
	PRELIMINARY LAYOUT		1													
	DES. DEVEL.: DRAWING ORGANIZATION		4	12			24		1	3						$790.00
	DES. DEVEL.: GRADING PLAN/SET ELEVATIONS		1	2		1										$485.00
	DES. DEVEL.: DRAINAGE PLAN		6	18	12		8									$2,660.00
	DES. DEVEL.: UTILITY PLAN/UTILITY SERVICES		4	12	16			8								$340.00
	DES. DEVEL.: SEWER PLAN/PROFILE		4	16	12		16									$3,310.00
	DES. DEVEL.: ENTRANCE ACCESS PLAN		2	8	16	2	4	8								$2,740.00
	DES. DEVEL.: ELECTRICAL PLAN		2	6	8	1	4									$3,320.00
	OUTLINE SPECIFICATIONS			1		1	2									$2,500.00
	UPDATE COST ESTIMATE		1	6										$400.00		$1,470.00
	IN-HOUSE QA REVIEWS		1	4							2					$645.00
	MEETING WITH OWNER		2	2	4											$700.00
	SUBTOTAL, PRELIMINARY ENGINEERING		6	6												$450.00
		1	37	97	68	5	58	16	1	3	2				$50.00	$680.00
E	DETAILED PLANS										4	0	0	$400.00	$20.00	$1,270.00
	DETAIL DES.: DRAWING ORGANIZATION														$70.00	$21,380.00
	DETAIL DES.: GRADING PLAN & DETAILS		1	2		2										
	DETAIL DES.: DRAINAGE PLAN & DETAILS	1	2	14	12	2	16	8								
	DETAIL DES.: SEWER PLAN/PROFILE	1	2	10	12	2	12	8								$400.00
	DETAIL DES.: DETAILS SHEETS	1	2	8	12	2	10	8								$3,490.00
	DETAIL DES.: ENTRANCE ACCESS PLAN		4	10		8	16	24								$2,950.00
	DETAIL DES.: ELECTRICAL PLAN & DETAILS	1	2	8		4	8	8								$2,680.00
	SPECIFICATIONS		1	6		2	4	4								$3,530.00
	IN-HOUSE REVIEWS		4	22										$400.00		$1,980.00
	FINAL COST ESTIMATE	1	2	2	4						30					$1,500.00
	REVIEW MEETING WITH OWNER		2	6												$3,510.00
	REVISIONS TO PLANS & SPECS		4	4							2				$100.00	$850.00
	SUBTOTAL, DETAILED DESIGN		2	4							2					$810.00
		5	28	96	0	4	8	8			4				$45.00	$905.00
F	BIDDING					26	74	68	0	0	38	0	0	$400.00	$15.00	$1,695.00
		0	6	23	2	0	0	0	0	0					$160.00	$24,300.00
G	CONSTR. ADMIN. AND INSPECTION										6	0	28		$15.00	$3,000.00
	CONSTR. ADMINISTRATION															
	CONSTR. INSPECTION	1	7	44												
	RECORD DRAWINGS		2	12							8					
	SUBTOTAL, CONSTRUCTION PHASE		1	2							8	550	950		$50.00	$5,000.00
		1	10	58	0	4	10	12				8			$48.00	$32,200.00
H	CONSTRUCTION STAKING					4	10	12	0	0	16	558	950		$10.00	$1,950.00
					3										$108.00	$39,150.00
I	CONSTRUCTION MT'LS TESTING (Estimated To Be)									3.75	2	0	20		$7.80	
		0	1	3	0	0	0	0								$650.00
									0	0	0	0	40		$4,470.60	$4,850.00
	GRAND TOTAL, ENGINEERING SERVICES															
		7	86	281	81	35	145	96	5	22.75	68	558	1078	$800.00	$4,851.40	$99,850.00

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

FOR THE CITY OF FAYETTEVILLE:

By: ______________________ Attest: ______________________
Mayor

Date: ______________________

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C Quinn Attest: Robert W White
President Vice President

Date: 3/7/05

APPENDIX B
TASK ORDER NO.6
Hourly Rates for Personnel
Fayetteville Municipal Airport

ATEGORY	BILLABLE HOURLY RATE RANGE
Project Director	$115 to $130
Project Manager	$90 to $120
Project Engineer	$75 to $90
Design Engineer II	$65 to $75
Design Engineer I	$50 to $65
Registered Surveyor	$60 to $80
Computer Technician	$45 to $60
Senior Engineering Technician/Observer	$55 to $70
Engineering Technician/Observer	$40 to $55
Junior Engineering Technician	$35 to $45
Survey Crew (2 man)	$85 to $110
Clerical Support	$35 to $45
CADD Technician III	$55 to $65
CADD Technician II	$45 to $55
CADD Technician I	$35 to $45
Soils Lab Supervisor	$40 to $50
Soils Technician II	$35 to $45
Soils Technician I	$30 to $35

APPENDIX C
CONSTRUCTION MATERIALS LABORATORY
FEE SCHEDULE
TASK ORDER NO. 6

GENERAL:

Laboratory Field Technician *	$ 35.00 per hour
Laboratory Engineering Technician *	$ 40.00 per hour
Engineering Technician *	50.00 per hour
Senior Engineering Technician	68.00 per hour
Lab Supervisor	50.00 per hour
Mileage	0.36 per mile
Consultation:	
Lab Supervisor	50.00 per hour
Field Engineer	75.00 per hour
Project Engineer	85.00 per hour
Project Manager	115.00 per hour
Principal Engineer	130.00 per hour
Lab Report Preparation (per report)	40.00 per hour

SOILS:

Soils Field Technician (1-hour minimum)	35.00 per hour
In-Place Compaction Test-Nuclear Gauge ASTM D 2922	
Sample Pickup, or Stand-by Time	
Nuclear Density Gauge Fee: (per Density Test); [Minimum $15.00 per trip, per project]	5.00 each
Liquid Limit, Plastic Limit, Plasticity Index (3 point) ASTM D 4318	50.00 each
Sieve Analysis-Washed No. 200 (Wet) ASTM D 1140	35.00 per sieve
Sieve Analysis-Dry ASTM D 422	8.00 per sieve
Hydrometer Analysis ASTM D 422	90.00 each
Specific Gravity ASTM D 854	50.00 each
Soils Classification, Unified or AASHTO ASTM D 2487 or AASHTO M 145	110.00 each
Laboratory Maximum Compaction Test ASTM D 698 or AASHTO T 99	120.00 each
Laboratory Maximum Compaction Test ASTM D 1557 or AASHTO T 180	135.00 each
Potential Volume Change-Swell Pressure	100.00 each
California Bearing Ratio-CBR ASTM D 1883 (3 point) (Proctor curve additional)	150.00 each
Shrinkage ASTM D 427	50.00 each
Soil Bearing Capacity (Engineering Tech., 2-hour minimum)	50.00 per hour
Non-ASTM Procedures Available On Request	

CONCRETE:

Concrete Mix Design	Price on Request
Review Concrete Mix Design (Lab Supervisor)	50.00 per hour
Confirm Concrete Mix Design	Price on Request
Concrete Field Technician * (1-hour minimum): [For any of the following 6 items:]	35.00 per hour
• Concrete Cylinder or Beam Molding ASTM C 31	
• Concrete Cylinder or Beam Pickup	
• Concrete Slump Test ASTM C 143	
• Concrete Air Content Test ASTM C 231 or C 173	
• Cement Mortar or Group Sampling	
• Stand-by Time	
Unit Weight and Yield of Freshly Mixed Concrete ASTM C 138	50.00 each
Compressive Strength of Concrete Test Cylinders ASTM C 39 (pad cap)	15.00 each
Compressive Strength of Concrete Test Cylinders ASTM C 39 (sulfur capped)	25.00 each
Spare Cylinders Specimens Processed but not Tested	15.00 each
Schmidt Hammer Testing (Engineering Tech, 2-hour minimum)	50.00 per hour

* ACI Grade I Concrete Field Testing Technician

APPENDIX C
CONSTRUCTION MATERIALS LABORATORY
FEE SCHEDULE
TASK ORDER NO. 6

CONCRETE (Continued):	
Flexural Strength of Concrete Beams ASTM C 78 or C 293	30.00 each
Spare Beam Specimens Processed but not Tested	25.00 each
Compressive Strength of Grout Cubes	25.00 each
Compressive Strength of Cement Mortar Cubes	20.00 each
Concrete Coring (3" or 4"):	
Core Machine & Lab Technician	65.00 per hour
Additional Lab Technician, as required	35.00 per hour
Compressive Strength of Concrete Cores (3" or 4")	30.00 each
Other Core Sizes	Price on Request
Aggregate Sieve Analysis:	
Dry Sieve ASTM C 136	8.00 each
Wet Sieve ASTM C 117	35.00 each
Fineness Modules	25.00 each
Decantation	35.00 each
Deleterious Materials	60.00 each
Specific Gravity and Absorption of Aggregate ASTM C 127 & C 128	85.00 each
Dry Rodded Unit Weight of Aggregate ASTM C 29	60.00 each
Sodium or Magnesium Sulfate Soundness (5 cycles) ASTM C 88	300.00 each
Additional Cycles	50.00 each
ASPHALT:	
Asphalt Mix Design (Marshall Design Method)	Price on Request
Review Asphalt Mix Design (Sr. Engr. Technician)	68.00 per hour
Asphalt Field Technician	
In-Place Compaction Test-Nuclear Gauge (Lab Technician)	35.00 per hour
Sample Pickup	35.00 per hour
Marshall Test including Stability, Flow, Laboratory Density, Percent Air Voids, Percent Voids in Mineral Aggregate (3 specimens per test)	350.00 each
Extraction including percent Bitumen and Aggregate Gradation	275.00 each
Laboratory Density of Cored Plugs including Depth Measurement	25.00 each
Asphalt Coring (3" or 4"):	
Core Machine & Lab Technician	65.00 per hour
Additional Lab Technician, if required	35.00 per hour
Sample Pickup	35.00 per hour
FIREPROOFING:	
Unit Weight, Bonding Strength, Thickness and Sampling (actual time required for Lab Technicians)	35.00 per hour/Tech.
Report Preparation (Lab Supervisor)	50.00 per hour
STRUCTURAL STEEL:	
Bolt Torque Testing: Lab Technician(s)	35.00 per hour
Field Engineer	75.00 per hour
Pneumatic Torque Wrench Calibration (twice per day)	50.00 each
Visual Weld Inspection Field Engineer	85.00 per hour

Services not Listed are Available on Request

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

March 22, 2005

Mr. Ray Boudreaux
Airport Director
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Re: West Side GA Apron Complex
Fayetteville Municipal

Dear Mr. Boudreaux:

The revised estimated cost for this project is as outlined below:

Estimated Project Construction Cost	
West Side GA Apron	$750,460.00
Access Drive	42,000.00
Sewer Line	140,365.00
Subtotal	$ 932,825.00
5% Contingency	46,641.00
Total Estimated Const. Cost	**$ 979,466.00**
Engineering Fee	
Design	$ 49,300.00
Const. Admin	5,000.00
Const. Observation	34,150.00
Application & Review Fees	1,150.00
Topographic Survey	2,850.00
Geotechnical Investigation	2,550.00
Materials Testing	4,850.00
Total Engineering Fees	$ 99,850.00
Total Estimated Project Cost	**$ 1,079,316.00**

A copy of the apron layout is attached. If there are any questions regarding this cost estimate, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Layout

J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0322.wpd

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

March 4, 2005

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Proposed Task Order No. 6
West Side Hangar Complex
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

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Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

John Quinn

John Quinn, P.E.

Enclosure: Task Order No. 6 (4 copies)

J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0304-TO-6.wpd:ch

TASK ORDER NO. 6
WEST SIDE GA APRON IMPROVEMENTS

STATE OF ARKANSAS

COUNTY OF WASHINGTON

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B. Geotechnical Investigation

C. Performing preliminary engineering services for the West Side GA Apron; formulating preliminary construction cost estimates, and meeting with the City to discuss the project.

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E. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

F. Construction Administration, Observation and prepare "Record Drawings" for the completion of construction based upon the Contractor's mark-ups.

G. Construction staking of a baseline.

H. Construction Materials Testing.

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Surveying:	a lump sum of $ 2,850.
B. Geotechnical Investigation	a lump sum of $ 2,550.
C. Preliminary Engineering; Cost Estimates, and Application	a lump sum of $ 22,000.
D. Detailed Plans & Specs for:	a lump sum of $ 24,300.
E. Bidding Service:	a lump sum of $ 3,000.
F. Construction Administration & Inspection:	hourly rates, estimated to be
Contr. Admin	$ 5,000.
Observation	$32,200.
Record Drawings	$ 1,950.
G. Construction Baseline Staking:	a lump sum of $ 650.00.
H. Construction materials testing:	hourly rates & unit prices, estimated to be $4,850.
I. Ark Health Dept Review Fee	Fee Amount NTE $500.00

Appendix B presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

Appendix A presents the basis of payments to the ENGINEER.

SECTON V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 6
WEST SIDE GA APRON COMPLEX
FAYETTEVILLE MUNICIPAL AIRPORT

LINE	TASK DESCRIPTION (CLASSIFICATION ▸ / HOURLY RATE ▸)	PROJECT DIRECTOR $120.00	PROJECT MGR/ENGR. $110.00	PROJECT ENGINEER $85.00	ENGINEERING TECHNICIAN $60.00	CADD OPER. 1 $60.00	CADD OPER. 2 $50.00	CADD OPER. 3 $40.00	LICENSED SURVEYOR $75.00	SURVEY CREW $100.00	CLERK TYPIST $40.00	INSPECTOR $55.00	MILEAGE $0.36	SUB.-CONS. FEE	DIRECT EXPENSE	EXTENDED TOTAL
A	APPLICATION TO STATE FOR FUNDING	0	2	2			3				2			$0.00	$20.00	$640.00
	ARK hEALTH DEPT REVIEW FEE														$500.00	$500.00
B	SURVEYING															
	TOPOGRAPHIC SURVEY		2	2	8				4	16			40		$66	$2,850.00
C	GEOTECHNICAL. INVESTIGATION		0.5												$2,495.00	$2,650.00
D	PRELIMINARY ENGINEERING															
	SCOPING MEETING	1	3	4												$790.00
	SURVEYING		1						1	3						$485.00
	PRELIMINARY LAYOUT		4	12			24									$2,660.00
	DES. DEVEL.: DRAWING ORGANIZATION		1	2		1										$340.00
	DES. DEVEL.: GRADING PLAN/SET ELEVATIONS		6	18	12		8									$3,310.00
	DES. DEVEL.: DRAINAGE PLAN		4	12	16			8								$2,740.00
	DES. DEVEL.: UTILITY PLAN/UTILITY SERVICES		4	16	12		16									$3,320.00
	DES. DEVEL.: SEWER PLAN/PROFILE		2	8	16	2	4	8								$2,500.00
	DES. DEVEL.: ENTRANCE ACCESS PLAN		2	6	8	1	4									$1,470.00
	DES. DEVEL.: ELECTRICAL PLAN			1		1	2							$400.00		$645.00
	OUTLINE SPECIFICATIONS		1	6							2					$700.00
	UPDATE COST ESTIMATE		1	4												$450.00
	IN-HOUSE QA REVIEWS		2	2	4										$50.00	$680.00
	MEETING WITH OWNER		6	6							2				$20.00	$1,270.00
	SUBTOTAL, PRELIMINARY ENGINEERING	1	37	97	68	5	58	16	1	3	4	0	0	$400.00	$70.00	$21,360.00
E	DETAILED PLANS															
	DETAIL DES.: DRAWING ORGANIZATION		1	2		2										$400.00
	DETAIL DES.: GRADING PLAN & DETAILS	1	2	14	12	2	16	8								$3,490.00
	DETAIL DES.: DRAINAGE PLAN & DETAILS	1	2	10	12	2	12	8								$2,950.00
	DETAIL DES.: SEWER PLAN/PROFILE	1	2	8	12	2	10	8								$2,680.00
	DETAIL DES.: DETAILS SHEETS		4	10		8	16	24								$3,530.00
	DETAIL DES.: ENTRANCE ACCESS PLAN	1	2	8		4	8	8								$1,980.00
	DETAIL DES.: ELECTRICAL PLAN & DETAILS		1	6		2	4	4						$400.00		$1,500.00
	SPECIFICATIONS		4	22							30					$3,510.00
	IN-HOUSE REVIEWS	1	2	2	4										$100.00	$850.00
	FINAL COST ESTIMATE		2	6							2					$810.00
	REVIEW MEETING WITH OWNER		4	4							2				$45.00	$905.00
	REVISIONS TO PLANS & SPECS		2	4		4	8	8			4				$15.00	$1,695.00
	SUBTOTAL, DETAILED DESIGN	5	28	96	0	26	74	68	0	0	38	0	0	$400.00	$160.00	$24,300.00
F	BIDDING	0	6	23	2	0	0	0	0	0	6	0	28		$15.00	$3,000.00
G	CONSTR. ADMIN. AND INSPECTION															
	CONSTR. ADMINISTRATION	1	7	44							8				$50.00	$5,000.00
	CONSTR. INSPECTION		2	12							8	550	950		$48.00	$32,200.00
	RECORD DRAWINGS		1	2		4	10	12				8			$10.00	$1,950.00
	SUBTOTAL, CONSTRUCTION PHASE	1	10	58	0	4	10	12	0	0	16	558	950		$108.00	$39,150.00
H	CONSTRUCTION STAKING				3					3.75	2	0	20		$7.80	$650.00
I	CONSTRUCTION MT'LS TESTING (Estimated To Be)	0	1	3	0	0	0	0	0	0	0	0	40		$4,470.80	$4,850.00
	GRAND TOTAL, ENGINEERING SERVICES	7	86	281	81	35	145	96	5	22.75	68	558	1078	$800.00	$4,851.40	$99,850.00

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

FOR THE CITY OF FAYETTEVILLE:

By: ______________________ Mayor

Attest: ______________________

Date: ______________________

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C. Quinn
President

Attest: Robert W. White
Vice President

Date: 3/7/05

APPENDIX B
TASK ORDER NO.6
Hourly Rates for Personnel
Fayetteville Municipal Airport

CATEGORY	BILLABLE HOURLY RATE RANGE
Project Director	$115 to $130
Project Manager	$90 to $120
Project Engineer	$75 to $90
Design Engineer II	$65 to $75
Design Engineer I	$50 to $65
Registered Surveyor	$60 to $80
Computer Technician	$45 to $60
Senior Engineering Technician/Observer	$55 to $70
Engineering Technician/Observer	$40 to $55
Junior Engineering Technician	$35 to $45
Survey Crew (2 man)	$85 to $110
Clerical Support	$35 to $45
CADD Technician III	$55 to $65
CADD Technician II	$45 to $55
CADD Technician I	$35 to $45
Soils Lab Supervisor	$40 to $50
Soils Technician II	$35 to $45
Soils Technician I	$30 to $35

APPENDIX C
CONSTRUCTION MATERIALS LABORATORY
FEE SCHEDULE
TASK ORDER NO. 6

GENERAL:

Laboratory Field Technician *	$ 35.00 per hour
Laboratory Engineering Technician *	$ 40.00 per hour
Engineering Technician *	50.00 per hour
Senior Engineering Technician	68.00 per hour
Lab Supervisor	50.00 per hour
Mileage	0.36 per mile
Consultation:	
Lab Supervisor	50.00 per hour
Field Engineer	75.00 per hour
Project Engineer	85.00 per hour
Project Manager	115.00 per hour
Principal Engineer	130.00 per hour
Lab Report Preparation (per report)	40.00 per hour

SOILS:

Soils Field Technician (1-hour minimum) In-Place Compaction Test-Nuclear Gauge ASTM D 2922 Sample Pickup, or Stand-by Time	35.00 per hour
Nuclear Density Gauge Fee: (per Density Test); [Minimum $15.00 per trip, per project]	5.00 each
Liquid Limit, Plastic Limit, Plasticity Index (3 point) ASTM D 4318	50.00 each
Sieve Analysis-Washed No. 200 (Wet) ASTM D 1140	35.00 per sieve
Sieve Analysis-Dry ASTM D 422	8.00 per sieve
Hydrometer Analysis ASTM D 422	90.00 each
Specific Gravity ASTM D 854	50.00 each
Soils Classification, Unified or AASHTO ASTM D 2487 or AASHTO M 145	110.00 each
Laboratory Maximum Compaction Test ASTM D 698 or AASHTO T 99	120.00 each
Laboratory Maximum Compaction Test ASTM D 1557 or AASHTO T 180	135.00 each
Potential Volume Change-Swell Pressure	100.00 each
California Bearing Ratio-CBR ASTM D 1883 (3 point) (Proctor curve additional)	150.00 each
Shrinkage ASTM D 427	50.00 each
Soil Bearing Capacity (Engineering Tech., 2-hour minimum)	50.00 per hour
Non-ASTM Procedures Available On Request	

CONCRETE:

Concrete Mix Design	Price on Request
Review Concrete Mix Design (Lab Supervisor)	50.00 per hour
Confirm Concrete Mix Design	Price on Request
Concrete Field Technician * (1-hour minimum): [For any of the following 6 items:] • Concrete Cylinder or Beam Molding ASTM C 31 • Concrete Cylinder or Beam Pickup • Concrete Slump Test ASTM C 143 • Concrete Air Content Test ASTM C 231 or C 173 • Cement Mortar or Group Sampling • Stand-by Time	35.00 per hour
Unit Weight and Yield of Freshly Mixed Concrete ASTM C 138	50.00 each
Compressive Strength of Concrete Test Cylinders ASTM C 39 (pad cap)	15.00 each
Compressive Strength of Concrete Test Cylinders ASTM C 39 (sulfur capped)	25.00 each
Spare Cylinders Specimens Processed but not Tested	15.00 each
Schmidt Hammer Testing (Engineering Tech, 2-hour minimum)	50.00 per hour

* ACI Grade I Concrete Field Testing Technician

APPENDIX C
CONSTRUCTION MATERIALS LABORATORY
FEE SCHEDULE
TASK ORDER NO. 6

CONCRETE (Continued):

Flexural Strength of Concrete Beams ASTM C 78 or C 293	30.00 each
Spare Beam Specimens Processed but not Tested	25.00 each
Compressive Strength of Grout Cubes	25.00 each
Compressive Strength of Cement Mortar Cubes	20.00 each
Concrete Coring (3" or 4"):	
Core Machine & Lab Technician	65.00 per hour
Additional Lab Technician, as required	35.00 per hour
Compressive Strength of Concrete Cores (3" or 4")	30.00 each
Other Core Sizes	Price on Request
Aggregate Sieve Analysis:	
Dry Sieve ASTM C 136	8.00 each
Wet Sieve ASTM C 117	35.00 each
Fineness Modules	25.00 each
Decantation	35.00 each
Deleterious Materials	60.00 each
Specific Gravity and Absorption of Aggregate ASTM C 127 & C 128	85.00 each
Dry Rodded Unit Weight of Aggregate ASTM C 29	60.00 each
Sodium or Magnesium Sulfate Soundness (5 cycles) ASTM C 88	300.00 each
Additional Cycles	50.00 each

ASPHALT:

Asphalt Mix Design (Marshall Design Method)	Price on Request
Review Asphalt Mix Design (Sr. Engr. Technician)	68.00 per hour
Asphalt Field Technician	
In-Place Compaction Test-Nuclear Gauge (Lab Technician)	35.00 per hour
Sample Pickup	35.00 per hour
Marshall Test including Stability, Flow, Laboratory Density, Percent Air Voids, Percent Voids in Mineral Aggregate (3 specimens per test)	350.00 each
Extraction including percent Bitumen and Aggregate Gradation	275.00 each
Laboratory Density of Cored Plugs including Depth Measurement	25.00 each
Asphalt Coring (3" or 4"):	
Core Machine & Lab Technician	65.00 per hour
Additional Lab Technician, if required	35.00 per hour
Sample Pickup	35.00 per hour

FIREPROOFING:

Unit Weight, Bonding Strength, Thickness and Sampling (actual time required for Lab Technicians)	35.00 per hour/Tech.
Report Preparation (Lab Supervisor)	50.00 per hour

STRUCTURAL STEEL:

Bolt Torque Testing: Lab Technician(s)	35.00 per hour
Field Engineer	75.00 per hour
Pneumatic Torque Wrench Calibration (twice per day)	50.00 each
Visual Weld Inspection Field Engineer	85.00 per hour

Services not Listed are Available on Request

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

March 22, 2005

Mr. Ray Boudreaux
Airport Director
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Re: West Side GA Apron Complex
Fayetteville Municipal

Dear Mr. Boudreaux:

The revised estimated cost for this project is as outlined below:

Estimated Project Construction Cost	
West Side GA Apron	$750,460.00
Access Drive	42,000.00
Sewer Line	140,365.00
Subtotal	$ 932,825.00
5% Contingency	46,641.00
Total Estimated Const. Cost	**$ 979,466.00**
Engineering Fee	
Design	$ 49,300.00
Const. Admin	5,000.00
Const. Observation	34,150.00
Application & Review Fees	1,150.00
Topographic Survey	2,850.00
Geotechnical Investigation	2,550.00
Materials Testing	4,850.00
Total Engineering Fees	$ 99,850.00
Total Estimated Project Cost	**$ 1,079,316.00**

A copy of the apron layout is attached. If there are any questions regarding this cost estimate, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Layout
J:\DRAKE FIELD\CONTRACTS\2003-2006\boudreaux-0322.wpd

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr
City Council Meeting Date

Submitted By	Division	Department
Ray M. Boudreaux	Aviation & Economic Development	General Government

Action Required:

Approve Task Order #6 to Contract #917 McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mcclelland-engrs.com, in the amount of $102,900.

$102,900.00	$ 1,075,017.00	West Side GA Apron Complex
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.3960.7820.34	$ -	Airport Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
NEW PROJECT	$ 1,075,017.00	General Fund / Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [X]

Department Director 3/17/05 Date

City Attorney 3/18/05

Finance and Internal Service Director 3-23-05 Date

Mayor 3/23/05 Date

Previous Ordinance or Resolution #

Original Contract Date: 4/30/2003

Original Contract Number: # 917

Received in City Clerk's Office ENTERED 3-18-05

Received in Mayor's Office ENTERED 3/18/05

Comments:
DOT/FAA, Airport Improvement Project (AIP) funding for a portion of the project is tentatively approved. Additional funding approval from DOT/FAA in FY 2006 will be required to complete the project.

City Council Meeting of March 15, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning JP

Date: February 24, 2005

Subject: Annexation for Wilkins (ANX 05-1365)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Wilkins, a 10.0 acre tract located north of Crystal Springs Subdivision, Phase I. This action will incorporate the 10.0 acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains one 10.0-acre parcel owned by GN Development, LLC. It is located south of Kenwood Hills Subdivision and north of Crystal Springs Subdivision, Phase I in northwest Fayetteville. At this time, the property is currently vacant and located within the Planning Area.

Annexation of the property will not create an island of unincorporated property, and does not exacerbate problems created by the extension of peninsulas. Staff recommended the annexation of this property to ensure development in accordance with City Ordinances. Water and sewer service shall be extended to the property at the time of development. Improvements to the existing infrastructure adjacent to this site and construction of streets in compliance with the Master Street Plan will be required at the time of development. City fire and police currently service the adjoining neighborhoods.

The applicant requested annexation of the property into the City of Fayetteville. A rezoning request has also been submitted, for RSF-4 zoning. The applicant intends to develop the property for residential use within the City of Fayetteville.

Staff recommended approval of the proposed annexation. Public comment was received from the Crystal Springs Subdivision's Property Owner's Association in favor of the requested annexation.

DISCUSSION

This item was heard at the regular Planning Commission on February 14, 2005. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommend of approval.

BUDGET IMPACT

None.

Left on the 2nd reading 3/15/05

ORDINANCE NO. ________

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 05-1365 ANNEXING TO THE CITY OF FAYETTEVILLE, ARKANSAS, CERTAIN PROPERTY LOCATED EAST OF SALEM ROAD, NORTH OF CRYSTAL SPRINGS SUBDIVISION PHASE I, CONTAINING APPROXIMATELY 10.00 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Four.

PASSED AND APPROVED this _____ day of ____________, 2005.

APPROVED:

By:____________________________
Dan Coody, Mayor

ATTEST:

By:____________________________
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 05-1365

A PARCEL LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION; SAID POINT BEING A FOUND STONE AND THE POINT OF BEGINNING.

THENCE S02°58'27"W 327.84 FEET TO A POINT ON THE EAST BOUNDARY OF SAID 40 ACRE TRACT; SAID POINT BEING THE NORTHEAST CORNER OF CRYSTAL SPRINGS PHASE I, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS FILED IN CIRCUIT CLERKS OFFICE OF WASHINGTON COUNTY, ARKANSAS;
THENCE ALONG NORTH BOUNDARY OF SAID SUBDIVISION N87°35'16"W 1327.14 FEET TO THE WEST BOUNDARY OF SAID FORTY; THENCE N02°23'44"E 327.82 FEET TO THE NORTHWEST CORNER OF SAID FORTY;
THENCE S87°35'16"E 1330.45 FEET TO THE POINT OF BEGINNING CONTAINING 10.00 ACRES MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of February 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Jeremy Pate, Interim Zoning & Development Administrator
DATE:	February 9, 2005

ANX 05-1365: (WILKINS, 245): Submitted by MEL MILHOLLAND for property located at THE ADJACENT NORTH BOUNDARY OF CRYSTAL SPRINGS, PHASE I. The property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: GN Development, LLC Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: February 14, 2005	**Approved** Shackelford/Trumbo² 9-0-0		**O Denied**
CITY COUNCIL ACTION:	**Required**	**YES**	
Date: March 15, 2005 (1st reading if recommended)	**O Approved**		**O Denied**

BACKGROUND:

Property description: The subject property contains one 10.0-acres parcel owned by GN Development, LLC. It is located south of Kenwood Hills Subdivision and north of Crystal Springs Subdivision, Phase I in northwest Fayetteville. At this time, the property is currently vacant and located within the Planning Area.

Proposal: The applicant proposes annexation of 10.0 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City limits, and future development of the area may be consistent and compatible to surrounding subdivisions should the property be annexed into the City of Fayetteville.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Single family residential	RSF-4, Residential Agricultural
East	Vacant/Pasture	Planning Area
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements may include, right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:
North: W. Salem Rd. (Collector)
South: Gypsum Dr. (Collector)
East: Raven Ln. (Collector – not constructed)
West: Salem Rd. (Collector)

Water: The site currently <u>does not</u> have access to public water. The nearest water main is an 8" main to the south in Crystal Springs Phase I. Water service will need to be extended to and within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently <u>does not</u> have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is an 8" sewer main to the south. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 2.7 miles from the Fire Station #7. Response time to the property is approximately 7 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation **<u>will not</u>** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: **Annexation of the property will not create an island of unincorporated property, and does not exacerbate problems created by the extension of peninsulas.**

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the City Limits to the south.**

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: **This area is currently vacant at this time and located between Crystal Springs Phase I to the south and Kenwood Hills Subdivision to the north. Structures on the subject property consist of one single family dwelling and accessory structures. The property does not consist of defined subdivisions or neighborhoods; however, future development plans include residential development of the property. Annexation of the property to allow for Planning Commission review of development in accordance with City standards is recommended.**

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **Proposed boundaries follow property lines of three existing parcels.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **Current conditions result in a response time of 7 minutes for fire protection from Fire Station #7. Extension of water and sewer lines shall occur at the time of development.**

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: **The property is mainly cleared pasture land with few trees, mostly located along the fence lines and surrounding an existing pond on the property. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property.**

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: **The police department reports that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area.**

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: **These factors were taken into consideration in the responses and recommendations included in this report.**

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: **Water, fire and police protection are currently provided in the surrounding areas.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **N/A**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The property owners request for annexation and request to rezone this property RSF-4, Residential single family - 4 units/acre. This zoning designation is compatible with the Residential classification of the adjacent area on the City's adopted Future Land Use Plan. Staff finds that this zoning designation is compatible with that of the property being developed to the south.**

11.6.p An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.**

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation consists of 10.0 acres owned by the GN Development, LLC. Although the annexation of this property will extend an existing peninsula approximately 327.82' to the north, it does not exacerbate any problems created by the extension of peninsulas and will result in an acceptable boundary.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **No fiscal impact assessment was conducted for this annexation of 10.0 acres.**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
11.6.d Boundaries for annexed areas should follow natural corridors.
11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

11.6.g Public services must be able to be provided efficiently in newly annexed areas.
11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

11.6.j Areas currently served by utilities and other public services should be annexed.
11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

11.6.m Promote long-range planning with adjacent jurisdictions.
11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

11.6.o Designate zoning districts for the property during the annexation process.
11.6.p An annexation study should be completed on all annexation proposals.
11.6.q Development proposals require a separate review from the annexation proposals.
11.6.r Residents should be fully informed of annexation activities.
11.6.w Encourage larger annexations to create acceptable boundaries.
11.6.t Conduct a fiscal impact assessments on large annexations.

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	Wilkins			S7	2.7 Miles	7 Minutes	8 Minutes	9	4	6
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mailco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 7, 2005

RECEIVED
FEB 09 2005
PLANNING DIV.

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1365: (WILKINNS, 245):** and Rezoning **RZN 05-1366 (WILKINS, 245)** submitted by MEL HOLLAND for property located at the EAST OF SALEM ROAD, NORTH OF THE CRYSTAL SPRINGS, PHASE I. This property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville and to rezone the subject property to RSF-4, Residential Single-family 4 units per acres.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **ANX 05-1370 (HALL 644, 645, 684):** Submitted by MEL HOLLAND for the property located at 2577, 2216, 2844, 2822 DEADHORSE MTN. ROAD. This property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1371: (HALL, 645, 684):** Submitted by MEL HOLLAND, for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.50 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 479-587-3555 FAX: 479-587-3522

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Cpt. William Brown

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: ANX 05-1365 Wilkins (GN Dev.) Return by: 1-14-05
Parcel: 001-16816-000

Plat Page#: 245
Section: 32
Township: 17
Range: 30

Current Zoning: Growth
Proposed Zoning:

Submittal: 1st 2nd 3rd

CR'd + ok'd by CR. need shape file (see ANX 04- GN DEVELOPMENT)

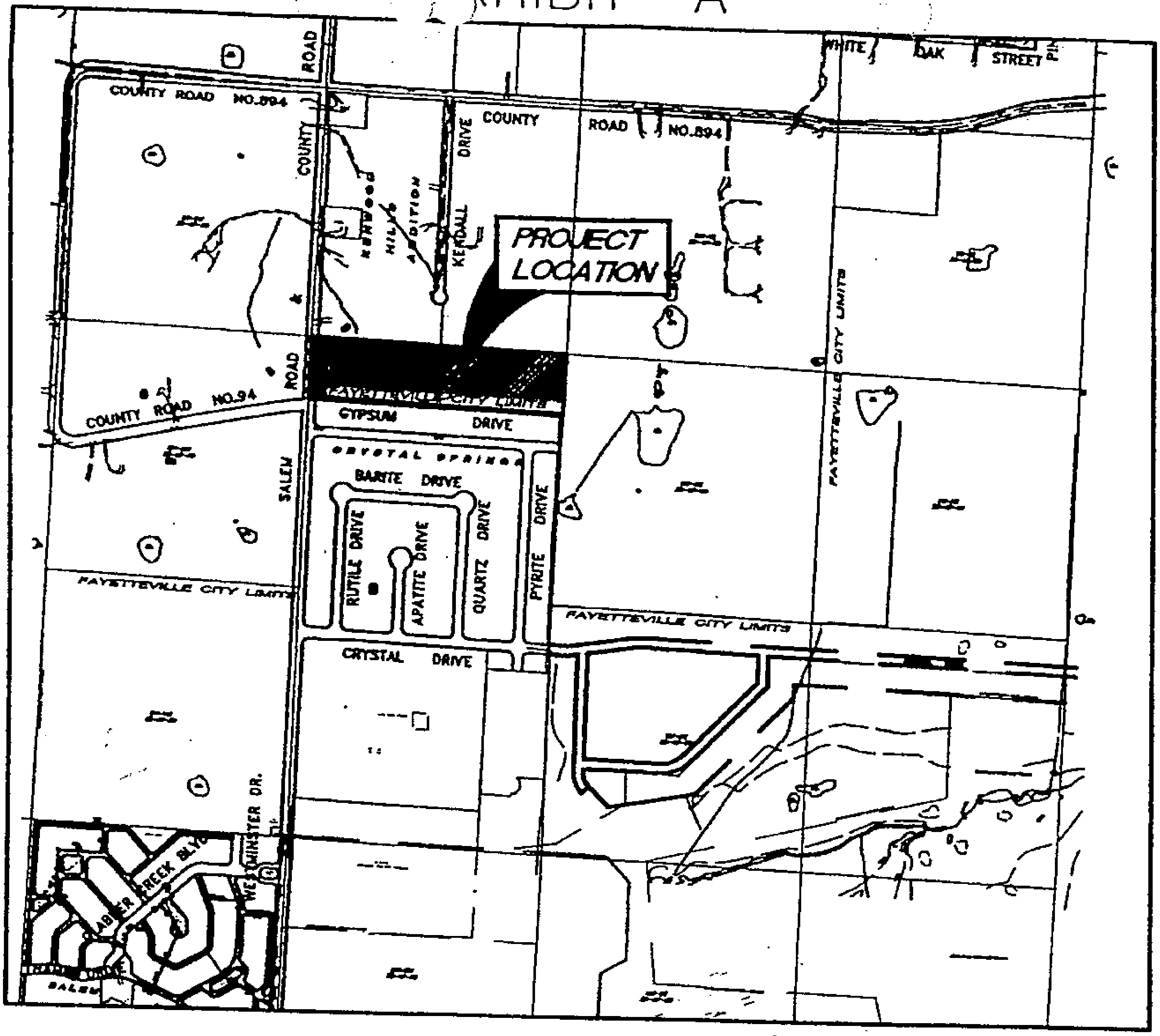
Closure error / comments: OK

Has the applicant been contacted with requested revisions: YES NO

Checked by: CR

Date shape file was created: 1-6-2005

EXHIBIT "A"



VICINITY MAP

GN DEVELOPMENT, LLC

E–728

SURVEY DESCRIPTION: PARCEL # 001–16816–000
A PARCEL LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION; SAID POINT BEING A FOUND STONE AND THE POINT OF BEGINNING.

THENCE S02°58'27"W 327.84 FEET TO A POINT ON THE EAST BOUNDARY OF SAID 40 ACRE TRACT; SAID POINT BEING THE NORTHEAST CORNER OF CRYSTAL SPRINGS PHASE I, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS FILED IN CIRCUIT CLERKS OFFICE OF WASHINGTON COUNTY, ARKANSAS;
THENCE ALONG THE NORTH BOUNDARY OF SAID SUBDIVISION N87°35'16"W 1327.14 FEET TO THE WEST BOUNDARY OF SAID FORTY;
THENCE N02°23'44"E 327.82 FEET TO THE NORTHWEST CORNER OF SAID FORTY;
THENCE S87°35'16"E 1330.45 FEET TO THE POINT OF BEGINNING, CONTAINING 10.00 ACRES, MORE OR LESS, WASHINGTON COUNTY, AR.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN PROPERTY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

'04 OCT 21 PM 2 53

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

NO. ____________

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Comes now the petitioner, G N Development, LLC, an Arkansas limited liability company, and for its Petition to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. states as follows:

1. That petitioner, G N Development, LLC, an Arkansas limited liability company, owns the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof, and said property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.

2. That petitioner names its Manager, Ron Wilkins, its engineer of record, Melvin Milholland, and James Atwood, Attorney at Law, P.A. as the persons authorized to act on its behalf with respect to this petition.

3. That the petitioner desires that its property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.

4. That a true and correct presentation of the property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.

5. That the petitioner herein desires that the property become part of the City of

Fayetteville, Washington County, Arkansas, and petitioner states that it will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described real property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully submitted this 20 day of October, 2004.

G N Development, LLC

Ron Wilkins, Manager of G N
Development, LLC

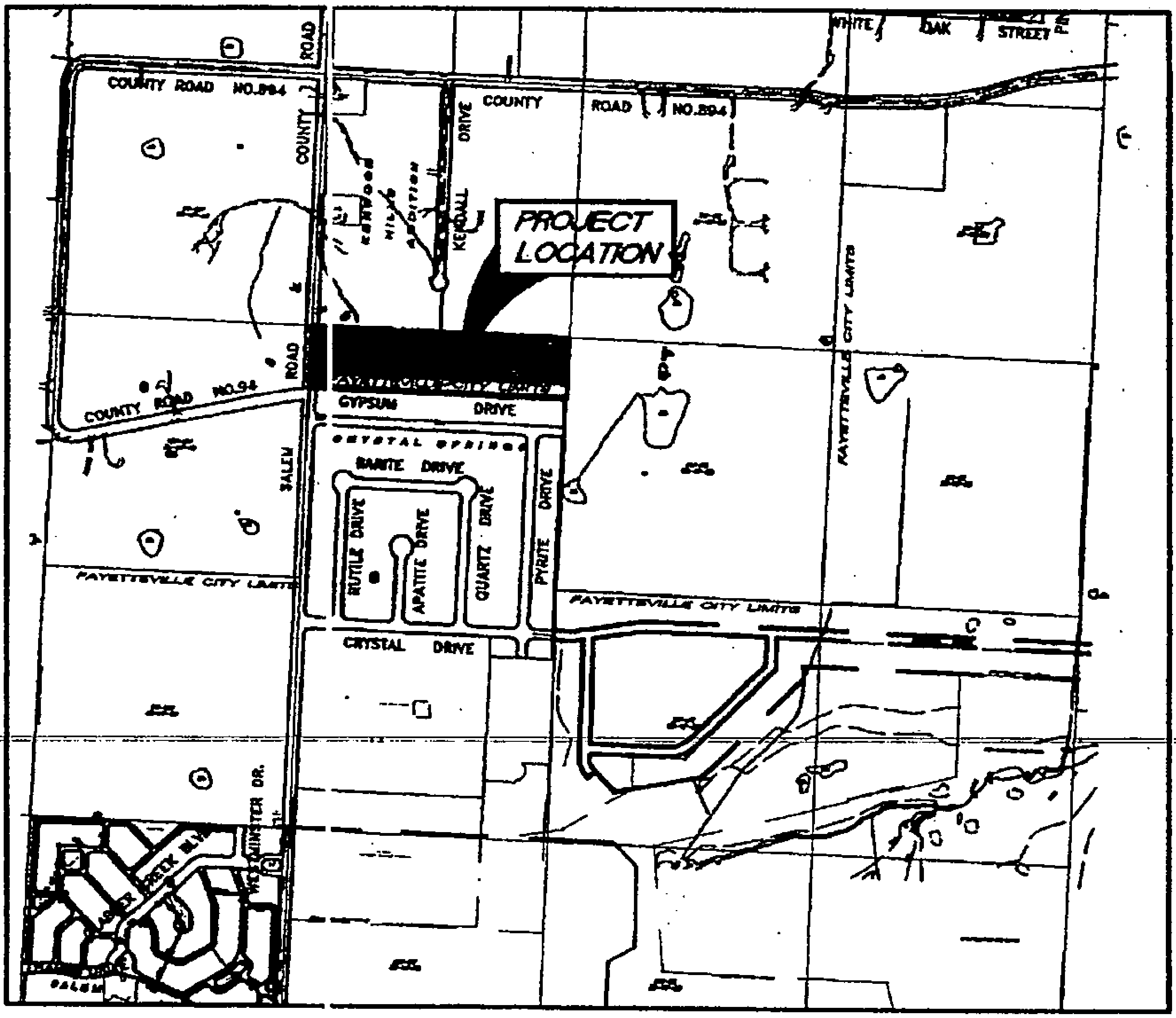
SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 20th day of October, 2004.

My Commission Expires:

Official Seal
GAIL T. SEGERS
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 12-18-2010

EXHIBIT "A"



VICINITY MAP

GN. DEVELOPMENT, LLC

E–728

SURVEY DESCRIPTION: PARCEL # 001–16816–000

A PARCEL LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION; SAID POINT BEING A FOUND STONE AND THE POINT OF BEGINNING.

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THENCE S87°35'16"E 1330.45 FEET TO THE POINT OF BEGINNING, CONTAINING 10.00 ACRES, MORE OR LESS, WASHINGTON COUNTY, AR.

IN THE COUNTY COURT OF WASHINGTON COUNTY

FILED

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE CITY OF FAYETTEVILLE, ARKANSAS

2004 NOV 30 AM 10 05

KAREN COMBS PRITCHARD
& PROBATE CLERK
WASHINGTON CO. ARK.

NO. CC 2004-88

ORDER OF ANNEXATION

Now on this 30th day of November, 2004, this cause comes on to be heard, the Petitioner, G N Development, LLC, an Arkansas limited liability company, who is represented by the Engineer of Record, Melvin Milholland and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 21st day of October, 2004 at which time this Court fixed the 30th day of November, 2004, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owner has a freehold interest in the property hereinafter described in the Petition and constitutes the real owner of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

Arkansas, in this cause is described on "Exhibit A" attached hereto.

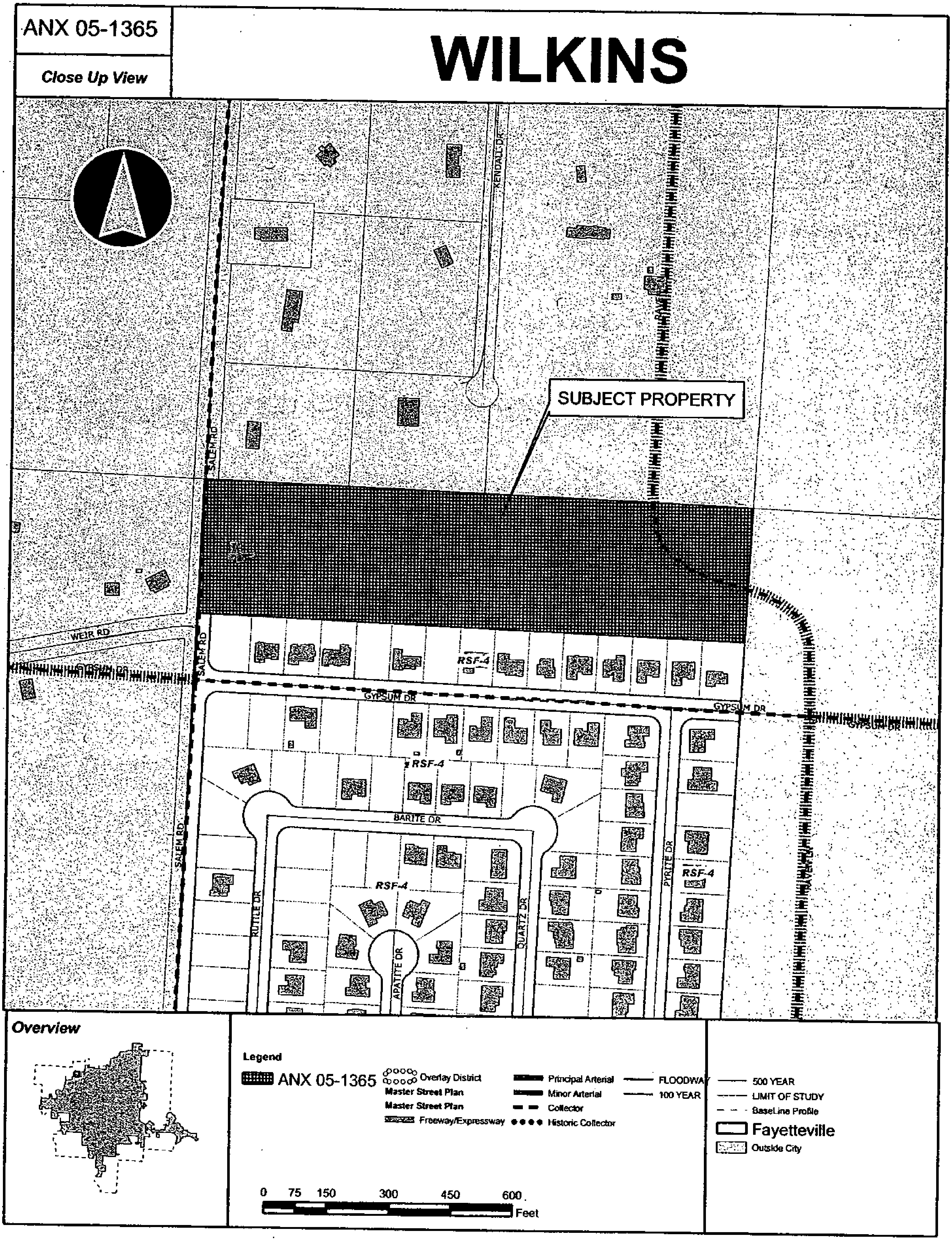
4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 30th day of November, 2004.

Jerry Hunton

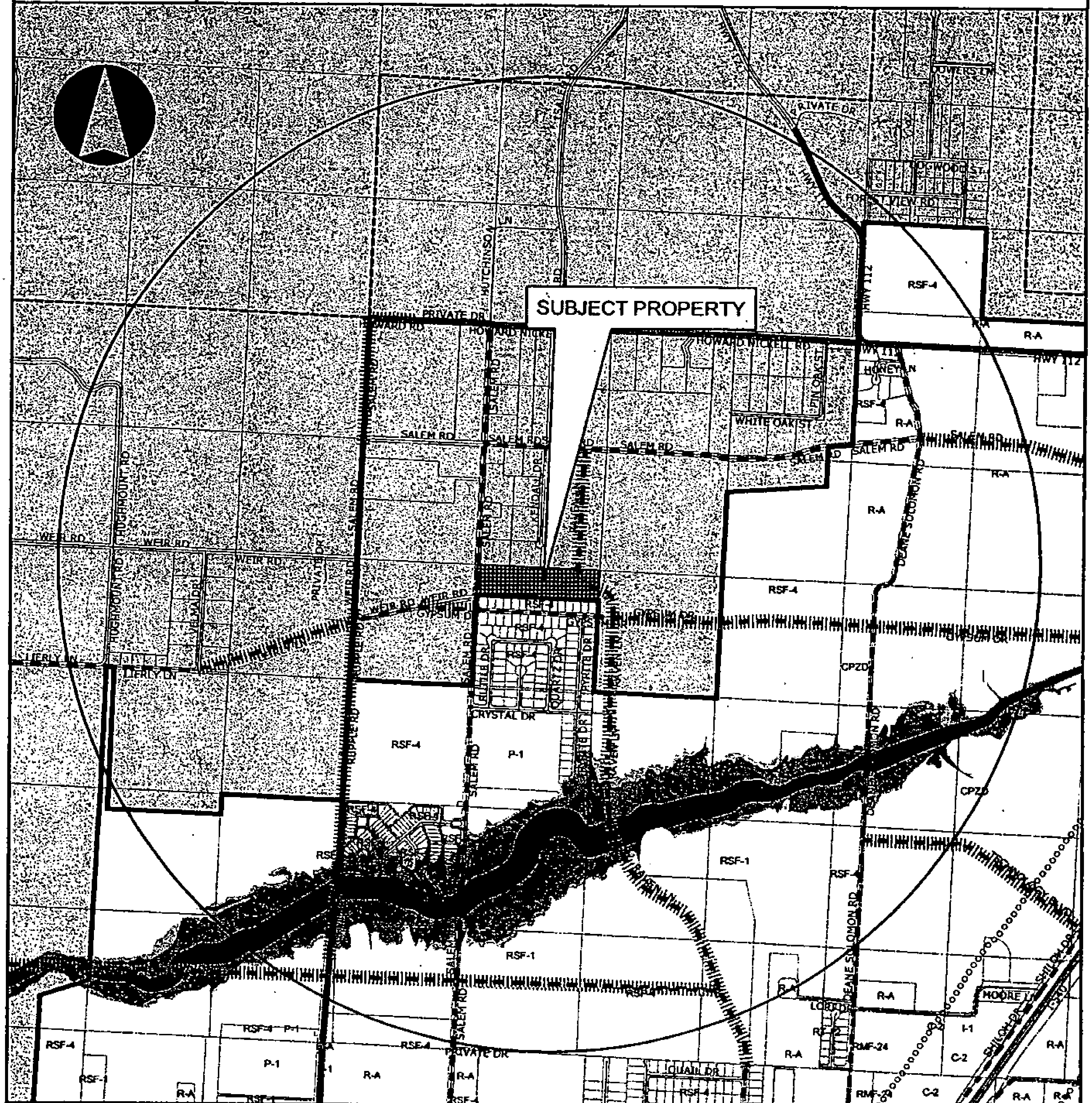
The Honorable Jerry Hunton
Washington County Judge


ANX 05-1365
Close Up View
WILKINS
SUBJECT PROPERTY
KENDALL DR
SALEM RD
WEIR RD
GYPSUM DR
RSF-4
BARITE DR
RUTILE DR
APATITE DR
QUARTZ DR
PYRITE DR
Overview
Legend
ANX 05-1365
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City
0 75 150 300 450 600
Feet

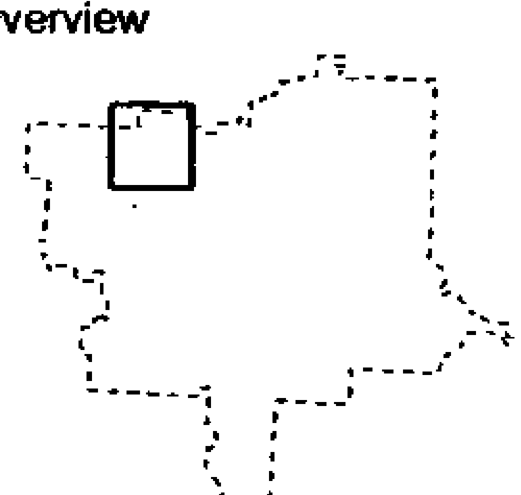
ANX 05-1365

One Mile View

WILKINS



Overview



Legend

Subject Property

ANX 05-1365

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

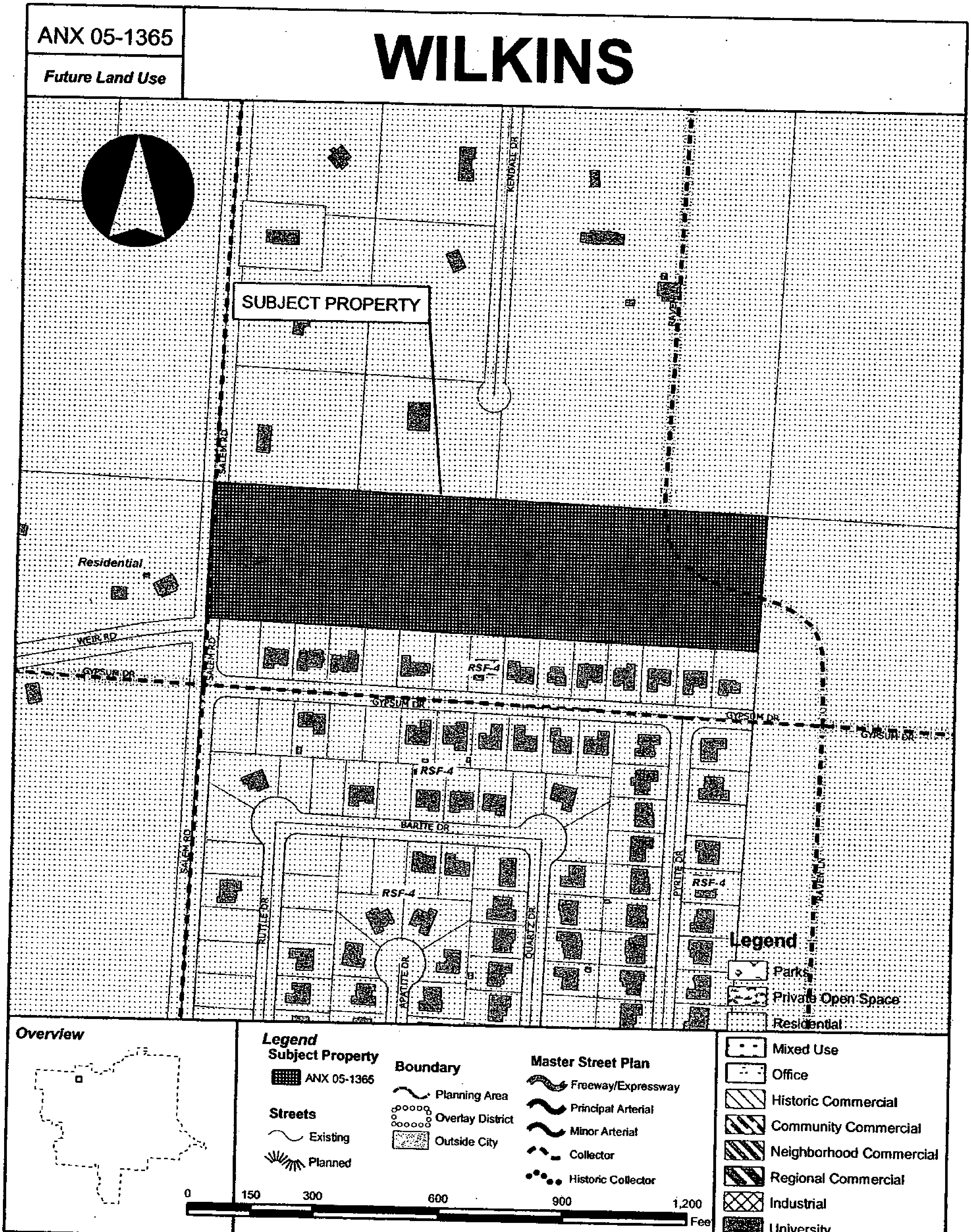
Minor Arterial

Collector

Historic Collector

0 0.045 0.09 0.18 0.27 0.36

Miles


ANX 05-1365
Future Land Use
WILKINS
SUBJECT PROPERTY
KENDALE DR
SALEM RD
Residential
WEIR RD
GYPSUM DR
RSF-4
BARITE DR
RUTILE DR
APATITE DR
QUARTZ DR
PYRITE DR
Legend
Parks
Private Open Space
Residential
Overview
Legend
Subject Property
ANX 05-1365
Streets
Existing
Planned
Boundary
Planning Area
Overlay District
Outside City
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
Mixed Use
Office
Historic Commercial
Community Commercial
Neighborhood Commercial
Regional Commercial
Industrial
University
0
150
300
600
900
1,200
Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-Mar-05
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

ANX 05-1365: (WILKINS, 245): Submitted by Mel Milholland for property located adjacent to the north boundary of Crystal Springs Subdivision, Phase I. The request is to annex the subject property containing approximately 10.00 acres into the City of Fayetteville.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director — 2-25-05 Date

City Attorney — 2-25-05 Date

Mayor — 2/28/05 Date

Received in City Clerk's Office
ENTERED 2/25/05

Received in Mayor's Office
2/28/05 P.H.

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: February 24, 2005

Subject: Rezoning for Wilkins (RZN 05-1366)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 10.0 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

The subject property contains one 10.0-acres parcel owned by GN Development, LLC. It is located south of Kenwood Hills Subdivision and north of Crystal Springs Subdivision, Phase I in northwest Fayetteville. At this time, the property is currently vacant.

Rezoning this property to allow development of four single family dwellings per acre will not significantly increase the population density in this area. This property is uniquely situated between two established single family subdivisions, with the northern subdivision in the Planning Area and the southern development within the City. Development of this property for residential use at four units per acre is consistent with the surrounding development. It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density, nor will it create an undesirable increase on police services. Improvements to water and sewer service, as well as construction of infrastructure adjacent to and within this site will be required at the time of development.

The applicant proposed a rezoning of the subject property to facilitate the future development of a residential area at a higher density than that allowed within the R-A zoning district. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

DISCUSSION

This item was heard at the regular Planning Commission on February 14, 2005. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommend in favor of the rezoning.

BUDGET IMPACT

None.

Left on the 2nd reading 3/15/05

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 05-1366 FOR PROPERTY EAST OF SALEM ROAD, NORTH OF CRYSTAL SPRINGS SUBDIVISION PHASE I, CONTAINING APPROXIMATELY 10.00 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre, as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this ______ day of __________, 2005.

APPROVED:

By:____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1366

A PARCEL LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION; SAID POINT BEING A FOUND STONE AND THE POINT OF BEGINNING.

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THENCE ALONG NORTH BOUNDARY SAID SUBDIVISION N87°35'16"W 1327.14 FEET TO THE WEST BOUNDARY SAID FORTY; THENCE N02°23'44"E 327.82 FEET TO THE NORTHWEST CORNER SAID FORTY;
THENCE S87°35'16"E 1330.45 FEET TO THE POINT OF BEGINNING CONTAINING 10.00 ACRES MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of February 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Jeremy Pate, Interim Zoning & Development Administrator
DATE:	February 9, 2005

RZN 05-1366: (WILKINS, 245): Submitted by MEL MILHOLLAND for property located at EAST OF SALEM ROAD, NORTH OF CRYSTAL SPRINGS SUBDIVISION. The property is zoned R-A, Residential Agricultural and contains approximately 10.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: GN Development, LLC Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	**Required** **YES**	
Date: February 14, 2005	**Approved**	**Denied**
	Shackelford/Myres[2] 9-0-0	
CITY COUNCIL ACTION:	**Required** **YES**	
Date: March 15, 2005 (1st reading if recommended)	**Approved**	**Denied**

BACKGROUND:

Property description: The subject property contains one 10.0-acres parcel located south of Kenwood Hills Subdivision and north of Crystal Springs Subdivision, Phase I in northwest Fayetteville. At this time, the subject property is currently vacant and zoned R-A, Residential Agricultural.

Proposal: The applicant intends to develop the property for residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding annexation request be approved (see attached letter from the applicant's representative).

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 10.0 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 05-1365, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Single family residential	RSF-4, Residential Agricultural
East	Vacant/Pasture	Planning Area
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements may include, right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:
North: W. Salem Rd. (Collector)
South: Gypsum Dr. (Collector)
East: Raven Ln. (Collector – not constructed)
West: Salem Rd. (Collector)

Water: The site currently <u>does not</u> have access to public water. The nearest water main is an 8" main to the south in Crystal Springs Phase I. Water service will need to be extended to and within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently <u>does not</u> have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is an 8" sewer main to the south. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 2.7 miles from the Fire Station #7. Response time to the property is approximately 7 minutes, with a projected response time of 8 minutes at full build-out.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **<u>will not</u>** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

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 proposed RSF-4 zoning for a Single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4.**

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

Finding: **The proposed zoning will provide additional traffic on all adjacent streets. Four streets surrounding the subject property are identified on the Master Street Plan as collector streets. Currently, Gypsum Drive dead-ends to vacant property to the east and Raven Lane is not constructed. However, Salem Rd. and West Salem Road are accessible and will be able to carry high volumes of traffic when improved at the time of development. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the 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 zoning would increase population density. Under an R-A, Residential Agricultural designation, the 10.0-acre tract would allow for a maximum of 5 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 40 dwelling units would be permitted, with a projected total of 88 future residents in this area. Rezoning the property significantly increases the possible number of residential units and population, but is consistent with land use and zoning in the immediate vicinity.**

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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**

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum: Residential: Nonresidential:	 2 acres 2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	**Wilkins**			**S7**	**2.7 Miles**	**7 Minutes**	**8 Minutes**	**9**	**4**	**6**
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mailco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 7, 2005

RECEIVED
FEB 09 2005
PLANNING DIV.

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1365: (WILKINNS, 245):** and Rezoning **RZN 05-1366 (WILKINS, 245)** submitted by MEL HOLLAND for property located at the EAST OF SALEM ROAD, NORTH OF THE CRYSTAL SPRINGS, PHASE I. This property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville and to rezone the subject property to RSF-4, Residential Single-family 4 units per acres.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **ANX 05-1370 (HALL 644, 645, 684):** Submitted by MEL HOLLAND for the property located at 2577, 2216, 2844, 2822 DEADHORSE MTN. ROAD. This property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1371: (HALL, 645, 684):** Submitted by MEL HOLLAND, for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.50 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 479-587-3555 FAX: 479-587-3522

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion.. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Capt William Brown

Captain William Brown
Fayetteville Police Department

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

December 21, 2004

Project No. E-728

FAYETTEVILLE
125 West Mountain
Fayetteville, Arkansas 72701

ATTN: Planning Division
RE: Annexation - Zoning Application

Application Item #5: Written statements addressing the following:

5.a. Current ownership information and any proposed or pending property sales:
The Current ownership is as described on the application, Global Development, LLC. There are no pending property sales at this time. The property has been purchased for proposed development.

5.b. Reason (need) for requesting the zoning change:
The zoning established by annexation does not provide for desired residential development by the Owner/Developer nor comparable with adjoining developed densities. Therefore RSF4 is requested at this time. The developer may request / propose a slightly higher density in presenting future planned development (PZD) for this project site.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage:
Land Use - Single family residences exist within the City limits, adjoining this tract to the south. Planned single family residential development adjoin this tract to the east. To the tract's west and north rural single family homes exist. It is likely that future development to the north will continue with similar residential densities.
Traffic - Development of this property would provide an entrance onto N-S Salem Road. With future planned development for the extension of Raven Road to the north a cross connection through this project site will occur.
Appearance - New home construction will continue to add an improving appearance of community growth. Compatibility of appearance will continue.
Signage - An attractively landscaped entrance is planned along with the protection of much of the existing tree canopy existing along N-S Salem Road.

5.d. Availability of water and sewer (state size of lines):
Existing 6" and 8" water, and 8" sanitary sewer mains, and utility easements exist adjacent to the site and have been designed for continued residential development expansion.

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Application Item #6: Written statements addressing the following:

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and plicies and with land use and zoning plans:

The proposed single family zoning is in concurrence with the City's long range planning objectives on its 2020 plan. It complies with the City's policies or organized expansion of city facilities and infrastructure, and with the principle of zoning and developing vacant tracts of land in continuity with the Official Land Use Plan. The requested zoning continues the planned residential growth consistent with the City's long range land use and zoning plan.

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:

The demand for single family homes in this area of the City of Fayetteville is in high demand.

6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion:

New development certainly generates increased traffic flow. However, the City of Fayetteville requires the developer to construct new streets through it's development and connectivity into the existing or for proposed street systems.

6.d. Whether the proposed zoning will alter the population density and thereby undesirable increase the load on the public services including schools, water, and sewer facilities:

New water and sanitary sewer mains will be extended to facilitate the new residents. The effect on public services will be negligible.

6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:

The highest and best use of the site is that of single family homes at the requested density of RSF4 or higher.

Respectfully submitted
Milholland Company

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

Todd Jorgensen
1/7/05 RZN05-1366
OK

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Applicant's Signature

SURVEY DESCRIPTION: PARCEL #001-15816-000

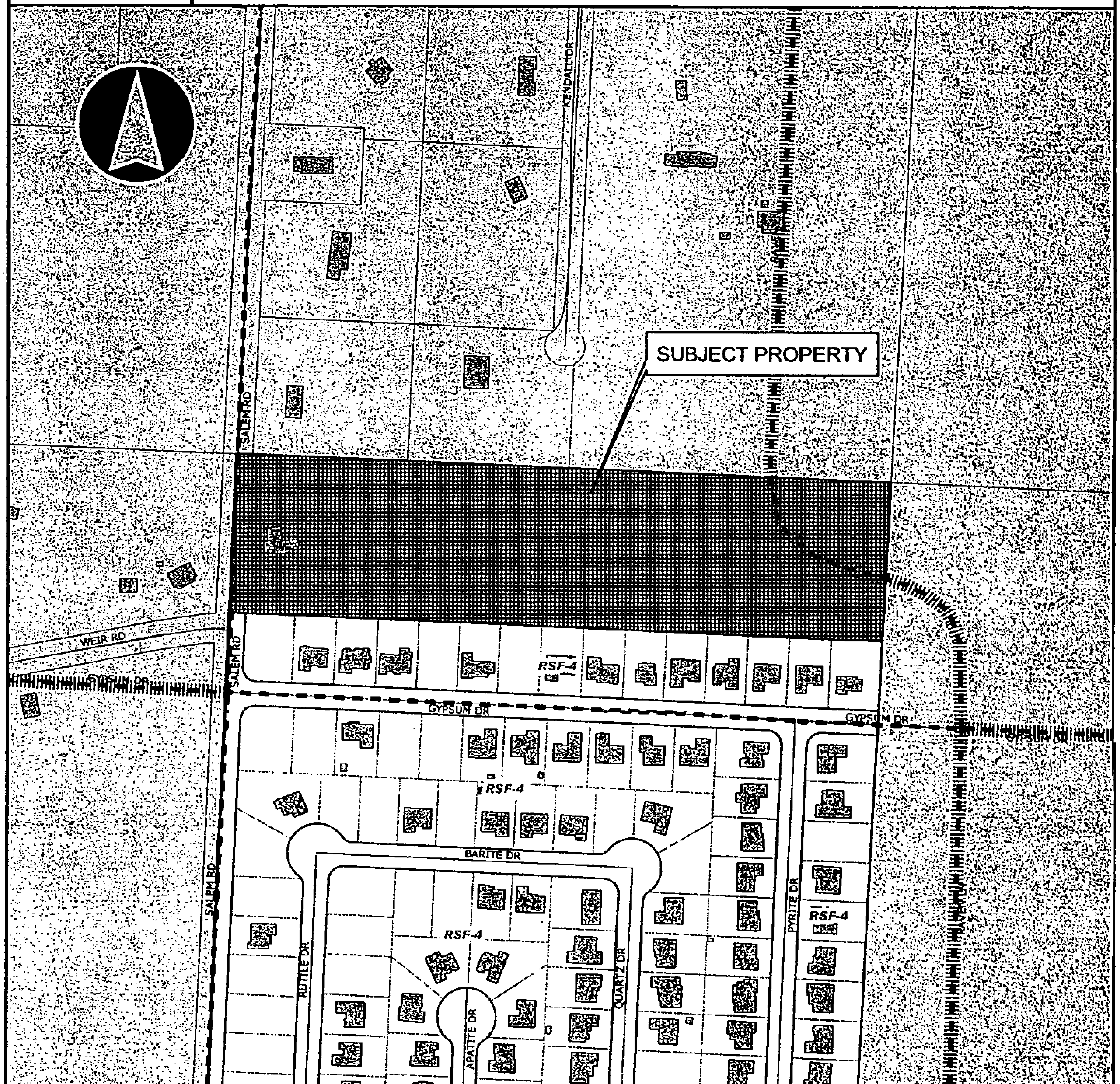
A PARCEL LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION; SAID POINT BEING A FOUND STONE AND THE POINT OF BEGINNING.

THENCE S 02° 58' 27" W 327.84 FEET TO A POINT ON THE EAST BOUNDARY OF SAID 40 ACRE TRACT; SAID POINT BEING THE NORTHEAST CORNER OF CRYSTAL SPRINGS PHASE I, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS FILED IN CIRCUIT CLERKS OFFICE OF WASHINGTON COUNTY, ARKANSAS;
THENCE ALONG NORTH BOUNDARY SAID SUBDIVISION
N 87° 35' 16" W 1327.14 FEET TO THE WEST BOUNDARY SAID FORTY;
THENCE N 02° 23' 44" E 327.82 FEET TO THE NORTHWEST CORNER SAID FORTY;
THENCE S 87° 35' 16" E 1330.45 FEET TO THE POINT OF BEGINNING CONTAINING 10.00 ACRES MORE OR LESS, WASHINGTON COUNTY, AR.

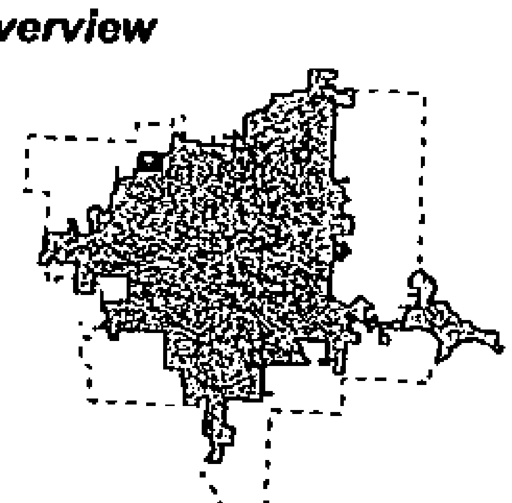
RZN 05-1366

Close Up View

WILKINS



Overview



Legend

RZN 05-1366

Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway

Principal Arterial
Minor Arterial
Collector
Historic Collector

FLOODWAY
100 YEAR

500 YEAR
LIMIT OF STUDY
BaseLine Profile

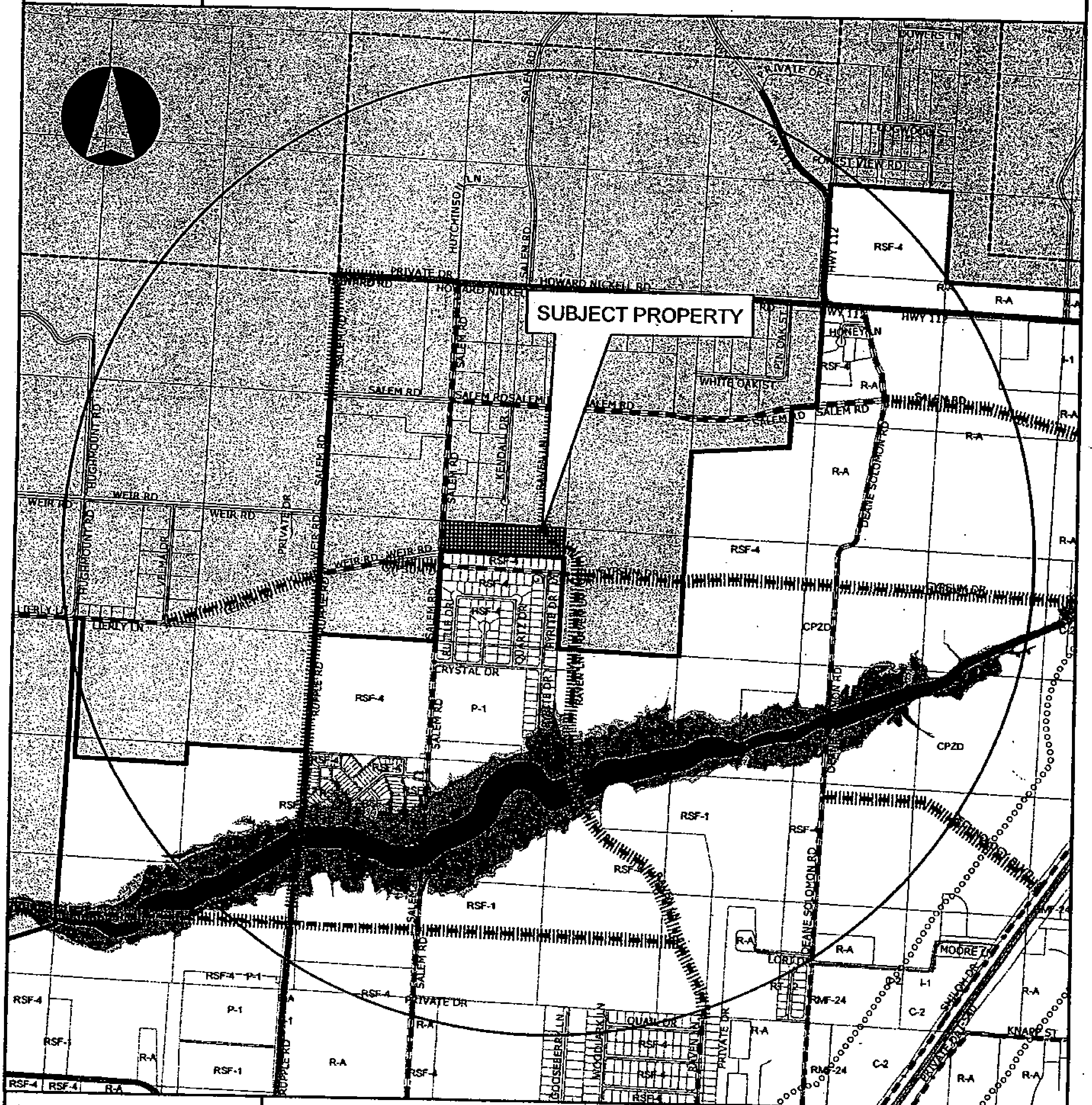
Fayetteville
Outside City

0 75 150 300 450 600 Feet

RZN 05-1366

One Mile View

WILKINS



Overview

Legend

Subject Property

RZN 05-1366

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

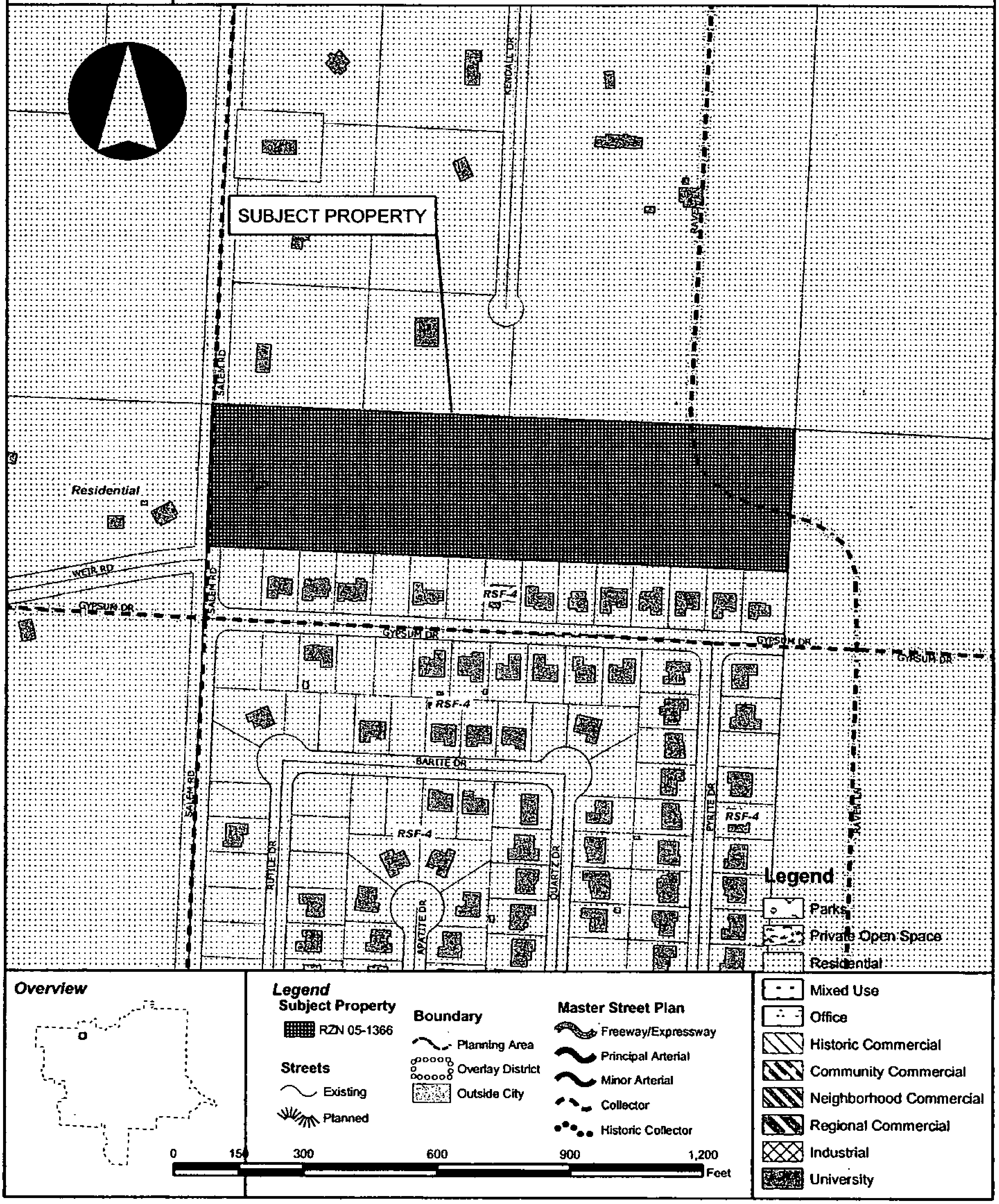
0 0.05 0.1 0.2 0.3 0.4

Miles

RZN 05-1366

Future Land Use

WILKINS



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-Mar-05
City Council Meeting Date

Submitted By	Division	Department
Jeremy Pate	Planning	Operations

Action Required:

RZN 05-1366: (Wilkins, 245): Submitted by Mel Milholland for property located East of Salem Road, North of Crystal Springs Subdivision, Phase I. The newly annexed property is zoned R-A, Residential Agricultural, and contains approximately 10.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, four units per acre.

Cost of this request	Category/Project Budget	Program Category / Project Name
$0.00	n/a	n/a

Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a

Project Number	Remaining Balance	Fund Name
n/a	n/a	n/a

Budgeted Item [ ]   Budget Adjustment Attached [ ]

Department Director: [signature] Date: 2-25-05

City Attorney: [signature] Date: 2-25-05

Mayor: Dan Coody Date: 2/28/05

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 2/25/05

Received in Mayor's Office
2/28/05 Y.H.

Comments:

City Council Meeting of March 15, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: February 22, 2005

Subject: Annexation for Hall (ANX 05-1370)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Hall, a 235.38 acre tract located on Dead Horse Mountain Road. This action will incorporate the 235.38-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

Property description: The subject properties are located on Dead Horse Mountain Road, east of the West Fork of the White River, southwest of Goff Farm Road. Approximately 80% of the county peninsula in this area is surrounded by existing city limits, with the exception of approximately 1500 feet along the south boundary. The area is a peninsula of county land that extends north a little over ½ mile into and between the current city limit boundaries. The west boundary is the West Fork of the White River, whose floodway and floodplain inhibits development on much of the west side of the property. The 235 acres consists of four tracts owned by separate individuals. The property is currently agricultural in nature, with several single family homes located throughout. Surrounding property is zoned R-A, Residential Agricultural, with the exception of the property to the far south, which is in the Planning Area.

Annexation of the property will create an island of unincorporated property, yet does alleviate some of the problems created by the extension of a county peninsula into the city limits. The annexation, while adding a net total of 235 acres into the city limits, does not extend the city limit boundary any further out than it currently exists. Rather, it creates a much more desirable boundary that will alleviate future problems with development of the area. Staff recommends the annexation of this property to ensure development in accordance with City Ordinances. Water and sewer service shall be extended to the property at the time of development, at the cost of the developer. Significant improvements to the infrastructure adjacent to this site in compliance with the Master Street Plan will be required at the time of development. City fire and police currently service the adjoining neighborhoods.

Proposal: The applicant requests annexation of the property into the City of Fayetteville. A rezoning request has also been submitted for a portion of the subject property, for RSF-4 zoning, while the remainder is to become R-A, Residential Agricultural. The applicant intends to develop the property for residential use within the City of Fayetteville.

Left on the 2nd reading 3/15/05

Request: The applicant requests annexation of the 235.38-acre tract into the City of Fayetteville.

DISCUSSION

This item was heard at the regular Planning Commission on February 14, 2005. The Planning Commission voted 7-2-0 to recommend in favor of the annexation, with Commissioners Clark and Allen voting no.

Staff recommends approval of the proposed annexation to ensure the future development of single family residential homes is consistent and compatible with adjoining development and is regulated in the same manner as property developing nearby, to achieve the common goals of the city. The annexation recommendation is two-pronged; should the Council vote to approve the subject annexation, staff intends on processing island annexation requests almost immediately to incorporate the remaining small parcels that are created as islands with the subject request. Staff finds it is desirable for this entire area to become incorporated into the city limits, thereby ensuring more cohesive current and long-range planning for the area's future land use and development. Public comment was received from the several adjacent and nearby property owners, both in favor of and against the requested annexation.

BUDGET IMPACT

None.

ORDINANCE NO. ________

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 05-1370 ANNEXING TO THE CITY OF FAYETTEVILLE, ARKANSAS, CERTAIN PROPERTY LOCATED AT 2577, 2216, 2844, 2822 DEADHORSE MOUNTAIN ROAD, CONTAINING APPROXIMATELY 235.38 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. One.

PASSED AND APPROVED this _____ day of ___________, 2005.

APPROVED:

By:________________________
Dan Coody, Mayor

ATTEST:

By:________________________
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 05-1370

ALL OF THE NORTHEAST QUARTER OF SECTION TWENTY-SIX (26) LYING AND BEING EAST OF WHITE RIVER, AND A PART OF SECTION TWENTY-FIVE (25), BEING A PART OF THE NORTHWEST QUARTER, AND THE NORTH HALF OF NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE WEST ONE HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; ALL LANDS ARE LOCATED IN T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS AND MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTH QUARTER (N1/4) CORNER OF SAID SECTION 25;

THENCE S02°35'26"W 843.62 FEET; THENCE S74°18'04"W 1046.81 FEET; THENCE S02°40'42"W 1462.55 FEET; THENCE S87°00'36"E 213.20 FEET; THENCE N02°35'26"E 443.00 FEET; THENCE S87°00'36"E 284.50 FEET; THENCE N 02°35'26"E 428.00 FEET; THENCE S87°00'36"E 284.50 FEET; THENCE S02°35'26"W 871.00 FEET;
TO THE SOUTH BOUNDARY OF THE NW1/4 OF SECTION 25;

THENCE N87°00'36"W 782.20 FEET; THENCE S02°59'21"W 659.85 FEET; THENCE N87°01'29"W 1658.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SECTION 25;THENCE N02°49'30"E 660.29 FEET TO THE E1/4 CORNER OF SAID SECTION 26; THENCE N87°03'19"W 374.79 FEET TO THE CENTER OF THE WHITE RIVER; THENCE ALONG THE CENTERLINE OF SAID RIVER N39°45'03"W 862.78 FEET, N13°46'25"W 642.69 FEET, N21°48'22"W 923.85 FEET, N69°23'38"W 367.13 FEET, S86°31'46"W 75.42 FEET, N56°45'52"W 308.00 FEET, N66°28'44"W 226.45 FEET AND N22°08'15"W 237.29 FEET TO A POINT ON THE NORTH LINE OF SECTION 26; THENCE S87°02'55"E 2529.31 FEET TO THE NORTHWEST CORNER OF SAID SECTION 25; THENCE S87°01'09"E 2645.72 FEET TO THE POINT OF BEGINNING CONTAINING 235.38 ACRES, MORE OR LESS, WASHINGTON COUNTY ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of February 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Interim Planning Director
DATE:	February 09, 2005

ANX 05-1370: (HALL, 644,645,684): Submitted by MEL MILHOLLAND for property located at 2577,2216,2844,2822 DEADHORSE MTN. ROAD. The property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Jeremy Pate

Property Owner: IMOGENE HALL
Property Owner: MARILYN JOHNSON HEIFNER
Property Owner: SCOTT & SYRONA SCOTT
Property Owner: JOHNNY & MELISA CARPER

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required YES**
	☑ Approved O Denied
Date: February 14, 2005	7-2-0 No: Clark, Allen
CITY COUNCIL ACTION:	**Required YES**
	O Approved O Denied
Date: March 15, 2005	

BACKGROUND:

Property description: The subject properties are located on Dead Horse Mountain Road, east of the West Fork of the White River, southwest of Goff Farm Road. The property is almost completely bordered by property that is already within the city limits (approximately 80% surrounded), with the exception of approximately 1500 feet along the south boundary. The area is a peninsula of county land that extends north a little over ½ mile into and between the current city limit boundaries The west boundary is the West Fork of the White River, whose floodway and floodplain inhibits development on much of the west side of the property. The 235 acres consists of four tracts owned by separate individuals. The attached exhibit "A" as prepared by the applicant and ordered by Judge Jerry Hunton best represents the individual tracts in question. The property is currently agricultural in nature, with several single family homes located throughout. Surrounding property is zoned R-A, Residential Agricultural, with the exception of the property to the far south, which is in the Planning Area.

Islands: The subject request for annexation is unique in nature, and has been a point of discussion for staff and the applicant since early 2004. Initially, the applicant approached staff regarding a proposal for a smaller tract, that which is to be developed in the future. The original tract technically would not have created an island of county property, but would create a worse situation than currently exists. Much of the property within this 80% city-surrounded area would not have been annexed, and thereby would create much larger problems in the future with public services. Staff advised the applicant on more than one occasion to approach the remaining landowners within this almost-surrounded area in the County in order to bring the entire area into the city limits at one time, thereby creating a more reasonable city limit boundary in this location. The applicant subsequently approached many of the landowners with offers to purchase, petitions to annex, and requests to annex. Several of the landowners have joined the original applicant in the request, but unfortunately not all were willing to do so at this time. *As a result, the request to annex the subject property will create two islands of county property that are completely surrounded by the Fayetteville City Limits.*

The "west" island is a remnant tract of property whose ownership is unknown. The applicant has traced its origins through abstractors to a U.S. patent issued by President Martin Van Buren on August 20, 1838. The receiver, a Mr. Thomas Standifor, is the last known property owner that has been found up to this point. The property is bound on the west by the river and to the north and east by the Hall property. It is located almost entirely within the floodway of the West Fork of the White River, rendering development for this tract almost impossible. See attached letter regarding ownership of this parcel.

The "east" island is made up of nine parcels with seven different owners, most of which are occupied. Several of the owners of these parcels were willing to join in the petition, however based on the state law for annexation, could not because they lacked adjacency to the city limits. There are property owners within this island that were not willing to join the petition for annexation to complete the boundary.

Staff's recommendation is two-pronged. Should the Council vote to accept this property into the city limits, it is staff's intent to follow through with the City's adopted policy of annexing islands in this process, much as all other islands were annexed into the City this past summer. Staff does <u>not</u> intend to establish a pattern of recommending annexations that create islands, as stated in the adopted annexation policy; however, the subject request presents a unique situation that we find pertinent and real in relation to the findings herein. Staff finds that annexing this entire area that is 80% surrounded by city services and limits is desirable and therefore supports the request for annexation.

Request: The request is to annex the subject property into the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A, Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the Hall tract (125.50 acres) to RSF-4, Residential Single Family, 4 Units per Acre and leave the remaining parcels as R-A, Residential Agricultural. The RSF-4 rezoning request, RZN 05-1371, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have few of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, developments adjacent to one another have very different standards, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

Recommendation: Staff recommends approval of the proposed annexation. Should the annexation request be approved, future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern. Should the annexation be approved, staff will soon be processing annexations for the islands created in this unique request.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Agricultural	R-A, Residential Agricultural
South	Parkland, agricultural	R-A, Residential Agricultural, Planning Area
East	Single family homes, golf course, agricultural	R-A, Residential Agricultural
West	White River, Industrial Park, parkland	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Currently the site has access to Dead Horse Mountain Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks. Additionally, development on the subject property has a high likelihood of accessing the substandard bridge on Dead Horse Mountain Road north of the property as its primary means of access toward the center of the city. An assessment for a proportionate share of the cost of this bridge is anticipated at the time of development. Specific street improvements will be evaluated based on the development proposed, to meet ordinance requirements.

Water: The site currently does have access to public water. The nearest water main is a 6" main on the east side along Dead Horse Mountain Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is a 12" sewer main to the west. A capacity analysis of the sewer lines and/or lift stations downstream of the connection point shall be conducted prior to development.

Fire: The subject property is located 2.9 miles from Fire Station #5. Normal driving time is 7 minutes. The property is located approximately 3 miles from the future Fire Station #3. Normal driving time is 7 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services. It is anticipated that response time will be increased for calls for service because the property is at the limits of the current service area. However, the actual travel time is does not increase beyond that which is already served.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as **Residential.**

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: **The requested annexation will create two islands of unincorporated property. The property is the majority of a larger peninsula of county land that extends into and is 80% surrounded by Fayetteville city limits. As outlined in the information presented in the staff report, staff supports the request to bring this area into the City Limits. The property is almost completely surrounded by incorporated city limits; public service providers and emergency personnel are currently required to access portions of the city by traveling through the county in this area. Not all property owners were willing to annex voluntarily at this time, though the applicant prepared surveys for all of the properties in question and approached several of the landowners on multiple occasions. It is staff's intent to follow this annexation with a request for island annexation almost immediately, in keeping with the city policy.**

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the city limits along its north, south east and west boundaries, with approximately 80% of its boundaries adjacent to the city limits. The request does not extend the city limit boundary further south than the current limits reach; rather, it incorporates the majority of a large peninsula of county land that extends north into the city limits.**

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: **This area does not divide neighborhoods. The boundary follows the river to the west, and incorporates primarily agricultural and undeveloped land.**

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **Proposed boundaries primarily follow property lines, though the boundary to the west is the natural corridor of the West Fork of the White River. This area inhibits approximately 25% of the property from development, due to its location within the floodway.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **Current conditions result in a response time of 7 minutes for fire protection from Fire Station #5 and from the future Fire Station #3. The property has access to a 6" water main to the east along Dead Horse Mountain Road. An extension of the water main and potential loop will be required to provide adequate water supply and fire protection within any development on this property. Future plans for the old Tyson Complex include a new fire station to serve this area of town, which will add another nearby emergency response team.**

Sewer service is not available in the county. Sewer will have to be extended for development in the area at the cost of the developer, likely from the 12" line to the west; the site does not currently have direct access to this service and in order to develop will necessitate the extension of sewer lines to the property in accordance with city ordinance.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: **Floodplain and floodway associated with the West Fork of the White River is located along the western boundary of the property. Development may not occur in the floodway without federal approval. Development within the floodplain is best regulated by the City's stormwater and floodplain ordinances. The environmentally sensitive areas on the property would be best protected utilizing appropriate city development regulations, which are only required if the property is annexed.**

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: **Water and sewer lines are accessible in the vicinity. Sewer does not currently exist on-site, and must be extended from the west. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided for this request, though the impact from a sum total of increase in population density has caused an increase in service call response time. Fire service may also be adequately provided to the site with current and projected fire stations. Public services currently serve areas of the city beyond this request, effectively traveling through this portion of the county to access city limits beyond. The net travel time is thus not increased to serve this property beyond that which is already served in the area.**

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: **Fire and police service are to be provided to this area with the same level of response and service as other city developments in this area. Actual travel time is not increased for police or fire services. Sewer and water improvements to the area in general will be provided for with the development of the property in question, at the cost of the developer.**

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: **These factors were taken into consideration in the responses and recommendations from public service providers included in this report.**

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: **Water, fire and police protection are currently provided in this area. The property is almost completely surrounded by city limits, to which utilities and other public service providers already respond.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. As it exists currently, annexation of the property would not require the upgrading of utilities, unless and until additional development that increases the demand on public services is proposed. At that time, the developer shall provide the new and/or improved infrastructure necessary to serve the proposed development.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **The only adjacent jurisdiction is Washington County, which has very limited land use regulations.**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: **The city currently serves this area with water. Stormwater regulations are not reviewed at the Washington County level, to the best of staff's knowledge. Sewer is not permitted within the county without City Council approval, thus the only option for sewer is individual septic or package/community septic systems to serve future development outside the city.**

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations that are approved are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone approximately 125 acres of the total 235 acres to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with nearby developed and developing property and the Residential classification of the area on the City's adopted Future Land Use Plan. The remaining property is requested to be retained as R-A, Residential Agricultural.**

11.6.p An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department, along with any other interested city divisions, to study this annexation request to determine if facilities and services are available to serve this property.**

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **At the time the owner desires to develop or subdivide this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request on many different occasions. The applicant has asked each of the property owners within the area to sign a petition for annexation in order for an island to not be created. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled. Public comment from adjoining neighbors was received at the Planning Commission meeting, both for and against the annexation proposal.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **The annexation of this property will create a much more acceptable boundary for the City of Fayetteville city limits, allowing for a peninsula of the county almost completely surrounded by incorporated city limits to become part of the city. The request does not extend the city limit boundary further south than the current limits reach. The undesirable boundary this request creates is the creation of two islands of county property, which staff intends to process as island annexations in order to complete the more uniform boundary.**

11.6.t Conduct a fiscal impact assessment on large annexations.

Finding: **A fiscal impact assessment has not been conducted for this property.**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
11.6.d Boundaries for annexed areas should follow natural corridors.
11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

11.6.g Public services must be able to be provided efficiently in newly annexed areas.
11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

11.6.j Areas currently served by utilities and other public services should be annexed.
11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

11.6.m Promote long-range planning with adjacent jurisdictions.
11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

11.6.o Designate zoning districts for the property during the annexation process.
11.6.p An annexation study should be completed on all annexation proposals.
11.6.q Development proposals require a separate review from the annexation proposals.
11.6.r Residents should be fully informed of annexation activities.
11.6.w Encourage larger annexations to create acceptable boundaries.
11.6.t Conduct a fiscal impact assessments on large annexations.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 7, 2005

RECEIVED
FEB 09 2005
PLANNING DIV.

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1365: (WILKINNS, 245):** and Rezoning **RZN 05-1366 (WILKINS, 245)** submitted by MEL HOLLAND for property located at the EAST OF SALEM ROAD, NORTH OF THE CRYSTAL SPRINGS, PHASE I. This property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville and to rezone the subject property to RSF-4, Residential Single-family 4 units per acres.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **ANX 05-1370 (HALL 644, 645, 684):** Submitted by MEL HOLLAND for the property located at 2577, 2216, 2844, 2822 DEADHORSE MTN. ROAD. This property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1371: (HALL, 645, 684):** Submitted by MEL HOLLAND, for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.50 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

It is the opinion of the Fayetteville Police Department that this rezoning **will** substantially alter the population density however it **will not** create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area. We do recommend that the road system be improved on Dead Horse Mountain Road to accommodate the increased traffic and emergency response

In reference to **RZN 05-1378: (HALL, 644):** Submitted by MEL HOLLAND, for property located at THE S SIDE OF HWY 16E, W OF DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 15.12 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1372 (MAILCO USA INC., 678-717):** Submitted by STEVE CLARK for the property located at S. SCHOOL AVENUE, E OF HWY 71 AND N OF WHILLOCK STREET. The property is zoned RSF-4 SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 2.536 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **RSN 05-1374: (CORNERSTONE/FUTRALL, 402):** Submitted by KIM FUGITT for property located at 1144 FUTRALL DRIVE. The property is zoned SRF-4, SINGLE FAMILY-4 UNITS/ACRE and contains approximately 0.53 acres. The request is to rezone the subject property to R-O, Residential Office.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion.. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Cpt. Wm K Brown

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	Wilkins			S7	2.7 Miles	7 Minutes	8 Minutes	9	4	6
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mallco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Monday, January 24, 2005

Project No. E-705

FAYETTEVILLE
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Annexation request of Hall property
ANX 05-1370 Hall; RZN 05-1371 Hall; RZN 05-1378 Goff/Hall

Dear Mayor Coody, Planning Commission Members, and Planning Division Staff:

In support of our client, Mr. Clint McDonald, NLC INC, MCO respectfully requests your concurrence and support of the referenced property's Annexation and Zoning into the City of Fayetteville, Arkansas. Considerable effort, planning, and coordination has occurred on behalf of our client, Mr. McDonald, between land owners and with assistance from City Planning, Mr. Tim Conklin and his great staff, City Aldermen Brenda Thiel and Robert Reynolds, City Attorney Kit Williams, and Washington County Attorney George Butler. Their combined efforts and assistance have succeeded in adhering to the reduction of created land islands within the City Limits and to the enforcement of productive community development.

Annexation of the Hall property for proposed future development under City of Fayetteville guidelines, ordinances and standards for services, begin with the Offer and Acceptance to purchase the Hall property by Mr. Clint McDonald on April 20, 2004. Mr. McDonald envisions a mid-income planned community development with quality amenities of utilities, green spaces with vistas beyond the lot next door, pedestrian friendly access to undisturbed natural wooded and open areas. He envisions a development that displays constructed characteristics of stability and unity, a development displaying a landscaped atmosphere of stewardship with the site's natural terrain.

The following day, April 21, 2004, Mr. McDonald contacted MCO to begin preliminary site concept designs. And, shortly there after meet with City Staff of Planning and Engineering, to discuss annexation into the City of Fayetteville, for development of a proposed residential subdivision.

Mr. Milholland, cognizant of the City's concerns for created land islands within City Limits, met with Tim Conklin and City Planning Staff (Dawn Warrick, Suzanne Morgan, and Jeremy Pate) to determine acceptable methods and with Kit Williams, City Attorney, for interpretation and technical advise for proper annexation. Several scenarios were presented for consideration. Mr. McDonald followed the City's recommendation(s) and expanded his efforts for annexation into the City to include surrounding properties and adjoining neighbors.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Mr. McDonald has put forth extensive effort throughout much of this past year, 2004, meeting with land owners of the neighborhood presenting them with an outline of benefits and offering at his expense the opportunity to sign a petition expressing interest to be part of a group annexation. While some land owners did not desire to be annexed, several land owners have taken part in this petition, along with that of the 200 acres of Hall property. Mr. McDonald had all properties surveyed and platted. He hand delivered to the land owner expressing interest to be annexed into the City of Fayetteville applications of annexation for their signature.

Each land owner petitioning for annexation into the City of Fayetteville has properly progressed through the process, that includes advertisements and receiving signed decrees from the County Judge, to this point for your approval and acceptance into the City of Fayetteville. Throughout the process, Mr. McDonald's attorney along with the City's attorney, Kit Williams, and the County's attorney, George Butler, worked diligently through the details of compliance with the laws of annexation. It was Mr Butler's interpretation that only those land owners currently adjoining the City Limits could be annexed at this time, which is the petition present before you.

The petition for annexation proposed before you is one of a community of neighboring land owners. These petitioners have been made aware of the annexation process and of the benefits (utilities, police and fire protection, etc.) of becoming apart of the City of Fayetteville.

Mr. Clint McDonald, respectively request the City of Fayetteville Planning Commission to recommend to the Fayetteville City Council, to approve this application request for annexation.

Sincerely,
Milholland Company

Melvin L. Milholland, P.E., R.L.S.

NLC, INC

Clint McDonald

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Monday, February 14, 2005

Project No. E-705

CITY of FAYETTEVILLE
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Annexation request of Hall property
ANX 05-1370 Hall

Dear Mayor Coody, Planning Commission Members, and Planning Division Staff:

In regard to the boundary of the Hall Annexation, there is a small triangle shaped parcel of land located in the northeast corner of the Southeast (SE 1/4) of Section 26, lying east of the West Fork of the White River and west of the Hall property in Section 25 and south of the Hall property in the NE 1/4 of section 26, T-16-N, R-30-W, of which the chain of title cannot be located by the city staff nor the project abstractor, after the original patent in the early 1800's. Said property is in the same NE 1/4 of the SE 1/4 of Section 26 along the east boundary of the Fayetteville Industrial Park, but no one has found chain of title to said parcel.

The property is not owned by the Applicant, the Halls, and is therefore not a part of the Application to be Annexed into the City of Fayetteville. Search for the history of annexation of said section did not reveal said triangle parcel to have been annexed into the city.

The applicant , respectively request the City of Fayetteville Planning Commission to recommend to the Fayetteville City Council, to approve this application request for annexation without regard to the said triangle tract of land history nor notification of unknown land owner..

Sincerely,
Milholland Company

Melvin L. Milholland, P.E., R.L.S.

NLC, INC

Clint McDonald

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

IN THE COUNTY COURT OF WASHINGTON COUNTY

FILED

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE CITY OF FAYETTEVILLE, ARKANSAS

2005 JAN 4 AM 10 24

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

NO. CC 2004-12

ORDER OF ANNEXATION

Now on this 4th day of January, 2005, this cause comes on to be heard, the Petitioners, Imogene M. Hall, as Trustee of the Hall Marital Deduction Trust Effective 12-23-02, Imogene M. Hall, as Trustee of the Hall Bypass Trust Effective 12-23-02, Imogene M. Hall, as Trustee of the Hall Family Trust, Marilyn Johnson Heifner, as Trustee of the Marilyn Johnson Trust, Kenneth D. Scott, Syrona R. Scott, Johnny Lee Carper, and Melisa Lynne Carper, who are represented by the Engineer of Record, Melvin Milholland, Clint McDonald, and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 24th day of November, 2004 at which time this Court fixed the 4th day of January, 2005, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.

2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the

property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.

3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

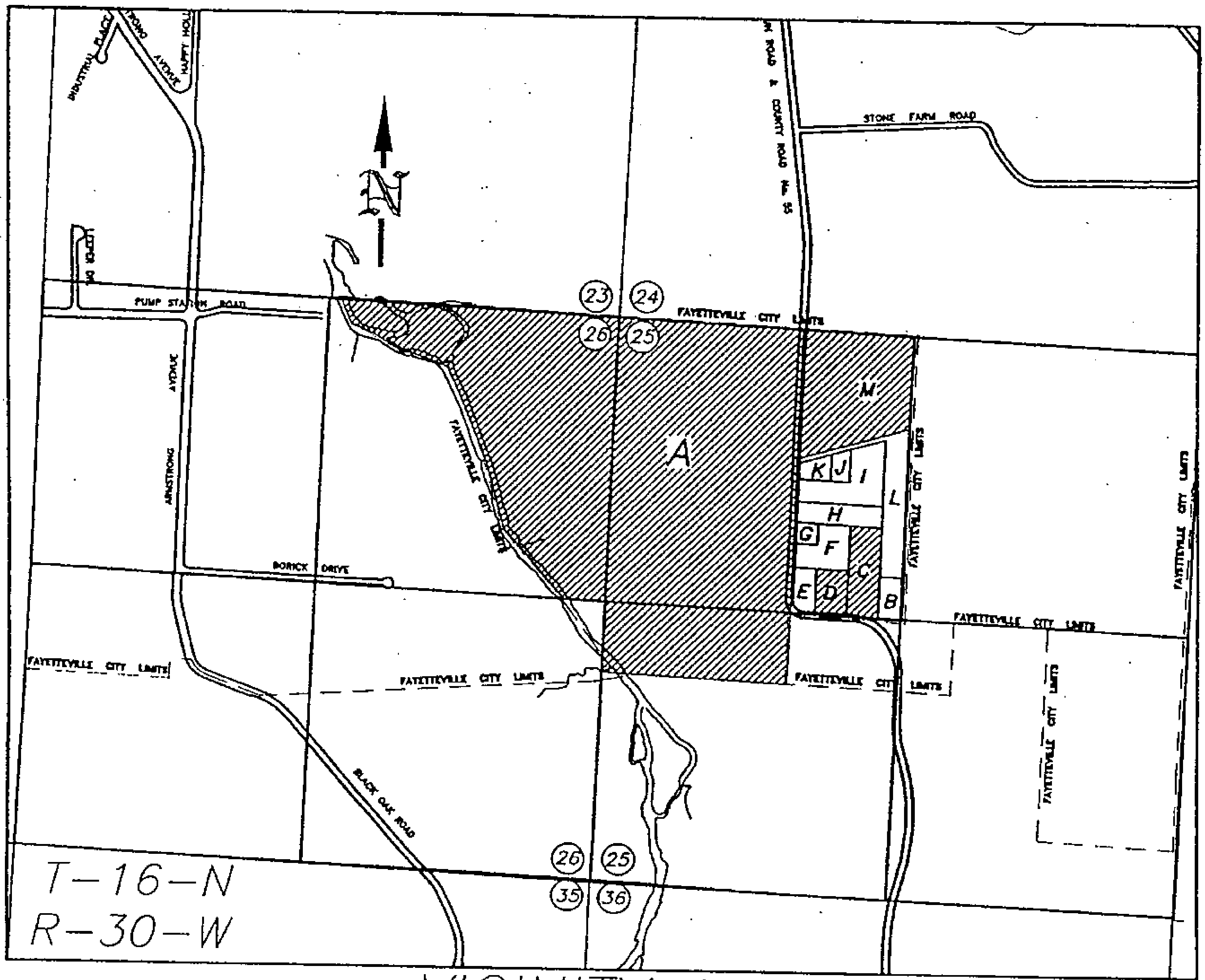
IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 4th day of January, 2005.

Jerry Hunton

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT "A"



VICINITY MAP

E-705

RACTS "A, C, D & M": ALL TRACTS ARE TOUCHING EXISTING CITY LIMITS
ASHINGTON COUNTY FILE #'S: SEE INDIVIDUAL TRACT DESCRIPTIONS
AND OWNER NAMES': SEE INDIVIDUAL TRACT DESCRIPTIONS

NNEXATION BOUNDARY:

LL OF THE NORTHEAST QUARTER OF SECTION TWENTY-SIX (26) LYING AND BEING EAST OF WHITE RIVER, AND A PART OF ECTION TWENTY-FIVE (25), BEING A PART OF THE NORTHWEST QUARTER, AND THE NORTH HALF OF NORTHWEST QUARTER OF HE SOUTHWEST QUARTER, AND THE WEST ONE HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE OUTHWEST QUARTER; ALL LANDS ARE LOCATED IN T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, AND MORE ARTICULARLY DESCRIBED AS BEGINNING AT THE NORTH QUARTER (N1/4) CORNER OF SAID SECTION 25;
THENCE S 02° 35' 26" W 843.62 FEET; THENCE S 74° 18' 04" W 1046.81 FEET; THENCE S 02° 40' 42" W 1462.55 FEET;
THENCE S 87° 00' 36" E 213.20 FEET; THENCE N 02° 35' 26" E 443.00 FEET; THENCE S 87° 00' 36" E 284.50 FEET;
THENCE N 02° 35' 26" E 428.00 FEET; THENCE S 87° 00' 36" E 284.50 FEET; THENCE S 02° 35' 26" W 871.00 FEET;
TO THE SOUTH BOUNDARY OF THE NW1/4 OF SECTION 25;
THENCE N 87° 00' 36" W 782.20 FEET; THENCE S 02° 59' 21" W 659.85 FEET; THENCE N 87° 01' 29" W 1658.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SECTION 25;
THENCE N 02° 49' 30" E 660.29 FEET TO THE E1/4 CORNER OF SAID SECTION 26;
THENCE N 87° 03' 19" W 374.79 FEET TO THE CENTER OF THE WHITE RIVER; THENCE ALONG THE CENTERLINE OF SAID RIVER N 39° 45' 03" W 862.78 FEET, N 13° 46' 25" W 642.69 FEET, N 21° 48' 22" W 923.85 FEET,
N 69° 23' 38" W 367.13 FEET, S 86° 31' 46" W 75.42 FEET, N 56° 45' 52" W 308.00 FEET,
N 66° 28' 44" W 226.45 FEET AND N 22° 08' 15" W 237.29 FEET TO A POINT ON THE NORTH LINE OF SECTION 26;
THENCE S 87° 02' 55" E 2529.31 FEET TO THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S 87° 01' 09" E 2645.72 FEET TO THE POINT OF BEGINNING
ONTAINING 235.38 ACRES, MORE OR LESS, WASHINGTON COUNTY ARKANSAS.

FILED
'04 NOV 24 PM 2 55
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN PROPERTY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

NO. CC 2004-720

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Come now the petitioners (the "Petitioners"), whose names are set forth in Attachments A through D to this petition with such attachments incorporated into and a part of this petition, to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. states as follows:

1. That Petitioners collectively own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and the Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District. The portion of the Real Property set forth in Exhibit A owned by each individual petitioner is set forth in Attachments A through D to this petition.

2. That Petitioners name Melvin Milholland, Clint McDonald, and James Atwood, Attorney at Law, P.A. as the persons authorized to act on their behalf with respect to this petition.

3. That the Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.

4. That a true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.

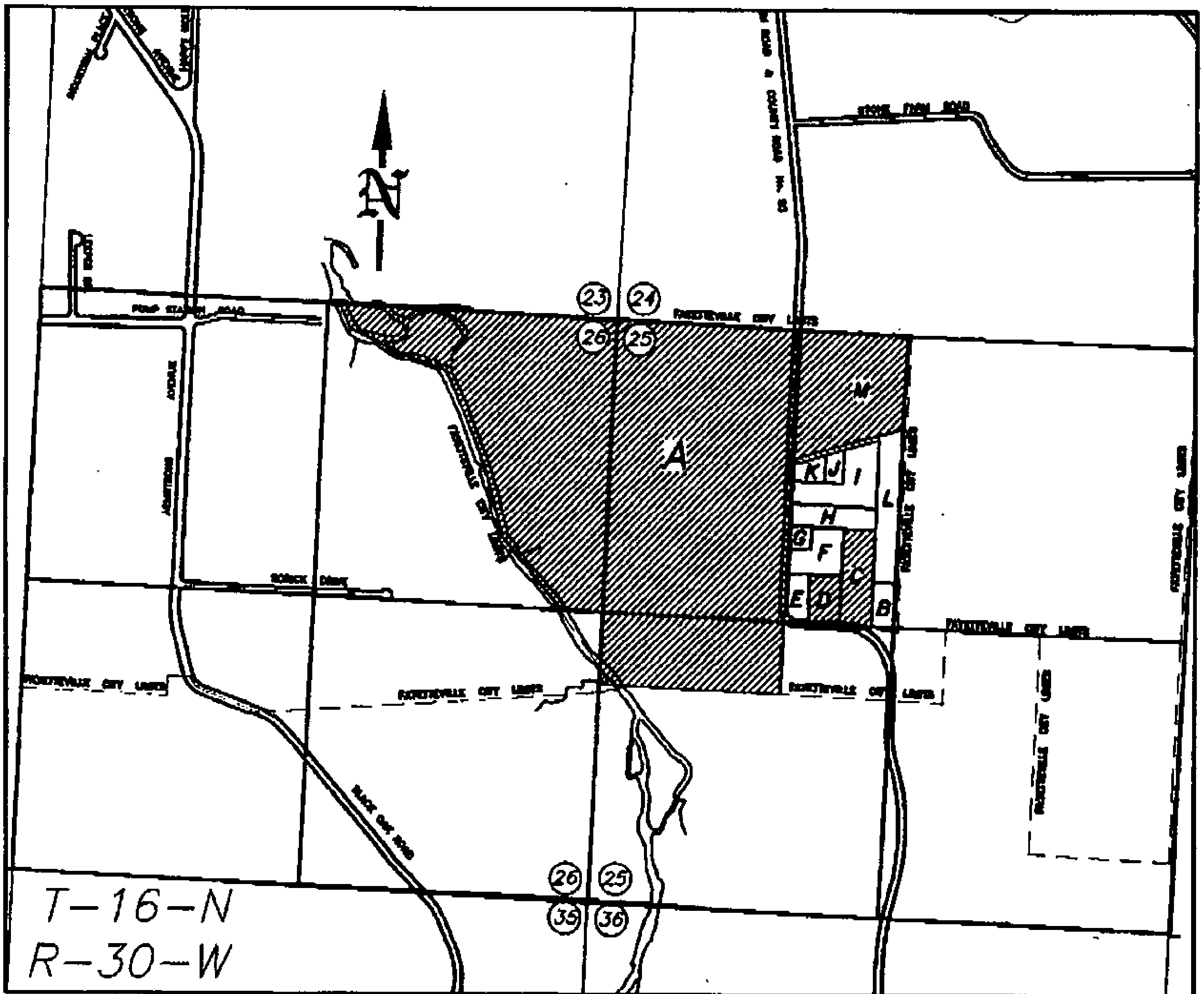
5. That the Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioners state that they will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioners respectfully pray that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described Real Property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully submitted this 24 day of November, 2004.

Each of the Petitioners has executed this document in Attachments A through D of this petition.

EXHIBIT "A"



VICINITY MAP

E-705

TRACTS "A, C, D & M": ALL TRACTS ARE TOUCHING EXISTING CITY LIMITS
WASHINGTON COUNTY FILE #'S: SEE INDIVIDUAL TRACT DESCRIPTIONS
LAND OWNER NAMES': SEE INDIVIDUAL TRACT DESCRIPTIONS

ANNEXATION BOUNDARY:

ALL OF THE NORTHEAST QUARTER OF SECTION TWENTY-SIX (26) LYING AND BEING EAST OF WHITE RIVER, AND A PART OF SECTION TWENTY-FIVE (25), BEING A PART OF THE NORTHWEST QUARTER, AND THE NORTH HALF OF NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE WEST ONE HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; ALL LANDS ARE LOCATED IN T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, AND MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTH QUARTER (N1/4) CORNER OF SAID SECTION 25;
THENCE S 02° 35' 26" W 843.62 FEET; THENCE S 74° 18' 04" W 1046.81 FEET; THENCE S 02° 40' 42" W 1462.55 FEET;
THENCE S 87° 00' 36" E 213.20 FEET; THENCE N 02° 35' 26" E 443.00 FEET; THENCE S 87° 00' 36" E 284.50 FEET;
THENCE N 02° 35' 26" E 428.00 FEET; THENCE S 87° 00' 36" E 284.50 FEET; THENCE S 02° 35' 26" W 871.00 FEET;
TO THE SOUTH BOUNDARY OF THE NW1/4 OF SECTION 25;
THENCE N 87° 00' 36" W 782.20 FEET; THENCE S 02° 59' 21" W 659.85 FEET; THENCE N 87° 01' 29" W 1658.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SECTION 25;
THENCE N 02° 49' 30" E 660.29 FEET TO THE E1/4 CORNER OF SAID SECTION 26;
THENCE N 87° 03' 19" W 374.79 FEET TO THE CENTER OF THE WHITE RIVER; THENCE ALONG THE CENTERLINE OF SAID RIVER N 39° 45' 03" W 862.78 FEET, N 13° 48' 25" W 642.69 FEET, N 21° 48' 22" W 923.85 FEET,
N 69° 23' 38" W 367.13 FEET, S 86° 31' 46" W 75.42 FEET, N 36° 45' 52" W 308.00 FEET,
N 66° 28' 44" W 226.45 FEET AND N 22° 08' 15" W 237.29 FEET TO A POINT ON THE NORTH LINE OF SECTION 26;
THENCE S 87° 02' 55" E 2529.31 FEET TO THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S 87° 01' 09" E 2645.72 FEET TO THE POINT OF BEGINNING
CONTAINING 235.38 ACRES, MORE OR LESS, WASHINGTON COUNTY ARKANSAS.

ATTACHMENT A

FILE: 95019652

I, IMOGENE M. HALL, as the TRUSTEE OF THE HALL MARITAL DEDUCTION TRUST EFFECTIVE 12-23-02, hereby certify that I hold an undivided 1/11th interest in the following described real property in fee simple absolute, and I am executing this Attachment A to be included in the petition to annex all of the Real Property described in Exhibit A to the petition into the City of Fayetteville, Arkansas. Further, I adopt in its entirety the petition to which this attachment is a part.

I, IMOGENE M. HALL, as the TRUSTEE OF THE HALL BYPASS TRUST EFFECTIVE 12-23-02, hereby certify that I hold an undivided 10/11th interest in the following described real property in fee simple absolute, and I am executing this Attachment A to be included in the petition to annex all of the Real Property described in Exhibit A to the petition into the City of Fayetteville, Arkansas. Further, I adopt in its entirety the petition to which this attachment is a part.

ANNEXATION BOUNDARY:

THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION TWENTY FIVE (25); THE WEST HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION TWENTY FIVE (25); THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION TWENTY FIVE (25); AND A TRACT OF LAND IN THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTH WEST QUARTER OF SECTION TWENTY FIVE (25), BEING TWENTY (20) RODS EAST AND WEST AND FORTY (40) RODS NORTH AND SOUTH; ALL OF THE NORTHEAST QUARTER OF SECTION TWENTY SIX (26) LYING AND BEING EAST OF WHITE RIVER; ALL IN TOWNSHIP SIXTEEN (16) NORTH OF RANGE THIRTY (30) WEST AND BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 25;

THENCE S 87° 01' 09" E 1653.58 FEET;
THENCE S 02° 40' 42" W 2641.43 FEET;
THENCE S 02° 59' 21" W 659.85 FEET;
THENCE N 87° 01' 29" W 1658.44 FEET TO A POINT ON THE WEST BOUNDARY OF SAID SECTION 25;
THENCE N 02° 49' 30" E 660.29 FEET TO THE E1/4 CORNER OF SECTION 26;
THENCE N 87° 03' 19" W 374.79 FEET TO THE CENTER OF THE WHITE RIVER;
THENCE ALONG THE CENTERLINE OF SAID RIVER
N 39° 45' 03" W 862.78 FEET,
N 13° 46' 25" W 642.69 FEET,
N 21° 48' 22" W 923.85 FEET,

N 69° 23' 38" W 367.13 FEET,
S 86° 31' 46" W 75.42 FEET,
N 56° 45' 52" W 308.00 FEET,
N 66° 28' 44" W 226.45 FEET AND
N 22° 08' 15" W 237.29 FEET TO A POINT ON THE NORTH LINE OF SECTION 26,

THENCE S 87° 02' 55" E 2529.31 FEET TO THE POINT OF BEGINNING. CONTAINING 203.73 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

The petition is hereby executed this 3 day of NOVEMBER, 2004.

HALL MARITAL DEDUCTION TRUST EFFECTIVE 12-23-02

Imogene M. Hall
IMOGENE M. HALL, as the TRUSTEE OF THE HALL MARITAL DEDUCTION TRUST EFFECTIVE 12-23-02

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 3 day of November, 2004.

My Commission Expires:
4-1-13 Amanda L Arnold

OFFICIAL SEAL
AMANDA L. ARNOLD
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 04/01/2013

HALL BYPASS TRUST EFFECTIVE 12-23-02

Imogene M. Hall
IMOGENE M. HALL, as the TRUSTEE OF THE HALL BYPASS TRUST EFFECTIVE 12-23-02

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 3 day of November, 2004.

My Commission Expires:
4-1-13 Amanda L Arnold

OFFICIAL SEAL
AMANDA L. ARNOLD
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 04/01/2013

HALL FAMILY TRUST

Imogene M. Hall

IMOGENE M. HALL, trustee of the Hall Family Trust

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 3 day of November, 2004.

My Commission Expires:

4-1-13 Amanda Arnold

OFFICIAL SEAL
AMANDA L. ARNOLD
NOTARY PUBLIC, ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 04/01/2013

ATTACHMENT B

FILE#: BK 1152 PAGE 001

I, MARILYN JOHNSON as TRUSTEE of the MARILYN JOHNSON TRUST, hereby certify that I hold the following described real property as trustee in fee simple absolute, and I am executing this Attachment B to be included in the petition to annex all of the Real Property described in Exhibit A to the petition into the City of Fayetteville, Arkansas. Further, I adopt in its entirety the petition to which this attachment is a part.

ANNEXATION BOUNDARY:

A PART OF THE EAST 3/4 OF THE NW1/4 OF SECTION 25, T-16-N, R-30-W, BEGINNING AT THE N 1/4 CORNER OF SAID SECTION;

THENCE S 02° 35' 26' W 843.62 FEET ALONG THE QUARTER SECTION LINE TO IT'S INTERSECTION WITH THE NORTH RIGHT-OF-WAY OF THE OLD FRISCO RAILROAD;

THENCE ALONG SAID RIGHT-OF-WAY S 74° 18' 04" W 1046.81 FEET;

THENCE N 02° 40' 42" E 1178.88 FEET TO THE NORTH BOUNDARY OF SAID SECTION 25;

THENCE S 87° 01' 09" E 992.15 FEET TO THE POINT OF BEGINNING,

CONTAINING 23.05 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

The petition is hereby executed this 4 day of November, 2004.

MARILYN JOHNSON TRUST

Marilyn J. Heifner

MARILYN JOHNSON, as trustee of the
MARILYN JOHNSON TRUST

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 4th day of November, 2004.

My Commission Expires: 4-1-2009

Phyllis T. Tucker

Official Seal
PHYLLIS T. TUCKER
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 4-1-2009

ATTACHMENT C

FILE # 2002070933

We, KENNETH D. SCOTT & SYRONA R. SCOTT hereby certify that we hold the following described real property in fee simple absolute, and we are executing this Attachment C to be included in the petition to annex all of the Real Property described in Exhibit A to the petition into the City of Fayetteville, Arkansas. Further, we adopt in its entirety the petition to which this attachment is a part.

ANNEXATION BOUNDARY:

A PART OF THE EAST 3/4 OF THE NW1/4 OF SECTION 25, T-16-N, R-30-W, COMMENCING AT THE CENTER OF SAID SECTION, AND CONTINUING THENCE N 87° 00' 36" W 214.00 FEET TO THE POINT OF BEGINNING:
THENCE N 87° 00' 36" W 284.50 FEET;
THENCE N 02° 35' 26" E 871.00 FEET;
THENCE S 87° 00' 36" E 284.50 FEET;
THENCE S 02° 35' 26" W 871.00 FEET TO THE POINT OF BEGINNING, CONTAINING 5.69 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

The petition is hereby executed this 9 day of November, 2004.

Kenneth D. Scott
KENNETH D. SCOTT

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 9 day of November 2004.

Nancy Baker

NANCY BAKER
Notary Public – Arkansas
County of Washington
My Commission Exp. 11/10/2010

My Commission Expires:

11-10-2010

Syrona R. Scott
SYRONA R. SCOTT

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 9 day of November 2004.

Nancy Baker

My Commission Expires:

11-10-2010

NANCY BAKER
Notary ... Arkansas

ATTACHMENT D

FILE # 93-39613

We, JOHNNY LEE CARPER & MELISA LYNNE CARPER hereby certify that we hold the following described real property in fee simple absolute, and we are executing this Attachment D to be included in the petition to annex all of the Real Property described in Exhibit A to the petition into the City of Fayetteville, Arkansas. Further, we adopt in its entirety the petition to which this attachment is a part.

ANNEXATION BOUNDARY:

A PART OF THE EAST 3/4 OF THE NW1/4 OF SECTION 25, T-16-N, R-30-W, COMMENCING AT THE CENTER OF SAID SECTION, AND CONTINUING THENCE N 87° 00' 36" W 498.50 FEET TO THE POINT OF BEGINNING:

THENCE N 87° 00' 36" W 284.50 FEET;
THENCE N 02° 35' 26" E 443.00 FEET;
THENCE S 87° 00' 36" E 284.50 FEET;
THENCE S 02° 35' 26" W 443.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.89 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

The petition is hereby executed this 09 day of November, 2004.

Johnny Lee Carper
JOHNNY LEE CARPER

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 9 day of November, 2004.

Nancy Baker

My Commission Expires:

11-10-2010

NANCY BAKER
Notary Public – Arkansas
County of Washington
My Commission Exp. 11/10/2010

Melisa Lynne Carp
MELISA LYNNE CARPER

SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 9 day of November, 2004.

Nancy Baker

My Commission Expires:

11-10-2010

NANCY BAKER
Notary Public – Arkansas
County of Washington
My Commission Exp. 11/10/2010

CERTIFICATE No. [illegible]

THE UNITED STATES OF AMERICA,

To all to whom these Presents shall come, Greeting:

WHEREAS [illegible]

has deposited in the GENERAL LAND OFFICE of the United States a Certificate of the REGISTER OF THE LAND OFFICE at [illegible] whereby it appears that full payment has been made by the said [illegible]

Thomas Standifer

according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," for

NE1/4 SE1/4

[illegible] 26-16-30

[illegible]

according to the official plat of the survey of the said Lands, returned to the General Land Office by the SURVEYOR GENERAL, which said tract has been purchased by the said [illegible]

NOW KNOW YE, That the United States of America, in consideration of the Premises, and in conformity with the several acts of Congress, in such case made and provided, HAVE GIVEN AND GRANTED, and by these presents DO GIVE AND GRANT, unto the said [illegible]

and to [illegible] heirs, the said tract above described: TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature, thereunto belonging, unto the said [illegible]

and to [illegible] heirs and assigns forever.

MARTIN VAN BUREN

In Testimony Whereof, I, [illegible] PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these Letters to be made PATENT, and the SEAL of the GENERAL LAND OFFICE to be hereunto affixed.

GIVEN under my hand at the CITY OF WASHINGTON, the [illegible] day of [illegible] in the Year of our Lord one thousand eight hundred and [illegible] and of the INDEPENDENCE OF THE UNITED STATES the [illegible]

1840

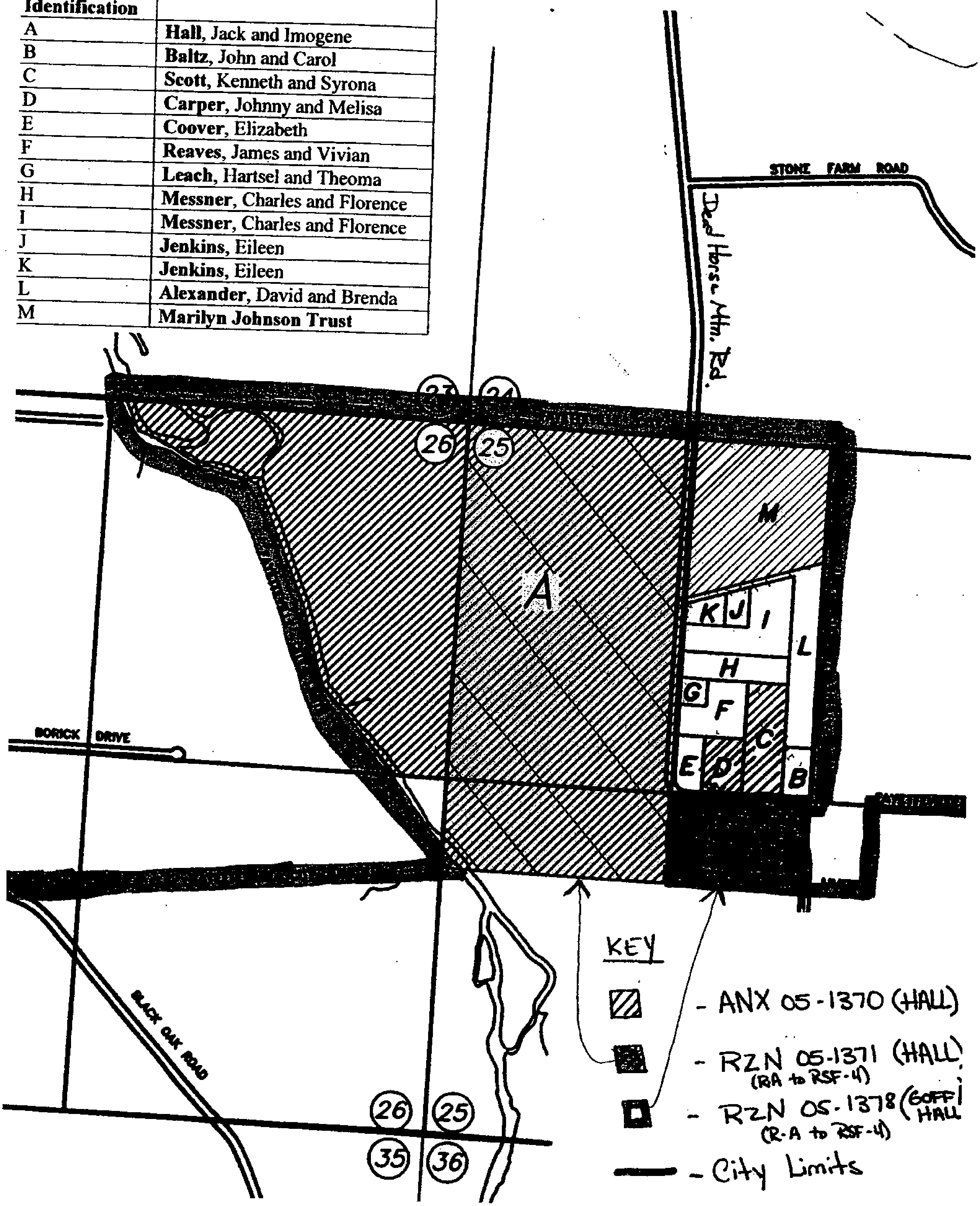
BY THE PRESIDENT: [illegible]

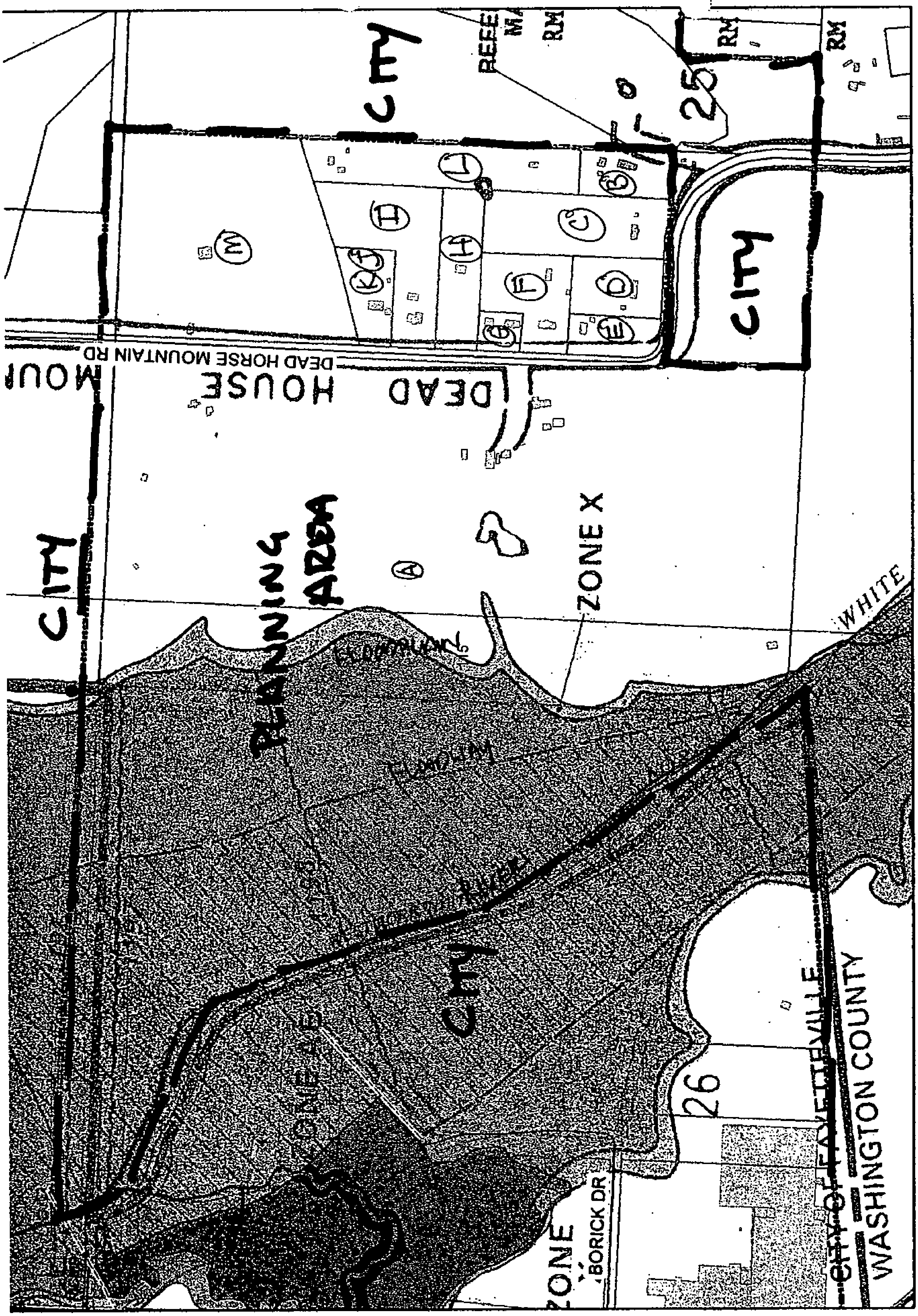
[illegible]

'WEST' ISLAND

HALL / GOFF ANX & RZN

Parcel Identification	Owner
A	**Hall**, Jack and Imogene
B	**Baltz**, John and Carol
C	**Scott**, Kenneth and Syrona
D	**Carper**, Johnny and Melisa
E	**Coover**, Elizabeth
F	**Reaves**, James and Vivian
G	**Leach**, Hartsel and Theoma
H	**Messner**, Charles and Florence
I	**Messner**, Charles and Florence
J	**Jenkins**, Eileen
K	**Jenkins**, Eileen
L	**Alexander**, David and Brenda
M	**Marilyn Johnson Trust**





1 inch equals 600 feet

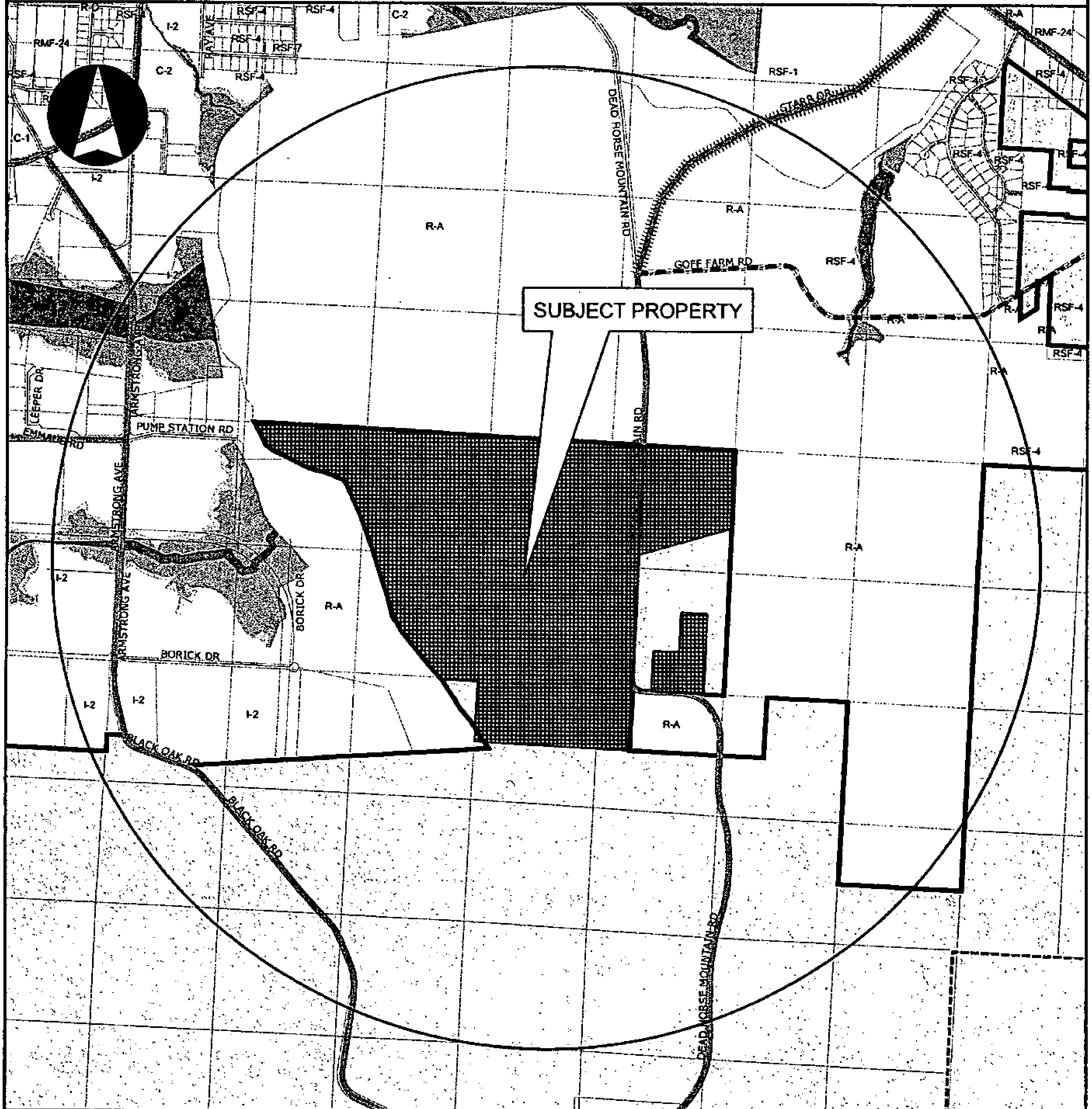
Fayetteville

FOR ILLUSTRATION ONLY. NOT OFFICIAL FLOOD MAP FOR FLOOD INSURANCE PURPOSES.

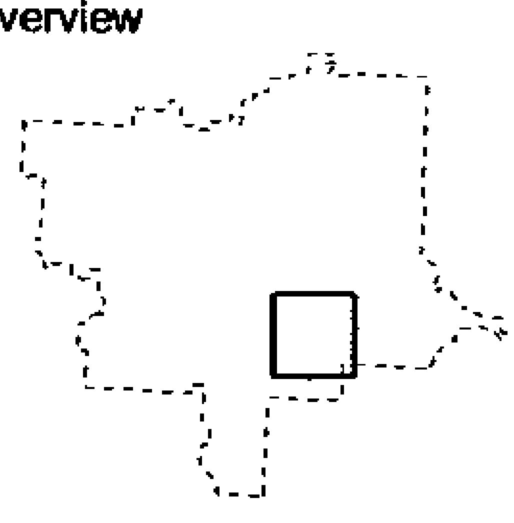
ANX 05-1370

HALL

One Mile View



Overview



Legend

Subject Property

ANX 05-1370

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

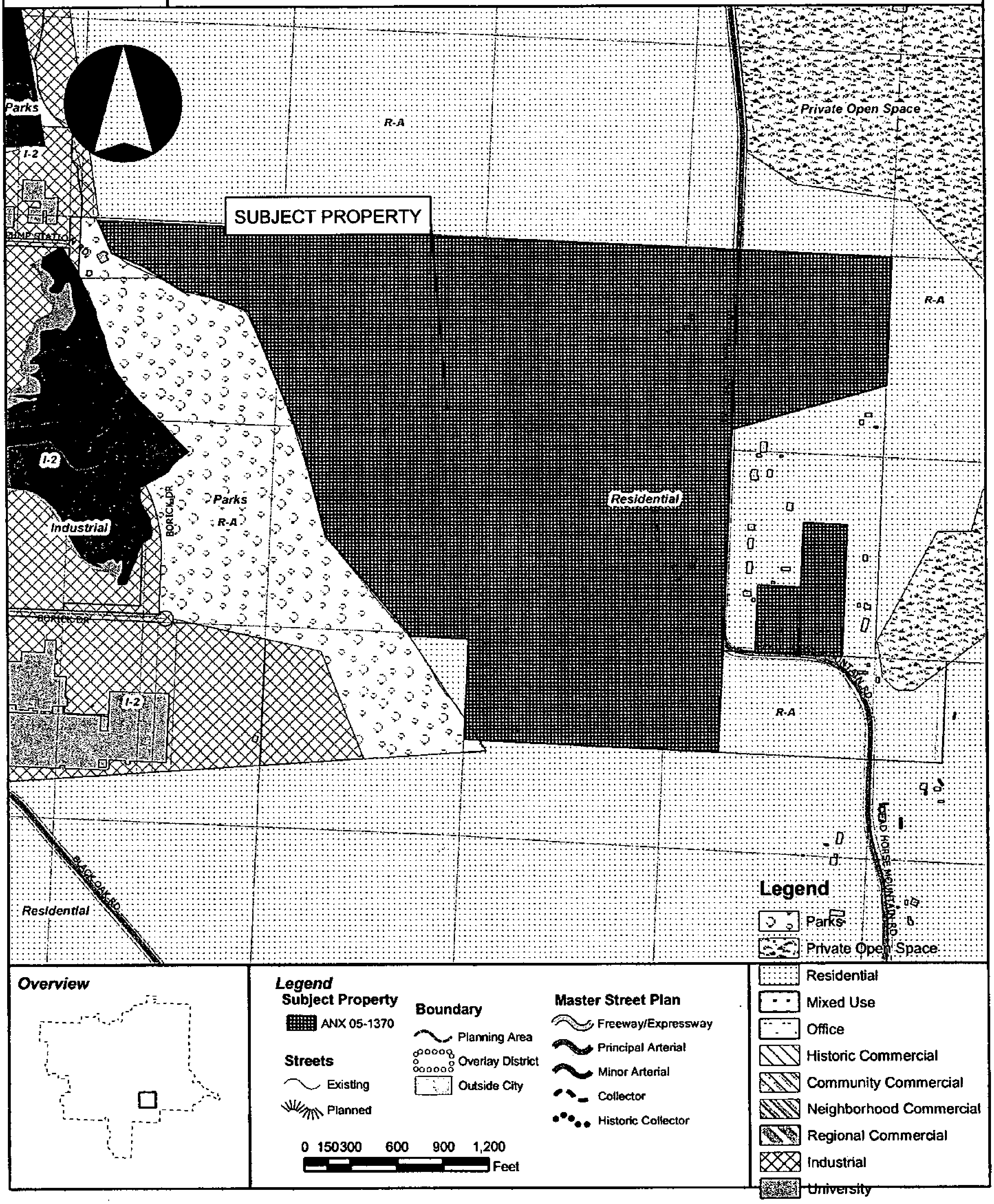
0 0.05 0.1 0.2 0.3 0.4

Miles

ANX 05-1370

Future Land Use

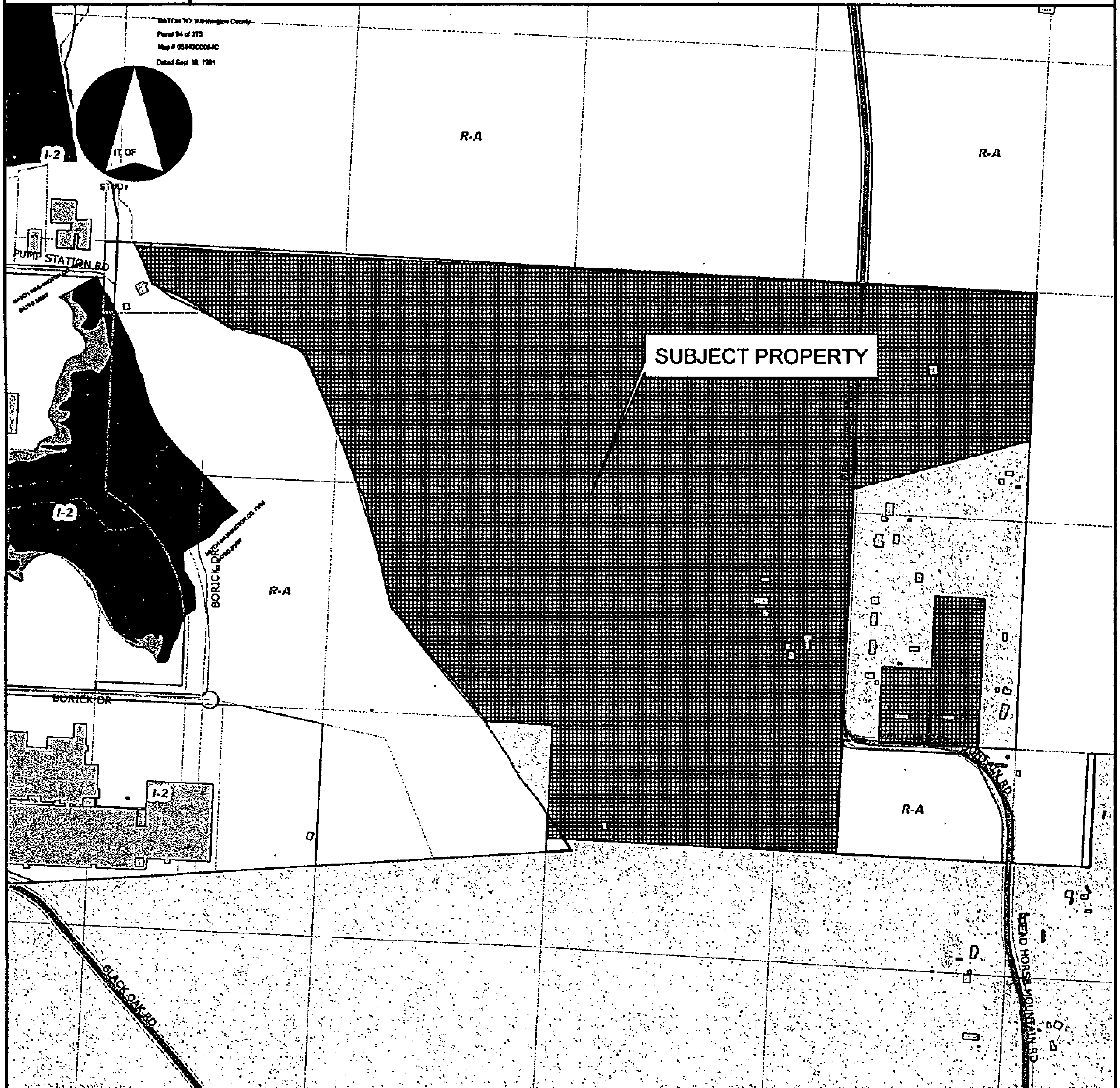
HALL



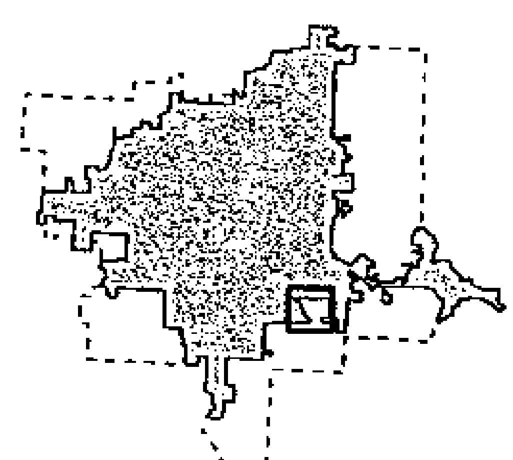
ANX 05-1370

Close Up View

HALL



Overview



Legend

ANX 05-1370
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City

0 75 150 300 450 600
Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-Mar-05
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

ANX 05-1370: (HALL, 644,645,684): Submitted by Mel Milholland for property located at 2577, 2216, 2844 and 2822 Deadhorse Mtn. Road. The request is to annex approximately 235.38 acres into the City of Fayetteville.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director — 2-25-05 Date

City Attorney — 2-25-05 Date

Mayor — 2/28/05 Date

Received in City Clerk's Office ENTERED 2/25/05

Received in Mayor's Office 2/28/05 PH

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning JC

Date: February 24, 2005

Subject: Rezoning for Hall (RZN 05-1371)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 125.179 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

Property description: The subject property is located on Dead Horse Mountain Road, east of the West Fork of the White River, southwest of Goff Farm Road. It is bounded by floodway and floodplain from the river on the west side, by Dead Horse Mountain Road on the east, and agricultural property to the north and south. Zoning districts within the one-mile radius include I-2 (Industrial Park), R-A, and RSF-4, as well as land in the Planning Area to the south. The property is currently agricultural in nature, with a few existing single family structures. Nearby development includes the Stonebridge Meadows Subdivisions and golf course and the Industrial Park across the river to the west.

Proposal: The applicant intends to develop the property for single family residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding annexation request be approved. RSF-4 allows for a range of residential density from 0 to 4 units per acre in a development pattern that is compatible with much of the residential development within the City of Fayetteville.

Request: The applicant requests rezoning the property from R-A to RSF-4.

DISCUSSION

This item was heard at the regular Planning Commission on February 14, 2005. The Planning Commission voted 5-4-0 to forward this item to the City Council with a recommend in favor of the rezoning, with Commissioners Clark, Allen, Anthes and Ostner voting against.

Discussion included change in character of this landscape to residential use from its current agricultural use, surrounding infrastructure improvements, transitioning from the existing low-density R-A zoning to higher density RSF-4 zoning, among other items.

Left on the 2nd reading 3/15/05

Staff finds that rezoning this property to allow development of four single family dwellings per acre is consistent with land use policies, planning and development currently occurring in the vicinity. West of the subject property is the West Fork of the White River, land which is severely inhibited from dense development due to the floodway and floodplain located on the property, thereby providing a transition out to the Minor Arterial Deadhorse Mountain Road. Development of this property for residential use at four units per acre or less is consistent with surrounding development currently underway at Stonebridge Meadows golf course, and along Goff Farm Road/Roberts Road. It is the opinion of the Fayetteville Police Department that this rezoning will alter the population density, but will not create an undesirable increase on police services. The net response time will not increase beyond the time it takes to respond to calls within the city limits south of the subject property. Improvements to water and sewer service, as well as construction of street infrastructure and assessments for new bridge construction in the nearby area will be required of the developer at the time of development, to benefit both the development proposed and the general public served by these public infrastructure improvements.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 05-1371 FOR PROPERTY LOCATED AT 2577 DEAD HORSE MOUNTAIN ROAD, CONTAINING APPROXIMATELY 125.179 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre, as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this ______ day of __________, 2005.

APPROVED:

By:____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1371

A PART OF SECTION 25, BEING A PART OF THE NW1/4 AND A PART OF THE N1/4 OF THE SW1/4, ALL LANDS LOCATED IN SECTION 25, TOWNSHIP 16 NORTH, RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S87°01'09"E 1653.58 FEET TO A POINT ON THE NORTHERN BOUNDARY OF SAID SECTION 25; THENCE S02°40'24"W 2641.43 FEET AND S02°59'21"W 659.85 FEET; THENCE N87°01'29"W 1480.72 FEET TO THE CENTER OF THE WHITE RIVER; THENCE N42°02'08"W 251.95 FEET ALONG THE CENTER OF SAID WHITE RIVER TO A POINT ON THE WESTERN BOUNDARY OF SECTION 25;
THENCE N02°49'30"E 3123.30 FEET TO THE POINT OF BEGINNING, CONTAINING 125.179 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of February 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Interim Planning Director
DATE:	February 09, 2005

RZN 05-1371: (HALL, 645,684): Submitted by MEL MILHOLLAND for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.179 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

Property Owner: IMOGENE HALL — Planner: Jeremy Pate

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: February 14, 2005			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: March 15, 2005 (1st reading if recommended)			

BACKGROUND:

Property description: The subject property is located on Dead Horse Mountain Road, east of the West Fork of the White River, southwest of Goff Farm Road. It is bounded by floodway and floodplain from the river on the west side, by Dead Horse Mountain Road on the east, and agricultural property to the north and south. Zoning districts within the one-mile radius include I-2 (Industrial Park), R-A, and RSF-4, as well as land in the Planning Area to the south. The property is currently agricultural in nature, with a few existing single family structures. Nearby development includes the Stonebridge Meadows Subdivisions and golf course and the Industrial Park across the river to the west.

Proposal: The applicant intends to develop the property for single family residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding annexation request be approved (see attached letter from the applicant's representative). RSF-4 allows for a range of residential density from 0 to 4 units per acre in a development pattern that is compatible with much of the residential development within the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A, Residential Agricultural. If the preceding annexation is recommended for approval to City Council, the applicant would like to rezone the approximately 125-acre tract owned by Hall to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 05-1370, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Agricultural	R-A, Residential Agricultural
South	Parkland, agricultural	R-A, Residential Agricultural, Planning Area
East	Single family homes, golf course, agricultural	R-A, Residential Agricultural
West	White River, Industrial Park, parkland	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Currently the site has access to Dead Horse Mountain Road, a Minor Arterial on the Master Street Plan. At the time of development, this street will need to be brought up to current standards along the property frontage, at minimum. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks. Additionally, development on the subject property has a high likelihood of accessing the substandard bridge on Dead Horse Mountain Road north of the property as its primary means of access toward the center of the city. An assessment for a proportionate share of the cost of this bridge is anticipated at the time of development. Specific street improvements and other off-site improvements will be evaluated based on the development proposed, to meet ordinance requirements.

Water: The site currently does have access to public water. The nearest water main is a 6" main on the east side along Dead Horse Mountain Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is a 12" sewer main to the west. A capacity analysis of the sewer lines and/or lift stations downstream of the connection point shall be conducted prior to development.

Fire: The subject property is located 2.9 miles from Fire Station #5. Normal driving time is 7 minutes. The property is located approximately 3 miles from the future Fire Station #3. Normal driving time is 7 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services. It is anticipated that response time will be increased for calls for service because the property is at the limits of the current service area. However, the actual travel time is does not increase beyond that which is already served.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

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 proposed RSF-4 zoning for a single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning. Development at this density adequately supports and is served by extended city infrastructure, at the cost of the developer.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is also needed for the development of a single family subdivision as proposed by the applicant. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with nearby developments that are zoned RSF-4.**

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

Finding: **The proposed zoning will provide additional traffic on all adjacent streets. Dead Horse Mountain Road is the primary means of access into the city, either north to Huntsville or south to Black Oak Road and Armstrong**

Avenue. These streets are Minor Arterials on the city's Master Street Plan, and once improved, will be able to carry a high volume of traffic. Currently they are improved paved roadways with shoulders, to county standards. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the 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 zoning would increase population density above that which is present currently. Under an R-A, Residential Agricultural designation, the 125-acre tract would allow for a maximum of 62 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 500 dwelling units would be permitted. Rezoning the property significantly increases the possible number of residential units and population, but is consistent with land use patterns and zoning in the district. Additionally, a portion of the property is within the floodway or floodplain, which will likely inhibit the maximum density from being developed.**

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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**

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum: Residential: Nonresidential:	 2 acres 2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 7, 2005

RECEIVED
FEB 09 2005
PLANNING DIV.

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1365: (WILKINNS, 245):** and Rezoning **RZN 05-1366 (WILKINS, 245)** submitted by MEL HOLLAND for property located at the EAST OF SALEM ROAD, NORTH OF THE CRYSTAL SPRINGS, PHASE I. This property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville and to rezone the subject property to RSF-4, Residential Single-family 4 units per acres.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **ANX 05-1370 (HALL 644, 645, 684):** Submitted by MEL HOLLAND for the property located at 2577, 2216, 2844, 2822 DEADHORSE MTN. ROAD. This property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1371: (HALL, 645, 684):** Submitted by MEL HOLLAND, for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.50 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 479-587-3555 FAX: 479-587-3522

It is the opinion of the Fayetteville Police Department that this rezoning **will** substantially alter the population density however it **will not** create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area. We do recommend that the road system be improved on Dead Horse Mountain Road to accommodate the increased traffic and emergency response

In reference to **RZN 05-1378: (HALL, 644)**: Submitted by MEL HOLLAND, for property located at THE S SIDE OF HWY 16E, W OF DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 15.12 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1372 (MAILCO USA INC., 678-717)**: Submitted by STEVE CLARK for the property located at S. SCHOOL AVENUE, E OF HWY 71 AND N OF WHILLOCK STREET. The property is zoned RSF-4 SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 2.536 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **RSN 05-1374: (CORNERSTONE/FUTRALL, 402)**: Submitted by KIM FUGITT for property located at 1144 FUTRALL DRIVE. The property is zoned SRF-4, SINGLE FAMILY-4 UNITS/ACRE and contains approximately 0.53 acres. The request is to rezone the subject property to R-O, Residential Office.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Cpt. William Brown

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	Wilkins			S7	2.7 Miles	7 Minutes	8 Minutes	9	4	6
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mallco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Monday, January 24, 2005

Project No. E-705

FAYETTEVILLE
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Annexation request of Hall property
ANX 05-1370 Hall; RZN 05-1371 Hall; RZN 05-1378 Goff/Hall

Dear Mayor Coody, Planning Commission Members, and Planning Division Staff:

In support of our client, Mr. Clint McDonald, NLC INC, MCO respectfully requests your concurrence and support of the referenced property's Annexation and Zoning into the City of Fayetteville, Arkansas. Considerable effort, planning, and coordination has occurred on behalf of our client, Mr. McDonald, between land owners and with assistance from City Planning, Mr. Tim Conklin and his great staff, City Aldermen Brenda Thiel and Robert Reynolds, City Attorney Kit Williams, and Washington County Attorney George Butler. Their combined efforts and assistance have succeeded in adhering to the reduction of created land islands within the City Limits and to the enforcement of productive community development.

Annexation of the Hall property for proposed future development under City of Fayetteville guidelines, ordinances and standards for services, begin with the Offer and Acceptance to purchase the Hall property by Mr. Clint McDonald on April 20, 2004. Mr. McDonald envisions a mid-income planned community development with quality amenities of utilities, green spaces with vistas beyond the lot next door, pedestrian friendly access to undisturbed natural wooded and open areas. He envisions a development that displays constructed characteristics of stability and unity, a development displaying a landscaped atmosphere of stewardship with the site's natural terrain.

The following day, April 21, 2004, Mr. McDonald contacted MCO to begin preliminary site concept designs. And, shortly there after meet with City Staff of Planning and Engineering, to discuss annexation into the City of Fayetteville, for development of a proposed residential subdivision.

Mr. Milholland, cognizant of the City's concerns for created land islands within City Limits, met with Tim Conklin and City Planning Staff (Dawn Warrick, Suzanne Morgan, and Jeremy Pate) to determine acceptable methods and with Kit Williams, City Attorney, for interpretation and technical advise for proper annexation. Several scenarios were presented for consideration. Mr. McDonald followed the City's recommendation(s) and expanded his efforts for annexation into the City to include surrounding properties and adjoining neighbors.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Mr. McDonald has put forth extensive effort throughout much of this past year, 2004, meeting with land owners of the neighborhood presenting them with an outline of benefits and offering at his expense the opportunity to sign a petition expressing interest to be part of a group annexation. While some land owners did not desire to be annexed, several land owners have taken part in this petition, along with that of the 200 acres of Hall property. Mr. McDonald had all properties surveyed and platted. He hand delivered to the land owner expressing interest to be annexed into the City of Fayetteville applications of annexation for their signature.

Each land owner petitioning for annexation into the City of Fayetteville has properly progressed through the process, that includes advertisements and receiving signed decrees from the County Judge, to this point for your approval and acceptance into the City of Fayetteville. Throughout the process, Mr. McDonald's attorney along with the City's attorney, Kit Williams, and the County's attorney, George Butler, worked diligently through the details of compliance with the laws of annexation. It was Mr Butler's interpretation that only those land owners currently adjoining the City Limits could be annexed at this time, which is the petition present before you.

The petition for annexation proposed before you is one of a community of neighboring land owners. These petitioners have been made aware of the annexation process and of the benefits (utilities, police and fire protection, etc.) of becoming apart of the City of Fayetteville.

Mr. Clint McDonald, respectively request the City of Fayetteville Planning Commission to recommend to the Fayetteville City Council, to approve this application request for annexation.

Sincerely,
Milholland Company

Melvin L. Milholland, P.E., R.L.S.

NLC, INC

Clint McDonald

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

To: City of Fayetteville Planning
From: Milholland Engineers
Subject: Rezoning Application

Application Item #5::

5.a. Current ownership information and any proposed or pending property sales:
RESPONSE: Existing Owner, Imogene Hall, as the Trustee of the Hall Marital Deduction Trust, effective 12-23-02 - undivided 1/11th interest, has an Offer and Acceptance pending with Client McDonald, a local developer.

5.b. Reason (need) for requesting the zoning change:
RESPONSE: Existing zoning of RA (after annexed) will not provide the demand for residential single family lots with public utilities being requested by local house building contractors.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage:
RESPONSE: *Existing Land Use*: Rural single family homes adjoining the east boundary, with a pasture adjacent the north, south and west boundaries, and near Stonebridge Golf Course.

Traffic: New single family residential development will add traffic by connection to existing Deadhorse Mtn. Rd. from the north and south, which connects to paved Black Oak Rd. to the south and Arkansas Highway 16 to the north. This connection will allow two traffic connections to Highway 16, directly, and one connection to Arkansas Highway 16 indirectly through the City Industrial Park.

Appearance: New home construction will continue to add an improving appearance to the community that was begun with the new golf coarse and new residential subdivision adjoining this site to the east.

5.d. Availability of water and sewer (state size of lines).
RESPONSE: A looped 6 inch water main is constructed up to and along the east boundary of this site being planned for a residential development. Sanitary sewer will be pumped by new pump station for the west boundary of site to Southeast Corner of City Industrial Park and will be received by a 12 inch main.

January 4, 2005

Application Item # 6: Written statements addressing the following:

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:
RESPONSE: The proposed single family zoning is in concurrence with the city's long range planning objectives in its 2020 plan. It complies with the city's policies of organized expansion of city facilities and infrastructure, and with the principle of zoning and developing vacant tracts of land in continuity with the Official Land Use Plan and at the same time, continue to add to the type of growth within the existing neighborhood. This proposed zoning is consistent with the city's long range land use and zoning plans.

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:
RESPONSE: The demand for single family homes in this area of the City of Fayetteville is in high demand.

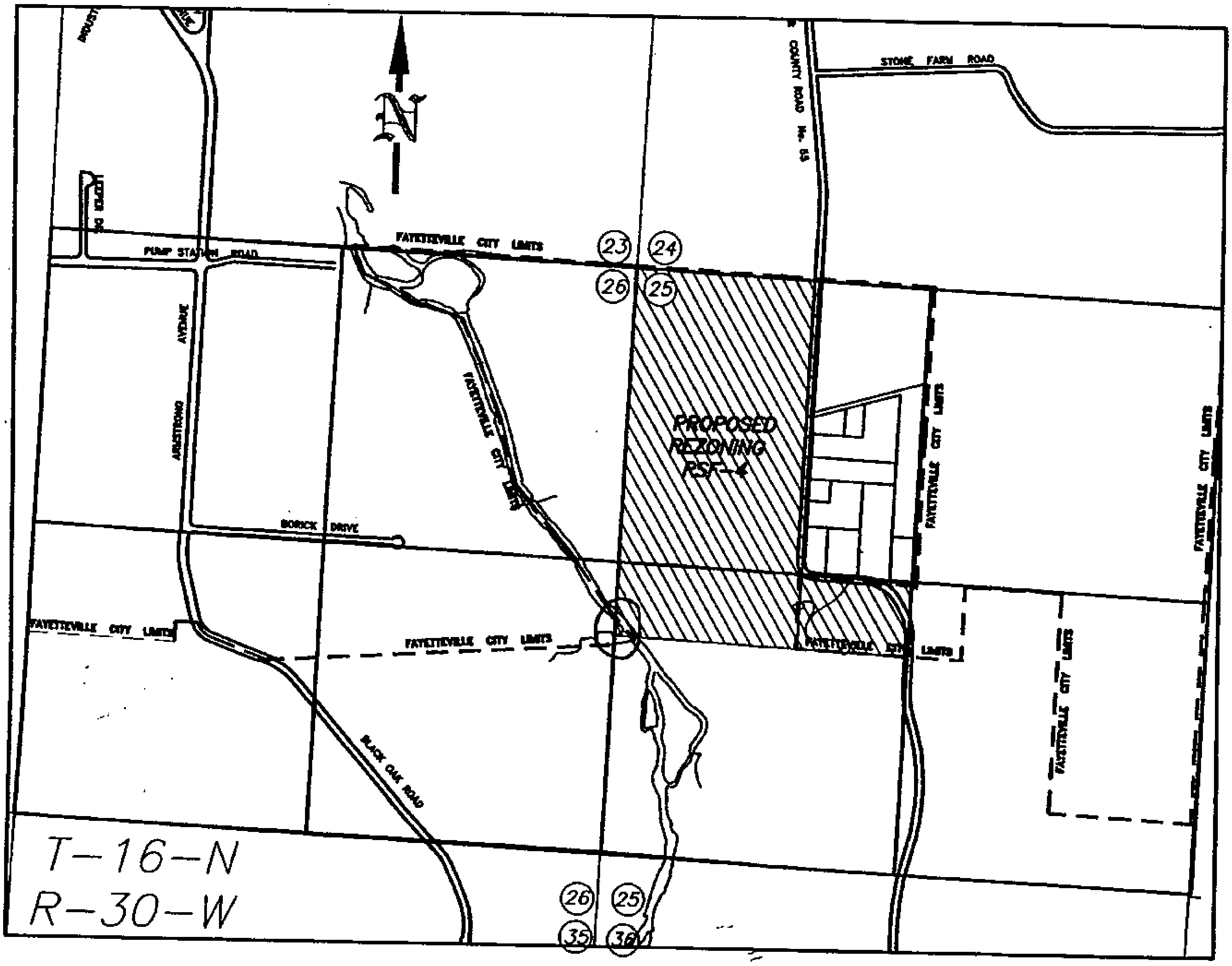
6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion:
RESPONSE: Certainly, new homes bring more vehicles, but the City of Fayetteville requires the developer to construct new streets through it's development and connectivity into the existing street system.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on the public services including schools, water, and sewer facilities:
RESPONSE: New water and sewer mains will be extended to facilitate the new residents. The site is located South of Arkansas 16 Highway, and near Stonebridge Golf Course, and will discharge its sewerage into a collection system that flows into the existing treatment plant.

6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:
RESPONSE: The land is presently rural, and will be RA if annexed into the city. The site is too small for farm productivity. The highest and best use of site is single family homes.

January 4, 2005

EXHIBIT "A"



REZONING LAND DESCRIPTION:

REZONING MAP

E-705

A PART OF SECTION 25, BEING A PART OF THE NW¼ AND A PART OF THE N½ OF THE SW¼, ALL LANDS LOCATED IN SECTION 25, TOWNSHIP 16 NORTH, RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S87°01'09"E 1653.58 FEET TO A POINT ON THE NORTHERN BOUNDARY OF SAID SECTION 25;
THENCE S02°44'26"W 3301.28 FEET;
THENCE N87°01'29"W 1658.44 FEET TO A POINT ON THE WESTERN BOUNDARY OF SAID SECTION 25;
THENCE N02°49'30"E 3301.42 FEET TO THE POINT OF BEGINNING, CONTAINING 125.505 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. changed to 125.179 1st to exclude City property.

OWNER: Imogene M Hall
IMOGENE HALL

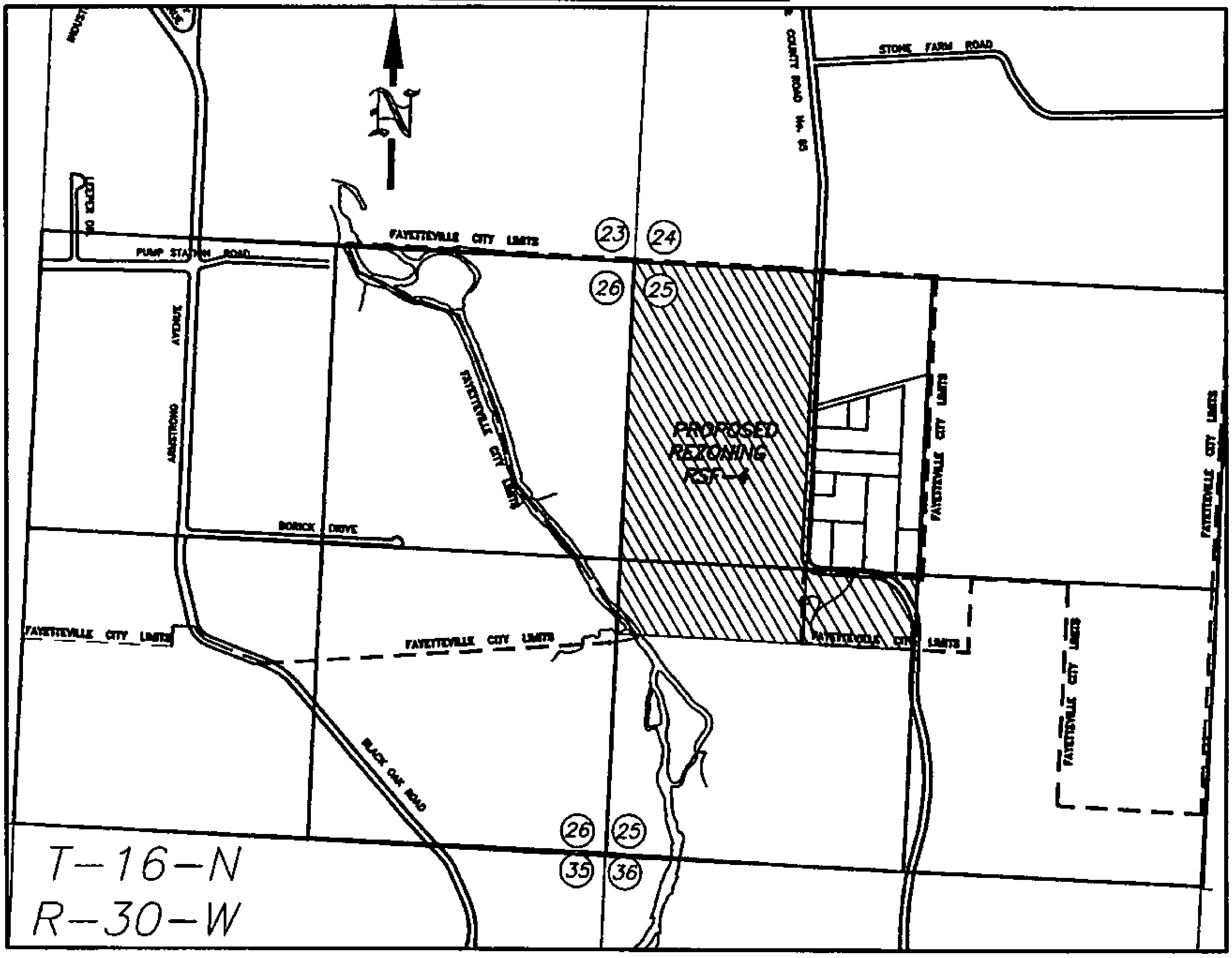
1/18/2005
parcels submitted as: RZN05-1371
RZN05-1378
parcels close PS

AND ALSO: A PART OF THE NE¼ OF THE SW¼, SECTION 25, T-16-N, R-30-W, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT,
THENCE S02°35'26"W 659.61FEET;
THENCE N87°01'29"W 1000.79 FEET;
THENCE N02°59'21"E 659.85 FEET;
THENCE S87°00'36"E 996.20 FEET TO THE POINT OF BEGINNING, CONTAINING 15.12 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

OWNER: Dewitt C. Goff
DEWITT GOFF

RZN05-1371-HALL
RZN05-1378-GOFF

EXHIBIT "A"



REZONING MAP E-705

REZONING LAND DESCRIPTION:

A PART OF SECTION 25, BEING A PART OF THE NW¼ AND A PART OF THE N½ OF THE SW¼, ALL LANDS LOCATED IN SECTION 25, TOWNSHIP 16 NORTH, RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S87°01'09"E 1653.58 FEET TO A POINT ON THE NORTHERN BOUNDARY OF SAID SECTION 25;
THENCE S02°40'24"W 2641.43 FEET, AND S02°59'21"W 659.85 FEET;
THENCE N87°01'29"W 1480.72 FEET TO THE CENTER OF THE WHITE RIVER;
THENCE N42°02'08"W 251.95 FEET ALONG CENTER OF SAID WHITE RIVER TO A POINT ON THE WESTERN BOUNDARY OF SECTION 25;
THENCE N02°49'30"E 3123.30 FEET TO THE POINT OF BEGINNING, CONTAINING 125.179 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

OWNER: ____________________
IMOGENE HALL

AND ALSO: A PART OF THE NE¼ OF THE SW¼, SECTION 25, T-16-N, R-30-W, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT,
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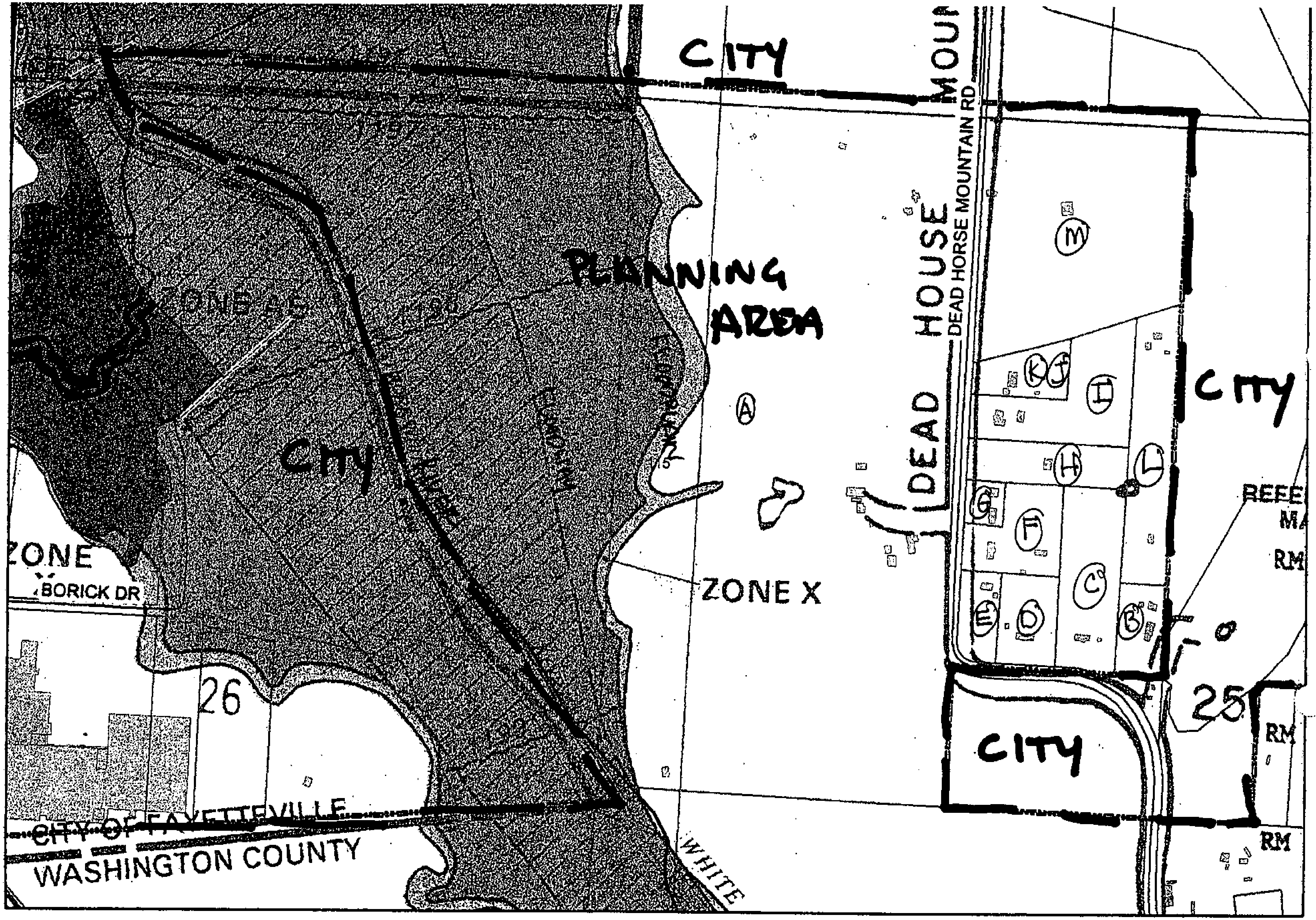
OWNER: ____________________
DEWITT GOFF



1 inch equals 600 feet

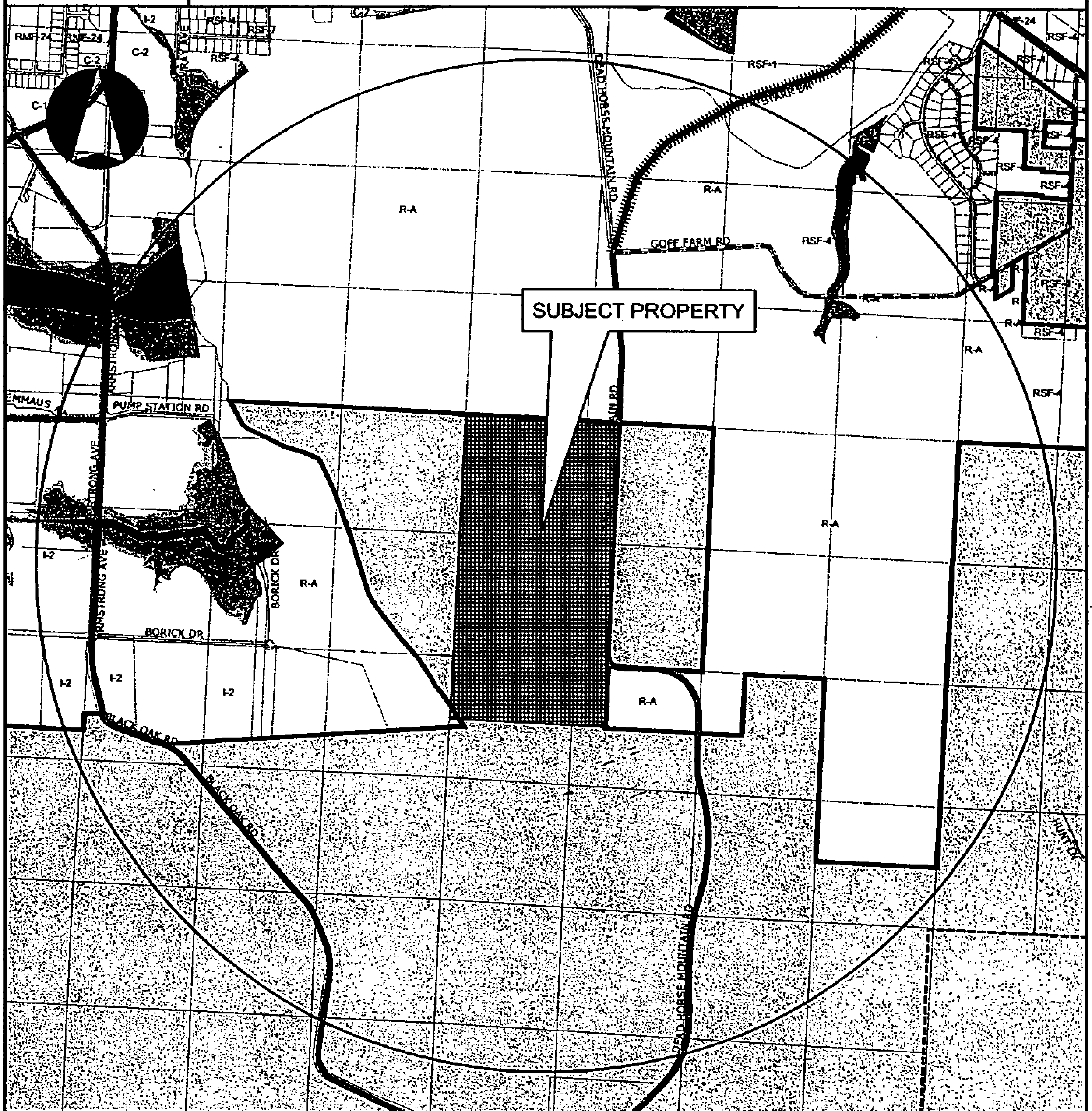
Fayetteville

FOR ILLUSTRATION ONLY. NOT OFFICIAL FLOOD MAP FOR FLOOD INSURANCE PURPOSES.

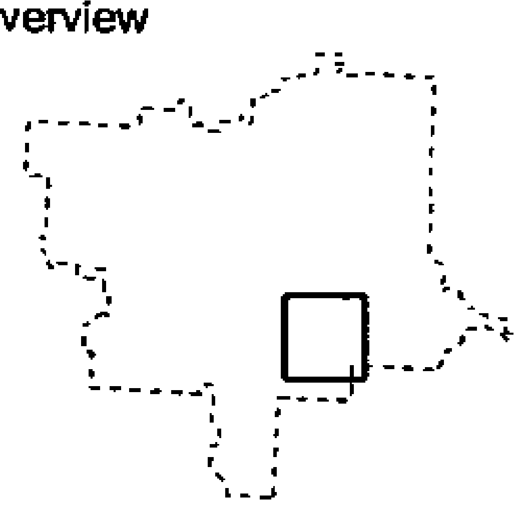
RZN 05-1371

One Mile View

HALL



Overview



Legend

Subject Property

RZN 05-1371

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

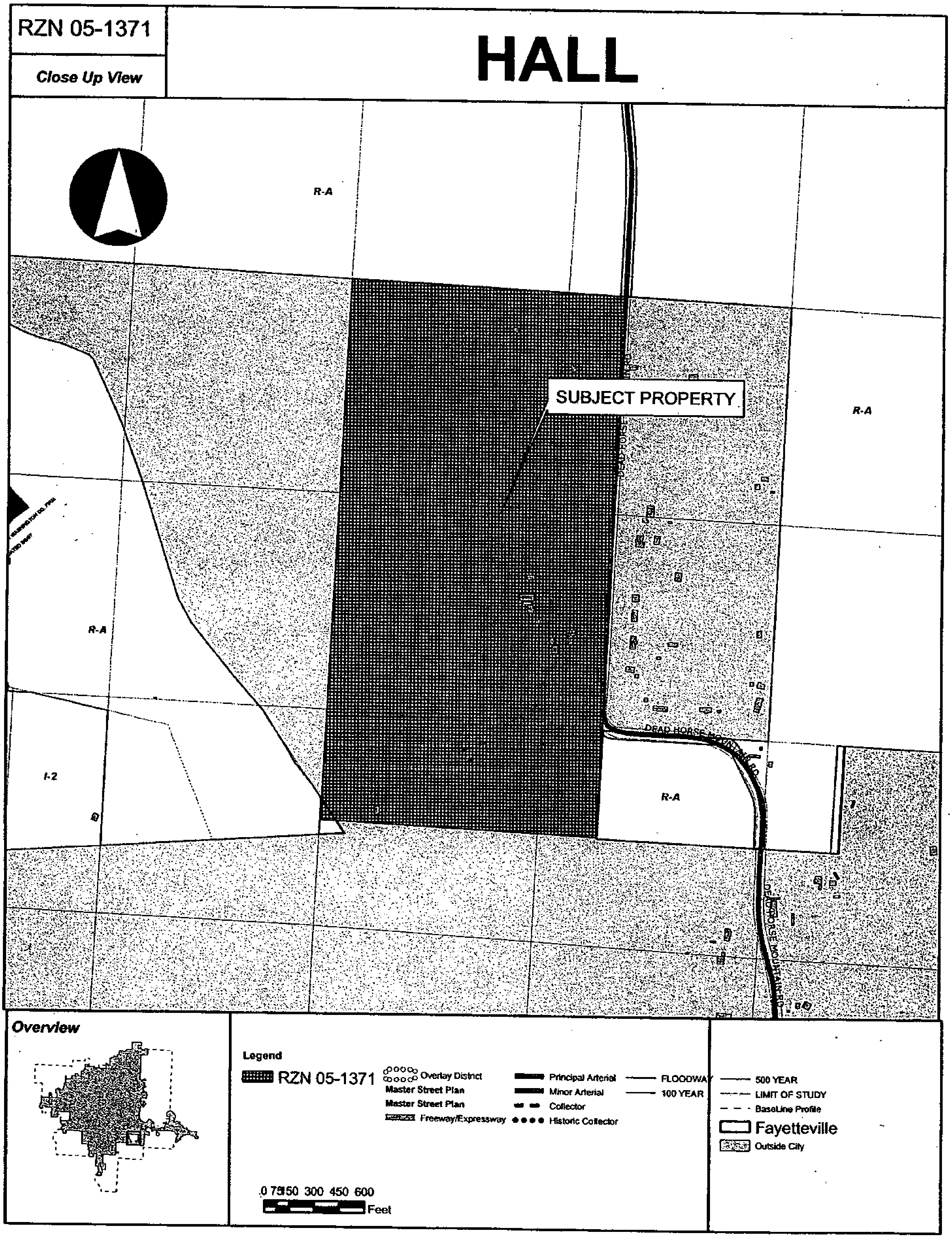
Minor Arterial

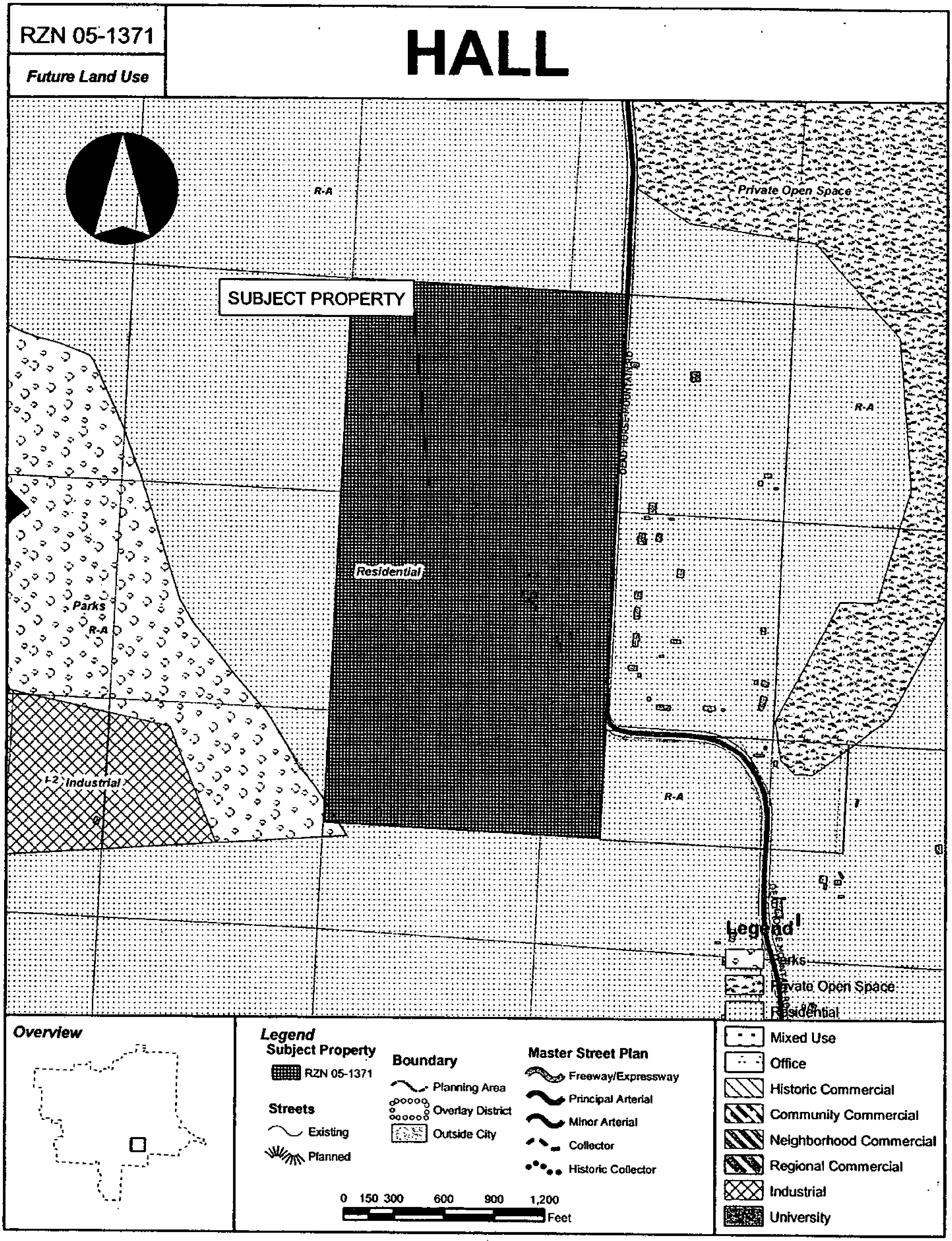
Collector

Historic Collector

0 0.05 0.1 0.2 0.3 0.4

Miles


RZN 05-1371
Close Up View
HALL
R-A
SUBJECT PROPERTY
R-A
R-A
I-2
R-A
DEAD HORSE MOUNTAIN RD
Overview
Legend
RZN 05-1371
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City
0 75150 300 450 600
Feet


RZN 05-1371
Future Land Use
HALL
R-A
Private Open Space
SUBJECT PROPERTY
Residential
Parks
R-A
I-2 Industrial
R-A
R-A
Legend
Parks
Private Open Space
Residential
Overview
Legend
Subject Property
RZN 05-1371
Boundary
Planning Area
Overlay District
Outside City
Streets
Existing
Planned
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
0 150 300 600 900 1,200
Feet
Mixed Use
Office
Historic Commercial
Community Commercial
Neighborhood Commercial
Regional Commercial
Industrial
University

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-Mar-05
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 05-1371: (HALL, 645,684): Submitted by Mel Milholland for property located at 2577 Dead Horse Mtn. Road. The recently annexed property is zoned R-A, Residential Agricultural and contains approximately 125.179 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, four units per acre.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [ ]

Department Director 2-25-05 Date

City Attorney 2-25-05 Date

Mayor 2/28/05 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 2/25/05

Received in Mayor's Office
2/28/05 P.H

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning JP

Date: February 24, 2005

Subject: Rezoning for Goff/Hall (RZN 05-1378)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 15.12 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

Property description: The subject property is located on both sides of Dead Horse Mountain Road, east of the West Fork of the White River, south of Goff Farm Road. Property to the northeast is developed as Stonebridge Meadows Golf Course, with various phases of Stonebridge Meadows Subdivision either constructed or in the process of being constructed. Zoning districts within the one-mile radius include I-2 (Industrial Park), R-A, and RSF-4, as well as land in the Planning Area to the south. The property is currently agricultural in nature, and zoned R-A, Residential Agricultural.

Proposal: The applicant intends to develop the property for single family residential use in the future. Property line adjustments and lot splits to create tracts to develop have already been submitted. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre. RSF-4 allows for a range of residential density from 0 to 4 units per acre in a development pattern that is compatible with much of the residential development within the City of Fayetteville.

Request: The applicant requests rezoning the property from R-A to RSF-4.

DISCUSSION

This item was heard at the regular Planning Commission on February 14, 2005. The Planning Commission voted 5-4-0 to forward this item to the City Council with a recommend in favor of the rezoning, with Commissioners Clark, Allen, Anthes and Ostner voting against.

Discussion included change in character of this landscape to residential use from its current agricultural/large lot residential use, surrounding infrastructure improvements, transitioning from the existing low-density R-A zoning to higher density RSF-4 zoning, among other items.

Left on the 2nd reading 3/15/05

Staff finds that rezoning this property to allow development of a maximum of four single family dwellings per acre is consistent with land use policies, planning and development currently occurring in the immediate area.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 05-1378 FOR PROPERTY LOCATED AT THE SOUTH SIDE OF HWY 16E AND WEST OF DEAD HORSE MOUNTAIN ROAD, CONTAINING APPROXIMATELY 15.12 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre, as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _______ day of __________, 2005.

APPROVED:

By:____________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1378

A PART OF THE NE1/4 OF THE SW1/4, SECTION 25, T-16-N, R-30-W, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT, THENCE S02°35'26"W 659.61 FEET; THENCE N87°01'29"W 1000.79 FEET; THENCE N02°59'21"E 659.85 FEET; THENCE S87°00'36"E 996.20 FEET TO THE POINT OF BEGINNING, CONTAINING 15.12 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Fayetteville ARKANSAS

PC Meeting of February 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Interim Planning Director
DATE:	February 09, 2005

RZN 05-1378: (GOFF/HALL, 644): Submitted by MEL MILHOLLAND for property located at THE S SIDE OF HWY 16E, W OF DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 15.12 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: DEWITT GOFF   Planner: Jeremy Pate

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	Approved	**Denied**
Date: February 14, 2005	5-4-0 No: Clark, Allen, Anthes, Ostner	
CITY COUNCIL ACTION:	**Required** **YES**	
	Approved	**Denied**
Date: March 15, 2005 (1st reading if recommended)		

BACKGROUND:

Property description: The subject property is located on both sides of Dead Horse Mountain Road, east of the West Fork of the White River, south of Goff Farm Road. Property to the northeast is developed as Stonebridge Meadows Golf Course, with various phases of Stonebridge Meadows Subdivision either constructed or in the process of being constructed. Zoning districts within the one-mile radius include I-2 (Industrial Park), R-A, and RSF-4, as well as land in the Planning Area to the south. The property is currently agricultural in nature, and zoned R-A, Residential Agricultural.

Proposal: Staff anticipates the applicant intends to develop the property for single family residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre. (see attached letter from the applicant's representative). RSF-4 allows for a range of residential density from 0 to 4 units per acre in a development pattern that is compatible with much of the residential development within the City of Fayetteville.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a development pattern that is uniform and consistent with the land use patterns identified on the Future Land Use Plan..

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes	Planning Area, current request for R-A
South	Agricultural, single family	Planning Area
East	Golf course, agricultural	R-A, Residential Agricultural
West	Single family homes, agricultural	R-A, Residential Agricultural, current request for RSF-4

INFRASTRUCTURE:

Streets: Currently the site has access to Dead Horse Mountain Road, a Minor Arterial on the Master Street Plan. At the time of development, this street will need to be brought up to current standards along the property frontage, at minimum. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks. Additionally, development on the subject property has a high likelihood of accessing the substandard bridge on Dead Horse Mountain Road north of the property as its primary means of ingress/egress to the center of the city. An assessment for a proportionate share of the cost of this bridge is anticipated at the time of development. Specific street improvements and other off-site improvements will be evaluated based on the development proposed, to meet ordinance requirements.

Water: The site currently does have access to public water. The nearest water main is a 6" main on the east side along Dead Horse Mountain Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently does <u>not</u> have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is a 12" sewer main to the west. A capacity analysis of the sewer lines and/or lift stations downstream of the connection point shall be conducted prior to development.

Fire: The subject property is located 2.9 miles from Fire Station #5. Normal driving time is 7 minutes. The property is located approximately 3 miles from the future Fire Station #3. Normal driving time is 7 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation <u>will not</u>

substantially alter the population density and thereby undesirably increase the load on police services. It is anticipated that response time will be increased for calls for service because the property is at the limits of the current service area. However, the actual travel time is does not increase beyond that which is already served.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

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 proposed RSF-4 zoning for a single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning. Development at this density adequately supports and is served by existing and extended city infrastructure, at the cost of the developer.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with nearby developments that are zoned RSF-4 and developed as residential communities.**

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

Finding: **The proposed zoning will provide additional traffic on adjacent streets. Dead Horse Mountain Road is the primary means of access into the city, either north to Huntsville or south to Black Oak Road and Armstrong Avenue. These streets are Minor Arterials on the city's Master Street Plan, and once improved, will be able to carry a high volume of traffic. Currently they are improved paved roadways with shoulders, to county standards. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the 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 zoning would increase population density above that which is present currently. Under an R-A, Residential Agricultural designation, the 15-acre tract would allow for a maximum of 7 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 60 dwelling units would be permitted. Rezoning the property increases the possible number of residential units and population, but is consistent with land use patterns and zoning in the district. Additionally, a the property is bisected by Deadhorse Mountain Road, a Minor Arterial requiring 90 feet of right-of-way which will likely inhibit the maximum density from being developed.**

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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**

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum: Residential: Nonresidential:	 2 acres 2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 7, 2005

RECEIVED
FEB 0 9 2005
PLANNING DIV.

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1365: (WILKINNS, 245):** and Rezoning **RZN 05-1366 (WILKINS, 245)** submitted by MEL HOLLAND for property located at the EAST OF SALEM ROAD, NORTH OF THE CRYSTAL SPRINGS, PHASE I. This property is in the Planning Area and contains approximately 10.00 acres. The request is to annex the subject property into the City of Fayetteville and to rezone the subject property to RSF-4, Residential Single-family 4 units per acres.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **ANX 05-1370 (HALL 644, 645, 684):** Submitted by MEL HOLLAND for the property located at 2577, 2216, 2844, 2822 DEADHORSE MTN. ROAD. This property is in the Planning Area and contains approximately 235.38 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1371: (HALL, 645, 684):** Submitted by MEL HOLLAND, for property located at 2577 DEAD HORSE MTN. ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 125.50 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

It is the opinion of the Fayetteville Police Department that this rezoning **will** substantially alter the population density however it **will not** create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area. We do recommend that the road system be improved on Dead Horse Mountain Road to accommodate the increased traffic and emergency response

In reference to **RZN 05-1378: (HALL, 644):** Submitted by MEL HOLLAND, for property located at THE S SIDE OF HWY 16E, W OF DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 15.12 acres. The request is to rezone the subject property RSF-4, Residential Single-family, 4 units per acre.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density nor will it create an undesirable increase on police services. This annexation will increase our response time to calls for service because this property is on the very outer fringes of our current service area.

In reference to **RZN 05-1372 (MAILCO USA INC., 678-717):** Submitted by STEVE CLARK for the property located at S. SCHOOL AVENUE, E OF HWY 71 AND N OF WHILLOCK STREET. The property is zoned RSF-4 SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 2.536 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **RSN 05-1374: (CORNERSTONE/FUTRALL, 402):** Submitted by KIM FUGITT for property located at 1144 FUTRALL DRIVE. The property is zoned SRF-4, SINGLE FAMILY-4 UNITS/ACRE and contains approximately 0.53 acres. The request is to rezone the subject property to R-O, Residential Office.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Cpt. William Brown

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	Wilkins			S7	2.7 Miles	7 Minutes	8 Minutes	9	4	6
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mailco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Monday, January 24, 2005

Project No. E-705

FAYETTEVILLE
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Annexation request of Hall property
ANX 05-1370 Hall; RZN 05-1371 Hall; RZN 05-1378 Goff/Hall

Dear Mayor Coody, Planning Commission Members, and Planning Division Staff:

In support of our client, Mr. Clint McDonald, NLC INC, MCO respectfully requests your concurrence and support of the referenced property's Annexation and Zoning into the City of Fayetteville, Arkansas. Considerable effort, planning, and coordination has occurred on behalf of our client, Mr. McDonald, between land owners and with assistance from City Planning, Mr. Tim Conklin and his great staff, City Aldermen Brenda Thiel and Robert Reynolds, City Attorney Kit Williams, and Washington County Attorney George Butler. Their combined efforts and assistance have succeeded in adhering to the reduction of created land islands within the City Limits and to the enforcement of productive community development.

Annexation of the Hall property for proposed future development under City of Fayetteville guidelines, ordinances and standards for services, begin with the Offer and Acceptance to purchase the Hall property by Mr. Clint McDonald on April 20, 2004. Mr. McDonald envisions a mid-income planned community development with quality amenities of utilities, green spaces with vistas beyond the lot next door, pedestrian friendly access to undisturbed natural wooded and open areas. He envisions a development that displays constructed characteristics of stability and unity, a development displaying a landscaped atmosphere of stewardship with the site's natural terrain.

The following day, April 21, 2004, Mr. McDonald contacted MCO to begin preliminary site concept designs. And, shortly there after meet with City Staff of Planning and Engineering, to discuss annexation into the City of Fayetteville, for development of a proposed residential subdivision.

Mr. Milholland, cognizant of the City's concerns for created land islands within City Limits, met with Tim Conklin and City Planning Staff (Dawn Warrick, Suzanne Morgan, and Jeremy Pate) to determine acceptable methods and with Kit Williams, City Attorney, for interpretation and technical advise for proper annexation. Several scenarios were presented for consideration. Mr. McDonald followed the City's recommendation(s) and expanded his efforts for annexation into the City to include surrounding properties and adjoining neighbors.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS
Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:
PE: AR, MO
PLS: AR
RLA: AR

Mr. McDonald has put forth extensive effort throughout much of this past year, 2004, meeting with land owners of the neighborhood presenting them with an outline of benefits and offering at his expense the opportunity to sign a petition expressing interest to be part of a group annexation. While some land owners did not desire to be annexed, several land owners have taken part in this petition, along with that of the 200 acres of Hall property. Mr. McDonald had all properties surveyed and platted. He hand delivered to the land owner expressing interest to be annexed into the City of Fayetteville applications of annexation for their signature.

Each land owner petitioning for annexation into the City of Fayetteville has properly progressed through the process, that includes advertisements and receiving signed decrees from the County Judge, to this point for your approval and acceptance into the City of Fayetteville. Throughout the process, Mr. McDonald's attorney along with the City's attorney, Kit Williams, and the County's attorney, George Butler, worked diligently through the details of compliance with the laws of annexation. It was Mr Butler's interpretation that only those land owners currently adjoining the City Limits could be annexed at this time, which is the petition present before you.

The petition for annexation proposed before you is one of a community of neighboring land owners. These petitioners have been made aware of the annexation process and of the benefits (utilities, police and fire protection, etc.) of becoming apart of the City of Fayetteville.

Mr. Clint McDonald, respectively request the City of Fayetteville Planning Commission to recommend to the Fayetteville City Council, to approve this application request for annexation.

Sincerely,
Milholland Company

Melvin L. Milholland, P.E., R.L.S.

NLC, INC

Clint McDonald

To: City of Fayetteville Planning
From: Milholland Engineers
Subject: Rezoning Application

Application Item #5::

5.a. Current ownership information and any proposed or pending property sales:
RESPONSE: Existing Owner, Imogene Hall, as the Trustee of the Hall Marital Deduction Trust, effective 12-23-02 - undivided 1/11th interest, has an Offer and Acceptance pending with Client McDonald, a local developer.

5.b. Reason (need) for requesting the zoning change:
RESPONSE: Existing zoning of RA (after annexed) will not provide the demand for residential single family lots with public utilities being requested by local house building contractors.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage:
RESPONSE: *Existing Land Use*: Rural single family homes adjoining the east boundary, with a pasture adjacent the north, south and west boundaries, and near Stonebridge Golf Course.

Traffic: New single family residential development will add traffic by connection to existing Deadhorse Mtn. Rd. from the north and south, which connects to paved Black Oak Rd. to the south and Arkansas Highway 16 to the north. This connection will allow two traffic connections to Highway 16, directly, and one connection to Arkansas Highway 16 indirectly through the City Industrial Park.

Appearance: New home construction will continue to add an improving appearance to the community that was begun with the new golf coarse and new residential subdivision adjoining this site to the east.

5.d. Availability of water and sewer (state size of lines).
RESPONSE: A looped 6 inch water main is constructed up to and along the east boundary of this site being planned for a residential development. Sanitary sewer will be pumped by new pump station for the west boundary of site to Southeast Corner of City Industrial Park and will be received by a 12 inch main.

January 4, 2005

Application Item # 6: Written statements addressing the following:

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:
RESPONSE: The proposed single family zoning is in concurrence with the city's long range planning objectives in its 2020 plan. It complies with the city's policies of organized expansion of city facilities and infrastructure, and with the principle of zoning and developing vacant tracts of land in continuity with the Official Land Use Plan and at the same time, continue to add to the type of growth within the existing neighborhood. This proposed zoning is consistent with the city's long range land use and zoning plans.

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:
RESPONSE: The demand for single family homes in this area of the City of Fayetteville is in high demand.

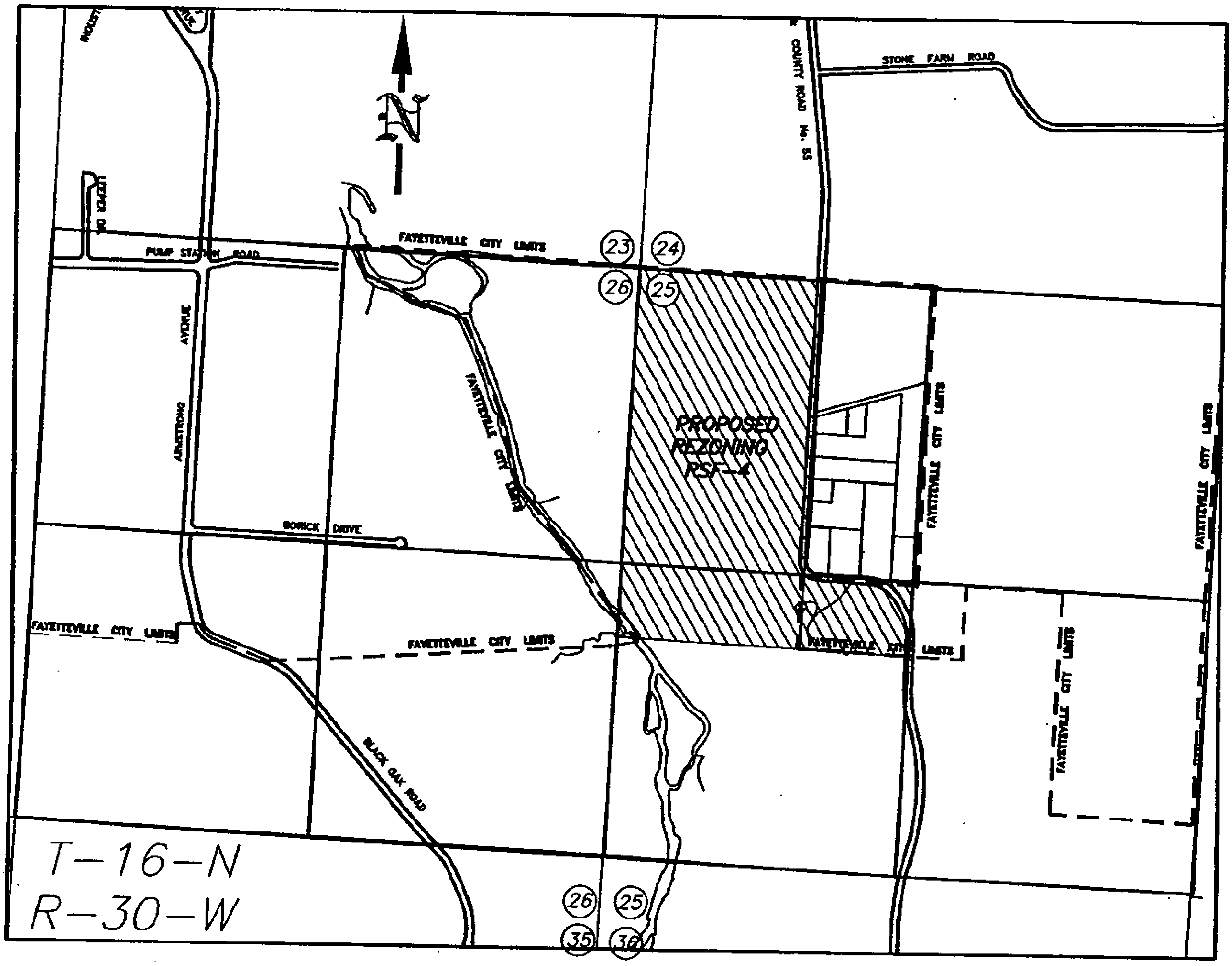
6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion:
RESPONSE: Certainly, new homes bring more vehicles, but the City of Fayetteville requires the developer to construct new streets through it's development and connectivity into the existing street system.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on the public services including schools, water, and sewer facilities:
RESPONSE: New water and sewer mains will be extended to facilitate the new residents. The site is located South of Arkansas 16 Highway, and near Stonebridge Golf Course, and will discharge its sewerage into a collection system that flows into the existing treatment plant.

6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:
RESPONSE: The land is presently rural, and will be RA if annexed into the city. The site is too small for farm productivity. The highest and best use of site is single family homes.

January 4, 2005

EXHIBIT "A"



REZONING MAP E-705

REZONING LAND DESCRIPTION:

A PART OF SECTION 25, BEING A PART OF THE NW¼ AND A PART OF THE N½ OF THE SW¼, ALL LANDS LOCATED IN SECTION 25, TOWNSHIP 16 NORTH, RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 25;
THENCE S87°01'09"E 1653.58 FEET TO A POINT ON THE NORTHERN BOUNDARY OF SAID SECTION 25;
THENCE S02°44'26"W 3301.28 FEET;
THENCE N87°01'29"W 1658.44 FEET TO A POINT ON THE WESTERN BOUNDARY OF SAID SECTION 25;
THENCE N02°49'30"E 3301.42 FEET TO THE POINT OF BEGINNING, CONTAINING 125.505 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

AND ALSO: A PART OF THE NE¼ OF THE SW¼, SECTION 25, T-16-N, R-30-W, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT,
THENCE S02°35'26"W 659.61FEET;
THENCE N87°01'29"W 1000.79 FEET;
THENCE N02°59'21"E 659.85 FEET;
THENCE S87°00'36"E 996.20 FEET TO THE POINT OF BEGINNING, CONTAINING 15.12 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

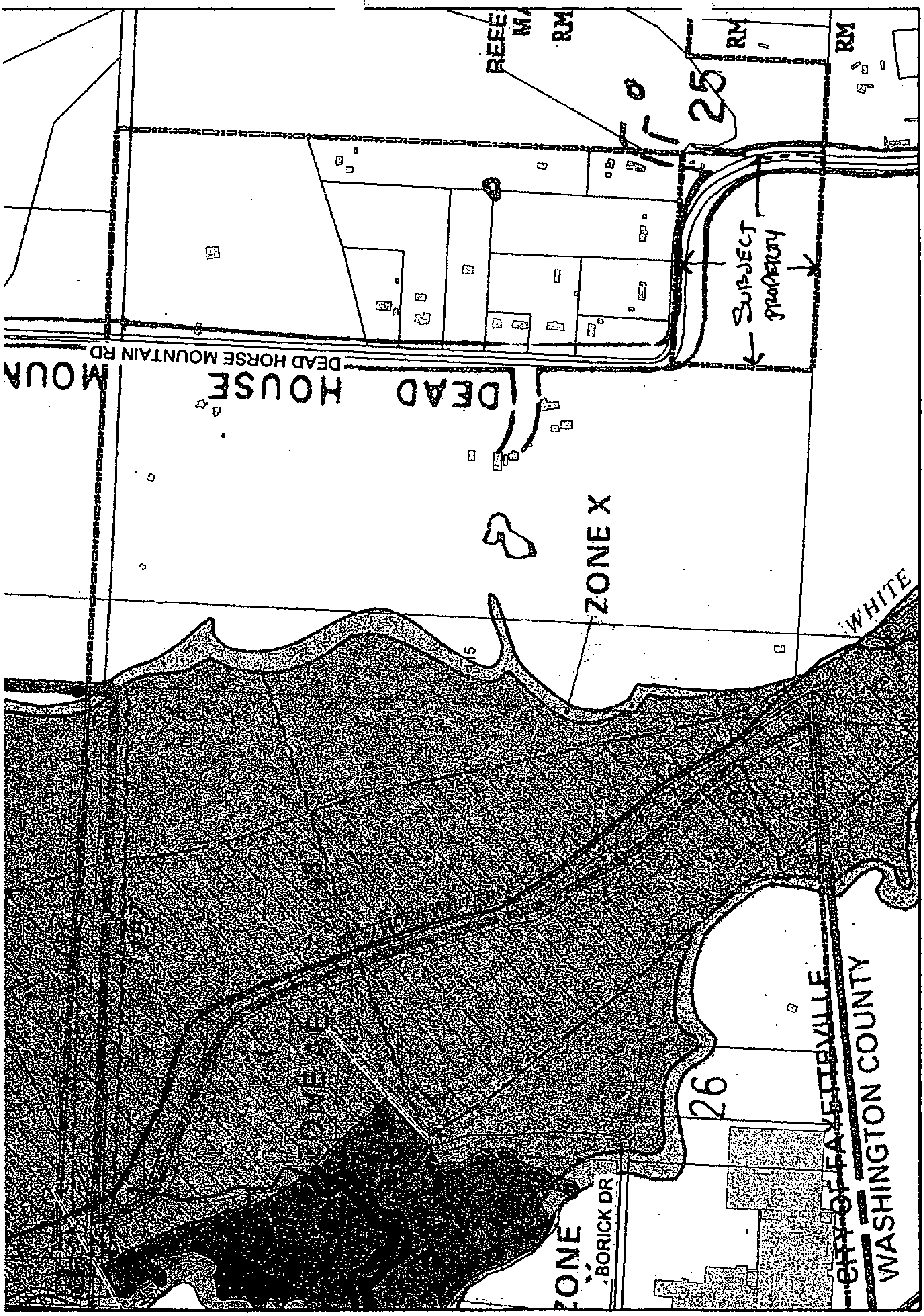
RZN 05-1371

RZN 05-1378

OWNER: Imogene M. Hall
IMOGENE HALL

1/18/2005
parcels submitted as: RZN05-1371
RZN05-1378
1st parcels close

OWNER: Dewitt C. Goff
DEWITT GOFF



1 inch equals 600 feet

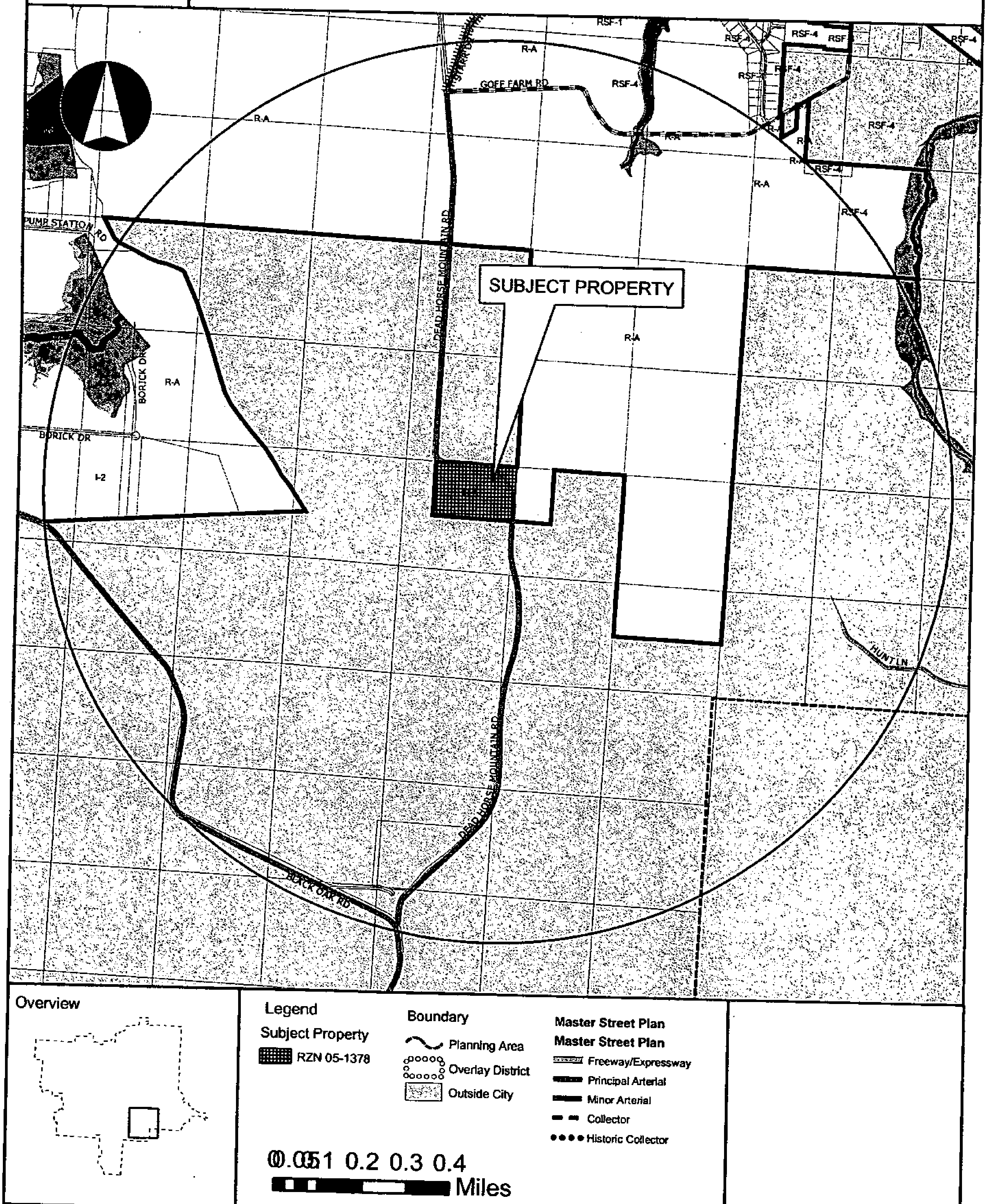
Fayetteville

FOR ILLUSTRATION ONLY. NOT OFFICIAL FLOOD MAP FOR FLOOD INSURANCE PURPOSES.

RZN 05-1378

One Mile View

GOFF/HALL

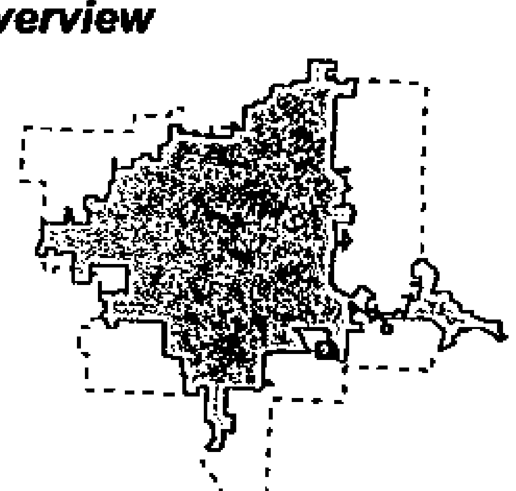


RZN 05-1378

Close Up View

GOFF/HALL

Overview



Legend

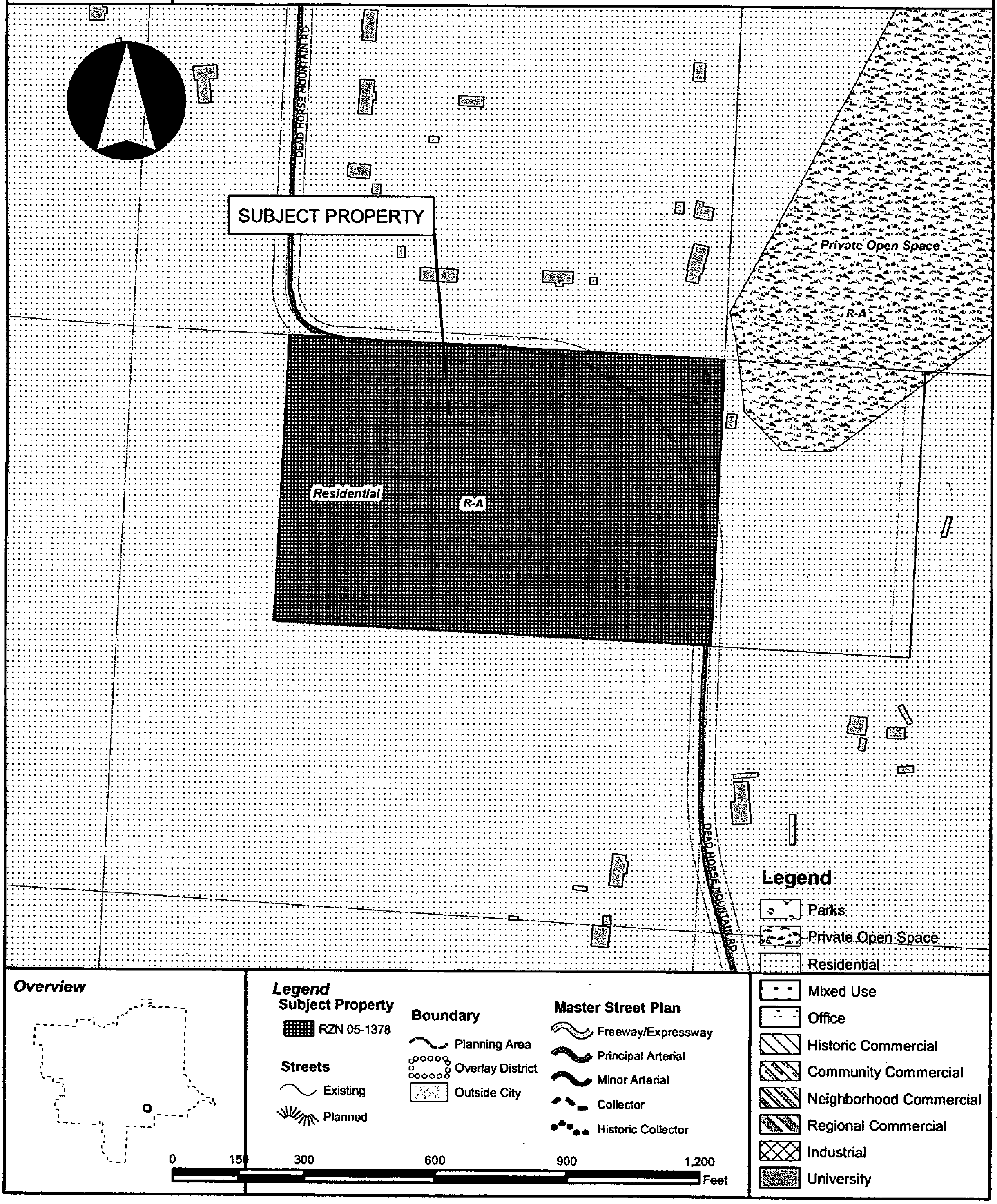
RZN 05-1378
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City

0 75 150 300 450 600 Feet

RZN 05-1378

Future Land Use

GOFF/HALL



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-Mar-05
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 05-1378: (Goff/ Hall, 644): Submitted by Mel Milholland for property located south of Hwy. 16 East, west of Dead Horse Mtn. Road containing approximately 15.12 acres. The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single-family, four units per acre.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director 2-25-05 Date

City Attorney 2-25-05 Date

Mayor 2/28/05 Date

Received in City Clerk's Office
ENTERED 2/25/05

Received in Mayor's Office
2/28/05 P.H.

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, CRCC Director

Date: March 18, 2005

Subject: Community Development Block Grant (CDBG) 2005 Funding Agreement

RECOMMENDATION

Staff recommends approval of grant agreement.

BACKGROUND

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement city since 1975. The grants are based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons and the number of housing units. Each year the Community Resources Division submits an annual "Action Plan" and funding request to the U.S. Department of Housing & Urban Development (HUD) for CDBG funding.

Grant amounts vary each year dependent on funding levels authorized by Congress through the annual federal budget process. The award for 2005 is $722,566. Grant funding detail:

Administration	**$121,056**
Rehabilitation	**$276,490**
Homeownership	**$ 10,000**
Habitat	**$ 10,000**
YouthCan	**$ 15,020**
Elderly Taxi Program	**$ 40,000**
Boys and Girls Club	**$ 40,000**
Code Compliance	**$ 61,904**
Land Acquisition	**$148,096**
Grant Total	**$722,566**

DISCUSSION

The 2005 Community Development Block Grant Agreement is being submitted for approval.

BUDGET IMPACT

2005 grant revenue - $722,566.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE THE 2005 COMMUNITY DEVELOPMENT BLOCK GRANT ACTION PLAN AND THE 2005 FUNDING APPROVAL/AGREEMENT AND TO AUTHORIZE MAYOR COODY TO SIGN THIS FUNDING APPROVAL/AGREEMENT

WHEREAS, Congress has authorized $722,566.00 in Community Development Block Grants for Fayetteville for 2005; and

WHEREAS, after a public hearing held on September 30, 2004 and a comment period throughout the month of October, 2004, the Community Resources Division prepared the 2005 Action Plan identifying community needs, available resources, and proposed actions.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the 2005 Community Development Block Grant Funding Approval/Agreement and authorizes Mayor Coody to sign this Funding Approval/Agreement.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the 2005 Action Plan for the Community Development Block Grant and authorizes the expenditures of Community Development Block Grants for the projects specified in the 2005 Action Plan in the amounts specified in the 2005 Action Plan.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

By: DRAFT ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

CDBG Metro

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)

H-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

1. Name of Grantee (as shown in item 5 of Standard Form 424): City of Fayetteville	3. Grantee's 9-digit Tax ID Number: 71-6018462	4. Date use of funds may begin (mm/dd/yyyy) 01/01/2005
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424): 113 West Mountain, Fayetteville, (Washington County), AR 72701	5a. Project/Grant No. 1: B-05-MC-05-0001	6a. Amount Approved: $722,566
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name): James E. Slater	Grantee Name: Honorable Dan Coody
Title: Director, Community Planning and Development	Title: Mayor
Signature: [signature] Date (mm/dd/yyyy): 3/14/05	Signature: [signature] Date (mm/dd/yyyy): 3/25/05

7. Category of Title I Assistance for this Funding Action (check only one)
- ☒ a. Entitlement, Sec 106(b)
- ☐ b. State-Administered, Sec 106(d)(1)
- ☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B)
- ☐ d. Indian CDBG Programs, Sec 106(a)(1)
- ☐ e. Surplus Urban Renewal Funds, Sec 112(b)
- ☐ f. Special Purpose Grants, Sec 107
- ☐ g. Loan Guarantee, Sec 108

8. Special Conditions (check one)
- ☐ None
- ☒ Attached

9a. Date HUD Received Submission (mm/dd/yyyy) 11/16/2004

9b. Date Grantee Notified (mm/dd/yyyy) MAR 14 2005

9c. Date of Start of Program Year (mm/dd/yyyy) 01/01/2005

10. check one
- ☒ a. Orig. Funding Approval
- ☐ b. Amendment
  Amendment Number

11. Amount of Community Development Block Grant	FY (2005)	FY (2005)	FY (2005)
a. Funds Reserved for this Grantee			$722,566
b. Funds now being Approved			$722,566
c. Reservation to be Cancelled (11a minus 11b)			0

12a. Amount of Loan Guarantee Commitment now being Approved

Loan Guarantee Acceptance Provisions for Designated Agencies:
The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12b. Name and complete Address of Public Agency

12c. Name of Authorized Official for Designated Public Agency

Title

Signature

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 / 176											

Y	Project Number	Amount

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

E.O. 12372
SPECIAL CONTRACT CONDITION
WATER OR SEWER FACILITIES

Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

CITY OF FAYETTEVILLE

COMMUNITY DEVELOPMENT BLOCK GRANT

"HELPING TO BUILD A BETTER COMMUNITY"

2005 Action Plan

Public Hearing:
September 30, 2004

Comment Period:
October 1 - 30, 2004

For more information, contact the Community Resources Division
Phone: 479-575-8260
Email: Community_Resources@ci.fayetteville.ar.us
Visit our offices: Community, Planning and Engineering Building at 125 W. Mountain St.

Find us on the web!
www.accessfayetteville.org

ACTION PLAN
Table of Contents

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ACTION PLAN – 2005

COMMUNITY PROFILE

The City of Fayetteville, county seat of Washington County, is located in the northwestern part of Arkansas and is regarded as the business and cultural center of the Metropolitan Statistical Area for Benton and Washington Counties, which has an estimated population of approximately 311,000. Fayetteville is situated near the tallest of the mountains in the Ozark Mountain Range and is the fourth largest city in the state. It is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma, 350 miles northeast of Dallas, Texas, and 210 miles south of Kansas City, Missouri. Fayetteville and Northwest Arkansas region have gained a national reputation as one of best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 58,047 according to the 2000 census.

The City was settled in 1828 and was incorporated on August 23, 1870. The City operates under a Mayor-Council form of government, in which a Mayor, City Attorney, City Clerk/Treasurer, Municipal Judge, and eight Aldermen are elected. Based on the population thresholds in Arkansas law, City Council adopted an ordinance that provides for staggered aldermanic terms. Beginning with the 2000 election, all terms for elected officials are four years.

INTRODUCTION

The City of Fayetteville is a participant in the Community Development Block Grant (CDBG) Entitlement Cities Program and is awarded funds annually to carry out eligible activities in pursuit of these statutory goals:

- **Provide Decent housing** - - which includes:
assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low-income and moderate-income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

- **Provide a suitable living environment** - - which includes:
improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial deconcentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural, or aesthetic value; and conservation of energy resources.

- **Expand economic opportunities** - - which includes:
job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low-income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long-term economic and social viability of the community; and empowerment and self-sufficiency for low-income persons to reduce generational poverty in federally assisted housing and public housing.

Community Development Focus in 2005

Public Access and Participation: CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff, and special purpose committees, input from community stakeholders and resources holders are integrated to designate action priorities.

Five formal public hearings were held to present and discuss proposed CDBG activities for fiscal year 2005. Non-profit agency representatives and others attended the meetings. Community Development staff has been active in the presentation of program information. Information was provided during National Community Development Week. The Community Development Division partnered with the University of Arkansas School of the Arts to generate a pictorial journal of current CDBG projects in the City of Fayetteville. The framed pictures were presented at a press conference held at the local convention center. Pictures were on display for a month and then were placed on loan with the partnering agencies. This year also brought the development of a quarterly newsletter. The newsletter serves to inform the community of current and future projects. Program literature in Spanish is also available in the office. City of Fayetteville program information and forms have been translated into Spanish. Staff continues to be very active in the Northwest Arkansas Housing Coalition and the Community Development Directors Association of Arkansas. After five meetings for Attainable Housing a Housing Element Document was generated. This document outlines some policies that will assist in reaching the goal of attainable housing.

In accordance with Fayetteville's Citizen Participation Plan, the 2005 Consolidated Action Plan is submitted for a 30 day citizen review period. Also, in preparation for the composition of the five (5) year Consolidated Plan, the Community Resources Division held a public hearing to obtain views of citizens, public agencies, and other interested parties that will or may be affected by program funds, such as minorities, persons with disabilities, residents of public and assisted housing developments, residents living in slum and blighted areas, residents in predominantly low-to-moderate income neighborhoods, particularly Southeast Fayetteville residents which is the targeted revitalization area.

Citizen comments on the plan were encouraged and submitted to:

Yolanda Fields, Director
City of Fayetteville
Community Resource Division
113 West Mountain Street
Fayetteville, AR 72701

Citizen Comments:

Comments from Public Hearing # 1 - May 26th, 2004:

#1- "I [work] at Jefferson Elementary School. I see everyday at Jefferson Elementary how the Boys & Girls Club Program impacts the children attending Jefferson. Many of these children would go to homes and remain alone for many hours after school without this program. The safety and other issues which are documented regarding children at home alone without supervision are to[o] numerous to mention. Many of these children are able to eat a healthy snack after school. They are able to attend many after school activities at the Jefferson and the staff transports the children once a week and more often for special activities. I cannot tell you how important I feel this program is for the parents, the students and the staff of Jefferson. Please, please, please, continue to support everyone involved at Jefferson Elementary School."

#2- "As a parent, it is important that the Jefferson Afterschool Program keeps being funded because it is a very good program for children. It not only is a lifesaver to working parents, it is also a program that benefits our children. They enjoy the different activities – playing & learning."

#3- "Jefferson Branch is Awesome!! My daughter has severe food allergies and the staff is well educated on how to handle her. The staff are excellent role-models for the kids. Jefferson Branch helps with keeping kids from being home alone."

#4- "My name is - - and I have two children that use the after school program. It is a great thing to have. I don't have to miss or take off early from work and I know my children are in a safe & warm environment. I appreciate all the hard work of the workers. Thank you to all the staff and community."

#5- "I appreciate your efforts with the Jefferson After School program. I know that many of the children at the facility have very few opportunities to experience the positive experiences that this program offers them. As a single mom, it has been a God-send to my family providing my children with positive experiences at a safe environment. I also was happy to hear that you are expending efforts into low-priced housing. I applaud your efforts! Thanks."

#6- "The Jefferson Branch of the Boys & Girls Club is very important to our family. I have two sons which both go to Jefferson. I am a single working mother and it is very important to me, for my children to have a safe place to go after school. I like the fact that they do not have to travel to a safe place. I work until about 5 p.m. and it would be almost impossible to find after school care that we could afford. My sons have been giving to aftercare at Jefferson for as long as it has been available. It has truly been a blessing. Thank you!"

#7- "I have come to appreciate the Jefferson after school program; it has grown from being a baby-sitting situation, to a viable learning environment. My son has enjoyed it and likes the partnership program with the Boys & Girls Club. I hope that Jefferson stays in the neighborhood so that my youngest daughter can enjoy the after-school program also."

#8- "I feel it is needed for the children to unwind after a hard day at school. The typical child today is not allowed to play in their own yard. Without being told not to do this or that. Especially if it is an apartment. Some don't even have proper play yard/parks. This is a safe place to attend and explore their youth. Also, it allows a parent to have a better job and work schedule. Thank you for all you do. And also for them, it is considered a safe place and where they can make new friends."

#9- "The Jefferson Branch of the Boys & Girls Club is a huge help with the reasonable low fees of After School care, and has definitely helped myself and children in the past couple of years. My child enjoyed staying after school with the staff of the Boys & Girls Club, which makes it a lot easier for a parent work later hours each day."

#10- "Jefferson Rocks!"

#11- "The taxi program is beneficial to citizens who cannot afford cars or are physically unable to drive. I encourage you to expand the program and to work on other public transportation projects. I also encourage you to pursue the program to obtain attainable housing. It is beneficial to the people you help & to the city to recreate more homeowners."

Comment from Public Hearing #2 - June 15th, 2004:

#1- "Happy to hear of expansion of taxi-cab voucher program for younger people that need assistance (re: single mother of 4 with no car who couldn't get a car w/ no job.[)] Couldn't get to a job."

Housing The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2004, the City has focused on developing of community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the Attainable Housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest round of information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at $916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of $737. The City of Fayetteville, Community Development program will work on the development of a plan to bring Attainable housing to the City of Fayetteville. This office is working with the Northwest Arkansas Housing Coalition (NAHC) and the committees of the organization to build a relationship with the local Public Housing Office. HUD provided Technical Assistance will be a very important component in reaching the Attainable Housing goal.

Analysis of Impediments to Fair Housing The city is in the process of updating its Analysis of Impediments to Fair Housing (AI). CDBG Program regulations require recipient jurisdictions to affirmatively further fair housing, which flows from HUD's obligation under Section 808 of the Fair Housing Act.
The AI is conceived as an effort to affirmatively further fair housing choice by identifying all impediments to fair housing choice which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the process of developing the AI will foster the collaboration of stakeholders and resource

providers in the public, non-profit, and private sectors, thereby promoting relationship-building and consensus on fair housing issues. The AI process will help describe a clearer picture of housing conditions for LMI households in Fayetteville, and aid us in defining current and future housing directions.

Public Services Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been, and continues to be a focus of the Community Development Program. The Taxi Voucher program provides subsidized cab fare for our city's elder citizens, allowing an inexpensive transportation choice for many who would not have transportation available otherwise. This simple, cost effective program receives unwavering support from those who use it to go shopping, to the doctor, post office, church, out to eat, or any number of other destinations. The program is hugely successful in providing our elders opportunity to participate in community life and to live independently.

Public Facilities - Community Needs CDBG has historically supported community services facilities projects in Fayetteville. CDBG dollars have assisted construction, renovation and development of facilities for local non-profit organizations such as Seven Hills Homeless Center, Head Start, Peace at Home Family Shelter, as well as renovations and improvements to streets, sidewalks and other infrastructure located in the designated target area.

ACTION PLAN - 2005

I. AVAILABLE RESOURCES

A. Resources – Federal/State

The City is the recipient of a formula grant program, the Community Development Block Grant Entitlement Cities Program. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants, and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2005 will be approximately $761,000.

B. Resources – Municipal Government

The City's Street Division has estimated $100,000 for street overlay and repair of streets located in the designated Community Development Target Area. The City's Budget Division has budgeted approximately $15,000 for maintenance of city-owned buildings occupied by area non-profit agencies performing public service activities.

II. DESCRIPTION OF ACTIVITIES

A. Housing Services

- **Residential Rehabilitation**

This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The following services are offered:

- Minor Rehabilitation up to $10,000
- 5 projects of Rehabilitation up to $20,000

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. $314,924 is allocated and includes salary and program delivery costs for management and oversight of all housing programs.

Location: Citywide. Applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include: Very Low Income, Elderly, Disabled, Single-parent household, Lead-based paint hazards in homes, and homes located in the Target Area.

- **Home Ownership**

This program would provide down-payment assistance and homebuyer training. In an effort to assist in the homeownership dream this program will provide a source of down-payment funding and homeownership training for eligible residents of the City of Fayetteville. **CDBG funds allocated - $10,000**

- **Habitat for Humanity of Washington County, Inc.**

Habitat for Humanity (HFH-F) mission is to construct attainable housing. HFH-F was chartered in December 1992 and has assisted low income families by providing attainable homes. HFH-F is the builder and mortgage lender; homes are sold at no-profit and no-interest. To date HFH-F has built and sold 20 homes in the past 10 years. Funds received from donations, club pledges, the religious community, community organizations, and in-kind donations and from HFH-F homeowners' principle payments. Participants are in the 30-50% of median income range. Their monthly payments are 20-25% of their monthly gross income including taxes and insurance. **CDBG funds allocated - $10,000**

Revenue Sources:

Carpenters Club & Corp. Carpenters Club donors	90,000
Wal-Mart Shoe/Jewelry Divs. Golf Tournament	60,000
Dr Scholl's HFH Tin Cup 5K Run/Walk	30,000
Covenant Church Commitment	15,000
Habitat Hoops	15,000
Unspecified donations	7,545

B. Public Services

- **YouthCAN!**

This project will provide a 5 week summer program that will provide productive and creative activities to at-risk youth, four hours daily, four days per week for a total of 20 days. Constructive youth development programs such as this reduce the risk of experimenting with drugs and alcohol and getting in trouble. Youth will participate in art, mentoring, team building, leadership, & community services activities as well as attending field trips. The participants will work with professional artists, and other teens, and will experience a wide variety of art mediums. They will also be evaluated through a pre/post test assessment to demonstrate impact of programming. **CDBG funds allocated - $15,020.00**

- **Fayetteville Elderly Taxicab Program**

This program provides an alternative transportation choice for elderly residents of Fayetteville through subsidized cab fare. Elderly physically challenged and other eligible low to moderate individuals will be served by this transportation program. **CDBG funds allocated - $40,000**

Location: Citywide

- **Fayetteville Boys and Girls Club**

This program will assist participants with homework help, academic, prevention and health & life skills programs. Participants will receive educational and recreational programming and activities in a safe and adult caring environment to aide them in their development during early school years. Participants will also benefit from structured time to relax and participate in activities such as playing on the playground or playing in the gym, listening to music, stretching and other whole group fun activities. This project is child-focused and is aimed at developing the total person academically, socially, emotionally and physically. Approximately 120 young people will benefit from the after-school program at Jefferson Elementary. An estimated 90% of all beneficiaries reside in the target area and are low/moderate income.
CDBG funds allocated - $40,000

C. *Administration*

Administration funds are used for the salary and benefits of the Community Development Director, administration staff, office supplies, travel and training costs, some Fair Housing activities and other costs associated with administration of community development activities. Funding for the update to "Analysis of Impediments to Fair Housing" has been included in this program. This study will provide valuable housing information which will be utilized to ensure compliance to the Section 808 of the Fair Housing Act and will assist in reaching the goal of attainable housing. **CDBG funds allocated - $121,056**

Location: Community Planning & City Engineering Building, 125 West Mountain Street

D. *Redevelopment Program*

Program activities conducted in the target area include code compliance, clearance and demolition and land acquisition for attainable housing.
CDBG fund allocated - $210,000

III. *Monitoring*

Community Development Programs will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

Housing Programs will be monitored by the CDBG Housing Program staff, State HUD staff and the City of Fayetteville Building Safety Division, when needed for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow up visits will be made to all minor rehabilitation project sites.

Public Service Activities Sub-recipient agreements will be required for all public service activities. Monitoring area will include program performance, financial performance and regulatory compliance. Sub-recipient agreements will require documentation of activities and results. In addition, agreements will require an estimated project schedule and a project completion date. Agreement will outline procedures to be followed in the case a non-compliance situation may occur.

Redevelopment Programs will be monitored by the staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guide. Land acquired will be utilized for attainable housing in the target area. Program efforts will serve to advance the revitalization of the target area.

IV. Lead-Based Paint Hazards

Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

ATTACHMENT A – Homeless and Other Special Needs Activities

There are a number of service organizations and facilities serving persons and families who are homeless or at-risk for homelessness. Generally, the organizations provide housing or housing services as an adjunct to addressing a specific problem for which homelessness, or at risk for being homeless, is a symptom and aggravating factor. Many of these agencies work together providing assessment screening and referrals to the agency providing for the particular need and thus collectively provide a fairly wide safety net of security with a range of housing assistance services.

Children's House, Fayetteville- The population served is abused or neglected children and the total capacity for the facility is 22 beds. The children served are referred by Department of Human Services or Juvenile Court.

NWA Children's Shelter, Bentonville- The population served is abused or neglected children. The ages of girls are 0-18, boys 0-12. The total capacity that can be held at the facility is 21. The children served are referred by Department of Human Services or Juvenile Court.

Peace at Home Family Shelter, Fayetteville- The population served is physically, sexually, emotionally abused women and children. The facility at full capacity can hold 6 families or up to 20 people who are homeless. These families voluntarily go to this facility for assistance.

Lifestyles Inc., Fayetteville- The population served are physically and developmentally delayed people ranging in age. The facility has 11 rent assisted dwellings, 8 single and 4 double apartments.

Richardson Center, Springdale- The populations served are developmentally disabled. The preschool at full capacity serves 86 children. This facility also provides in-home services depending on staff availability. On average, about 1% are homeless children being served.

Ozark Guidance Center, Fayetteville (Habberton House) - The population served at this facility is seriously emotionally disturbed children ages 9-18 yrs old. At full capacity they serve 26 children. On average they are referred but about 1% is homeless children.

Youth Bridge-Fayetteville/Centerton- This facility is an emergency shelter that serves children ranging in age from 12-18 yrs of age. The Fayetteville facility houses 9 and the Centerton facility houses 25 at full capacity. There are a small percentage of these children who are homeless.

Vista Health, Fayetteville- The populations served in this facility have a mental illness, acute or sub acute. At full capacity it will house 16 in the children's unit and 28 in the adolescent unit. These children are normally referred for the services that the facility offers.

Salvation Army, Fayetteville- The population served at this facility is homeless people of all ages. The full capacity is 57 but the facility will not turn anyone away.

Seven Hills, Fayetteville- The populations served at this facility are homeless people of all ages. It has a day facility that will offer services and food is brought in for lunch. It also has a transitional housing facility that will house up to 21 women or men. The facility last year had 19,000 visits from homeless people, 1900 different women, men and children.

Other Special Needs Activities

The Minor & Moderate Rehabilitation program provides supportive housing activities to the special needs populations of the elderly, frail elderly, and persons with disabilities by removing barriers to independent living through the construction of an ADA approved ramps, widening of doorways, and installation of handrails in strategic places. Priority within these programs can be given to persons over the age of 62 and persons with a disability.

The YouthCAN! Program will provide "at-risk" youth in meeting their developmental and social needs to prevent reduce the risk of experimenting with drugs and alcohol and getting in trouble.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr-05
City Council Meeting Date

Yolanda Fields	CRCC	Operations
Submitted By	Division	Department

Action Required:

Approval of 2005 Community Development Grant Agreement.

$0.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
		Grant Revenue
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Community Development
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] Budget Adjustment Attached [ ]

Department Director	3.18.05 Date	Previous Ordinance or Resolution #
City Attorney	3-18-05	Original Contract Date:
Finance and Internal Service Director	3-23-05 Date	Original Contract Number:
Mayor	Date	

Received in City Clerk's Office ENTERED 3/18/05

Received in Mayor's Office ENTERED 3/18/05

Staff recommends approval of 2005 Community Development Block Grant Agreement.

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 5, 2005

FROM:
ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO ADD §96.09 TO THE CODE OF FAYETTEVILLE TO RESTRICT THE USE OF A COMPRESSION RELEASE ENGINE BRAKE OR "JAKE BRAKE"

APPROVED FOR AGENDA:

Brenda Thiel 3/21/05

Brenda Thiel Date
Alderman

3-18-05

Kit Williams Date
City Attorney (as to form)

ORDINANCE NO. ______

AN ORDINANCE TO ADD §96.09 TO THE CODE OF FAYETTEVILLE TO RESTRICT THE USE OF A COMPRESSION RELEASE ENGINE BRAKE OR "JAKE BRAKE"

WHEREAS, the use of compression release engine brakes, also knows as "jake brakes" within the city limits disturbs citizens and constitutes a nuisance.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 96: Noise Control by enacting and adding a new section as shown below:

> **"96.09 Compression Release Engine Brake or 'Jake Brake'**
>
> "A compression release engine brake or 'jake brake' or other hydraulically operated device that converts a power producing diesel or gas engine into a power absorbing retarding mechanism with a correspondingly increased amount of noise emission shall not be engaged or used within the city limits of Fayetteville except in the case of failure of the service brake system or other emergency necessitating the compression release engine brake's use."

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

The West Whiteland Fire Company
of
Exton, Pennsylvania

How a "Jake Brake" Works

The basic idea behind a "Jake Brake" is to use the engine to provide brake power. If you own a stick shift car and have ever downshifted to provide braking, you understand part of the idea. When you brake a car by downshifting, you are using the engine to vacuum to slow the car down.

A "Jake Brake" goes one step further, and actually turns the engine into an air compressor to provide a great deal more braking power. If you have any knowledge how an engine works, you understand the compressing of air in the cylinders takes power. If the engine's drive shaft is turning the engine to brake the truck, the power is stored in the cylinder, so if you let the compressed air simply pushes the piston back down. Therefore you don't really get any braking at all from the compression stroke on an unmodified engine.

A Jake Brake modifies the timing on the exhaust valves so that when braking is desired, the exhaust valves open right as the piston reaches the top of the compression stroke. The energy gathered in the compressed air is released, so the compression stroke actually provides braking power.

The main advantage of a "Jake Brake" is that it saves wear on the normal brakes. This is especially important on long downhill stretches.

City Council Meeting of April 5, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation C.E.

From: David Wright, Recreation Superintendent

Date: March 17, 2005

Subject: An exemption of City Ordinances relating to Recreational Activities at Lake Fayetteville to host Solar Splash Boating Competition on June of 2006

RECOMMENDATION

Fayetteville Parks and Recreation Staff and Parks and Recreation Advisory Board (PRAB) recommends for City Council to approve an exemption of the Lake Recreation Ordinance that would allow Solar Splash International Boating Competition to be hosted at Lake Fayetteville in June 2006.

BACKGROUND

The Solar Splash competition is the World Championship of solar/electric boating. It is an international collegiate boating competition between electrical and mechanical engineering students working together as a team to overcome design challenges and create a successful solar/electric boat. Universities from all over the country, design and build boats that are charged using solar energy during the competition. The competition consists of seven scoring categories, including four events on the water. Categories include technical report, visual presentation, workmanship, qualifying event, solar slalom event, sprint event, and endurance event. The sprint is a 300 meter race that will run parallel to Lake Fayetteville dam. The endurance element will consist of a rectangular course that will be in the western part of the lake. The event traditionally attracts approximately thirty (30) teams to the community.

This item was presented to the PRAB on February 7, 2005 where it was tabled to allow for public input. During the month, only positive remarks were made to Staff and PRAB. At the March 7, 2005 meeting, PRAB unanimously voted to host the event and to request for City Council to approve an exemption from the City of Fayetteville Lake Ordinances in order to host this event.

When discussing Solar Splash with the University of Arkansas, Parks and Recreation Staff expressed a concern about closing Lake Fayetteville during the summer months. The Lake collects fees from users and closing would certainly cost the City and Boatdock Contractor daily revenue. The Solar Splash hosts agreed to pay a rental fee for the facility. PRAB will approve the fee which will be an average of fees collected in 2004 and 2005 during the event's scheduled week in June. This fee is estimated to be approximately $1,600. Event organizers are satisfied with the fee and have already received local support for funding.

The Lake Fayetteville dam offers an exceptional site for the public to view the event. Event organizers are looking into the possibility to hosting a 5K run in collaboration with the event.

DISCUSSION

The Solar Splash event will take place in June of 2006. There are two tentative dates for the event. The preferred option is June 15–19. This week will have the lowest impact on our recreational softball programs held at Lake Fayetteville Softball Complex since it would be an off-week between spring and summer softball seasons. The second option is June 22–26. Although softball will be played during that week, games for the evening will not begin until 6:30 pm. This will be close to the time the competitors begin closing down for the day. There will be some overlap; however, it will be minimal. The exact event dates has not been determined at this point.

This event will require the operations of Lake Fayetteville to be closed for fishing or boating from Thursday through Sunday. Competitors will start setting up for the event on Wednesday, which will not interfere with the normal boat dock operations. The competition will begin on the lake on Thursday. Event organizers suggested a couple of time frames daily would be given where boat stall occupants could access their boats.

Just as in Buffalo, New York, event organizers will be responsible for carrying their own liability insurance. The City will not be held responsible for their event. A contract will be created at a later date to include liability insurance coverage, facility regulations, as well as rental fee for the facility.

Lake Fayetteville was selected as the preferred site for the 2006 Solar Splash Event. This request is made to City Council at such an early date in order to establish that all City requirements have been met. Attached is a copy of PRAB Meeting minutes and the current Lake Ordinances. If you have any questions, please call me at 444-3481.

ORDINANCE NO. ______

AN ORDINANCE TO WAIVE VARIOUS PROVISIONS OF **§97.070 RECREATIONAL ACTIVITIES AT LAKES FAYETTEVILLE, SEQUOYAH AND WILSON** TO ALLOW THE SOLAR SPLASH INTERNATIONAL BOATING COMPETITION TO BE HELD ON LAKE FAYETTEVILLE IN JUNE 2006

WHEREAS, the Parks and Recreation Advisory Board on March7, 2001, voted unanimously to host the Solar Splash Boating Competition on Lake Fayetteville in June of 2006 and recommended a waiver be passed by the City Council to allow this event to be held; and

WHEREAS, the Fayetteville Parks and recreation Staff recommends that Fayetteville host this international collegiate solar powered boating contest and waive the normal no "boat racing" and no large wake rules for City lakes in order to conduct this event.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby agrees to host the Solar Splash International Collegiate Boating Competition on Lake Fayetteville in June of 2006 and hereby waives provisions of §97.070 concerning permits, wake limits, boat racing and any other provisions necessary to host this event on Lake Fayetteville in June, 2006.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

DRAFT

By: ______________________

SONDRA SMITH, City Clerk

97.068 Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068)

Cross reference(s)--Penalty, §97.999.

97.069 Horseback Riding

No person in a park shall ride a horse except in Combs Park or on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree, or shrub.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069)

Cross reference(s)--Penalty, §97.999.

97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided, each lake shall be closed Thanksgiving Day. The boat docks shall be closed on December 24th and shall remain closed through January 14th.

(B) *Permits for fishing and boating.*

(1) *Permits:*

- Season fishing permit $20.00 per individual for both lakes (65 and over $15.00).
- Season boating permit $20.00 per individual for both lakes (65 and over $15.00).
- Daily fishing permits $2.00 per individual for each lake (65 and over $1.00).
- Daily boating/launching permits $2.00 per individual for each lake (65 and over $1.00).

(2) *Miscellaneous.*

(a) Each person 16 years of age or older is required to purchase a fishing permit for fishing on each lake or any stream within the city owned lake property.

(b) A boating permit applies to the boat rather than the occupants thereof.

(c) All daily permits are only good during the day of purchase.

(C) *Boat docking.* Boat docking shall be permitted at the boat docks at Lake Fayetteville and Lake Sequoyah on a space available basis.

(1) *Fees:*

Lake Fayetteville:

- Residents per boat, annually $200.00.
- Nonresidents per boat, annually $260.00.

Lake Sequoyah:

- Per boat, annually $80.00.

(D) *Fishing.* All fishing shall be done only from the lake bank or boat. No wading, swimming, or belly boats shall be permitted. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught, however, the Fayetteville Parks and Recreation Division may provide additional requirements necessary to manage the fish population. All persons should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, set lines, limb lines, cast nets, yo-yo's or jug fishing.

(E) *Boating.* A boating permit for each boat must be purchased before its use on the lake. All boats must be docked at the boat landing at lake closing time. No boats except those used by lake employees will be docked at any other location on the lake.

(F) *Place of entry.* All persons are warned to enter the lake for boating or fishing only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution.

(G) *Use of motors on boats.*

(1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof and shall not be operated in such a manner as to create heavy waves causing undue erosion of the shoreline.

(2) No boats shall be permitted within 500 feet of the spillway of Lake Sequoyah.

(3) No houseboats, water skiing, or jet skis allowed. Speeding and boat racing is not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

(4) All state laws governing boats must be complied with before using a boat on any city lake. Facilities for docking or landing of boats will be provided, however, the city will not be responsible for any damage or theft of boats, motors or equipment left in boats at docks.

(H) *Picnicking or other recreational activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the city. Overnight camping is allowed only by special group permit.

(I) *Committing nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

(J) *Fishing and boating prohibited near intake tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.

(K) *Fishing on stream below dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dams.

(L) *Firearms and hunting.* No firearms, hunting or trapping will be permitted on city owned property at any time.

(M) *Use of motor vehicles.* No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.

(N) *Revoking permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.

(Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070)

Cross reference(s)--Penalty, §97.999.

97.071-97.079 Reserved

ARTICLE VI
CONDUCT IN PARKS

97.080 Gambling Prohibited; Recreational Activities To Take Place Only In Suitable Areas

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

Cross reference(s)--Penalty, §97.999.

97.081 Intoxicating Beverages

No person in a park shall bring into or consume alcoholic beverages within a city park, nor shall any person enter a park when under the influence of intoxicating beverages.

(Code 1965, §17A-23; Ord. No. 1594, 4-1-68; Code 1991, §97.081)

Cross reference(s)--Penalty, §97.999.

FAYETTEVILLE
PARKS & RECREATION

Parks and Recreation Advisory Board
Agenda Request

Parks and Recreation Advisory Board (PRAB), Meetings are held the first Monday of each month at 5:30 p.m. Request must be submitted in writing to the Parks and Recreation Office eight (8) working days prior to the meeting. Request may be e-mailed or faxed. This will allow staff time to review the proposal and meet with the requestor if needed. Failure to provide adequate information may delay request to be placed on the agenda. PRAB Agendas are posted on the City's Web Site at www.accessfayetteville.org. Request must be submitted on the following format:

Date: 2/2/04 **PRAB Meeting Date:** 2/7/05

Name: Alan Mantooth

Address: BEC 3217, Dept. of Electrical Engineering, Fayetteville

Phone: Day: 575-4838 **Evening:** 571-0817 **Cell:** 466-9108

E-Mail: mantooth@uark.edu

Organization Name: University of Arkansas Solar Electric Boat Team

Information about Organization including History: (Please attach a list of Officers, members, addresses, and phone numbers.)

Alan Mantooth, Professor of Electrical Engineering, Advisor
Bill Springer, Professor of Mechanical Engineering, Advisor
Roy McCann, Professor of Electrical Engineering, Advisor

Name of Presenter (s) to PRAB: Alan Mantooth & Bill Springer

Please attach a memo including the following items:

1. **Request (Please be specific.)**
2. **Background of request.**
3. **Estimate cost of project.**
4. **Donation to the City if applicable (Labor, Materials or Funding)**
5. **Requested cost to the City.**
6. **Maintenance required.**
7. **Detailed timeline.**
8. **Date requested to be complete.**

571-7714

SOLAR SPLASH is the World Championship of Solar/Electric boating and takes place in mid to late June each year. It is an international intercollegiate competition that takes place over five days. Technical Inspections are done on the first day, and the remainder of the time is occupied by five on-the-water competitive events. Points are earned in 7 categories starting with Technical reports that are submitted at the beginning of May. On-site competitions include Visual Displays and Workmanship. On-the-water events begin with a Sprint and a Maneuverability qualifier. This is followed by an event called the Solar Slalom, which is a combination of speed and maneuverability. The final days are spent in the Sprint and Endurance events.

Over the years, **SOLAR SPLASH** has taken place in Milwaukee, Wisconsin, due to its central location and proximity to Marquette University, which hosted the event. In 2000 it moved to New Orleans to cater to southern interests, and then it moved to Buffalo, New York where the competition has been hosted for the past 5 years. The Buffalo site is excellent and within 500 miles of many of the participating schools. The local community strongly supports the Splash.

SOLAR SPLASH is a practical educational experience, which helps to develop teamwork and inter-disciplinary skills. In recent years a few highly qualified High School teams have joined the Event as a natural educational path from secondary school to college. The Event combines the fun of competition with education in a way that is not a major disruption to the student's academic schedule.

If Lake Fayetteville is selected as the host site for **SOLAR SPLASH 2006**, it is expected that upwards of 30 teams would compete including entries from both the SEC and Big 12 conferences. Due to Fayetteville's location and the University of Arkansas's involvement in the SEC it will be possible to generate a great deal of interest from the universities in Oklahoma, Texas, Louisiana, Mississippi, Missouri, Kansas, Tennessee, Alabama, and Kentucky as well as the other teams that normally attend this event. In addition to **SOLAR SPLASH**, it is hoped that one or more additional events could be scheduled to coincide with this activity and take place earlier in the week as a way of introducing the new facilities at Lake Fayetteville to the public. It is also possible that a successful event in 2006 could make it possible to act as the consecutive host for several years as has been the case in Buffalo.

FOCUS ON FAYETTEVILLE

Fayetteville Economic Development Council

DATE: March 7, 2005

TO: Parks and Recreation Advisory Board

RE: "Solar Splash 2006"

Our council would like to encourage you to support having Solar Splash 2006 in Fayetteville. We believe this event will be fun and educational for the entire family. From an economic development point of view, Fayetteville will benefit from the hotel room, food, gas, entertainment, and other expenditures that normally occur when teams and spectators come to town.

However, the biggest bang for the buck will come from the national news coverage and the opportunity to highlight our community and University. Our goal is to be recognized as a research center of excellence and the home of many science and technology based businesses and jobs.

Solar Splash 2006 will bring a lot of prestige to Fayetteville. Thanks for your support.

Sincerely,

Steven K. Rust
President

1 W. Mountain, Suite 301, PO Box 4156, Fayetteville, Arkansas 72702 – 479.442.8885 – Fax 479.442.580

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
February 7, 2005

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:34 p.m. on February 7, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Hill.

Present:
Parks and Recreation Advisory Board members Hill, Bailey, Mauritson, Harrison, Davidson, Langsner, and Pawlik Holmes; City staff Jumper, Hatfield, Edmonston, Mihalevich, Weber, Whillock and Audience.

4. **Solar Boat Race request-Dr. Alan Mantooth**

Wright introduced Dr. Mantooth and Dr. Springer from the University of Arkansas Engineering Department.

Dr. Mantooth presented a proposal for a International Solar Boat Race. This event will host over 300 participants offering a substantial economic impact for the City of Fayetteville. The event runs for 5 days tentatively scheduled for mid to late June, 2006. The race includes sprint racing and endurance racing. The boats are fueled by solar and battery power only.

Hill stated his only concern was for the no-wake ordinance and hours of operation for Lake Fayetteville. The ordinance states that the lake will remain open to the general public which would conflict with the need to close the lake for a special event during the proposed period.

Wright stated City Attorney Kit Williams suggested presenting an exemption to the ordinance to City Council for the solar boat race.

Hill stated this event would require closure of the lake during the busy season. He asked what the deadline is for the application.

Dr. Mantooth replied the event coordinator will conduct a site visit in February.

Pawlik Holmes suggested tabling the proposal until the March meeting to give fishermen and other user groups the opportunity to respond to the request.

Wright stated a rental fee should be determined according to anticipated revenue loss. According to a two year revenue comparison for Lake Fayetteville a possible fee would be $1600 if the event is scheduled in late June 2006.

Mauritson asked if there will be any activities available for the current users of Lake Fayetteville during the event.

Dr. Mantooth replied that current users may be able to participate in the event by assisting with safety certifications, boat checks, and boating safety instruction.

Davidson asked if tabling the proposal will cause a delay that would result in loss of consideration for the event to be held in Fayetteville.

Dr. Mantooth replied that other lakes in the area are also under consideration for the event but that Lake Fayetteville, because of its surrounding amenities, is the desired location.

Mauritson moved to table the proposal for the March Parks Board Meeting.

Bailey seconded the motion.

The motion was approved 7-0-0 with Hill, Mauritson, Bailey, Langsner, Davidson, Harrison, and Pawlik Holmes voting 'yes' and Marley absent for the vote.

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
March 7, 2005

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:35 p.m. on March 7, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Jerry Bailey.

Present:
Parks and Recreation Advisory Board members Bailey, Mauritson, Harrison, Davidson, Langsner, Marley and Pawlik Holmes; City staff Jumper, Hatfield, Edmonston, Mihalevich, Whillock, Wright and Audience.

3. **Solar Boat Race Request: Tabled from February 7, 2005 PRAB Meeting. Dr. Bill Springer, Dr. Alan Mantooth & Dr. Roy McCann, University of Arkansas Engineering Department.**

   Before discussion began, Bailey referred the Board to the comprehensive attachment provided by David Wright.

   Mauritson asked if there was still a time pressure issue for the selection committee's decision on location as was mentioned at the last meeting. Dr. Springer stated that the event representative's trip to Fayetteville was delayed till the weekend of March 12th so that pressure no longer existed.

   Pawlik-Holmes asked what the dates of the event will be.

   Dr. Springer said the week of June 15, 2006 is desired.

   Marley asked if there is any possibility of moving the date to May because late June is often effected by adverse weather.

   Dr. Mantooth stated that the event is often affected by weather and it is never an issue due to the open scheduling of events during the time period. He also pointed out that the event needs to be coordinated with college schedules.

   Dr. Springer said that June is the traditional month for the event. May is final test and graduation for most colleges that participate in the event. He pointed out that slack time in the schedule would allow some shifting within the chosen time frame.

   Harrison stated he was impressed by how well planned the event is and moved to accept the proposal to offer Lake Fayetteville as a potential venue for the International Solar Boat Race.

Bailey asked if there was any citizen group input from those in attendance.

Edmonston provided a letter of support for the event from Steven K. Rust, President of the Fayetteville Economic Development Council. Bailey read the letter aloud and a copy was given to the Board members.

Wright said the Staff is in support of this as a spectator activity and Edmonston requested the Board approve moving forward in the process to have Lake Fayetteville offered as a potential venue for the event. The City Attorney will draft agreement and provide for Council approval.

The addendum to the motion to approve and move forward made by Harrison was seconded by Mauritson.

The motion was approved 7-0-0 with Mauritson, Bailey, Langsner, Davidson, Harrison, Pawlik-Holmes and Marley voting 'yes' and Hill absent for the vote.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

5-Apr-05
City Council Meeting Date

DW Connie Edmonston/David Wright	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

An exemption to the ordinances pertaining to "motors on boats," allowing Solar Splash International Boating Competition to host an event that will allow wakes to be created in Lake Fayetteville during event in June 2006.

n/a	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [ ]

3/18/05
Department Director   Date

3-18-05
City Attorney

3-22-05
Finance and Internal Service Director   Date

3/22/05
Mayor   Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 3/18/05

Received in Mayor's Office

Comments:

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Director of Planning and Development Management
DATE: March 18, 2005
SUBJECT: **Approval of a resolution to convert St. Charles Avenue, Church Avenue, and Spring Street from one-way streets to two-way streets and to add parking on the south side of Center Street between Locust and Church.**

RECOMMENDATION

The Fayetteville Transportation Committee met on Thursday, March 10, 2005 and recommended to the City Council approval of a resolution to convert St. Charles Ave., Church Avenue, and Spring Street from one-way streets to two-way streets and to add parking on the south side of Center Street between Locust and Church.

BACKGROUND

Last year, the City Council adopted the Downtown Master Plan which included a recommendation to convert most of the one-way streets to two-way streets.

Staff evaluated the Downtown Master Plan recommendations and brought forward the first phase to convert the one-way street system. The first phase included streets that would not require significant intersection realignment and signalization changes.

The Transportation Committee did not discuss or make recommendations at this time regarding the second phase which includes the streets that enter the Square. This street conversion discussion was delayed until after the redevelopment of the Mountain Inn is completed due to the required partial street closures that will occur on Center, Mountain, and College Ave.. In addition, a capital improvement project will need to be identified and funded to repair and replace sidewalks around the square, realign curb radiuses and flower beds at intersections, and additional signalization improvements at College Ave.

BUDGET IMPACT

The Transportation Division has programmed street overlays and re-striping for streets to be converted as part of the 2005 overlay program. Additional street signage will be required and will come out of the Transportation Division budget.

RESOLUTION NO. ______

A RESOLUTION TO CONVERT ST. CHARLES AVENUE BETWEEN DICKSON STREET AND WATSON STREET TO TWO WAY TRAFFIC; TO CONVERT CHURCH AVENUE BETWEEN CENTER STREET AND DICKSON STREET TO TWO WAY TRAFFIC; TO CONVERT SPRING STREET BETWEEN EAST STREET AND SCHOOL STREET TO TWO WAY TRAFFIC; AND TO ADD PARKING TO THE SOUTH SIDE OF CENTER STREET BETWEEN LOCUST AVENUE AND CHURCH AVENUE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby converts St. Charles Avenue from Dickson Street to Watson Street to two way traffic.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby converts Church Avenue between Center Street and Dickson Street to two way traffic.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby converts Spring Street between East Street and School Street to two way traffic.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby adds parallel parking spaces to the south side of Center Street between Locust Avenue and Church Avenue.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby removes all currently designated bicycle lanes on Spring Street and Church Street.

PASSED and **APPROVED** this 5th day of February, 2005.

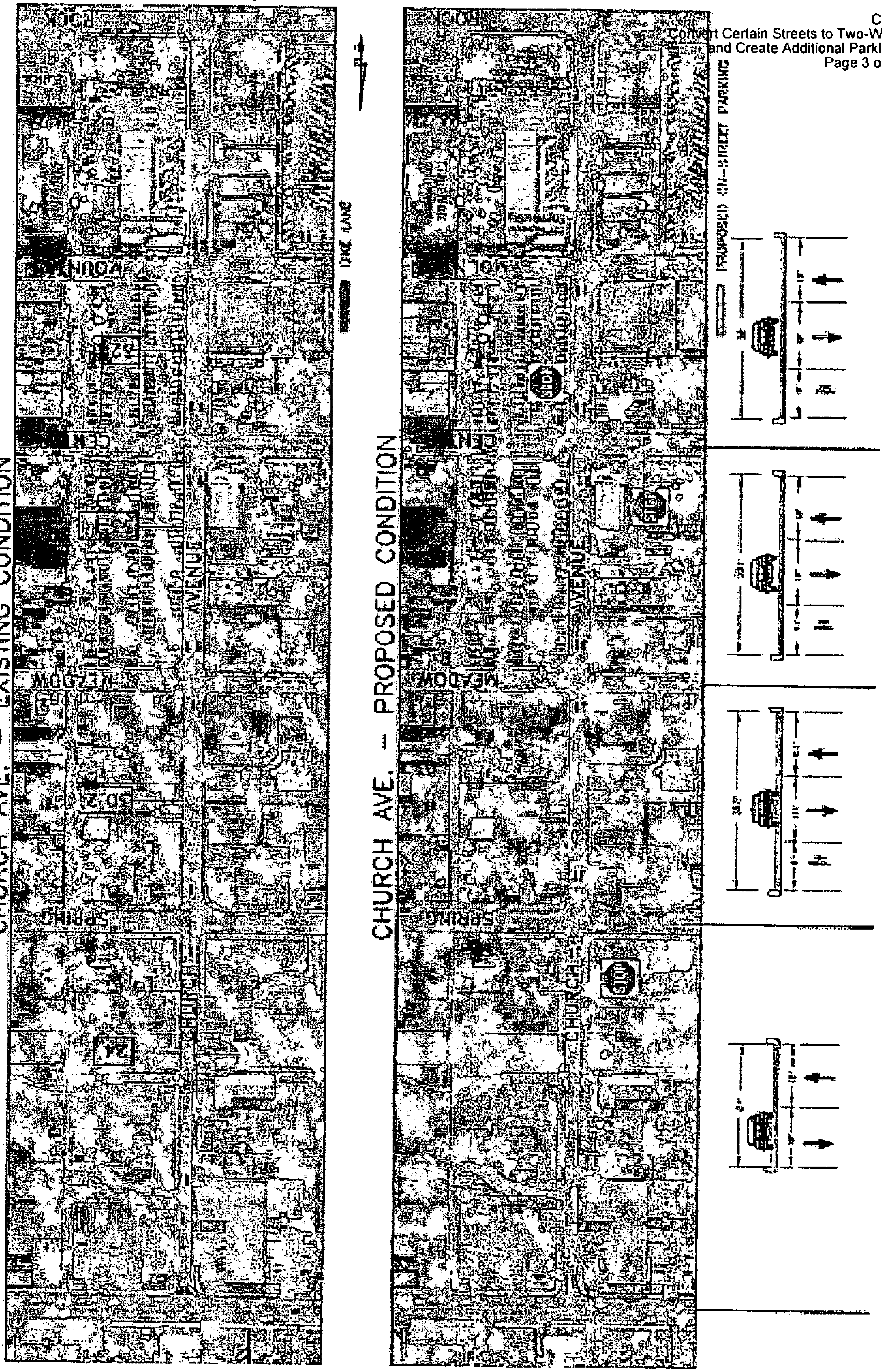
APPROVED:

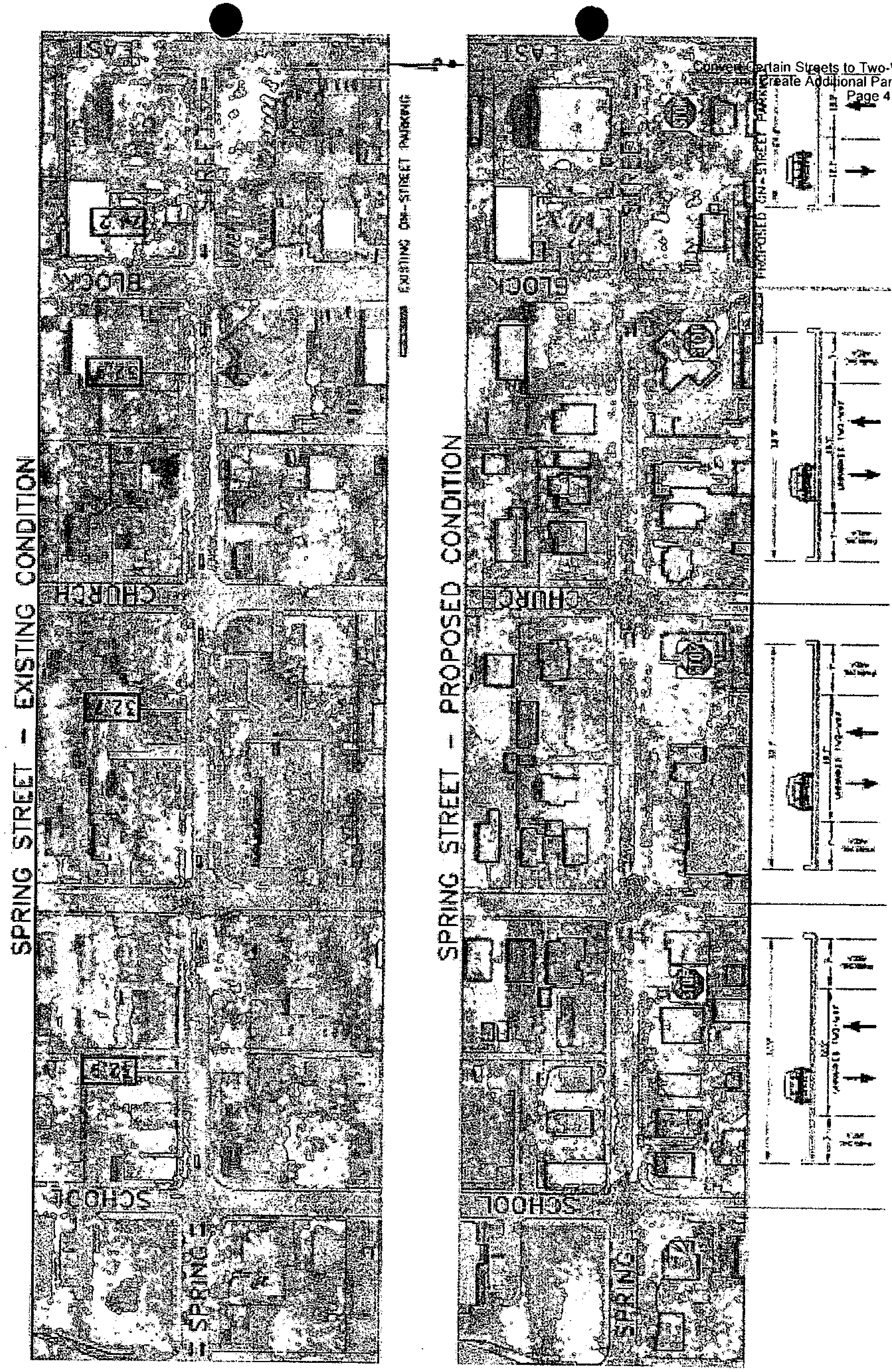
DRAFT

By: ______________________
DAN COODY, Mayor

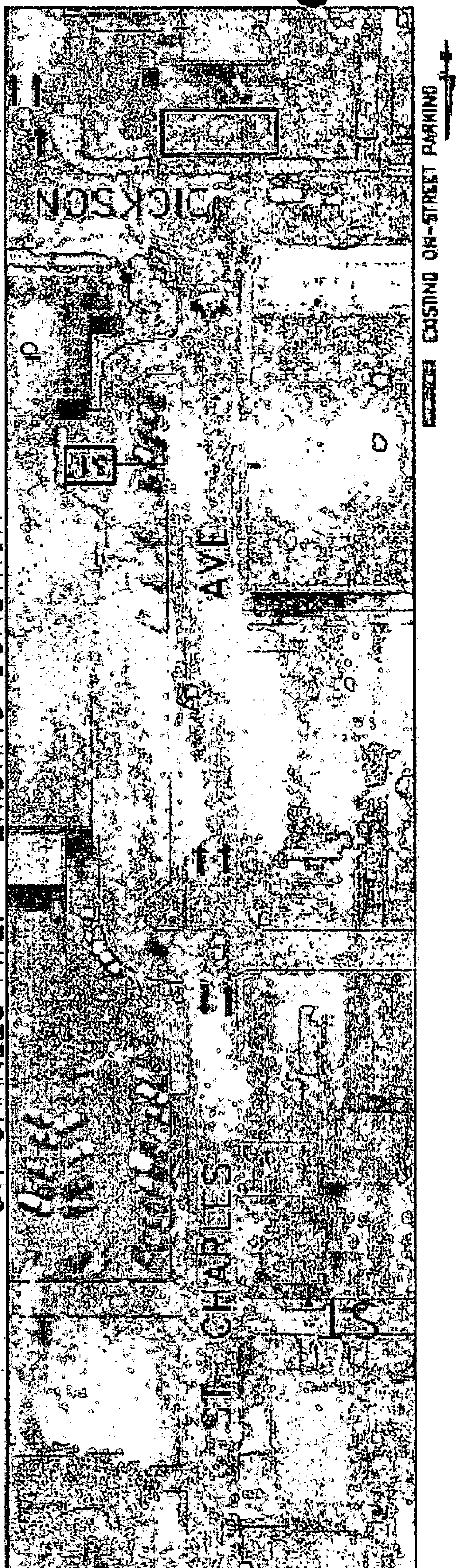
ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

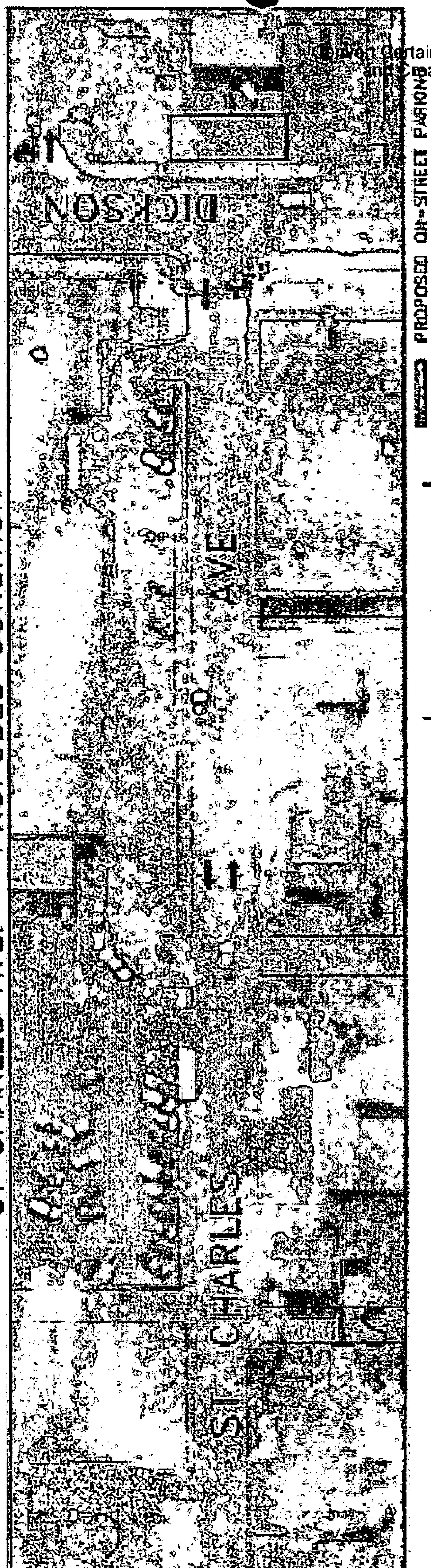

CHURCH AVE. - EXISTING CONDITION
CHURCH AVE. - PROPOSED CONDITION
PROPOSED ON-STREET PARKING
MEADOW
SPRING
AVENUE
CHURCH

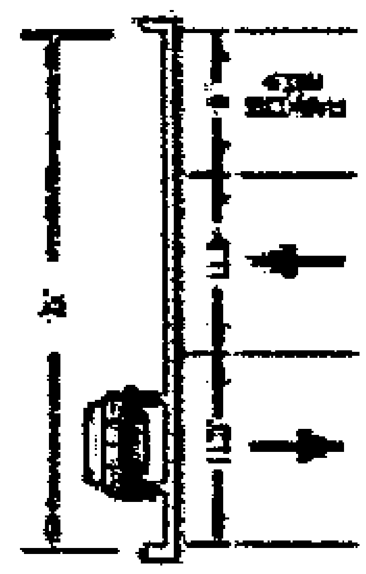

SPRING STREET - EXISTING CONDITION
SPRING STREET - PROPOSED CONDITION
EXISTING ON-STREET PARKING
PROPOSED ON-STREET PARKING
EAST
BLOCK
CHURCH
SCHOOL
SPRING

ST. CHARLES AVE. – EXISTING CONDITION



ST CHARLES AVE. – PROPOSED CONDITION





City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

5-Apr-05
City Council Meeting Date

Tim Conklin	Operations	Planning
Submitted By	Division	Department

Action Required:

Approval of a resolution to convert St. Charles Ave., Church Ave., and Spring Street from one-way streets to two-way streets and to add parking on the south side of Center Street between Locust and Church. This action was recommended by the Transportation Committee on March 10, 2005

$0.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [ ]

Department Director — Date: 3·18·05

City Attorney — 3-18-05

Finance and Internal Service Director — Date: 3-22-05

Mayor — Date: 3/22/05

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 3/18/05

Received in Mayor's Office

Comments:

Fayetteville

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Bob Davis, Water/Wastewater Director
Stephen Davis, Finance and Internal Services Director

From: David Jurgens, Water/Wastewater
Rainy Laycox, Billing & Collection Manager

Date: March 23, 2005

Subject: Resolution approving an engineering services contract with HDR/Economic and Engineering Services, Inc., for a detailed evaluation and report of the Water/Sewer operations, as required by the terms of the City's Water and Wastewater bond covenants

RECOMMENDATION

Fayetteville City Administration recommends approval of an authorization totalling $60,636.00, said amount being the face value of a proposed contract with HDR/ Economic and Engineering Services, Inc. (HDR/EES), and approving a contingency of $8,000.00.

BACKGROUND

The City of Fayetteville must, by bond indenture requirement, conduct an operations study of the water and sewer utility (Utility) every three (3) years. The operations study examines the Utility and reports on the following elements:

- Engineering Evaluation
- Financial Analysis
- Compliance with Bond Indenture(s)

The City committed to our customer groups to solicit requests for qualification for the required operations report for 2005 and in compliance with contractual terms invited West Fork and Elkins to participate in the selection process. Additionally, Fayetteville offered representation to Farmington, Greenland, Goshen, the Fayetteville Chamber of Commerce and the University of Arkansas. Elkins, Farmington, Goshen, Fayetteville Chamber of Commerce and the University of Arkansas have participated fully in this selection process.

The contracts with West Fork and Elkins require the City of Fayetteville engage a registered professional engineering firm with a national presence to conduct rate studies. Additionally, contractual trerms also require rates to be developed on a utility model cost of service basis. The City reviewed statemetns of qualifications for engineefring firms that meet the contractual requirements. The initial listing included seven firms and the Committee narrowed the list to three firms: Carter & Burgess, Burns & McDonnell and HDR/EES.

Fayetteville

Through several meetings and interviews in February, 2005, the Committee selected HDR/EES to perform the work. A contract has been negotiated with HDR/EES (copy attached) wherein the services will be provided for a lump sum cost of $52,870.00 plus estimated reimbursible expenses of $7,766.00.

In order to continue building consensus and promoting concept buy-in, a selection group consisting of representatives from Elkins, Farmington, Goshen, the University of Arkansas, the City of Fayetteville Chamber of Commerce, and City staff have committed to continue through the completion of this process with the distribution of the final report.

DISCUSSION

To meet the bond covenants, the study must be completed by 1 September 2005. This Operations Study Project is planned to include the following scheduled briefings for the Selection Group:

- Water Distribution System – capacity and condition assessment
- Wastewater Collection and Treatment system – capacity and condition assessment
- Asset Management Strategy for the Utility (GASB 34)

HDR/EES is scheduled to give a presentation of their report to the Fayetteville City Council prior to 1 September, 2005.

The contingency is requested to expedite approval of any additional presentations or additional work that may be required.

BUDGET IMPACT

The $68,636.00, including the $8,000.00 contingency, is included in the 2005 budget.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE AN ENGINEERING SERVICES CONTRACT WITH HDR/ECONOMIC AND ENGINEERING SERVICES, INC. IN THE AMOUNT OF $60,636.00 WITH A CONTINGENCY OF $8,000.00 FOR EVALUATION AND RATE STUDY OF THE CITY'S WATER AND WASTEWATER OPERATIONS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's water and wastewater operations.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk



Proposed Goals For the Selection Group For the 2005 Water & Sewer Operations Study

- Promote customer confidence by providing operational and financial transparency to utility consumers.

- Promote exceptional environmental stewardship through independent confirmation of the functional status of the water & sewer utility.

- Obtain independent assessment of the financial condition of the water & sewer utility.

- Provides a basis for determining optimum utility services that are funded fairly and equitably.

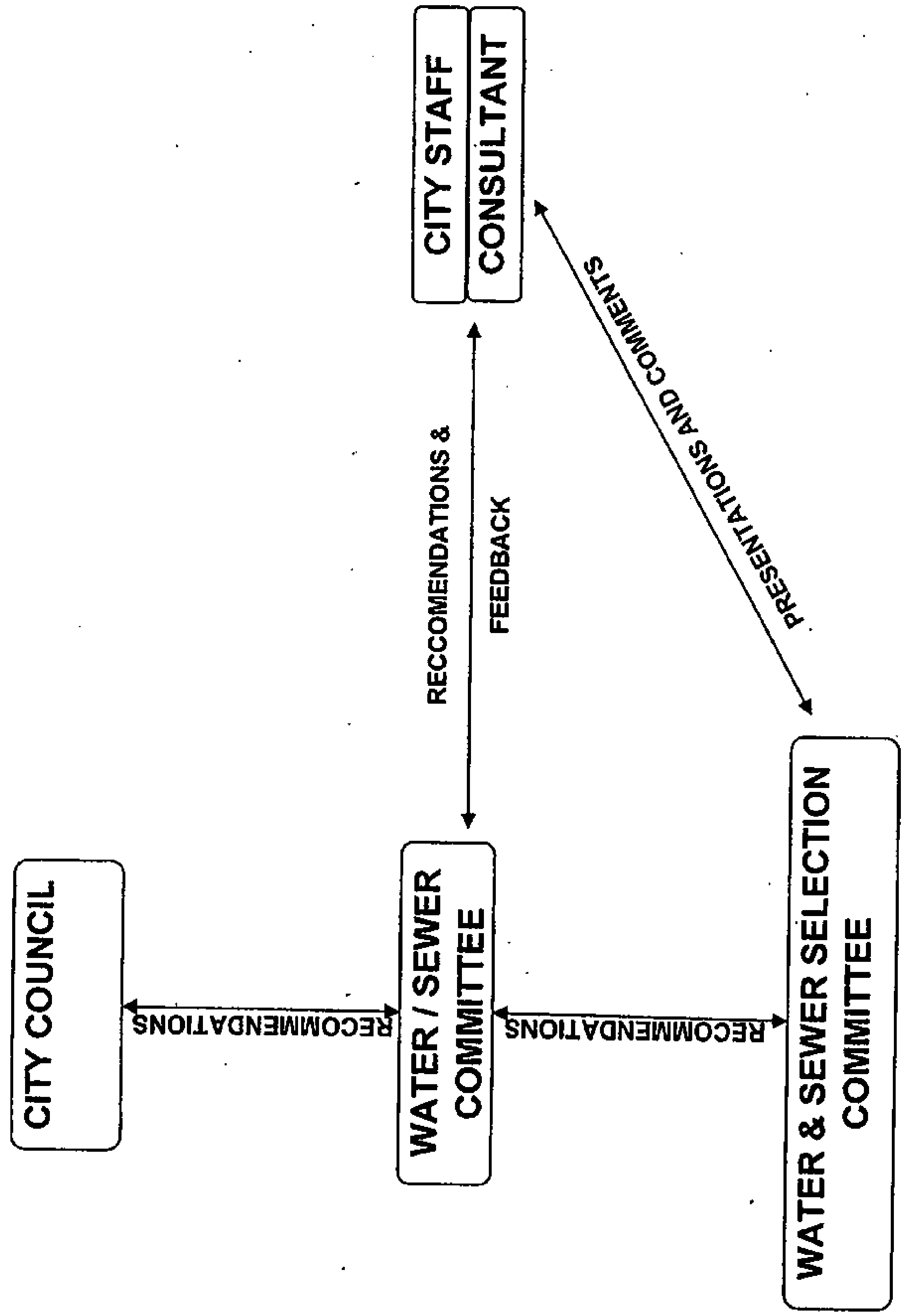
- Provides a basis for future utility investments to insure system reliability.

- Providing the framework that addresses the long-term service and the functional and financial viability of the System.

- Recognizing the System as an integral part of a larger community



WATER / SEWER SYSTEM STUDY



Water & Sewer Operations Study Selection Committee Milestone Dates

Project Milestone	Early	Late
Kickoff Meeting	February 4	February 4
Selection Committee Recommendation for Preferred Consultant	February 22	March 8
City Council Agenda Session	March 8	March 25
City Council Contract Authorization	March 15	April 5
Report Presentation – City Council	August 9	August 30

City of Fayetteville
Work Plan for the Operations Report of the Water and Sewer System

Task 1—Initial Meeting and Data Collection

Task Objective: Bring the Consultant, City management and staff together, at the start of the project, to assure that both parties have a mutual understanding of the goals, objectives, issues and concerns related to the study. Review and assess the City's existing water, sewer, and storm water data, and provide a written data request detailing the data required to complete the study.

The initial project meeting is used as a starting point for the study. It is proposed that the initial project meeting be approximately ½ day in length, and review the goals, objectives and key issues for the operations study. One of the key objectives to be accomplished in the initial project meeting is the scheduling of interviews and on-site surveys. Discussions will be held to determine the appropriate individuals and their availability. A determination will be made of the specific facilities to be surveyed/observed and the method to best accomplish this task. A schedule will be determined and arranged to conduct the survey tours.

At the same time, provide a written data request to the City will be provided to obtain the necessary financial and operational data and information needed to complete the study. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, operational, statistical, customer, etc.).

An important data item is customer billing and bill tabulation information. HDR/EES will work closely with the City's customer service and data processing personnel to obtain the data and information in a format suitable for this study. HDR/EES does not anticipate any major problems obtaining this data and information in a suitable format.

Expected City Staff Support for Task 1:

- Have their key management/project team members attend a ½ day planning meeting.
- Review the on-site facilities to be surveyed and determine a schedule to conduct the on-site surveys
- Gather the data requested in the written data request provided by EES. (Note: typically requires 20 – 40 hours of total staff time to provide.)
- Work with City staff to determine the format for bill tabulation data.

Work Product Deliverables as a Result of Task 1—Initial Kick-off Meeting.

- Face-to-face meeting to identify key objectives, issues and concerns by both parties.
- An initial written data request to the City.
- Identification of any data constraints.
- Schedule for conducting on-site surveys
- Format and approach to obtain bill tabulation data

Task 2—Engineering Evaluation

Task Objective: *Evaluate the operation, and maintenance practices of the water and wastewater utilities to assess the condition, reliability, performance or current infrastructure and major capital improvements planned for the utilities.*

This work will be accomplished through a combination of meetings with City utility/OMI contract staff, field inspections of readily accessible infrastructure, review of operational and maintenance procedures and records, as well as a regulatory review of compliance confirmed by written inspections, correspondence, and personal contact with the appropriate state and local regulatory agencies. Key engineering data requests will be provided the Task 1 as well as contact information for operational staff and regulatory agency personnel.

A summary of each system's major infrastructure will be provided along with reported capacities. Programmatic activities such as monitoring, cross connection control, source protection, conservation, meter reading, industrial pretreatment, I/I control, biosolids management, odor control and others will also be summarized. Levels of certified operators in specialty areas will be compared to regulatory requirements, and record keeping practices will be examined. In addition, recommended capital improvements and summary write ups for their need and justification will be requested and reviewed in relation to the system's most recent utility master plan.

All conditions and criteria outlined in the bond covenants will be compared to the engineering information. Any areas of compliance and/or discrepancy will be noted and observations on areas of improvement will be included. Observations regarding funding priorities for adequate renewal and replacement activities, GASB 34 inventory control and asset management practices, and other issues influencing system integrity will be included.

Expected City Staff Support for Task 2:

- Provide copies of most recent utility plans and all requested data for each system.
- Explain current operating and maintenance practices as well as all planned changes.
- Guide and accompany the consultants in field visits and observations of infrastructure facilities.
- Provide requested information regarding all planned, documented, and anticipated capital improvements.
- Participate in interviews and meetings.

Work Product Deliverables as a Result of Task 2—Engineering Evaluation

- A Report on the Operations of the Water and Sewer Systems.
- Summary table of key infrastructure features.
- Summary of key observations, compliance, and discrepancies.

Task 3—Financial Analysis

Task Objective: *Develop a five-year forecast of the revenues and expenses (i.e. revenue requirements) for the water and sewer utility. The analysis should be summarized to identify the needed annual adjustments to water and sewer rates. The analysis must comply with bond* *covenant requirements, prudent financial planning criteria and sound business practices.*

A five-year forecast of revenues and expenses (i.e. revenue requirements) will be undertaken. This portion of the study entails reviewing, for each utility, the various sources of funds (revenues) and comparing them to the applications of funds (expenses) for the utility. This task considers the prudent and proper funding for O&M and capital expenditures for each utility, and determines the need for any rate adjustments over the five-year time period. A more detailed discussion of the various steps involved in developing the City's financial analysis (revenue requirements) for each utility is provided below.

STEP 1 – SELECTION OF A TEST PERIOD – The first step in the development of the financial analysis is the selection of a "test period". A five-year future test period is required. In this case, a five-year projected time period of CY 2006-2010 is proposed.

STEP 2 – FORECAST OF ACCOUNTS AND BILLED VOLUMES – For the five-year period, the number of accounts and billed volumes will be developed. The forecast of accounts and billed volumes will be developed on a monthly basis for the five-year period and summarized as an annual forecast. In forecasting the accounts and billed volumes, consideration will be given to a number of factors that impact customer growth and consumption. These factors include the local economic climate, climate, changes with major customers and changes in customer usage behavior. HDR/EES will review our account and billed volume forecasts with the City to verify reasonableness. Tables will be developed that compare the last five historical years with the projected five-year period of the number of accounts and billed usage.

STEP 3 – FORECAST OF REVENUES – For each utility, a forecast of the projected revenues will be developed. Based upon the forecasted number of accounts and billed volumes (Step 2), the projection of rate revenues will be at present (current) rate levels. A table will be developed that compares the last five year's historical rate revenues to the projected five-year rate revenues. In addition to rate revenues, the City receives a variety of miscellaneous revenues. The miscellaneous revenues will also be projected for the five year period and summarized.

STEP 4 – PROJECTION OF EXPENSES (REVENUE REQUIREMENTS) – For the five-year period, a projection of the "cash basis" revenue requirements for each utility will be undertaken. The revenue requirements will be projected on an annual basis. Table 1 provides an overview of the "cash basis" revenue requirements to be used in this study.

Table -1
Overview of the "Cash Basis" Revenue Requirements

	Major Components of the "Cash Basis" Methodology
+	O&M Expense
	– Purchased Water (Water Utility)
	– Purchased Contract Operations (Sewer Utility)
	– Other O&M Expenses
+	Taxes or Transfer Payments
+	Capital Projects Financed with Rate Revenues (≥ Deprec. Exp.)
+	Debt Service (P+I)
=	Total Revenue Requirements

The projection of O&M expenses will take into account any changes in operations or anticipated additional personnel over the five-year period. It should also take into account changes due to growth or any extra-ordinary expense anticipated during the five-year time period.

In projecting the capital projects funded from rates, consideration will be given to the City's capital improvement plans and the key findings of the engineering evaluation. HDR/EES is of the understanding that the City funds a portion of their capital infrastructure via sales tax. The balance of infrastructure funding is obtained primarily from rates, connection fees and long-term borrowing.

STEP 5 – SUMMARIZE THE PROJECTION OF REVENUE REQUIREMENTS – Given the projection of revenue and expenses, the results will be summarized into a revenue requirement analysis. This summary will indicate and identify any needed adjustments to water and sewer rates to meet the financial requirements of each utility. The revenue requirements will be developed individually for the water and sewer utility, and summarized on an annual basis for the five-year period. The final revenue requirements must be developed in concert with the engineering evaluation (Task 2) and the bond ordinance compliance (Task 4).

Expected City Staff Support for Task 3:

- Provide "as needed" assistance, via email and telephone, to explain the City's data and information as it relates to developing the revenue requirements.
- Provide "as needed" data refinements or additional data needs as determined during the process of developing the revenue requirements.
- Attend a one-half day project meeting to review the draft revenue requirement analysis.

Work Product Deliverables as a Result of Task 3 —Financial Analysis:

- A five-year projection of the City's water and sewer accounts and billed volumes
- A five-year projection of the City's water and sewer rate revenues and miscellaneous revenues.
- A five-year projection of the City's water and sewer revenue requirements.
- A summary of the anticipated (projected) adjustments to water and sewer rates to support each utility on a financially stable basis and meet the various bond covenants.

Task 4—Bond Ordinance Compliance

Task Objective: In conjunction with the engineering evaluation and financial analysis, evaluate each utility's compliance with certain provisions of the outstanding bond ordinances.

Bond covenants are designed to protect the bond holders and provide assurance that the City's utilities are being operated in a prudent manner and that the rates and charges of the City are sufficient to repay the bonds. In order to make that determination an analysis will be undertaken to review the various bond covenants and report on the City's status of meeting those covenants. An overview of our approach to review compliance with the bond ordinances is provided below.

The first step of reviewing the bond ordinance compliance is to gain an understanding of the various bond ordinances currently in place. To do this, Bond Ordinances No. 3638, 3829, 4159 and 4381 will be reviewed to determine the various conditions and requirements placed upon the City. A simple matrix will be developed to summarize these conditions and requirements imposed by each bond ordinance.

A typical requirement of a bond ordinance is the establishment of various funds and maintenance of minimum balances. In this case, HDR/EES will verify the establishment of the following funds and their balances:

- Revenue Fund
- Operation and Maintenance Fund
- Bond Fund
- Renewal and Replacement Fund
- Debt Service Reserve Fund
- Construction Fund

The bond covenants also require insurance coverage to protect the water and sewer assets of the utility. HDR/EES will verify that any required insurance is in force and meets the minimum requirements of the bond ordinance.

Debt service coverage ratios are a financial measure of the utility's ability to repay debt. Debt service coverage (DSC) ratios will be calculated as a part of the financial analysis (Task 3), and will be calculated in compliance with the rate covenant of each bond ordinance. The DSC is calculated before and after any projected rate adjustments.

A review will be undertaken of other practices and procedures for compliance with bond covenants. Items to be reviewed, but not limited to, include the following:

- Required levels of bond payments are made through the designated Paying Agent and on a timely manner
- Systems are operated on a fiscal year (FY) beginning January 1
- Systems are maintained in good condition and operated in an efficient manner at reasonable cost
- No free water service is provided
- The City has not mortgaged or disposed of any substantial portion of the systems
- Required budgets have been prepared
- No action has been taken to cause the interest on bonds to be subject to federal income taxes (i.e. private use)
- Improvements authorized by the Bond Ordinances are being, or have been, constructed

Expected City Staff Support for Task 4:

- Provide the data and information necessary to review compliance with bond ordinances

Work Product Deliverables as a Result of Task 4 —Bond Ordinance Compliance:

- Matrix of the bond covenants for each bond issue (bond ordinance)
- Verification of the establishment of the required funds and maintenance of minimum balances (if required)
- Verification that required insurance coverage is in force
- Verification and summary of the debt service coverage tests for each bond issue (bond ordinance)
- Review of other practices and procedures required of each bond ordinance.

Task 5—Reports and Meetings

Task Objective: Provide a well-written report to summarize the findings, conclusions and recommendations of the rate study. Provide effective public presentations of the findings, results and recommendations of the study.

Upon completion of the tasks, HDR/EES will develop a written report of the operations study. A draft final version of the operations study will be prepared. Five (5) printed copies of the draft final report will be provided to the City, along with an electronic (PDF) version of the report. The City will provide comments and suggested changes to the operations report, and final reports will be issued. The City has requested twenty-five (25) bound copies of the final operations report and an electronic copy.

Based upon discussions with the City, it is assumed that two (2) public presentations of the results will be provided. Furthermore, these meetings will be coordinated to occur the same day. The first meeting will be with the City's working selection group and the other meeting will be with the the Fayetteville Water and Sewer Committee / Fayetteville City Council.

HDR/EES will be available for additional public meetings to discuss the operations study but this effort will require a revision to the scope and budget.

Expected City Staff Support for Task 5:

- Review the draft operations report and provide comments for the final reports
- Assist in reviewing the proposed handouts for a public meeting and coordinate the meeting time and location during the visit.

Work Product Deliverables as a Result of Task 5 – Reports and Meetings

- Draft and final reports for the Operations Study.
- Development of handouts and attendance at public presentations with the Fayetteville Water and Sewer Committee and Fayetteville City Council to discuss the study and its conclusions, and make recommendations.

Task 6—Project Administration

Task Objective: Manage the study to assure that it completed on time and within budget. Coordinate a work plan with the City's project manager to assure that the project meets the goals and objectives of the City. Provide monthly progress reports to the City.

To assure that the project is completed on time and within budget, the HDR/EES project manager for this study will work closely with the City's project manger to maintain open and clear communication. A work plan will be developed to assure that both parties understand the goals and objectives of each task, along with deliverables for each.

As invoices are prepared, a monthly progress report will be provided to keep the City's project manager aware of any issues or problems that may arise, along with a clear understanding of the status of the budget.

Expected City Staff Support for Task 6:

- Review of the HDR/EES work plan

- Availability of the City's Project Manager to discuss and resolve any problems, issues or concerns of either party.

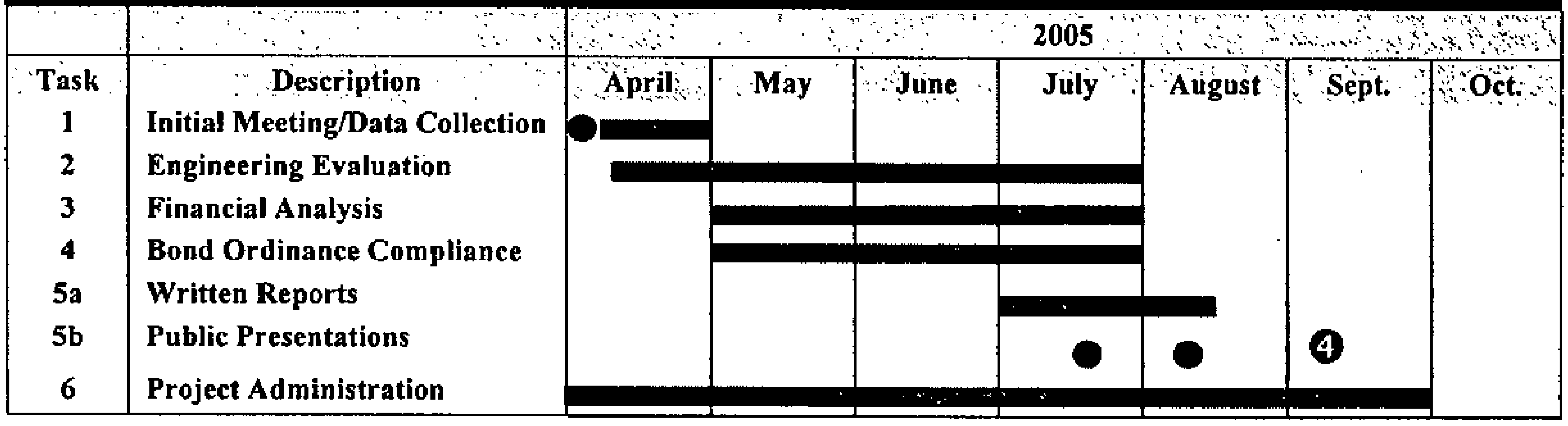
Work Product Deliverables as a Result of Task 6 – Project Administration

- Monthly invoice and project status report

Project Time Schedule

An important element of this study is the time schedule. It is our current understanding that the operations study must be completed prior to September 1, 2005. To achieve this project deadline, the following project time schedule has been developed.

Figure 1
City of Fayetteville
Operations Study Project Time Schedule



Fee Budget By Task

The agreement for professional engineering services has a "lump sum" fee arrangement. Provided below in Table 1 is a summary of the fees by task.

Table -2
Summary of the "Lump Sum" Labor Fees for the Operations Study

Task Description	Total
Labor:	
Task 1: Initial Project Meeting and Data Collection	$2,955
Task 2: Engineering Evaluation	16,890
Task 3: Financial Analysis	11,850
Task 4: Bond Ordinance Compliance	6,985
Task 5: Written Reports and Presentations	11,100
Task 6: Project Administration	3,090
Grand Total Labor Fees (Lump Sum Basis)	**$52,870**
Plus: Estimated Reimbursable Expenses	**$7,766**

The labor portion of the fee is a fixed lump sum amount, while travel and other miscellaneous expenses will be reimbursed. For purposes of Table 2, the expenses have been estimated and are not intended to create a "not to exceed" limit or threshold.

Any additional meetings beyond the original scope of services will be provided for $3,000 per meeting, plus travel and miscellaneous expenses. These meetings must be at the request of the City. Any out of scope work, or additional requested services by the City in 2005, will be provided at the hourly billing rates used to determine the lump sum fee for the original scope of services.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

5-Apr-05
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approve an engineering services contract with HDR/Economic and Engineering Services, Inc., in the amount of $60,636.00 for a detailed evaluation and report of the Water/Sewer Operations, as required by the terms of the City's Water and Wastewater bond covenants, and approving a contingency of $8,000.00.

$68,636.00	$ 150,032.00	W&S Rate/Opns Study
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-1840-5314-00	$ 130.00	W&S Rate/Opns Study
Account Number	Funds Used to Date	Program / Project Category Name
02064	$ 149,902.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item XX

Budget Adjustment Attached

Department Director 3-23-05 Date

City Attorney 3-23-05

Finance and Internal Service Director 3-23-05 Date

Mayor Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 3/22/05

Received in Mayor's Office

Comments:

Fayetteville

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Bob Davis, Water/Wastewater Director
Stephen Davis, Finance and Internal Services Director

From: David Jurgens, Water/Wastewater
Rainy Laycox, Billing & Collection Manager

Date: March 23, 2005

Subject: Resolution approving an engineering services contract with HDR/Economic and Engineering Services, Inc., for an evaluation of Water/Sewer business relationships with major customers, development of contracts with the same, and an audit of the 2003 rate study

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RECOMMENDATION

Fayetteville City Administration recommends approval of an authorization totalling $62,379.00, said amount being the face value of a proposed contract with HDR/ Economic and Engineering Services, Inc. (HDR/EES), and approving a contingency of $14,000.00.

BACKGROUND/DISCUSSION

During the 2003 rate approval process numerous customer groups expressed concerns over the fairness of the proposed rates developed by Black & Veatch. As a result of these concerns two customers, Farmington and Elkins, contracted with an independent engineer to evaluate options for wastewater services. Additionally, the City of Farmington and City of Fayetteville entered into mediation to resolve outstanding issues related to maintenance of Farmington's wastewater collection system.

The City committed to our customer groups to solicit requests for qualification for the required operations report for 2005 and in compliance with contractual terms invited West Fork and Elkins to participate in the selection process. Additionally, Fayetteville offered representation to Farmington, Greenland, Goshen, the Fayetteville Chamber of Commerce and the University of Arkansas. Elkins, Farmington, Goshen, Fayetteville Chamber of Commerce and the University of Arkansas have participated fully in this selection process.

The City of Fayetteville water and sewer utility (Utility) has a variety of contracts and/or agreements with a variety of agencies including other Cities, the University of Arkansas, and other water systems. These contracts and agreements form the basis by which service is provided and rates are established. In some cases, these contracts and/or agreements have been expired for ten years or more. In others, no contract exists at all.

The City of Fayetteville is initiating an operations study of the water and sewer utility (Utility), as required by bond indenture. This presents the perfect opportunity to perform

Fayetteville
ARKANSAS

a parallel but independent evaluation of our business relationships with major customers, update (and or develop) contracts and agreements with the same, and perform an audit of our 2003 rate study.

The contracts with West Fork and Elkins require the City of Fayetteville engage a registered professional engineering firm with a national presence to conduct rate studies. Additionally, contractual trerms also require rates to be developed on a utility model cost of service basis. The City reviewed statemetns of qualifications for engineefring firms that meet the contractual requirements. The initial listing included seven firms and the Committee narrowed the list to three firms: Carter & Burgess, Burns & McDonnell and HDR/EES.

Through several meetings and interviews in February, 2005, the Committee selected HDR/EES to perform the work. A contract has been negotiated with HDR/EES (copy attached) wherein the services will be provided for a lump sum cost of $56,360.00 plus estimated reimbursible expenses of $6,019.00.

This contract will develop model contracts and agreements that are consistent with the varied business relationships with the municipalities and agencies to which we provide service. The intent is to update our contractual relationships with these organizations so they reflect the current and anticipated future needs of all concerned parties. These contracts will then form the basis by which future rate studies are developed and future services are provided.

HDR/EES is scheduled to give two presentations to the Selection Group and the Water/Sewer Committee of the Fayetteville City Council. The first is due in early June, 2005, at the request of the Cities of Elkins and Farmington; the final report is scheduled for September, 2005.

In order to continue building consensus and promoting concept buy-in, a selection group consisting of representatives from Elkins, Farmington, Goshen, the University of Arkansas, the City of Fayetteville Chamber of Commerce, and City staff have committed to continue through the completion of this process with the distributiuon of the final report.

The contingency is requested to expedite approval of any additional requested presentations or additional work that may be required.

BUDGET IMPACT

The $76,379.00, including the $14,000.00 contingency, is included in the 2005 budget.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE AN ENGINEERING SERVICES CONTRACT WITH HDR/ECONOMIC AND ENGINEERING SERVICES, INC. IN THE AMOUNT OF $62,379.00 WITH A CONTINGENCY OF $14,000.00 FOR AUDIT OF THE 2003 RATE STUDY, EVALUATION OF WATER AND WASTEWATER BUSINESS RELATIONSHIP WITH MAJOR CUSTOMERS AND DEVELOPMENT OF NEW CONTRACTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 rate study, evaluation of water and wastewater business relationship with major customers and development of new contracts.

PASSED and **APPROVED** this 5th day of April, 2005.

APPROVED:

DRAFT

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk



Proposed Goals
For the Selection Group
For the 2005 Water & Sewer Operations Study

- Promote customer confidence by providing operational and financial transparency to utility consumers.

- Promote exceptional environmental stewardship through independent confirmation of the functional status of the water & sewer utility.

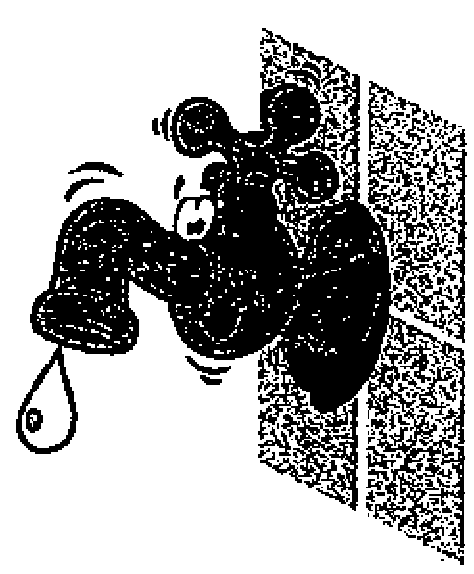
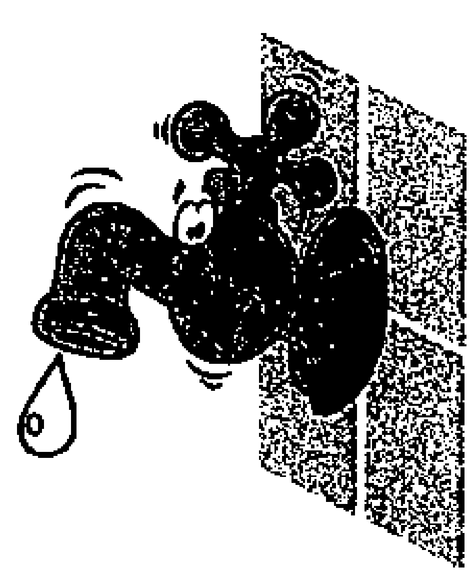
- Obtain independent assessment of the financial condition of the water & sewer utility.

- Provides a basis for determining optimum utility services that are funded fairly and equitably.

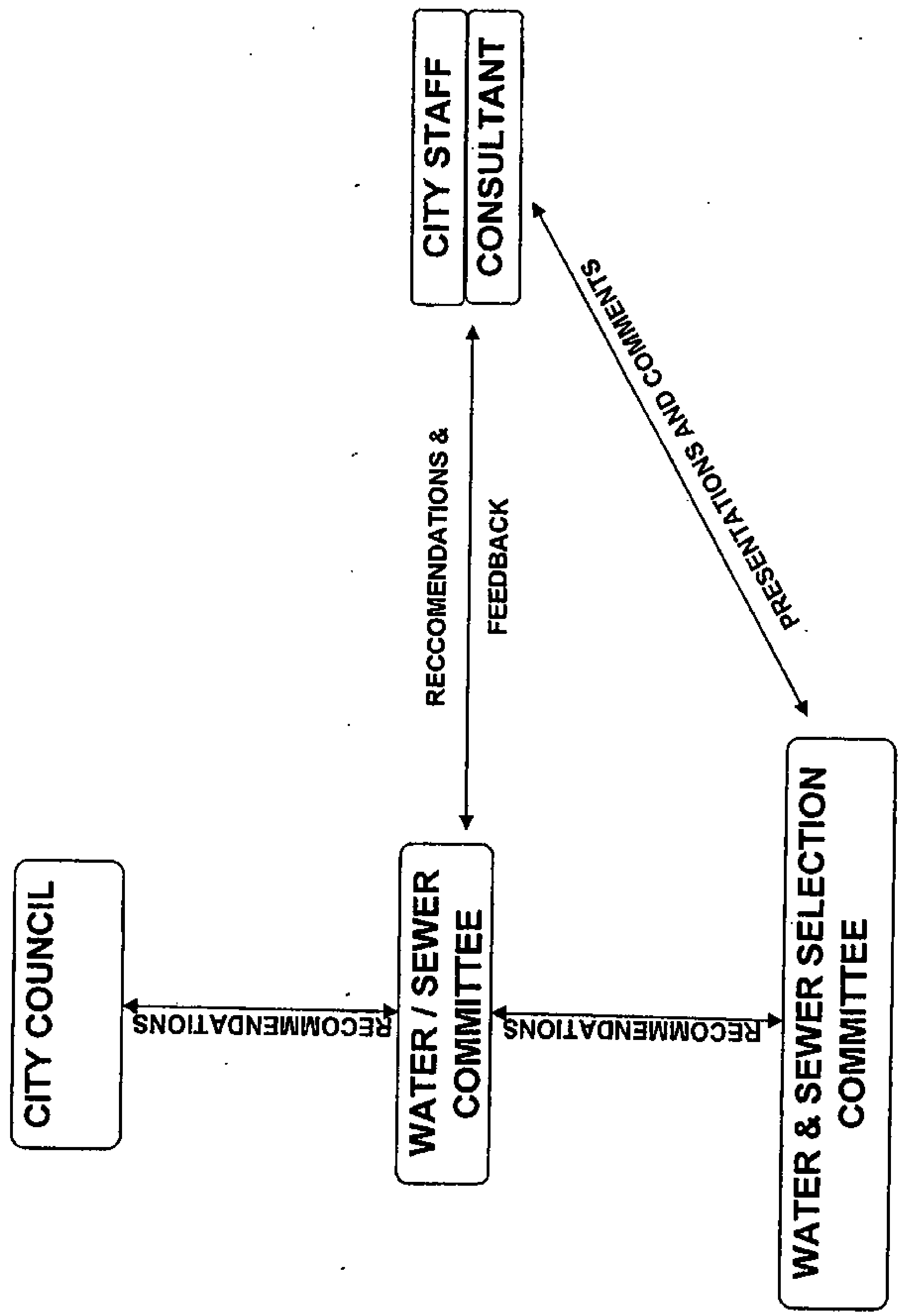
- Provides a basis for future utility investments to insure system reliability.

- Providing the framework that addresses the long-term service and the functional and financial viability of the System.

- Recognizing the System as an integral part of a larger community

WATER / SEWER SYSTEM STUDY



Water & Sewer Operations Study Selection Committee Milestone Dates

Project Milestone	Early	Late
Kickoff Meeting	February 4	February 4
Selection Committee Recommendation for Preferred Consultant	February 22	March 8
City Council Agenda Session	March 8	March 25
City Council Contract Authorization	March 15	April 5
Report Presentation – City Council	August 9	August 30

City of Fayetteville
Work Plan to Audit the City's 2003 Water & Sewer Rate Study and Provide Other Rate/Contractual Related Services

Task 1—Initial Meeting and Data Collection

Task Objective: Bring the Consultant, City management and staff together, at the start of the project, to assure that both parties have a mutual understanding of the goals, objectives, issues and concerns related to the study. Review and assess the City's existing water and sewer data, and provide a written data request detailing the data required to complete the study.

The initial project meeting is used as a starting point for the study. It is proposed that the initial project meeting be approximately ½ day in length, and review the goals, objectives and key issues for the study. At the same time, provide a written data request to the City to obtain the necessary data and information needed to complete the study. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, statistical, customer, etc.).

Expected City Staff Support for Task 1:

- Have their key management/project team members attend a ½ day planning meeting.
- Gather the data requested in the written data request provided by EES. (Note: typically requires 20 – 40 hours of total staff time to provide.)

Work Product Deliverables as a Result of Task 1—Initial Kick-off Meeting.

- Face-to-face meeting to identify key objectives, issues and concerns by both parties.
- An initial written data request to the City.
- Identification of any data constraints.

Task 2—Rate Study Audit

Task Objective: Provide an audit of the City's 2003 Water and Sewer Rate Study. The audit should review the study's adherence to American Water Works Association (AWWA) rate setting methodologies and principles, and the appropriate application of those methodologies and principles to the specific and unique circumstances of the City.

The audit of the City's 2003 water and rate study has three main objectives. First, the audit must confirm that the study met the contractual requirements of the City's existing wholesale contracts (e.g. methodology to be used, etc.). Next, the audit should confirm the study's adherence to the principles and methodologies contained in the American Water Works Association (AWWA) M-1 Manual, Principles of Water Rates, Fees and Charges. Finally, the audit and review should consider the appropriate application of the AWWA methodologies to the specific circumstances of the City. While the City's rate study likely adheres to the AWWA methodologies, the appropriate application of those methodologies is an important question to be answered. EES will review the City's model in "line by line" detail and discuss it in relation to the requirements of this task. At the end of this task, our conclusions and recommendations will be provided. The written report and presentations associated with the rate study audit are provided under Task 5.

Expected City Staff Support for Task 2:

- Provide any relevant background concerning the 2003 study
- Provide necessary assistance in HDR/EES understanding the City's water and sewer systems and their operational and design characteristics

Work Product Deliverables as a Result of Task 2 – Rate Study Audit.

- Review of the existing wholesale contracts for rate setting provisions/requirements
- Review/audit of the City's 2003 water and sewer rate study for adherence to the AWWA M-1 rate setting methodologies
- Review/audit of the City's 2003 water and sewer rate study for the appropriate application of the AWWA M-1 rate setting methodologies, as they apply to the City's specific circumstances

Task 3—Explore Alternative Business Relationships and Develop Model Contracts

Task Objective: Explore alternative business relationships with various entities served by the City, and develop model contracts to support those alternative business relationships. The model contracts developed as a part of this task are intended for discussion purposes only.

The City wants to explore alternative business relationships with various entities and develop model contracts. The first step of this process is to explore the existing business relationships. From the prior task, HDR/EES will have an understanding of the current contractual relationship and the services that the City provides and the responsibilities of the wholesale customer.. The City has initially identified Elkins, Greenland, Farmington, University of Arkansas and Washington Water Authority for a review of alternative business relationships. This task will likely identify multiple and different approaches for business relationships. An important aspect of this task is to gain an understanding of the City's goals and objectives for changing an existing business relationship, along with the perspective each City customer. From this task, a matrix of potential business relationships will be developed that will attempt to match each parties needs.

In developing the model contracts, the first step will be a review of other wholesale contracts. HDR/EES already has an extensive library of wholesale contracts. From these contracts, a comparison will be made of the alternative business relationships, and the key components required of each contract. HDR/EES will develop up to three (3) model contracts to reflect the varying business relationship between the parties. HDR/EES will develop a "base" model contract, and this contract will be modified to reflect the alternative business relationships. The model contracts are for discussion purposes only. They are not intended to be implemented without further discussion and negotiation between the parties, along with legal review by the City attorney.

Expected City Staff Support for Task 3:

- Discuss the existing business relationships with the various parties
- Discuss existing concepts/discussions concerning alternative business relationships

Work Product Deliverables as a Result of Task 3 – Explore Alternative Business Relationships and Develop Model Contracts

- Review alternative business relationships and develop a matrix of existing and potential alternative business relationships. Reviews of business relationships will be undertaken for Elkins, Greenland, Farmington, University of Arkansas and Washington Water Authority.
- Review of other utility contracts under alternative business relationships
- Development of up to three (3) model contracts to support alternative business relationships.

Task 4—Reports and Meetings

Task Objective: *Provide a well-written report to summarize the findings, conclusions and recommendations of the rate study. Provide effective public presentations of the findings, results and recommendations of the study.*

Upon completion of the tasks, HDR/EES will develop written reports for each task. Given the unique nature of each task, a separate written report will be prepared for the rate study audit, the alternative business relationship/model contract task, and the water service territory task. For each report, a draft final version will be prepared. One printed copy will be provided to the City, along with an electronic (PDF) version of the report. The City will provide comments and suggested changes to the report, and final reports will be issues. The City has requested eleven (11) bound copies of each report and an electronic (PDF) copy.

Two public meetings are planned for this study. It is further assumed that these two meetings will occur on the same day to minimize time and travel costs. The first meeting will be to the City's working selection committee. The second meeting will be to the Fayetteville Water and Sewer Committee/Fayetteville City Council.

Individual meetings/presentations to individual cities or City Councils has not been included within our proposed fees. HDR/EES will gladly provide these services on a time and material basis. The estimated fees for an individual meeting would be $2,500 to $4,000 depending upon the amount of preparation time required.

Expected City Staff Support for Task 4:

- Review the draft reports and provide comments for the final reports
- Assist in reviewing the proposed handouts for public meetings and coordinate meeting times and locations

Work Product Deliverables as a Result of Task 4 – Reports and Meetings

- Draft and final reports for the Rate Study Audit and Development of Model Contracts.
- Development of handouts and attendance at up to two (2) public presentations with the working selection committee and the Fayetteville Water and Sewer Committee/Fayetteville City Council to discuss the study and its conclusions, and make recommendations.

Task 5—Project Administration

Task Objective: *Manage the study to assure that it completed on time and within budget. Coordinate a work plan with the City's project manager to assure that the project meets the* *goals and objectives of the City. Provide monthly progress reports to the City.*

To assure that the project is completed on time and within budget, the HDR/EES project manager for this study will work closely with the City's project manger to maintain open and clear communication. A work plan will be developed to assure that both parties understand the goals and objectives of each task, along with deliverables for each.

As invoices are prepared, a monthly progress report will be provided to keep the City's project manager aware of any issues or problems that may arise, along with a clear understanding of the status of the budget.

Expected City Staff Support for Task 5:

- Review of the HDR/EES work plan
- Availability of the City's Project Manager to discuss and resolve any problems, issues or concerns of either party.

Work Product Deliverables as a Result of Task 5 – Project Administration

- Monthly invoice and project status report

Project Time Schedule

An important element of this study is the time schedule. The rate study audit will begin immediately and a draft report should be completed in approximately forty-five days. HDR/EES understands that the City of Farmington is interested in receiving the results of the audit prior to June. HDR/EES will make every effort to meet this schedule.

The review of alternative business relationships and development of model contracts is anticipated to require 90 to 120 days to complete. These are fairly complex issues and will require sufficient time to understand the issues, determine the alternative approaches and assemble the alternative solutions.

Provided below on Figure 1 is a summary of the projected time schedule for this project.

Figure 1
City of Fayetteville
Rate Study Audit Project Time Schedule

		2005						
Task	Description	April	May	June	July	August	Sept.	Oct.
1	Initial Meeting/Data Collection							
2	Rate Study Audit							
3	Alt. Business Relationship and Model Contracts							
4a	Written Reports							
4b	Public Presentations					❷		
5	Project Administration							

Fee Budget By Task

The agreement for professional engineering services has a "lump sum" fee arrangement. Provided below in Table 1 is a summary of the total fees (labor and expenses) by task.

Table -1
Summary of the "Lump Sum" Fees for the Rate Study Audit

Task Description	Total
Labor:	
Task 1: Initial Project Meeting and Data Collection	$1,350
Task 2: Rate Study Audit	13,520
Task 3: Alt. Business Relationships and Model Contracts	28,700
Task 5: Written Reports and Presentations	10,790
Task 6: Project Administration	2,000
Grand Total Labor Fees (Lump Sum Basis)	**$62,379**
Plus: Estimated Reimbursable Expenses	**$6,019**

The labor portion of the fee is a fixed lump sum amount, while travel and other miscellaneous expenses will be reimbursed. For purposes of Table 1, the expenses have been estimated and are not intended to create a "not to exceed" limit or threshold.

Any additional meetings beyond the original scope of services will be provided for $3,000 per meeting, plus travel and miscellaneous expenses. These meetings must be at the request of the City. Any out of scope work, or additional requested services by the City in 2005, will be provided at the hourly billing rates used to determine the lump sum fee for the original scope of services.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

5-Apr-05
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approve an engineering services contract with HDR/Economic and Engineering Services, Inc., in the amount of $62,379.00 for an evaluation of Water/Sewer business relationships with major customers, development of contracts with the same, and an audit of the 2003 rate study; and approving a contingency of $14,000.00.

$76,379.00	$ 150,032.00	W&S Rate/Opns Study
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-1840-5314-00	$68,760.00	W&S Rate/Opns Study
Account Number	Funds Used to Date	Program / Project Category Name
02064	$ 81,272.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item: XX

Budget Adjustment Attached:

Department Director — 3-23-05 Date

City Attorney — 3-23-05

Finance and Internal Service Director — 3-23-05 Date

Mayor — Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office — ENTERED 3/23/05

Received in Mayor's Office

Comments:

Agenda Setting Staff Meeting
3/23/05

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
April 5, 2005

A meeting of the Fayetteville City Council will be held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report – Public Library Board of Trustees

A. CONSENT:

1. **Approval of the Minutes:** Approval of the March 15, 2005 City Council meeting minutes.

B. UNFINISHED BUSINESS:

1. **ANX 05-1365 (Wilkins):** An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

2. **RZN 05-1366 (Wilkins):** An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

3. **ANX 05-1370 (Hall):** An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

4. **RZN 05-1371 (Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

5. **RZN 05-1378 (Goff/Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

C. NEW BUSINESS:

Consent

1. **Skid Street Loader Purchase:** A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.

2. **Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."

Consent

3. **SBC Web Hosting Contract:** A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of $14,000.00 plus $2,820.00 contingency, plus tax annually for five years.

Consent

4. **McClelland Consulting Engineers, Inc. Contract Renewal:** A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.

Consent

5. **Off Street Parking Development District No. 1 Lease Agreement:** A resolution approving a one-year lease agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

Remove move to next mtg. Gary Dumas

6. **Restoration of the Walker House:** A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed $33,738.00; and authorizing City Staff to solicit bids for the project.

7. **Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to waive various provisions of §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.

Consent
8. **Home Rehabilitation Contract:** A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.

Consent
9. **Design Workshop, Inc. Contract:** A resolution to approve a contract with Design Workshop, Inc. in the amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and to approve a Budget Adjustment of $40,000.00.

10. **Convert Certain Streets to Two-Way and Create Additional Parking:** A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.

11. **Water and Sewer Operations Evaluation:** A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.

12. **Water and Sewer Business Relationship Evaluation and Rate Study Audit:** A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.

1 NB
13. **Community Development Grant Agreement:** A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

Consent
14. **McClelland Consulting Engineers, Inc. Task Order # 5:** A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $122,750.00.

Consent
15. **McClelland Consulting Engineers, Inc. Task Order # 6:** A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $102,900.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project.

Per Gary - Steve wants to move his items to last

D. INFORMATIONAL:

Council Tour: April 4, 2005 – 4:30 pm

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION
"Northwest Arkansas' Most Widely Read Newspaper"

AFFIDAVIT OF PUBLICATION

I, Lori Britton, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on April 4, 2005.

PO# ____________

** Publication Charge: $ 297.60

Subscribed and sworn to before me this 4th day of April, 2005.

Sharlene D Williams
Notary Public

My Commission Expires: Sharlene D. Williams
Notary Public
State of Arkansas
My Commission Expires
October 18, 2014

** Please do not pay from Affidavit.
An invoice will be sent.

P.O. BOX 1607 • 212 N. EAST AVENUE • FAYETTEVILLE, ARKANSAS 72701 • 479-442-1700 • 479-442-5477 (FAX)

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
APRIL 5, 2005

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report – Public Library Board of Trustees

A. CONSENT:

1. Approval of the Minutes: Approval of the March 15, 2005 City Council meeting minutes.
2. Skid Steer Loader Purchase: A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.
3. SBC Web Hosting Contract: A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of $14,100.00 plus $2,820.00 contingency, plus tax annually for five years.
4. McClelland Consulting Engineers, Inc. Contract Renewal: A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.
5. Off Street Parking Development District No. 1 Lease Agreement: A resolution approving a one-year lease agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.
6. Home Rehabilitation Contract: A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.
7. Design Workshop, Inc. Contract: A resolution to approve a contract with Design Workshop, Inc. in the amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and to approve a Budget Adjustment of $40,000.00.
8. McClelland Consulting Engineers, Inc. Task Order # 5: A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $122,750.00.
9. McClelland Consulting Engineers, Inc. Task Order # 6: A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $1,079,316.00.
10. Community Development Block Grant Agreement: A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

B. UNFINISHED BUSINESS:

1. ANX 05-1365 (Wilkins): An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. This item was left on the second reading at the March 15, 2005 City Council Meeting.
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C. NEW BUSINESS:

1. Amend Chapter 96: Noise Control: An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."
2. Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson: An ordinance to waive various provisions of §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.
3. Convert Certain Streets to Two-Way and Create Additional Parking: A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.
4. Water and Sewer Operations Evaluation: A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.
5. Water and Sewer Business Relationship Evaluation and Rate Study Audit: A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.
6. Northwest Arkansas Mall Time Limitation Waiver: An ordinance to waive the time limitation of subsection §156.05(F) of the Unified Development Code for the variance granted to the Northwest Arkansas Mall.

D. PUBLIC HEARING:

1. Dynasty Cab Company Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: None

THANK YOU!

Arkansas Democrat-Gazette, NW Ed.
212 N. East Avenue
Fayetteville, AR 72701
479-442-1700

VISA PURCHASE
CARD #************4345*
EXPIRATION DATE : *****
DATE 04-05-2005 #002854 A
TIME 10:53:42
SALE 297.60

APPROVED 094094
AVS: YES

CLERK :
MERCH ORDER# :

ITEM DESC:______________________

X ______________________

PLEASE IMPRINT CARD
------------ THANK YOU ------------

RECEIVED

APR 07 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **March 16, 2005**

RE: **Passed Resolutions and Ordinances from City Council meeting of April 5, 2005**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Skid Steer Loader:** Resolution authorizing use of funds budgeted in 2005 in-house pavement improvements project for purchase of one skid steer loader w/hydraulic breaker attachment, 24" hi-flo planer attachment and forklift attachment in amount of $48,012.41 for use by Transportation Division;

2. **SEC Web Hosting:** Resolution approving web hosting contract w/Southwestern Bell Communications, Inc. in amount of $14,100.00 plus $4,820.00 contingency, plus tax annually for five years;

3. **McClelland Consulting Engineers, Inc. Contract Renewal:** Resolution agreeing to extend for one year the existing contract w/McClelland Consulting Engineers, Inc. pursuant to its option to renew provision;

4. **Off-Street Parking Lease Agreement:** Resolution approving one-year lease agreement w/Off-Street Parking Development District No. 1 for City of Fayetteville to operate certain off-street parking lots;

5. **Home Rehabilitation Contract:** Resolution approving contract between Erin Jenkins and Randy Evans for rehabilitation on Erin Jenkins' home using Community Development Block Grant funds in amount of $24,070.00 with contingency of $1,000.00;

6. **Design Workshop, Inc. Contract:** Resolution to approve contract w/Design Workshop, Inc. in amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and approve a budget adjustment of $40,000.00;

7. **McClelland Consulting Engineers, Inc. Task Order #5:** Resolution approving Task Order #5 to contract w/McClellan Consulting Engineers, Inc. in amount of $122,742.00 to produce an Airport Master Plan and approving applications for grant funding from FAA and Arkansas Department of Aeronautics to pay for this project, and approving budget adjustment of $122,750.00;

8. **McClelland Consulting Engineers, Inc. Task Order #6:** Resolution approving Task Order #6 to contract w/McClellan Consulting Engineers, Inc. in amount of $99,850.00 to design and oversee construction of new west side general aviation apron and sewer line replacement, and approving applications for funding from FAA and Arkansas Department of Aeronautics to pay for this project and approving budget adjustment in amount of $1,079,316.00;

9. **Community Development Block Grants:** Resolution approving 2005 Community Development Block Grant Action Plan and 2005 funding approval/agreement and authorizes Mayor Coody to sign this funding approval/agreement;

10. **ANX 05-1365:** Ordinance annexing property described in ANX 05-1365 annexing to City of Fayetteville certain property located east of Salem Road, north of Crystal Springs Subdivision Phase 1, containing approximately 10.00 acres;.

11. **RZN 05-1366:** Ordinance rezoning property described in RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase 1, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

12. **ANX 05-1370:** Ordinance annexing property described in ANX 05-1370 annexing to City of Fayetteville certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres;

13. **RZN 05-1371:** Ordinance rezoning that property described in RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

14. **RZN 05-1378:** Ordinance rezoning property described in RZN 05-1378 for property located at south side of Hwy. 16E and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

15. **Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** Ordinance waiving various provisions of §97.070 **Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson** to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June, 2006;

16. **Conversion of One-Way Streets to Two-Way and Add Parking:** A Resolution to convert St. Charles Ave. between Dickson St. and Watson St. to two-way traffic; to convert Church Ave. between Center St. and Dickson St. to two-way traffic; to convert Spring St. between East St. and School St. to two-way traffic; and to add parking to South side of Center St. between Locust Ave. and Church Ave.;

17. **Water & Sewer Operations Evaluation:** Resolution approving engineering services contract w/HDR/Economic and Engineering Services, Inc. in amount of $60,636.00 w/contingency of $8,000.00 for Operations Study of city's water and wastewater operations;

18. **Water & Sewer Business Relationship Evaluation & Rate Study Audit:** Resolution approving engineering services contract w/HDR/Economic and Engineering Services, Inc. in amount of$62,379.00 w/contingency of $14,000.00 for audit of 2003 Rate Study, evaluation of Water & Wastewater Business Relationship w/major customers and development of new contracts;

19. **NWA Mall Time Limitation Waiver:** Ordinance waiving time limitation of subsection §156.05(F) of Unified Development Code for variance granted to NWA Mall;

20. **Dynasty Cab Co. Certificate of Public Convenience & Necessity:** Resolution granting Certificate of Public Convenience and Necessity to Dynasty Cab Co. for operation of two to ten taxicabs within City of Fayetteville.