

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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
June 21, 2005**

A meeting of the Fayetteville City Council will be held on June 21, 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- Added and approved at Council meeting.

A. CONSENT:

1. **Approval of the June 7, 2005 City Council meeting minutes.**

APPROVED.

2. **Wilson Estes Contract for a Space Needs Study:** A resolution approving a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city owned buildings; approving a 5% contingency in the amount of \$2,431.00; and approving \$3,226.00 in reimbursable expenses.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 111-05.

3. **1 Nation Technology Contract for a Telecommunications System:** A resolution awarding Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the new Water & Sewer Operations Center; and approving a contingency in the amount of \$1,328.40.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 112-05.

4. **2005 Justice Assistance Grant:** A resolution to approve the application and accept an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and

\$16,887.00 for the Washington County Sheriff's Department and to approve a budget adjustment for those amounts.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 113-05.

5. **New Holland Loader Purchase:** A resolution approving the purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$37,661.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 114-05.

6. **Staffing for Adequate Fire & Emergency Response Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset the cost of future staffing increases.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 115-05.

7. **Van Asche Boulevard Engineering Contract:** A resolution awarding a contract in the amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard Extension Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 116-05.

8. **Woolsey Aviation, DBA, Contract:** A resolution approving a contract with Woolsey Aviation, d/b/a Million Air Fayetteville to provide aviation fueling and other services at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$24,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 117-05.

B. UNFINISHED BUSINESS:

1. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4714.

2. **PZD Ordinance Amendment:** An ordinance amending Section 166.06 Planned Zoning Districts (PZD), and Sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*

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

C. NEW BUSINESS:

1. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 118-05.

2. **User Fee Policy:** A resolution adopting a User Fee Cost Recovery Policy for City Services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 119-05.

3. **Planning Commission Appeal (TGI FRIDAY'S):** A request to appeal the Planning Commission's decision to alter the sign package submitted by TGI Friday's.

THIS ITEM WAS TABLED TO THE JULY 5, 2005 CITY COUNCIL MEETING.

4. **Planning Commission Appeal (Dixie Development):** A request to appeal the Planning Commission's motion to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road.

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

5. **RZN 05-1491 (Dixie Development):** An ordinance rezoning that property described in rezoning petition RZN 05-1491 for approximately 24.35 acres located at the northeast corner of Mount Comfort and Hughmount Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

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

6. **Ozark's Electric Cooperative Corp. Line Relocation:** A resolution authorizing the payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road Improvements at the Westside Wastewater Treatment Plant.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 120-05.

7. **McGoodwin Williams & Yates Contract Amendment:** A resolution approving Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction phase services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 121-05.

8. **Amend Title III, Chapter 33 Fire Protection Services:** An ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4715.

9. **General Plan 2020 Future Land Use Map Amendment:** A resolution to amend the General Plan 2020 Future Land Use Map by changing the "Office" designation on Elm Street beginning at 155 East Elm through its current western border to Residential.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 122-05.

10. **King Electric Contract for the Mountain Inn:** An ordinance waiving the requirements of formal competitive bidding and approving payment to King Electrical Contractors, Inc. of \$66,237.00 to provide electrical utility relocation services required to allow the continued demolition of the Mountain Inn; and approving the use of up to \$33,763.00 of the previously approved project contingency.

THIS ITEM WAS AMENDED, PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4716.

D. INFORMATIONAL:

Council Tour: June 20, 2005 – 4:30 pm

Meeting adjourned at 8:20 p.m.

Subject:	Roll				Alderman Rhoads arrived at
Motion To:					6:02
Motion By:					
Seconded:					
	Cook	✓			
	Marr	absent			
	Rhoads	absent			
	Ferrell	✓			
	Lucas	absent			
	Jordan	✓			
	Reynolds	absent			
	Thiel	✓			
	Mayor Coody	✓			

Subject:	Nominating Committee Report			
Motion To:		Add to Agenda		Approve
Motion By:		Cook		Jordan
Seconded:		Ferrell		Thiel
	Cook	✓		✓
	Marr	absent		absent
	Rhoads	✓		✓
	Ferrell	✓		✓
	Lucas	absent		absent
	Jordan	✓		✓
	Reynolds	absent		absent
	Thiel	✓		✓
	Mayor Coody	✓		N/A

6-0

5-0

Subject:	Consent				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
Res. 111-05 to 117-05	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	Adopt Chapter 176, Outdoor Lighting				
Motion To:		2nd read			
Motion By:		Ferrell			
Seconded:		Jordan			
B.I. Unfinished Business	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody	✓			

6-0

Subject:	Adopt Chapter 176, Outdoor Lighting				
Motion To:		Amend the Ordinance	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Thiel	Cook		
B.1. Unfinished Business Passed 4714	Cook	✓	✓	✓	
	Marr				
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas				
	Jordan	✓	✓	✓	
	Reynolds				
	Thiel	✓	✓	✓	
	Mayor Coody		✓		

5-0

6-0

5-0

Subject:	PZD Ordinance Amendment				
Motion To:		Kit read			
Motion By:		the entire			
Seconded:		Ordinance			
B.2. Unfinished Business Left on the Second Reading	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Mayor Coody				

Subject:	Street Overlay Program Funding				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
C.1. New Business Passed 5-0 1/18-05	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	User Fee Policy				
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Cook			
C.2. New Business Passed 5-0 1/19-05	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	Planning Commission Appeal (TGI Fridays)			
Motion To:		Table until next meeting		
Motion By:		Cook		
Seconded:		Jordan		
	Cook	✓		
	Marr			
	Rhoads	✓		
	Ferrell	✓		
	Lucas			
	Jordan	✓		
	Reynolds			
	Thiel	✓		
	Mayor Coody			

C.3.
New Business
Tabled

Subject:	Planning Commission Appeal (Dixie Development)			
Motion To:		2nd read		
Motion By:		Jordan		
Seconded:		Ferrell		
	Cook	✓		
	Marr			
	Rhoads	✓		
	Ferrell	✓		
	Lucas			
	Jordan	✓		
	Reynolds			
	Thiel	✓		
	Mayor Coody	✓		

C.4.
New Business
Left on the Second Reading

Subject:	RZN - 05 - 1491 (Dixie Development)				
Motion To:		2nd read			
Motion By:		Ferrell			
Seconded:		Jordan			
C. 5. New Business Left on the Second Reading	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody	✓			

6-0

Subject:	Ozark's Electric Cooperative Corp. Line				
Motion To:		Approve			Relocation
Motion By:		Cook			
Seconded:		Thiel			
C. 6. New Business 5-0 passed 120-05	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody				

Subject:	Mc Goodwin, Williams & Gates Contract				
Motion To:		Approve			Amendment.
Motion By:		Ferrell			
Seconded:		Cook			
C. 7. New Business passed 5-0 121-05	Cook	✓			
	Marr				
	Rhoads	✓			
	Ferrell	✓			
	Lucas				
	Jordan	✓			
	Reynolds				
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	Amend Title III Chapter 33 Fire Protection Services				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Cook	Cook		Greg Riley
C. 8. New Business passed 5-0 4713	Cook	✓	✓	✓	
	Marr				
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas				
	Jordan	✓	✓	✓	
	Reynolds				
	Thiel	✓	✓	✓	
	Mayor Coody	✓	✓		

6-0

6-0

5-0

Subject:	General Plan 2020 Future Land Use				
Motion To:		Pass			Map Amendment
Motion By:		Jordan			
Seconded:		Ferrell			
C. 9. New Business passed 122-05	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	King Electric Contract for the				
Motion To:		Amend to \$100,000			Maintain
Motion By:		Rhoads			Dr
Seconded:		Jordan			
C. 10. New Business	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody				

5-0

Subject:	King Electric Contract for the				
Motion To:		2nd read	3rd read	Pass	Maintain
Motion By:		Jordan	Jordan		Im
Seconded:		Cook	Cook		
C. 10. New Business <u>Passed</u> 4716	Cook	✓	✓	✓	
	Marr				
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas				
	Jordan	✓	✓	✓	
	Reynolds				
	Thiel	✓	✓	✓	
	Mayor Coody	✓	✓		
		6-0	6-0	5-0	

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

Nominating Committee Report

Meeting Date: June 13, 2005

Room 326, City Hall 5:00pm

Members present: Kyle Cook, Shirley Lucas, Robert Rhoads, and Brenda Thiel.

The following is being submitted by the Nominating Committee to the entire City Council for consideration.

Audit Committee

The committee recommends the following candidate for appointment:

Anton Uth – one unexpired CPA term ending 12/31/07.

Board of Adjustments

The committee recommends the following candidate for appointment:

Karen Faupel – one unexpired term ending 3/31/10.

Construction Board of Adjustments and Appeals

The committee recommends the following candidates for appointment:

Cade Pearson – one unexpired term ending 3/31/10.

Greg Bradford – one unexpired alternate term ending 3/31/06.

Todd Devecsery – one unexpired alternate term ending 3/31/06.

Environmental Concerns Committee

The committee recommends the following candidate for appointment:

Debbie Winters – one science discipline term ending 6/30/08.

Public Library Board of Trustees

The committee recommends the following candidate for appointment:

Elizabeth Jordan – one unexpired term ending 4/01/09.

Telecommunications Board

The committee recommends the following candidates:

Greg Boyle – reappointment for one term ending 6/30/09.
Angie Graves – appointment for one term ending 6/30/09
David Bruce – appointment for one term ending 6/30/09
Dale Thompson – appointment for one unexpired term ending 6/30/07.

Tree and Landscape Advisory Board

The committee recommends the following candidates for appointment:

Wade Colwell – one unexpired service organization term ending 12/31/05
Andy Feinstein – one unexpired land development term ending 12/31/05.

Walton Arts Center Council

The committee recommends the following candidates:

Linda Gaddy – reappointment for one term ending 6/30/08
Tina Hodne – appointment for one term ending 6/30/08.

Walton Arts Center Foundation

The committee recommends the following candidate for reappointment:

Brian Cole – one term ending 6/30/08.

Youth Activities Committee

The committee recommends the following candidates for appointment:

Jill Ivey – one student term ending 8/31/05
Kash Logan – one parent term ending 8/31/06.

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Aldermen

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B. UNFINISHED BUSINESS:

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C. NEW BUSINESS:

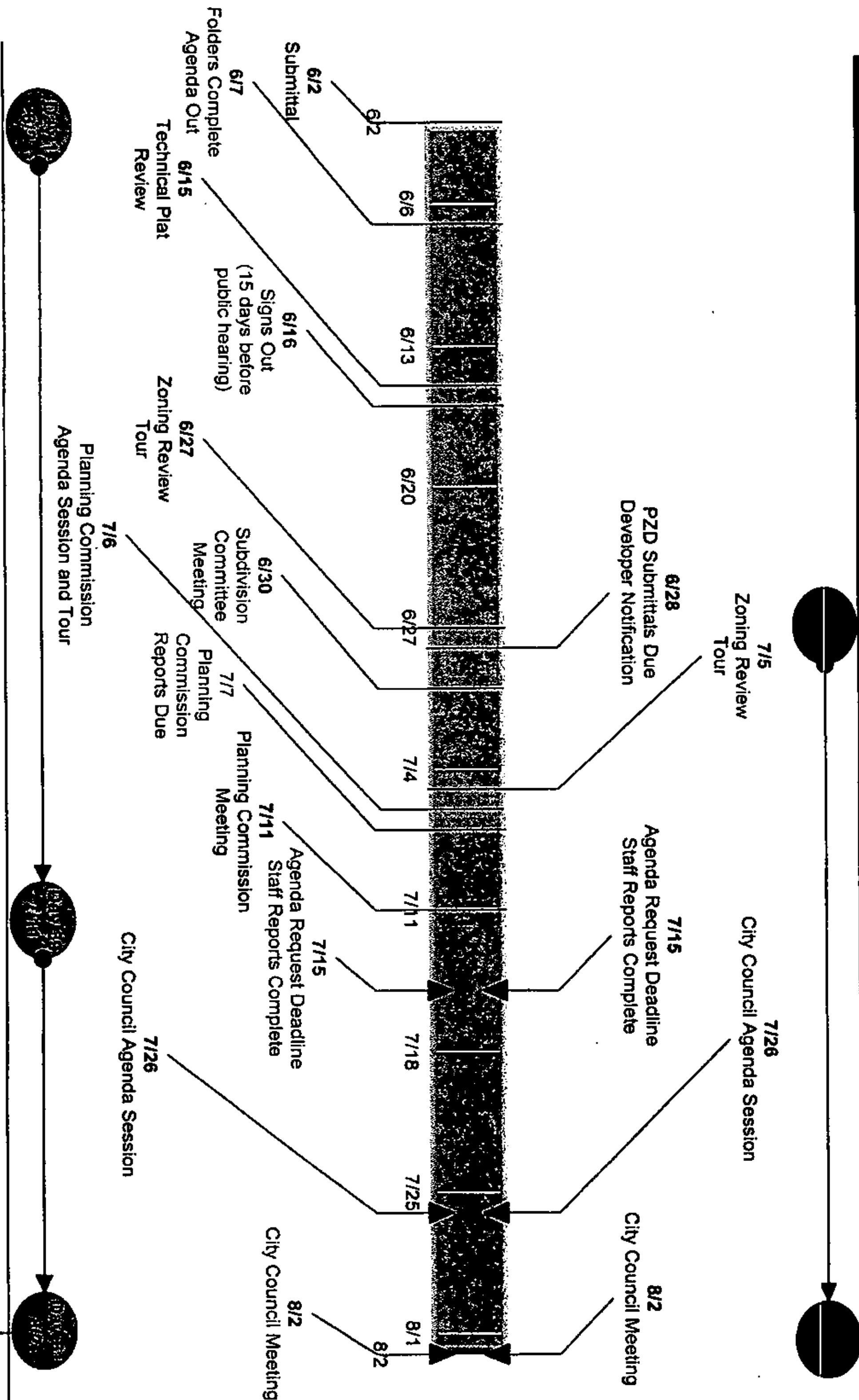
1. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.
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D. INFORMATIONAL:

Council Tour: June 20, 2005 – 4:30 pm

25 Days Saved with the PZD "Fast-track" Approach



*B.2, PZD Ordinance Amendment
6/21/05 City Council Meeting
Handled out
at Agenda
Session*

CITY OF FAYETTEVILLE, ARKANSAS

Public User Fee Cost Recovery Policy for City Services
 Example Items: Section 11

ATTACHMENT #1

Policy Guideline Fee

Fee Service by Item on Section 11	Current Fee	Current Recovery %	25% of Departmental Cost	25% of Full Cost	75% of Departmental Cost	75% of Full Cost	100% of Departmental Cost	100% of Full Cost	Staff Proposed Recovery %	Staff Proposed Fee Amount
A. Drain Pipe Install: Small	\$ 225.00	44.15%						\$ 509.60	100.00%	\$ 500.00
B. Animal - Adoptions (excludes Spay/Neuter)	\$ 20.00	14.64%		\$ 34.15				\$ 136.60	25.00%	\$ 30.00
C. Soccer - Youth	\$ 30.00	29.10%	\$ 20.57		\$ 61.70		\$ 82.27	\$ 103.09	35.00%	\$ 40.00
D. Softball - Adult Teams (average)	\$ 385.00	24.30%	\$ 316.02		\$ 948.07		\$ 1,264.09	\$ 1,584.07	75.00%	\$ 1,200.00
E. Large Scale Development: Non-Residential	\$ 800.00	21.64%						\$ 3,696.89	37.87%	\$ 1,400.00
F. Building Safety Fees (Total Three Year Average Cost)	\$ 961,854.00	121.75%		\$ 197,506.25		\$ 582,518.75		\$ 780,025.00	100.00%	\$ 780,025.00
G. Taps - 4" Sewer	\$ 425.00	46.32%				\$ 688.10		\$ 917.46	75.00%	\$ 690.00
H. Meter Reconnect - After Hours/Weekends/Holidays	\$ 35.00	42.17%				\$ 83.00		\$ 83.00	100.00%	\$ 80.00

Source Data:
 Bureau of Labor Statistics - All Urban Consumer Price Index

7/31/1995 7/31/2004
 152.50 189.30

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: June 13, 2005

Subject: Planning Commission Appeal for TGI Friday's Restaurant (LSD 05-1468)

RECOMMENDATION

The Planning Commission voted on May 23 to approve a Conditional Use and Large Scale Development for TGI Friday's restaurant, located at the southwest corner of Mall Avenue and Van Asche Drive. Staff recommended approval of the project, with a total of fifteen conditions of approval.

BACKGROUND

Property description: The 2.10-acre lot is proposed to contain a 6,586 SF TGI Friday's restaurant with 116 parking spaces, which required a conditional use, as it is above the number allowed by ordinance. The site is located north of Logan's Roadhouse Restaurant, south of Fuddrucker's Restaurant, within the I-540 Design Overlay District.

Request: The applicant is appealing the conditions of approval set by the Planning Commission for the project regarding the allowed signage. At the time of Large Scale Development, the applicant was requesting a total of four (4) sign variances from the I-540 Design Overlay District requirements. The Planning Commission granted 2/4 of the variances, finding in favor of the requested monument sign with an attached slogan and finding in favor of the requested "Easy Come, Easy Go" directional signage for the curbside pickup area. The Planning Commission did not find in favor of an additional TGI Friday's wall sign, and found in favor of staff's recommendation to incorporate the requested "In here it's always Friday" slogan into the larger TGI Friday's wall sign in order to consider these as the same sign and to be consistent with other restaurants in the area.

Signage criteria in a commercial zoning district within the Design Overlay District (D.O.D.) differs from that within a commercial zoning district outside the Design Overlay District. Presently, the Planning Commission is the authority for variances on signage in the D.O.D. An applicant may appeal the Planning Commission's decisions to the City Council, which is the case here. Outside of the D.O.D., an applicant must comply with Ch. 174 Signs. The Zoning & Development Administrator has limited ability to grant appeals from Ch. 174; beyond that, an applicant must pursue action in Circuit Court. Variances from numbers of signs allowed is not within the authority of the Zoning & Development Administrator to grant, by city ordinance.

Staff finds that the current Design Overlay District ordinance requires Planning Commission approval for any wall sign that is beyond the name of the business, such as the corporate slogan "In here it's always Friday." Staff has supported many instances in this area for restaurants wanting to utilize these corporate slogans, as evidenced in the attached photographs. However, in order to recommend these slogans and permit them accordingly, the slogan is either directly or indirectly incorporated into the larger sign indicating the name of the business itself. If on another plane, the sign constitutes a separate wall sign, by ordinance; the number of wall signs allowed within the Design Overlay District is limited to one per street frontage. Staff and the Planning Commission recommends in favor of TGI Friday's retaining it's slogan, however it must be incorporated into the design of the overall sign face, and meet the size requirements set forth in the Unified Development Code.

DISCUSSION

This item was heard at the regular Planning Commission on May 23, 2005. The Large Scale Development was approved with a vote of 9-0-0. The applicant has submitted an appeal of the Planning Commission decision to the City Clerk within the 10-day appeal period.

BUDGET IMPACT

None.

161.24 Design Overlay District (I-540 Highway Corridor)

(A) *Purpose.* The purpose of establishing a Design Overlay District for the I-540 Highway Corridor is as follows:

- (1) To protect and enhance the distinctive scenic quality of the I-540 Highway Corridor by providing for nonresidential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
- (2) To address the issues of traffic and safety.
- (3) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
- (4) To preserve and enhance the economic value and viability of property within and near the Overlay District for the I-540 Highway Corridor.

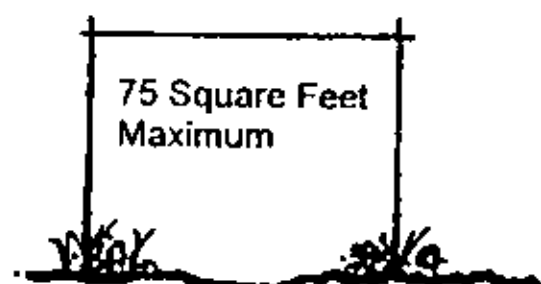
(D) *Nonresidential site design and development standards.*

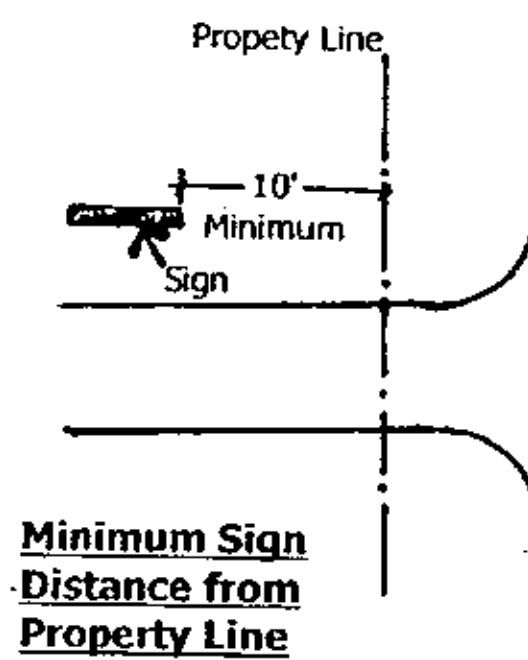
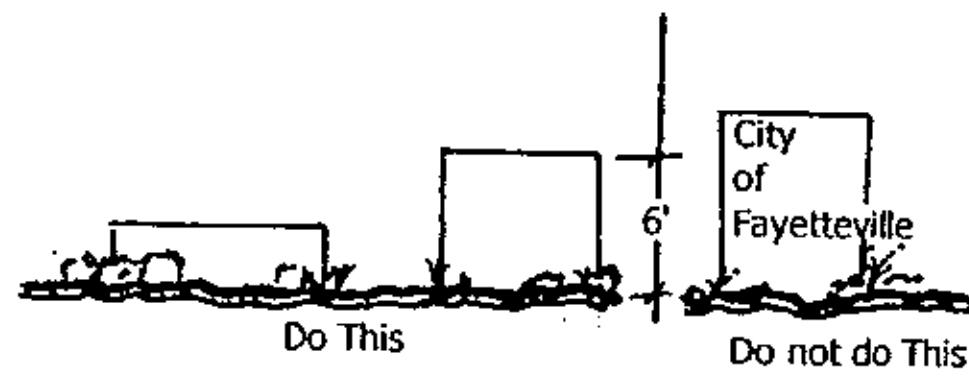
(1) *Greenspace.* A minimum of 25 feet of landscaped greenspace exclusive of right-of-way shall be provided along the highway right-of-way and any public street to which the development has frontage. Parking lots shall not encroach into the greenspace and shall be screened when abutting a required greenspace area. Trees shall be planted at the interval of one tree per 30 linear feet of greenspace area when practicable.

(2) *Signage.*

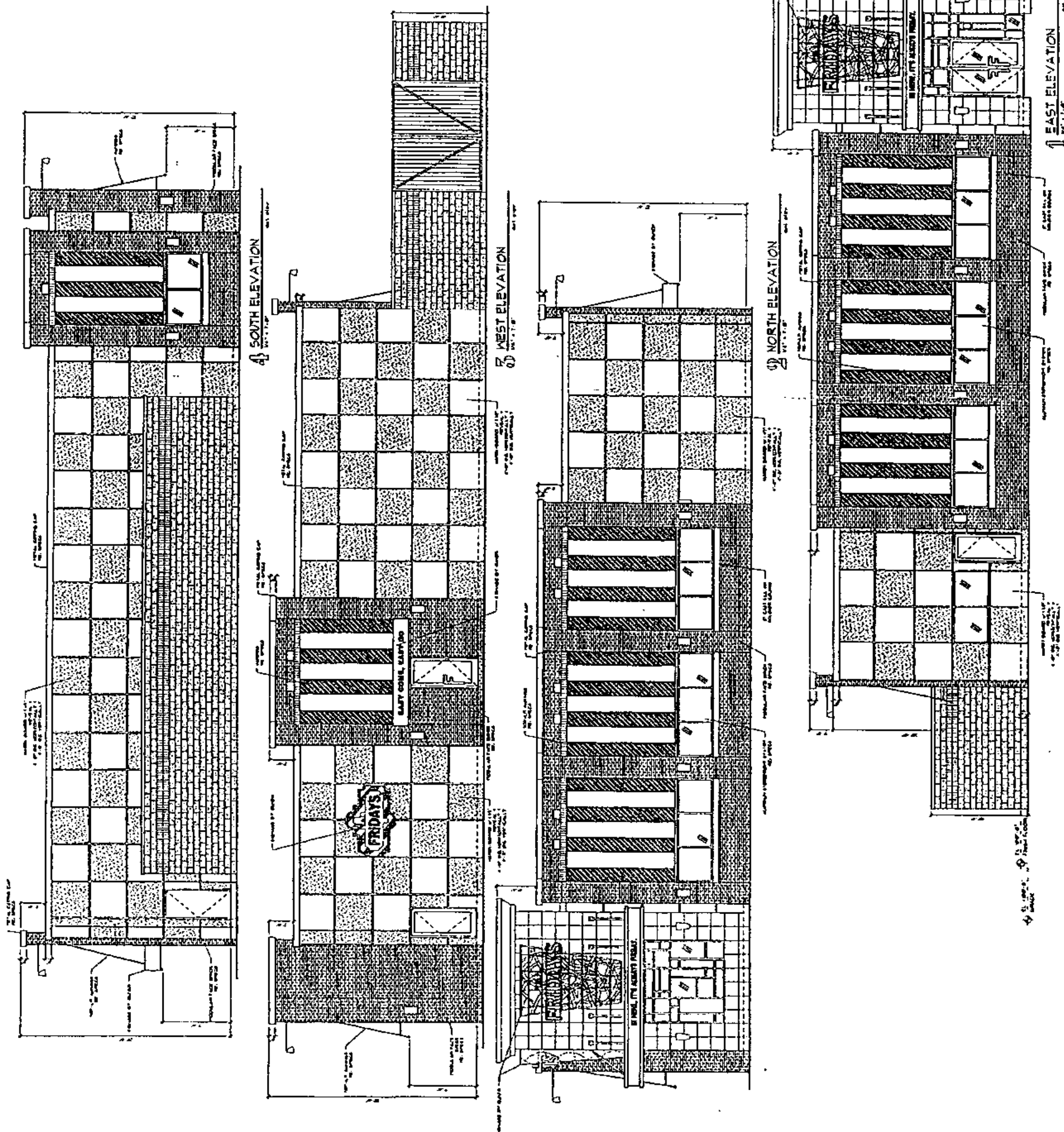
(a) *Nonresidential free-standing signs.*

- (i) Each separate nonresidential lot will be allowed a single ground-mounted (monument) sign located on the building site. In the case of lots with double frontage, two ground-mounted (monument) signs shall be allowed.
- (ii) The sign shall be a maximum of six feet high, 75 square feet in area, and setback a minimum of 10 feet from the property line.





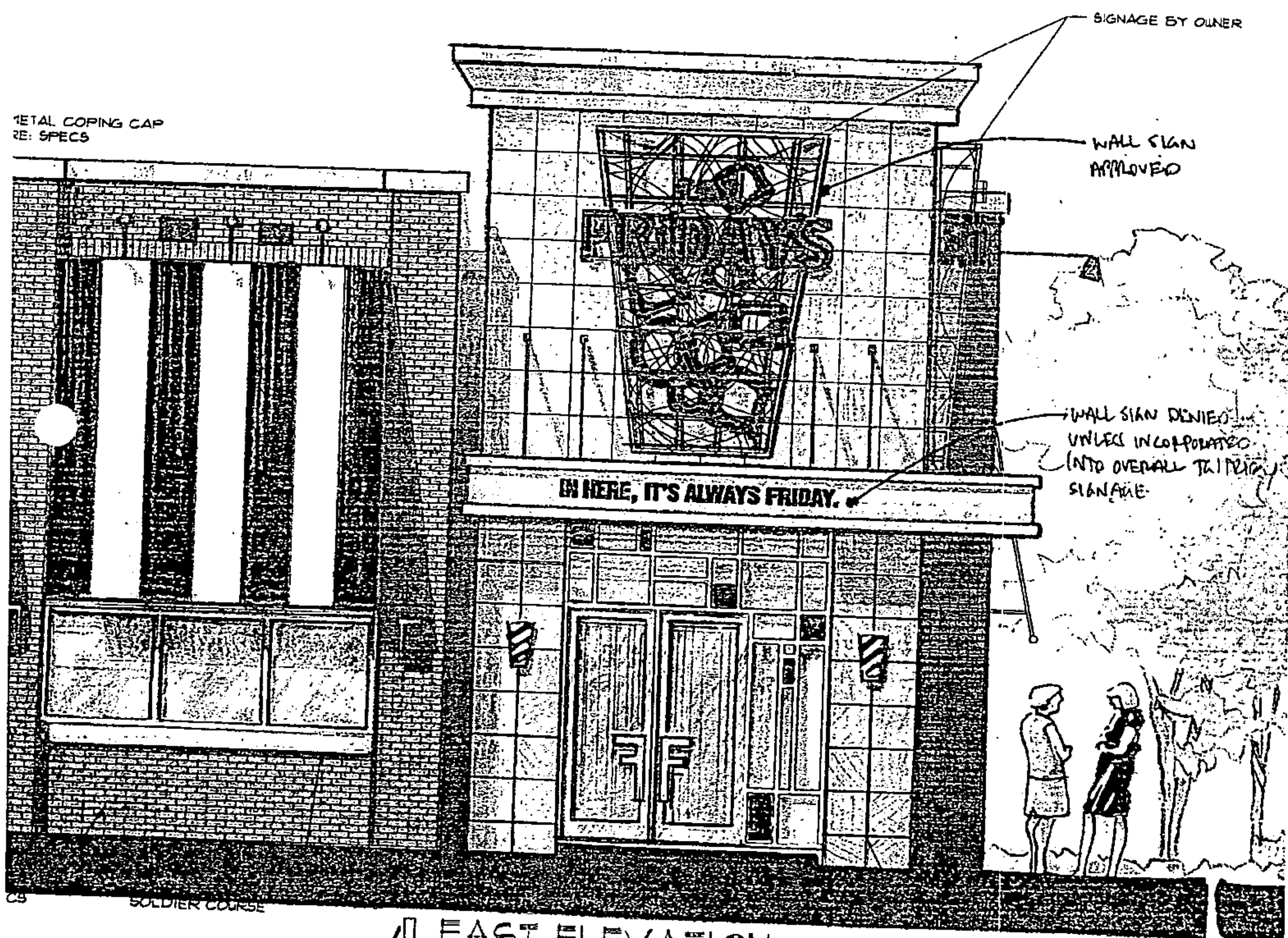
- (b) **Wall signs.** One wall sign may be installed per business. Sign area shall not exceed 20% of that wall area or 200 square feet, whichever is less. A second sign may be allowed if it is determined that the structure has more than one front facing a street or highway right-of-way.
- (c) **Illumination.** Only indirect lighting may be used for illumination of all signs.
- (d) **Multiple tenants.** The owner of the building shall be responsible for the provisions of one monument sign with sign area for multiple tenants.
- (e) **Sign content.** Content of monument and wall signs shall be limited to the name of the business. Advertising shall not be permitted on the structure, wall sign or monument.



- DESIGN OVERLAY DISTRICT : 2 STREET FRONTS ALLOWS 2 WALL SIGNS
- APPLICANT'S PROPOSAL (ORIGINAL): 3 TGI FRIDAY SIGNS, 2 "IN HERE IT'S ALWAYS FRIDAY" SIGNS ON CANOPIES, 1 DIRECTIONAL SIGN
- PLANNING COMMISSION APPROVAL: 2 TGI FRIDAY SIGNS (ALLOWING SLOAN IF INCORPORATED INTO THIS SIGN), 1 DIRECTIONAL SIGN

C.3.
TGI Friday's Appeal

Page 7 of 56



EAST ELEVATION

3/16" = 1'-0"

ext elev

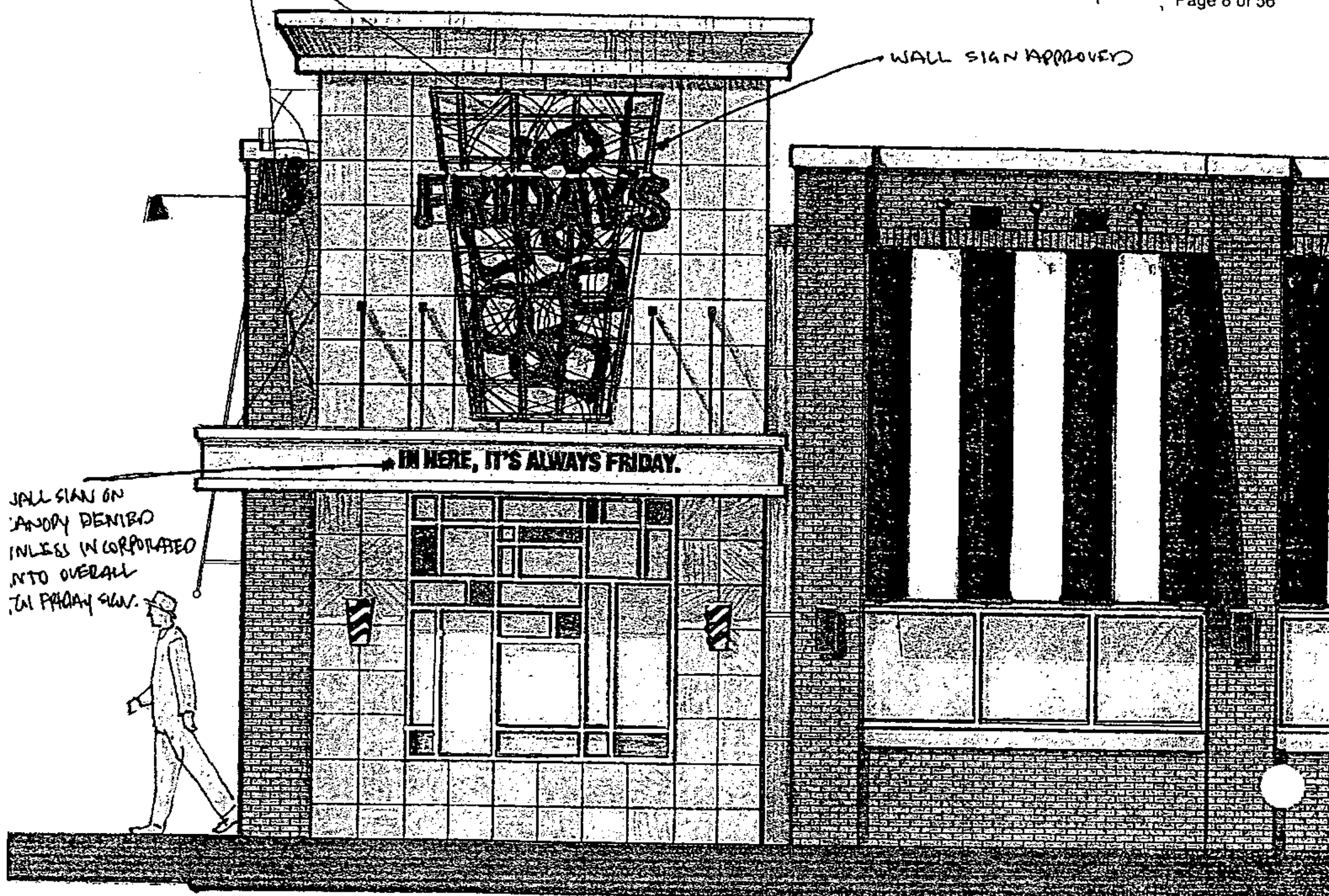
(FACING MAIN AVENUE)

SIGNAGE BY OWNER

C.3.
TGI FRIday's Appeal
Page 8 of 56

WALL SIGN APPROVED

WALL SIGN ON
LANDING DENIED
UNLESS INCORPORATED
INTO OVERALL
TGI FRIDAY SIGN.



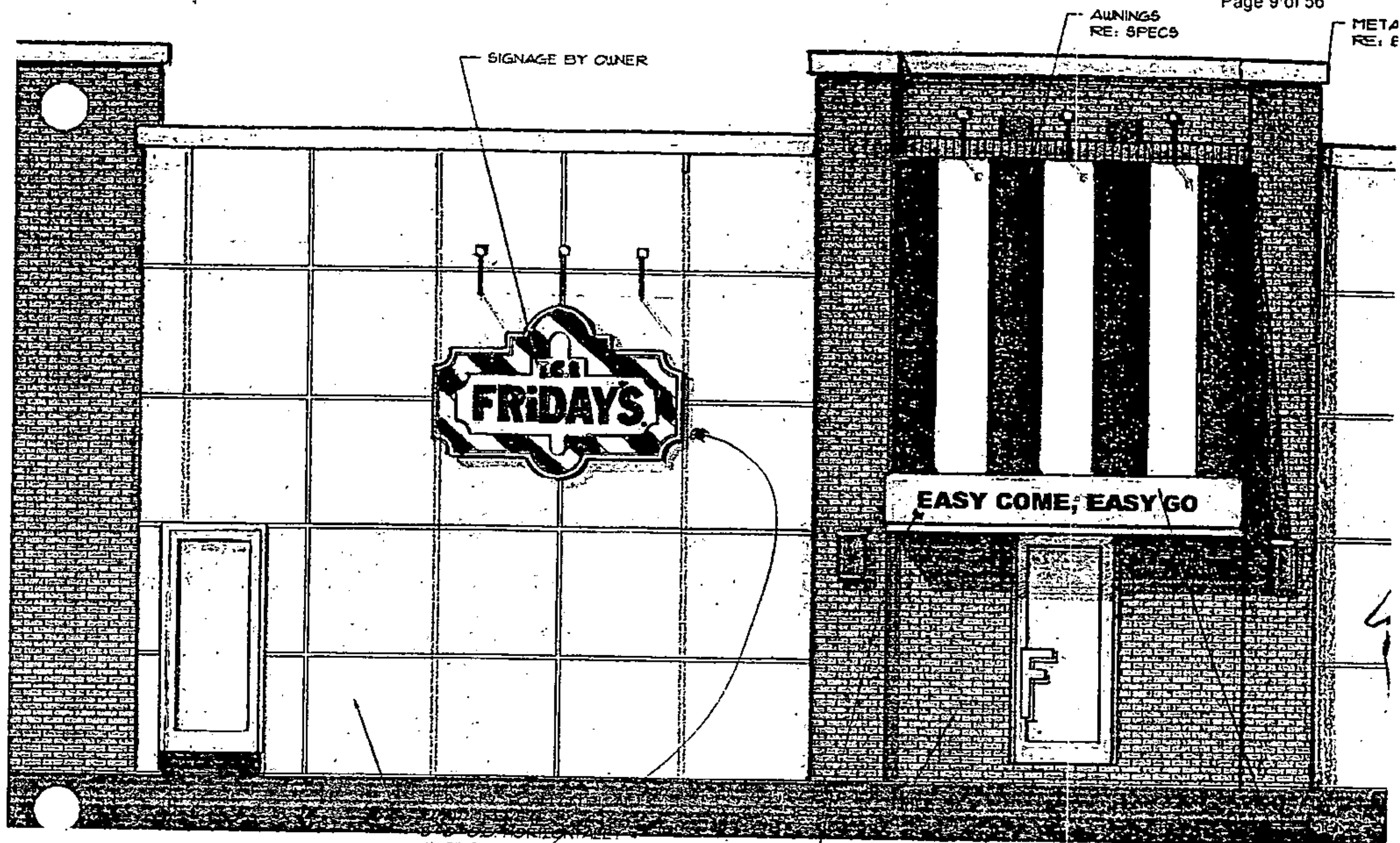
RE: SPECS

NORTH ELEVATION (FACING VAN ASCHER DR)

METAL COPING CAP
RE: SPECS

EIFS ON 2" FOAM (TYP)
w/ 1 1/2" REVEAL @
8'-0" O.C. HORIZONTAL
4'-0" O.C. VERTICALLY





4'-0" O.C. VERTICALLY

ADDITIONAL WALL
SIGN DENIED

WEST ELEVATION
(FACING CREEK)

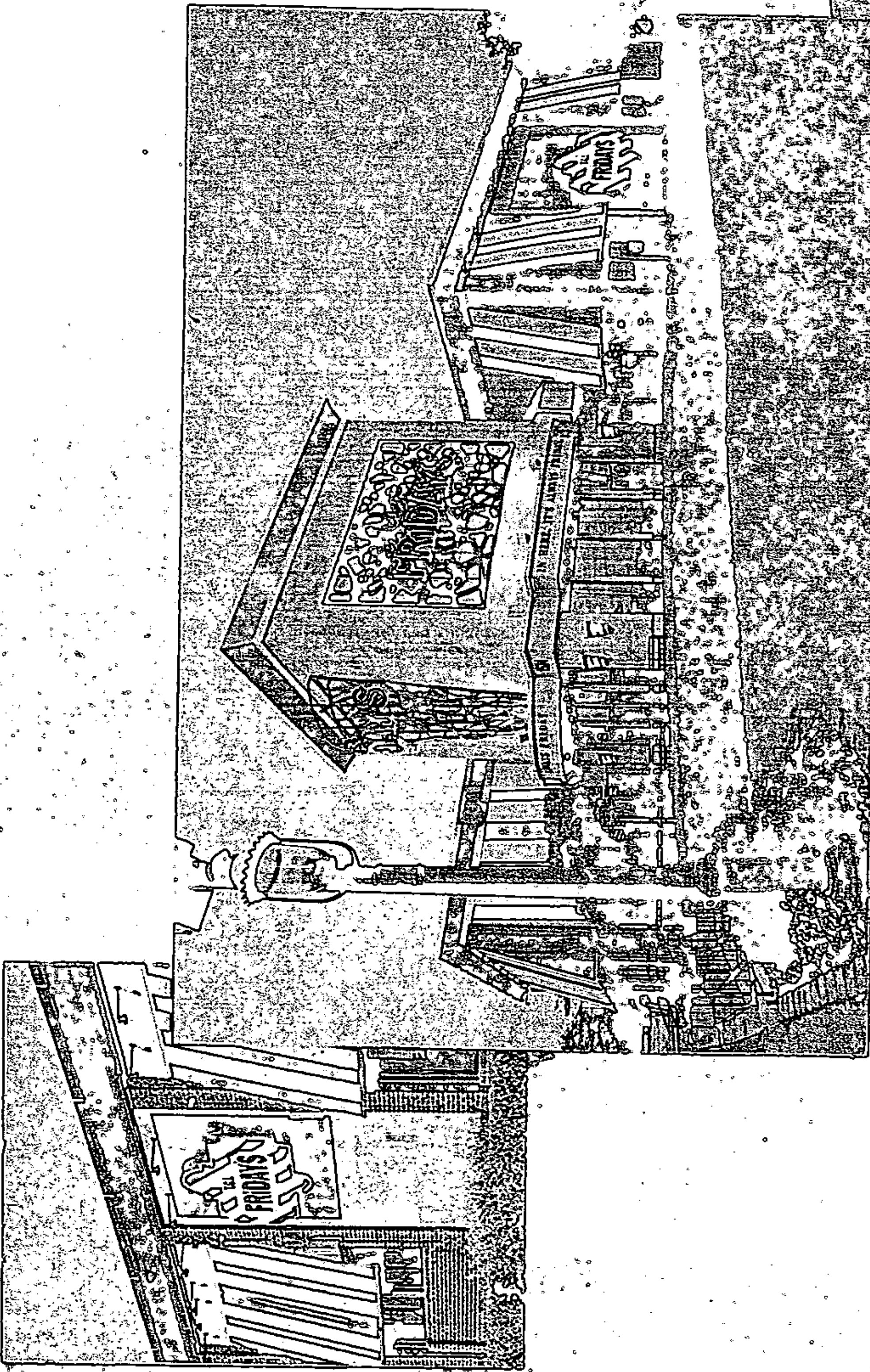
DIRECTIONAL SIGNAGE
APPROVED (MAX 4 SQ FT),
ALIGN WITH LANGUAGE

FRIDAY'S

TEVILE, ARKANSAS

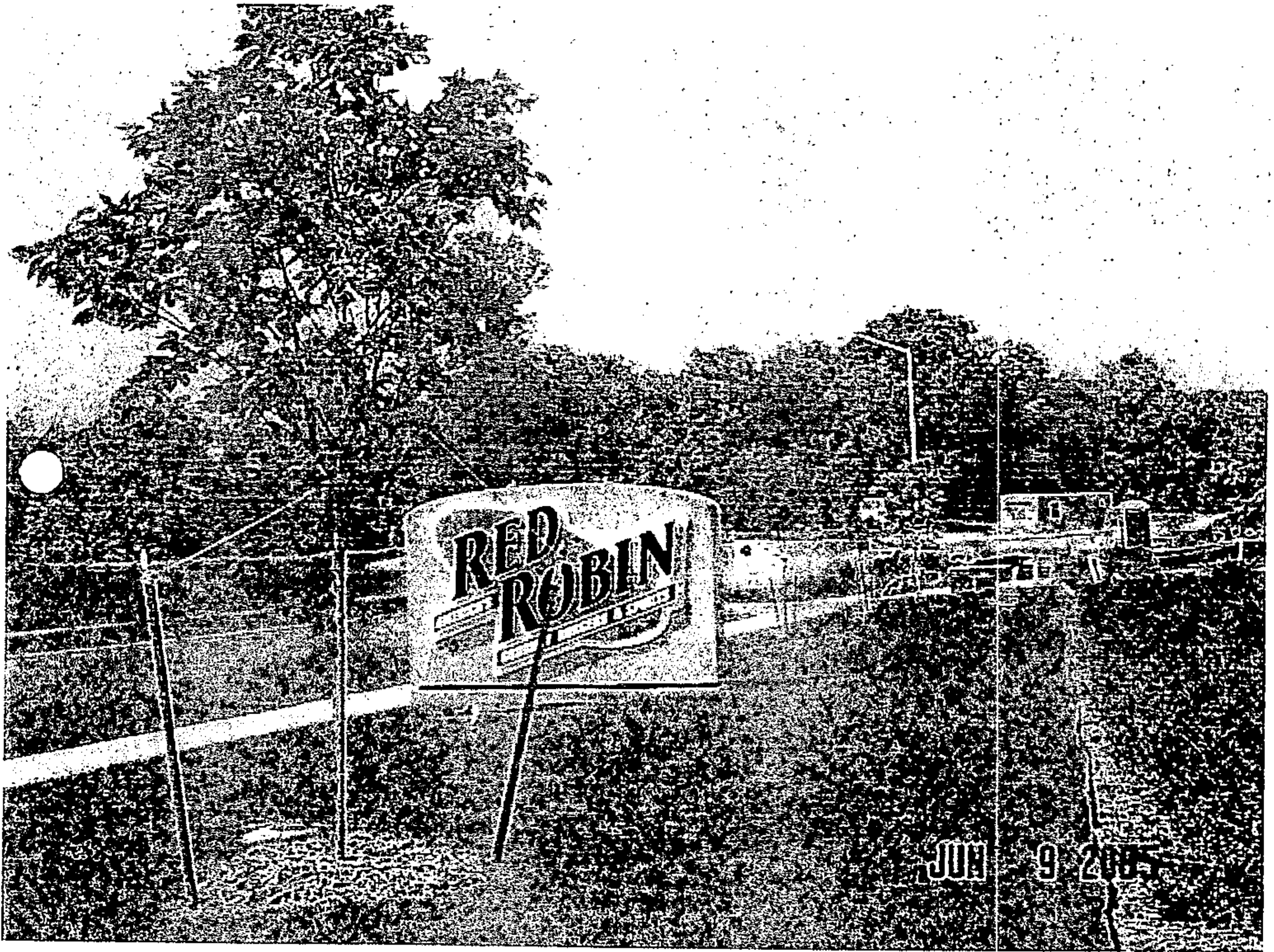


GRANITE OR EIFS ON 1 1/2" FOAM w/
REVEAL @ 18" O.C.E.W.



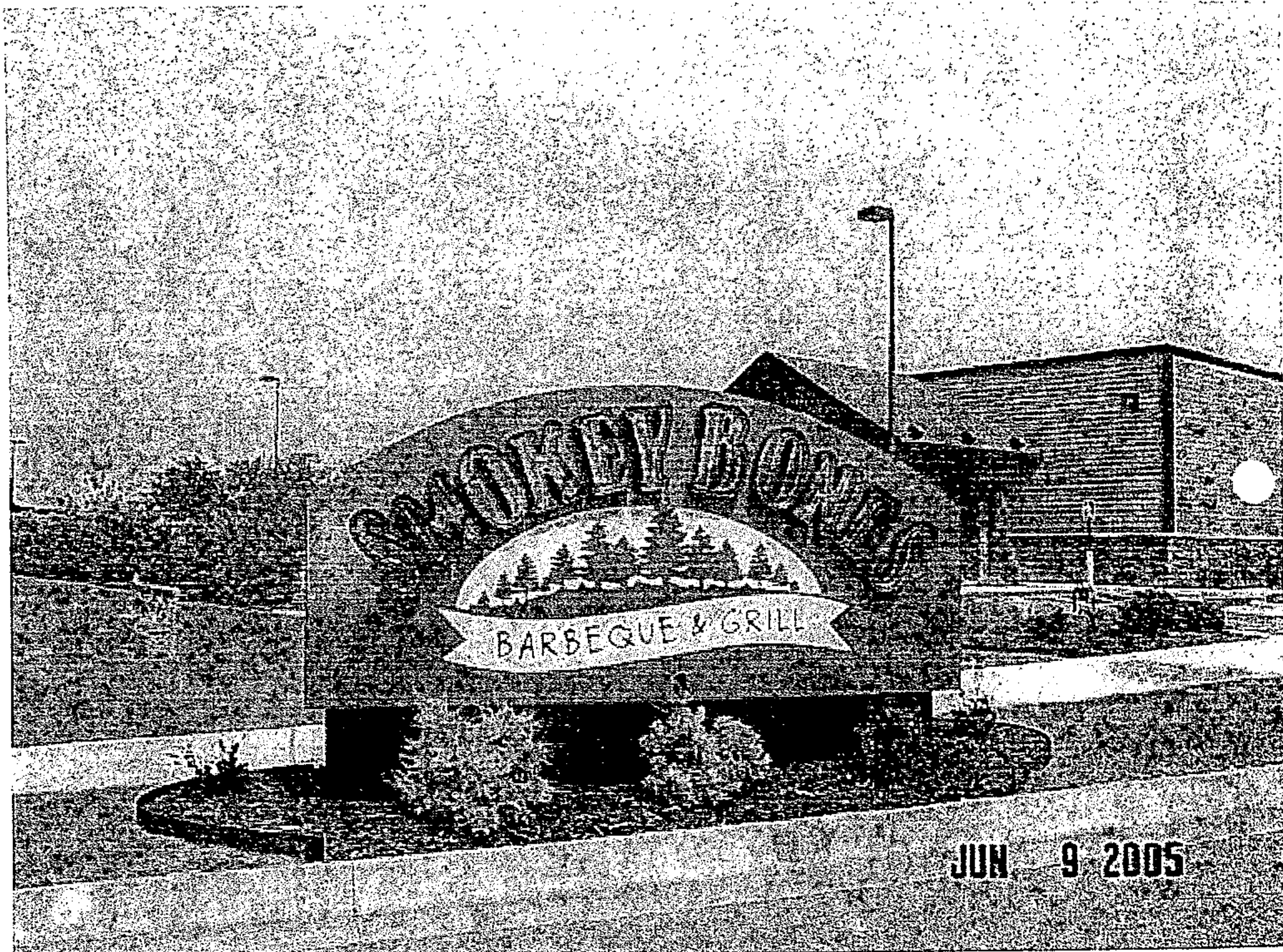
DAY OF THE FRIDAYS

IT'S ALWAYS FRIDAY

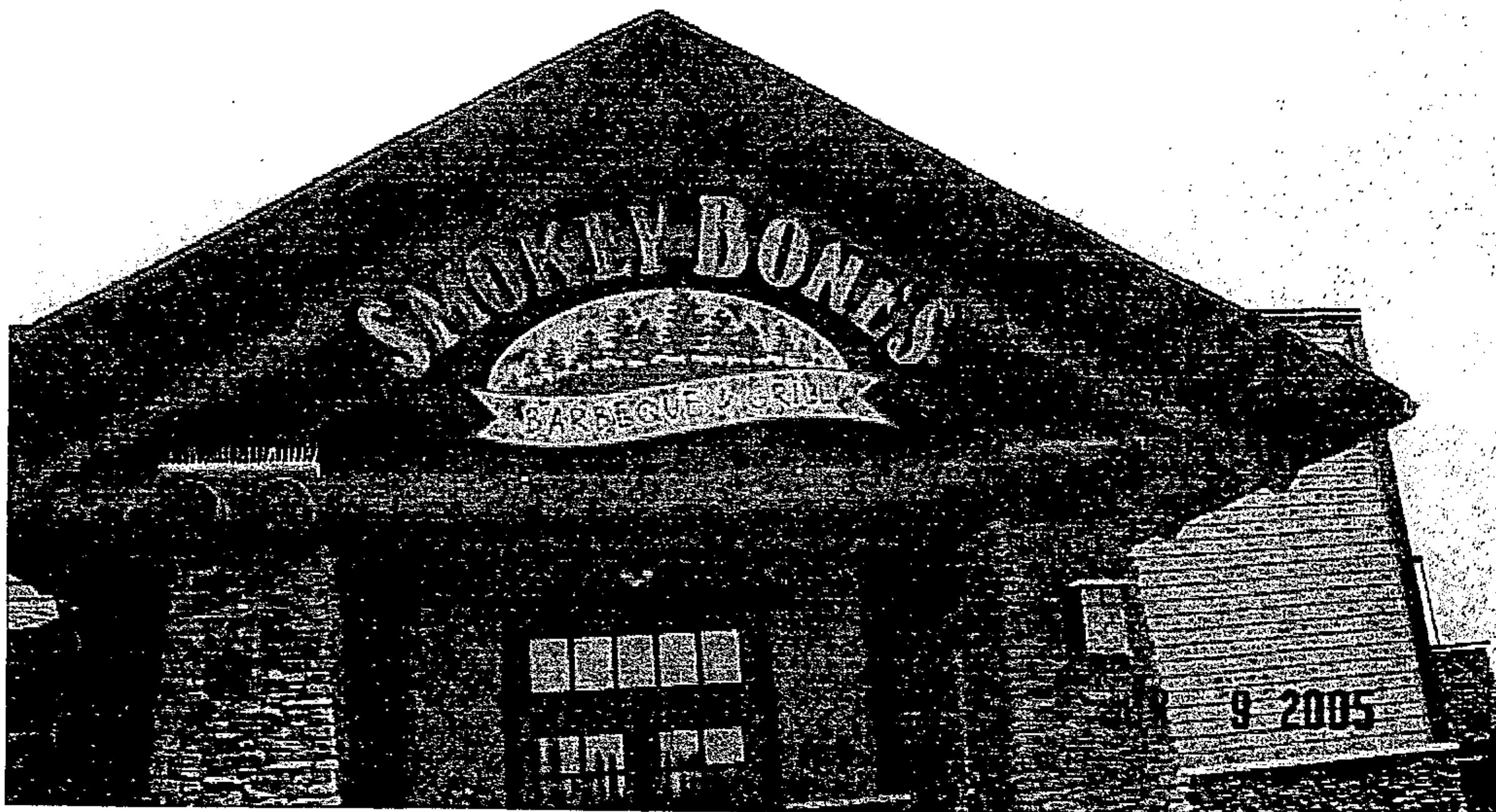








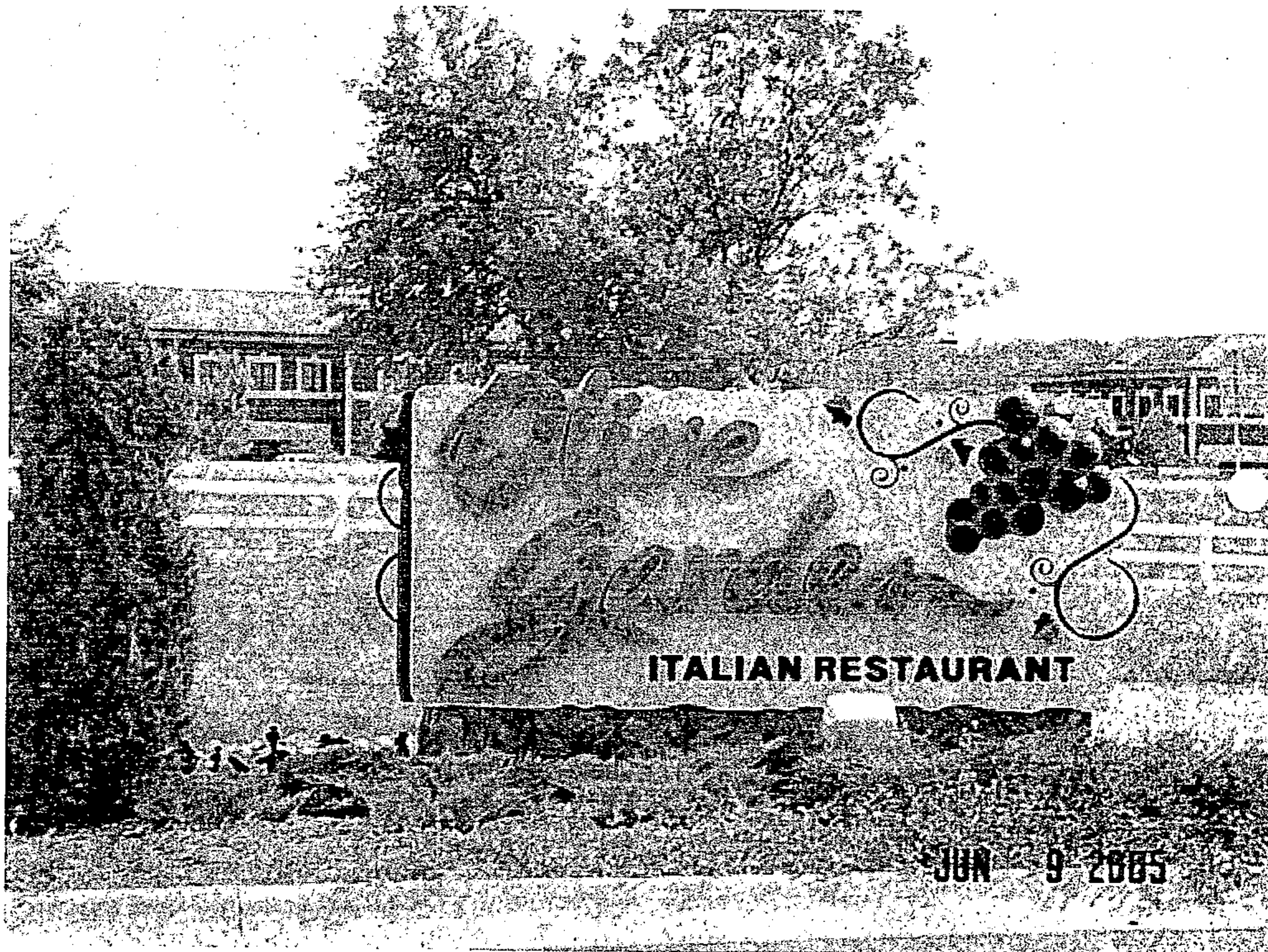








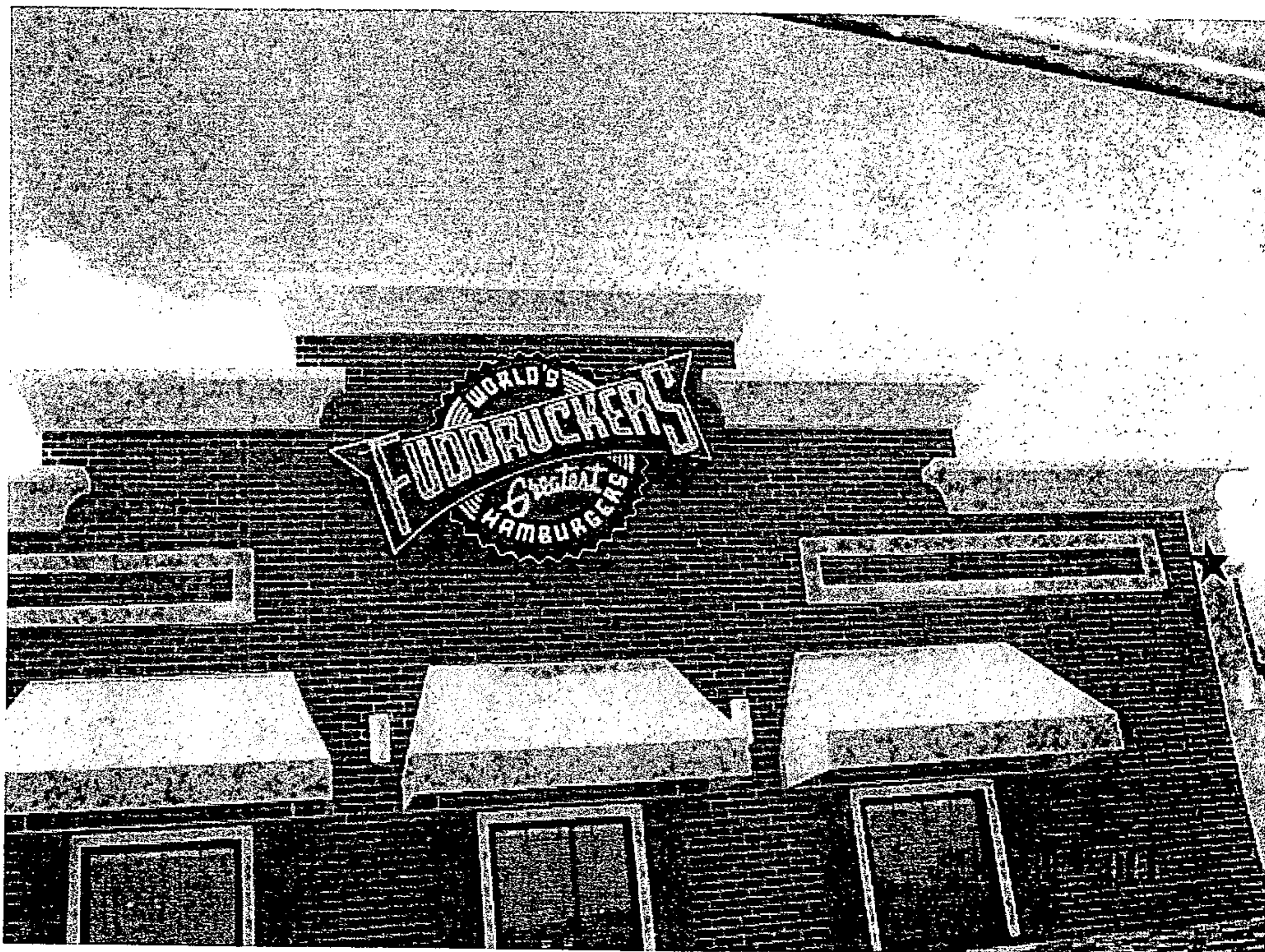




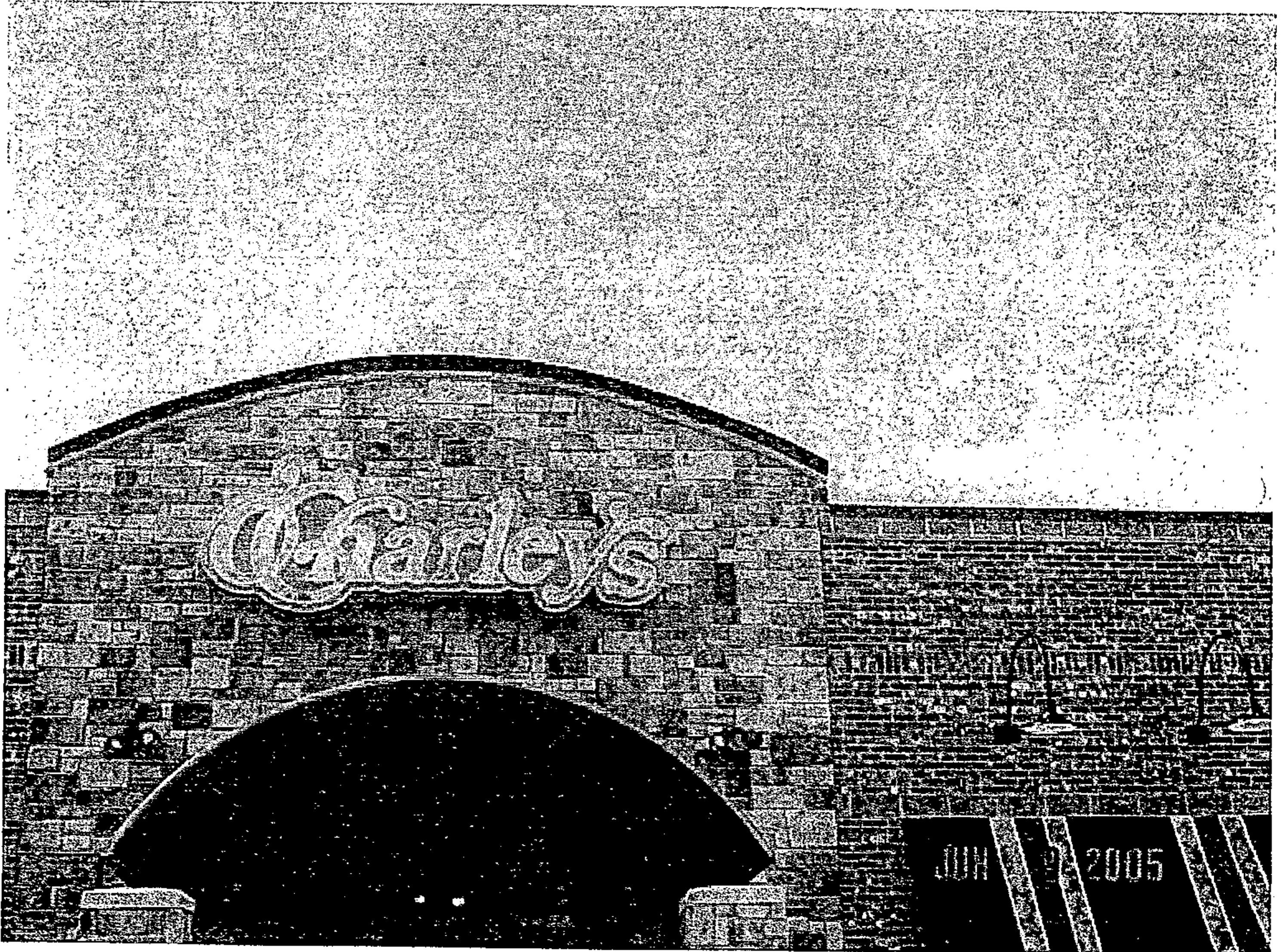


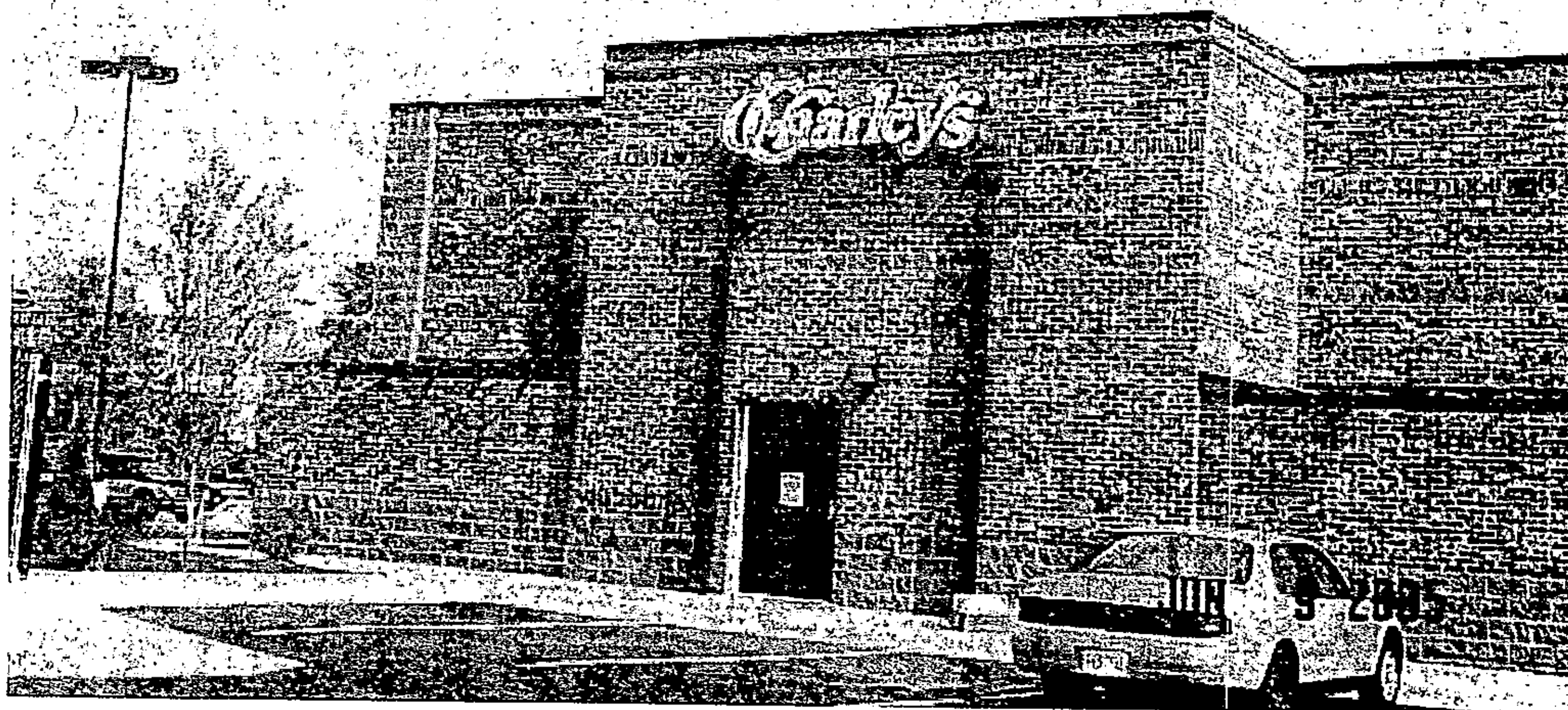


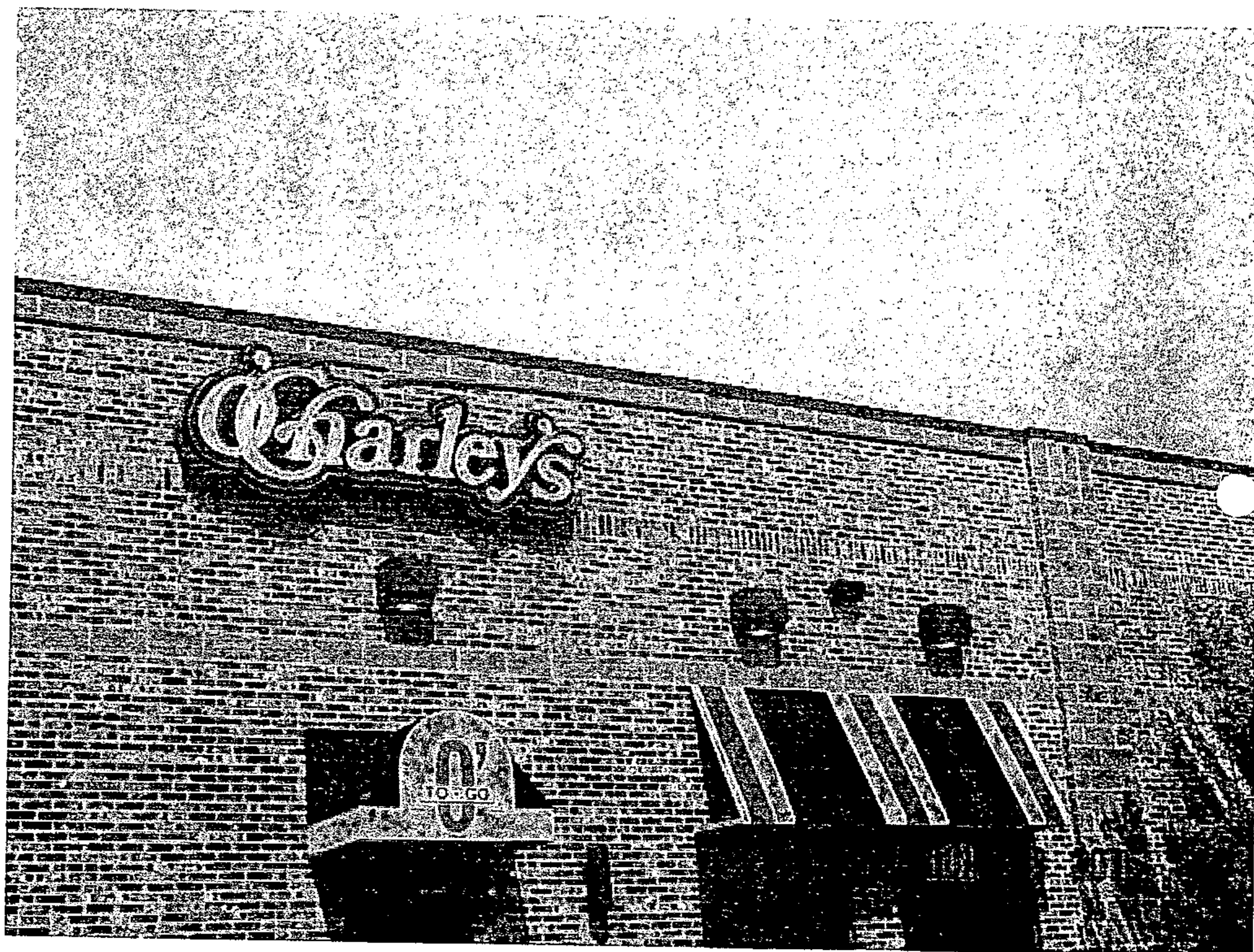














PC Meeting of May 23, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Sr. Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~May 17, 2005~~ May 24, 2005

LSD 05-1468: Large Scale Development (TGI FRIDAY'S, 173): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at LOT 16B, CMN II, 463 E. VAN ASCHE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.10 acres. The request is to approve the development of a restaurant with approximately 6,586 square feet (SF) and 116 parking spaces proposed.

Property Owner: NANCHAR INC.
Submitted on behalf of: STEVE BELL

Property Owner: MARJORIE BROOKS
Planner: JEREMY PATE

Findings:

Background: The 4.53-acre Lot 16 parent tract was split into Lots 16a and 16b consisting of 2.43 and 2.10 acres, respectively, in February 2004. The subject Lot 16b is undeveloped and Lot 16a to the south contains Logan's Roadhouse Restaurant. Logan's Roadhouse Restaurant Large Scale Development was approved in March 2004. As part of the approval process for Logan's Roadhouse, a Conditional Use Permit was issued to allow additional parking spaces over the number allowed by city ordinance.

Property: The subject property is located within the city's Design Overlay District at the southeast corner of Mall Avenue and Van Ashe Drive, adjacent to Logan's Roadhouse restaurant and directly across from the Olive Garden restaurant. The property has street frontage and ingress/egress on both of these Collector streets. A north-south trending drainage on the western edge of the site contains a floodplain and wetlands. A single stand of willow trees associated with this unnamed tributary to Mud Creek supports 1,800 SF of tree canopy; however, none of the trees on the property are significant or champion specimens. Currently there is no development on the site.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Fuddruckers site (Lot 13a)	C-2, Thoroughfare Commercial
South	Logan's Roadhouse (Lot 16a), Shiloh Drive, Hwy 71B	C-2, Thoroughfare Commercial
East	Olive Garden (Lot 17)	C-2, Thoroughfare Commercial
West	Lot 15, Commercial Development	C-2, Thoroughfare Commercial

Proposal: The applicant proposes to construct a TGI Friday's restaurant in the Steele Crossing Subdivision. The subject property, Lot 16b, has frontage onto both Van Ashe Drive and Mall Avenue, and is located within the Design Overlay District. Along with Large Scale Development approval, the applicant seeks a Conditional Use Permit for 116 parking spaces; a maximum of 90 are allowed by right.

Request: The request is for Large Scale Development approval of the submitted site plans for TGI Friday's. Associated with this request, but not officially heard until Planning Commission, is a Conditional Use request to allow more parking and a variance to allow additional signage than that allowed by ordinance. These three items will be heard concurrently by the full Planning Commission.

Parking: The current parking ratio ordinance requires one (1) parking space per 100 SF of gross floor area. The number of parking spaces required for this project is thus 66 (6,586 / 100). The ordinance allows for a maximum number of 30% more parking spaces than the number permitted. Additionally, the ordinance allows for an additional four (4) parking spaces for a drive-through window, and the project's 'curbside' pick-up qualifies for these spaces. The maximum number of spaces permitted for this project is therefore 90 parking spaces (66 + 30% + 4). The applicant is requesting the Planning Commission to approve a total of 116 parking spaces, a conditional use for 26 more spaces than what is permitted by ordinance.

Parking Ratio:

Restaurant	Ratio	Square Feet	Required Spaces	Permitted 30% Overage + 4 Spaces for Drive-Up	Proposed	Requested Overage
TGI Friday's	1/100 SF	6,586	66 spaces	90	116	26 spaces – 29% over permitted 90

Signage Variance: The request for a signage variance to allow for additional signage is described under the Design Overlay District (DOD) findings and listed under the conditions of approval for the project.

Right-of-way being dedicated: Sufficient right-of-way exists along Van Ashe Drive and Mall Avenue (35 feet from centerline right-of-way).

Street Improvements: No street improvements are required of this developer.

Water/Sewer: Water and sewer are available to the site. Sewer is being extended from the southwest corner within an existing utility easement, and water will be extended to an existing water line adjacent to the site in a utility easement in Mall Avenue.

Parks: N/A

Adjacent Master Street Plan Streets: Van Ashe Drive (Collector), Mall Avenue (Collector)

Design Overlay District:

- **Greenspace:**

The applicant has complied with the 25' greenspace requirement along all rights-of-way.

- **Signage:**

Monument Sign: An elevation of the proposed monument sign has been submitted depicting the sign is less than 75 SF and 6 feet in height in conformance with City ordinance.

Monument Sign Variance Request: The applicant is requesting the Planning Commission approve a monument sign with both the TGI Friday's name and its associated slogan "In here it's always Friday" below. The DOD expressly limits the content of both monument and wall signage to the name of the business. *Staff recommendation: Approval*

Wall Sign: The applicant is allowed one (1) wall sign for each of the property's street frontages, to be 20% of the wall area or 200 SF, whichever is less. A maximum of two (2) wall signs are allowed for this project, based on site's frontage onto two public streets.

Wall Sign Variance Request: The applicant is requesting the Planning Commission to approve the following wall signs:

- Two (2) large wall signs depicting "TGI Friday's" at the restaurant's main entrance, the northeast corner of the structure. *Staff recommendation: Approval*
- Two (2) smaller wall signs underneath the large wall signs depicting TGI Friday's corporate slogan, "In Here It's Always Friday". Due to these slogans being on a different wall plane than the larger wall signs, and due to the slogan not being part of the corporate name, staff determined these slogans are each a separate wall sign. *Staff recommendation: See conditions.*
- One (1) smaller wall sign depicting "TGI Friday's" adjacent to the 'curbside' pick-up facility on the western side of the restaurant. *Staff recommendation: Denial*
- Additionally, TGI Friday's is requesting directional signage above the curbside pickup door stating "Easy Come, Easy Go". This signage is not

allowed in the DOD however a smaller 4 SF directional wall sign would be allowed at an entrance or exit for identification. *Staff recommendation: See conditions.*

- **Curb Cuts:** The proposal utilizes a curb cut from Van Asche Drive. The curb cut meets the minimum distance from an intersection (250') as required by ordinance. Two shared access points are proposed through the northwest and northeast corner of the adjacent Logan's Roadhouse (Lot 16a) property immediately to the south. A drainage/floodplain is located along the western edge of the property and precludes access from the west.
- **Lighting:** A note has been added to the plat indicating compliance with this requirement.
- **Exterior Appearance:** Elevations have been submitted for all four sides of the building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.
- **Building Material:** A materials sample board has been submitted for review.
- **Site Coverage:** The applicant has complied with the 25% open space requirement.
- **Fencing:** N/A
- **Outdoor Storage:** N/A
- **Access:** Pedestrian access from the street to the entrance of the structure by way of a designated walk is provided. Four (4) bicycle racks are to be provided for multi-modal access.

Tree Preservation: The project would remove all 1,800 SF of tree canopy on the site. However, no significant trees or groupings exist. The Landscape Administrator has approved tree preservation measures for this site, and waived the requirement of a Tree Preservation Plan, due to the approval of the overall Tree Preservation Plan for the CMN Business Park II.

Recommendation: Staff recommends **LSD 05-1468** approval by the Planning Commission with the following conditions:

Conditions of Approval:

1. Planning Commission determination of Commercial Design Standards. *Based on the latest elevations submitted, staff finds all elevations and material samples presented meet the design standards set forth in the UDC. Full color elevations are to be*

presented at the Planning Commission meeting.

2. Planning Commission determination of the conditional use request for 116 parking spaces. *Staff has reviewed the conditional use requests granted for other restaurants in the area allowing extra parking and found an average of 36% overage. The subject request (29% overage) would be consistent with parking variances granted by the Planning Commission to other vicinity restaurants. Staff supports a conditional use request for additional parking on this site due to its inherent separation from adjacent and different uses with different peak parking demands.*

3. Planning Commission determination of sign variances.
 - ✓ *Staff recommends approval of the monument sign requested with the slogan "In here it's always Friday" added, which is in keeping with other signs and slogans permitted in the area.*
Approved
 - ✓ *Staff recommends approval of the two large wall signs depicting TGI Friday's at the main entrance, given that they meet size requirements.*
Approved
 - ✓ *Staff recommends denial of the smaller slogans underneath the large wall signs unless they are incorporated into the overall larger sign and also meet DOD size requirements, which is also in keeping with other signs permitted in the area that have a slogan integrated into the sign face.*
Denied
 - ✓ *Staff recommends denial of the additional TGI Friday's wall sign on the west façade. Staff has reviewed the sign variance requests granted for other restaurants in the area allowing extra signage and found that an average of one additional sign has been allowed when unusual conditions exist on the site requiring a third sign - such as poor visibility or inability to provide a monument sign. The decision for approval of a sign variance is based on a set of criteria that unusual conditions/circumstances are particular to the subject land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. Staff does not find that the subject site has unusual conditions/circumstances not applicable to other land, structures, or buildings in the district that would require additional wall signs. The site has high visibility from two street frontages and staff is not aware of special conditions that would warrant a sign variance.*
Denied
 - ✓ *Staff recommends the denial of the "Easy Come, Easy Go" wall signage on the west façade and recommends directional signage in accordance with City ordinances to identify this area (maximum 4 SF wall sign), stating "Curb side pickup," "Customer pickup," or other similar directional/identifying signage.*
Approved
 - **PLANNING COMMISSION ALLOWED THE DIRECTIONAL SIGNAGE "EASY COME, EASY GO" ON THE WEST FAÇADE IN ACCORDANCE WITH CITY ORDINANCE (MAXIMUM 4 SF DIRECTIONAL SIGN).**

4. Wall signs shall not project more than 18 inches from the surface upon which they are mounted, and shall be affixed parallel to the wall or printed on the wall in such a manner as to read parallel to the wall on which it is mounted, based on City of Fayetteville Ch. 174 Signs.

5. Wall signs shall not exceed 20% of the wall area or 200 SF, whichever is less, based

on Design Overlay District sign ordinances.

6. Prior to issuance of a building permit, the access easement document allowing for the proposed second access to Logan's shall be filed and a copy provided to the City Planning Division.
7. In accordance with the Final Plat of CMN Business Park II, Phase II, "Each individual tract developer shall employ an environmental specialist to ensure that the spirit and letter of the Section 404 Permit from the U.S. Army Corps of Engineers will be complied with in the development of the lot." The developer shall comply with this requirement prior to the issuance of a building permit.

Standard Conditions of approval:

8. Trash enclosures shall be screened with access not visible from the street, with materials that are complimentary to and compatible with the proposed building. Access to the enclosure shall not be visible from the street, pursuant to city ordinance.
9. Parking lot lighting shall be shielded and directed away from adjoining properties and utilize high pressure sodium lighting or energy equivalent.
10. **All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure.**
11. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
13. Large scale development shall be valid for one calendar year.
14. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - c. Project Disk with all final revisions
 - d. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - e. Completion of all required improvements or the placement of a surety

with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

15. Additional conditions:

Planning Commission Action: ☒ **Approved** ☐ **Denied**

Meeting Date: May 23, 2005

Comments: PLANNING COMMISSION APPROVED WITH A VOTE OF 9-0

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date



PC Meeting of May 23, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Jeremy Pate, Landscape Administrator

Date: May 18, 2005

ITEM #: LSD 05-1468 (TGI Friday's)

TREE PRESERVATION PLAN

1. Waived. Tree Preservation measures have been approved for this site, and no significant trees or groupings exist. A tree preservation plan was previously approved for the Steele Crossing Subdivision. The deed restricted area identified on the western edge of lot 16 is this site's tree preservation area. Please clearly identify this area as a tree preservation area on an easement plat. Both graphic designations, and a legal description of this area should be placed on an easement plat. The signature block for the Landscape Administrator should reflect the language provided below:

Tree Preservation Area

The Tree Preservation Areas as indicated on this easement plat constitute a covenant running with the title of the subject property and is denoted for the property owners and their future successors, assignees or transferees to preserve, protect and maintain existing tree canopy. No tree removal or land disturbance as defined within the City of Fayetteville Unified Development Code may occur within the Tree Preservation Area unless approved by the City of Fayetteville. Persons seeking removal of such Tree Preservation Areas, or requesting to modify the property in such a way as to effect the canopy within, must seek approval from the City Council through a request made by the Landscape Administrator of the City of Fayetteville

Approved by _____ Date _____
City of Fayetteville Landscape Administrator



PC Meeting of May 23, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission

From: Jeremy Pate, Landscape Administrator

Date: May 18, 2005

ITEM #: LSD 05-1468 (TGI Friday's)

Applicable Requirements:

✓	Off Street Parking
✓	Commercial Design Standards
	Buffers and Screening
✓	I-540 Design Overlay

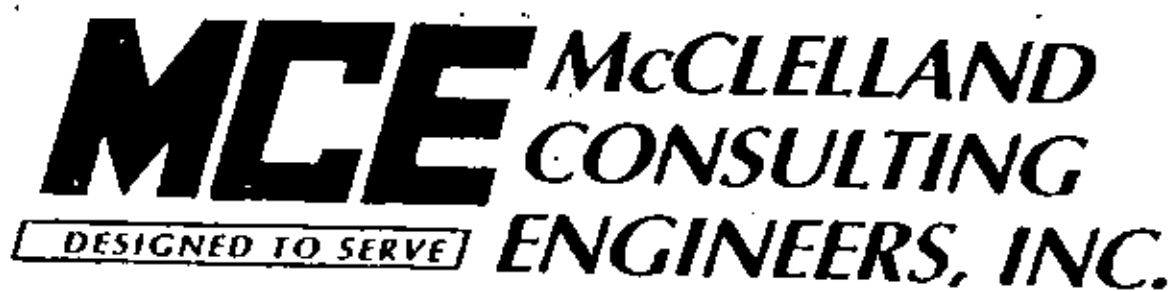
Plan Checklist:

- ✓ submitted by applicant
- ✗ requested

Preliminary Submittal	Final Submittal	
		Off Street Parking and Loading
	✓	wheel stops / curbs
	✓	irrigation
	✓	edged landscape beds indicated
	✓	species of plant material identified
	✓	size of plant material at time of installation indicated
	✓	interior landscaping
		narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces)
		tree island (10' min. width / 1 tree per 12 spaces)
	✗	perimeter landscaping
		side and rear property lines (5' landscaped)
		adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)
	✓	soil amendments notes include that soil is amended and sod removed
	✓	mulching notes indicate mulching around trees and within landscape beds.
	✓	planting details according to Fayetteville's Landscape Manual

Preliminary Submittal	Final Submittal	Commercial Design Standards
	✓	greenspace adjacent to street R.O.W. (15' wide)
	✓	street trees planted every 30' L.F. along R.O.W.
		outdoor storage screened with landscaping
		Buffer Strips and Screening
		landscaped area (12' min.)
		fence required
		outdoor storage screened with landscaping
		non-residential landscape screen when adjacent to residential zones
		landscape requirement for setback reduction
		Overlay District Requirements
	✓	greenspace adjacent to street R.O.W. (25' wide)
	✓	street trees planted every 30' L.F. along R.O.W.
	✓	25% of total site area left in greenspace (80% landscaped)
	✓	parking lots and outdoor storage screened with landscaping

Recommendation: Approval of the landscape plan associated with LSD 05-1486.



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville

Date: May 16, 2005

Re: Conditional Use Application for Parking Variance – Lot 16B CMN Business Park
REVISIONS BASED UPON MEETINGS WITH CITY PLANNING STAFF

TGI Friday's proposed restaurant is a stand-alone facility consisting of approximately 6,586 square feet of building area. T.G.I. Friday's estimates its Fayetteville restaurant to serve an average of 800 to 1000 patrons per business day. Hours of operation will be from 11:00 am to 12:00 am Sunday through Thursday and extending closing to 1:00 am Friday and Saturday. Normal amounts of staff will range between 25 and 30 people during any given time of day.

Per section 172.05 of the UDC, Restaurants require 1 parking space per 100 square feet of GFA (plus or minus 30%) plus 4 parking spaces per drive-thru window. Therefore our 6,586 square foot facility would require between 46 (minimum) and 86 (maximum) parking spaces plus an additional 4 parking spaces for a traditional drive-thru (50 (minimum) and 90 (maximum)). Similar to a traditional drive-thru, T.G.I. Friday's plans to provide guest pick-up services, allowing patrons to call ahead food orders and pick them up without having to actually enter the facility.

Assuming a minimum of 25 parking spaces are to be utilized by T.G.I. Friday's staff and another 3 parking spaces dedicated for the pick up service, a maximum of 62 parking spaces would be available for restaurant patrons (without the conditional use). The restaurant is proposing a total of 210 seats. Therefore, in order for T.G.I. Friday's to meet it's expected daily average of 75% capacity, the average automobile would be required to carry 2.5 people and in order to reach full capacity the average automobile would be required to carry 3.4 people. T.G.I. Friday's cannot risk their parking lot filling to capacity before their dining tables are occupied.

Lot 16 has limited shared parking opportunities. On-street, parallel parking is not an option. Van Asche Drive on the North, Mall Avenue on the East and Shiloh Drive on the South surrounds Lot 16 on three sides. The existing creek, wetland, and floodway prevent access to the large parking lots to the West. The entirety of Lot 16 consists of two parcels of land to be utilized by restaurants (Logan's and T.G.I. Friday's), both with similar peak-use demand times. T.G.I. Friday's has partnered with the existing Logan's Steakhouse Restaurant to improve access between the two adjacent sites and thus maximize usage of the parking spaces available.

Proposed are 116 total spaces to be provided to serve the proposed T.G.I. Friday's. This number represents 26 parking spaces (28.9%) over the maximum number of parking spaces allowed without obtaining a conditional use. Using the same method of calculating building square footage as our immediate neighbors, this makes TGI Friday's conditional use request one of the lowest in the area.

T.G.I. Friday's has traditionally been a very popular restaurant and looks forward to doing business in the Fayetteville area. As with other popular restaurants in this vicinity, limited parking capacity has proved to be a persistent challenge. We request that both City Staff recommends and Planning Commission approves our request for additional parking spaces.

Please let me know if you have any questions or concerns regarding this request,

Thanks,

Mike G. Morgan
McClelland Consulting Engineers, Inc.
(479) 443-2377

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville

Date: May 16, 2005

Re: **Signage Variance – Three Wall Signs Proposed**

The proposed TGI Friday's front two collector streets (Van Asche and Mall Ave.) along it's northern and eastern side respectfully and is therefore allowed two (2) wall signs by ordinance.

Due to both the natural, high degree of visibility of the TGI Friday's lot (Lot 16B) and the additional connectivity to the Logan's lot, the proposed TGI Friday's has no real rear or side elevations – all four sides of the building have been reviewed and designed as though they front a street or intersection. Even the southern, 'rear' elevation (the elevation containing the service yard and trash enclosures) would benefit from receiving a wall sign due to its high degree of visibility.

TGI Friday's respectfully requests a third, smaller wall sign adjacent to the pick-up facility along the western side of the building. This pick-up facility and associated wall sign is intended to be observed by patrons who call-in dinner orders ahead of time and come to the restaurant to pick them up 'curbside'. The intent of this 'curbside' pick-up facility is to have restaurant patrons by-pass the restaurant's main entrance located at the northeast corner of the building and receive their service from the western side.

The pair of large, stylized TGI Friday's wall signs designates the main entrance to the restaurant – allowing traditional patrons to come inside and sit down for a meal. Conversely, the smaller, inconspicuous TGI Friday's wall sign would designate the smaller, 'curbside' entrance to the restaurant. Traditional drive-through facilities direct traffic around a building, past a ordering kiosk and in the direction of a pick-up window – relying upon traditional building and monument signage to direct customers to the facility. Contemporary 'curbside' pick-up facilities, lacking the assistance of a designated drive-through lane, require an additional, albeit smaller piece of wall signage to indicate where patrons can pick-up their orders.

Please let me know if you have any questions or concerns regarding this request,

Thanks,



Mike G. Morgan
McClelland Consulting Engineers, Inc.
(479) 443-2377

REF. C2X-102 FOR
ADDITIONAL INFORMATION

FABRICATED D.F. ALUM. SIGN
CABINET W/ BLACK
ACRYLIC URETHANE ENAMEL
FINISH. RETAINERS & FILLER
PROVIDED BY OWNER.

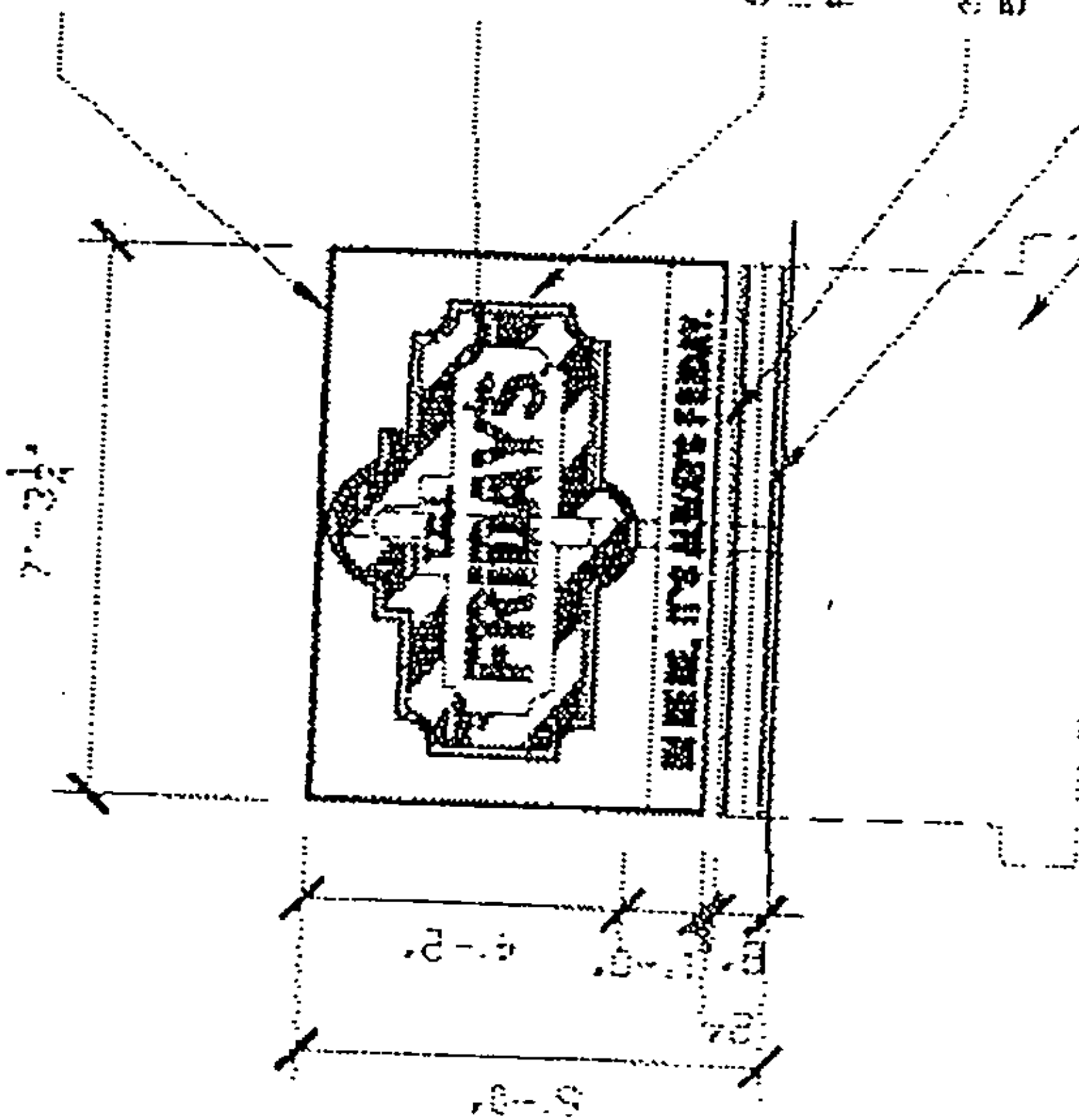
"FRIDAY'S" LETTERING

SIGN PANELS INITIALLY
ILLUMINATED PER
FABRICATOR'S SPEC'S.

EXTERNAL POLE - PAINT
BLACK

BRICK BASE BY GC.

REFER TO STRUCTURAL
DRAWING FOR
DIMENSIONS AND
REINFORCING.



A2 MONUMENT SIGN ELEVATION / SECTION

FABRICATED BY ALUM.
SIGN CABINET W/ BLACK
ACRYLIC URETHANE ENAMEL
FINISH RETAINERS &
FILLER PROVIDED BY
OWNER

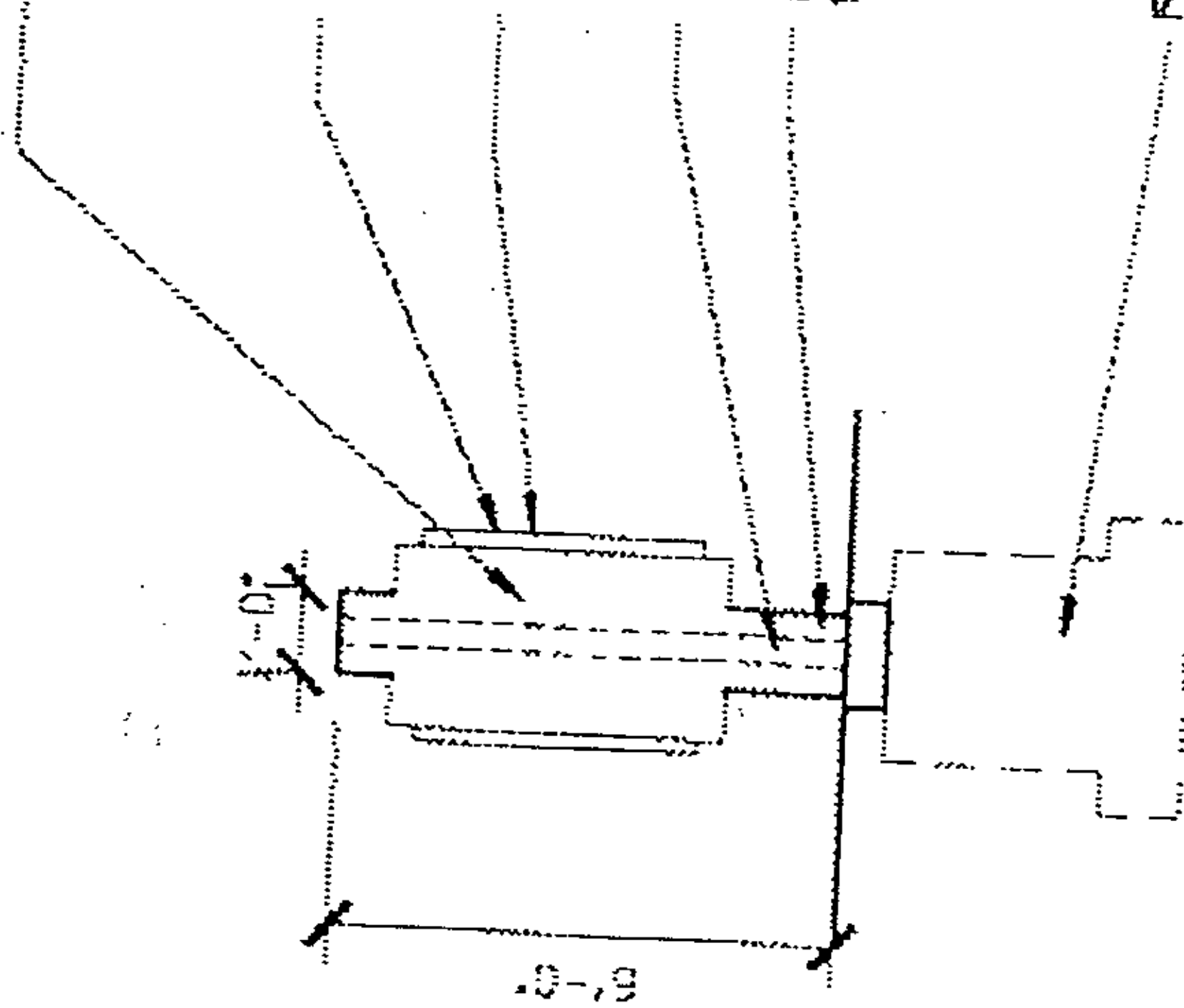
"FRIDAY'S" LETTERING

SIGN FACES MATERIALLY
ILLUMINATED PER
FABRICATORS SPECS

INTERNAL POLE PAINT
BLACK

BLADE - DAY SIGN
PROVIDER

REF. TO STRUCTURAL
DRAWING FOR
FOUNDATION
REQUIREMENTS (PER SITE
CONDITIONS)



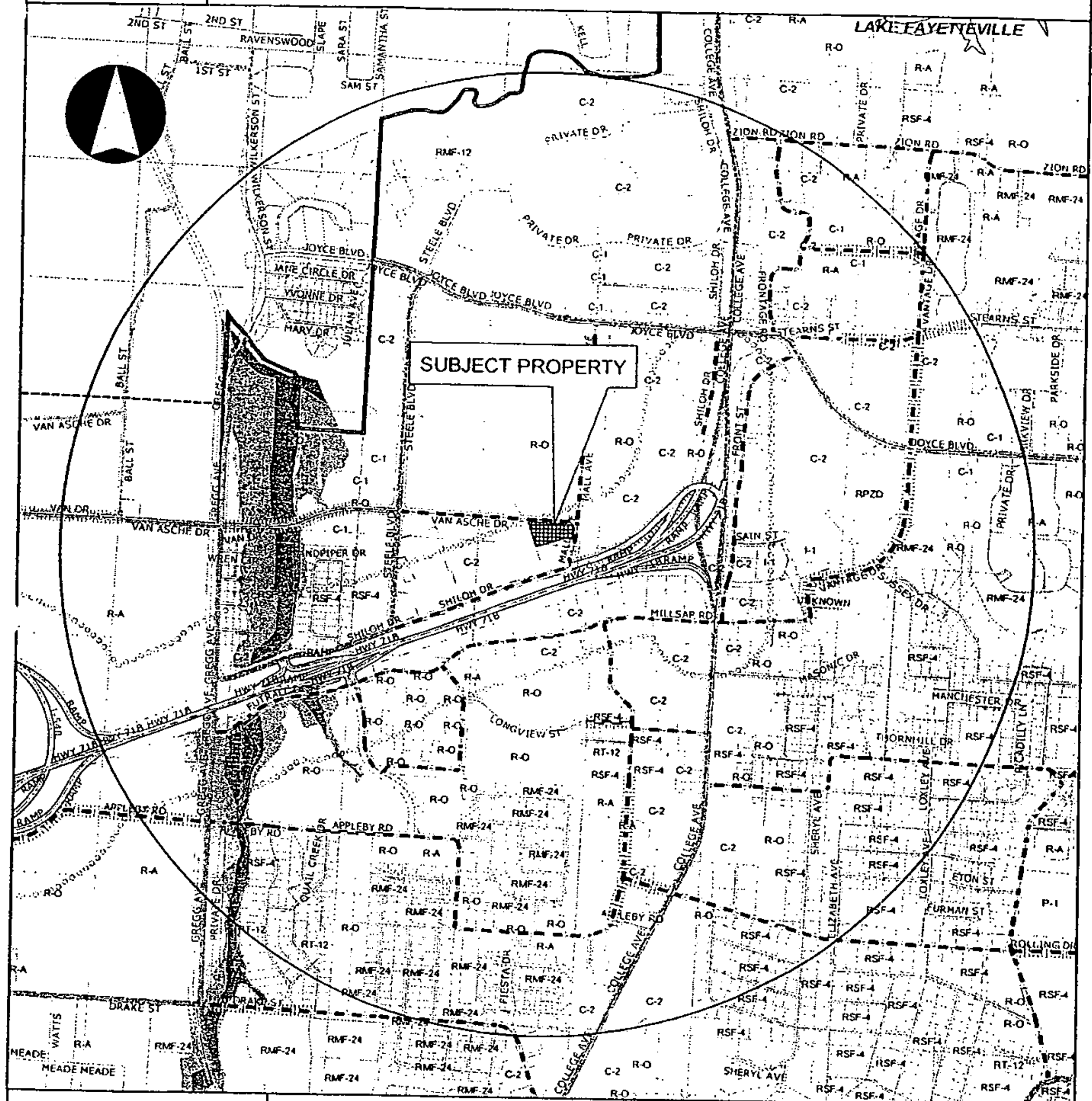
A3 MONUMENT SIGN ELEVATION / SECTION

1/4" = 1'-0"

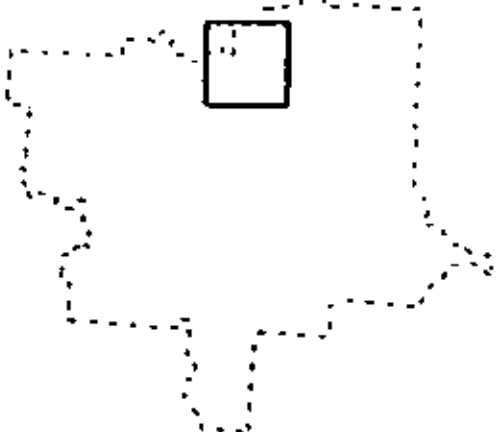
CUP05-1494

One Mile View

TGI FRIDAY'S



Overview



Legend

Subject Property

CUP05-1494

Boundary

- Planning Area
- Overlay District
- Outside City

Master Street Plan

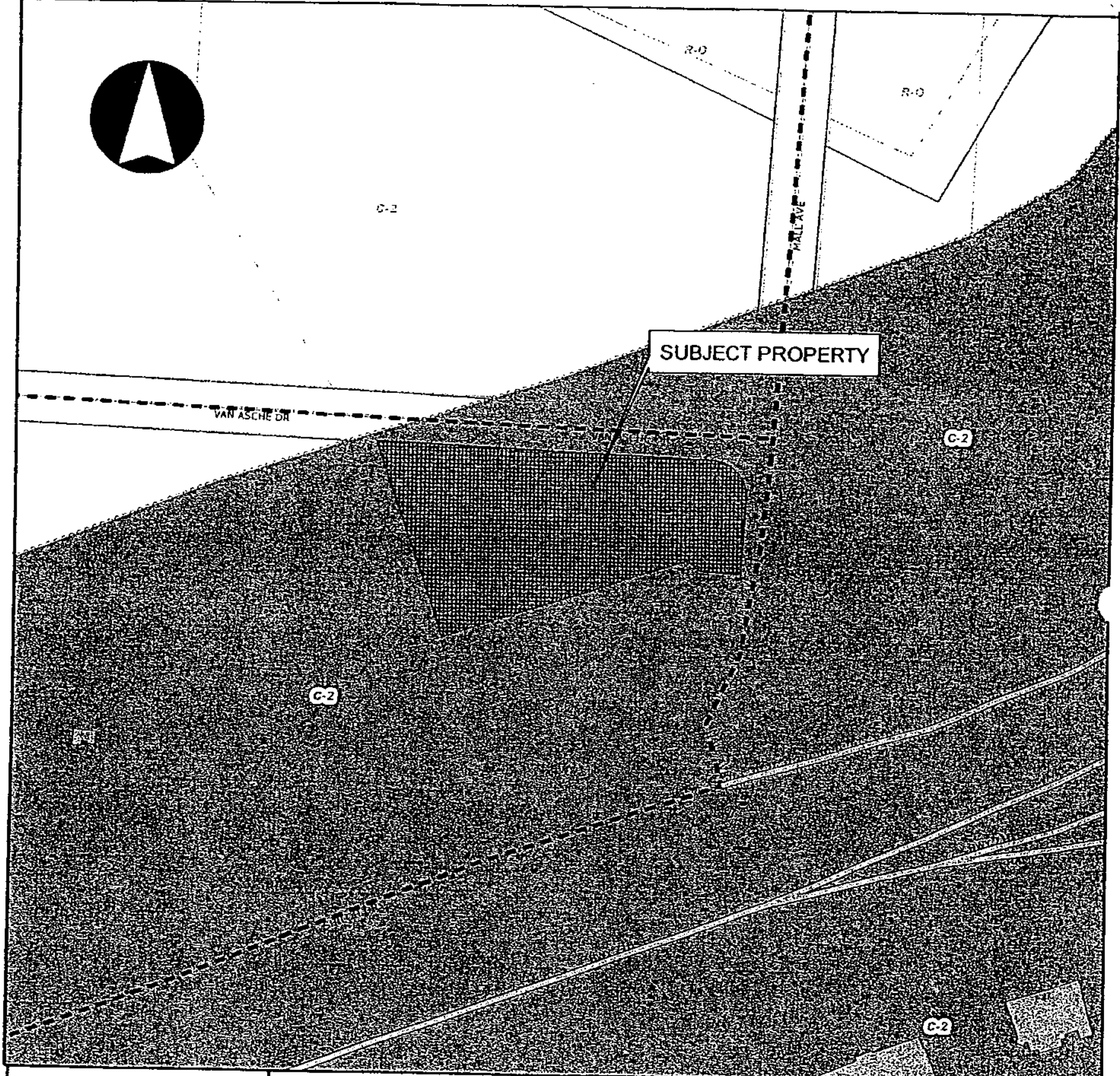
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

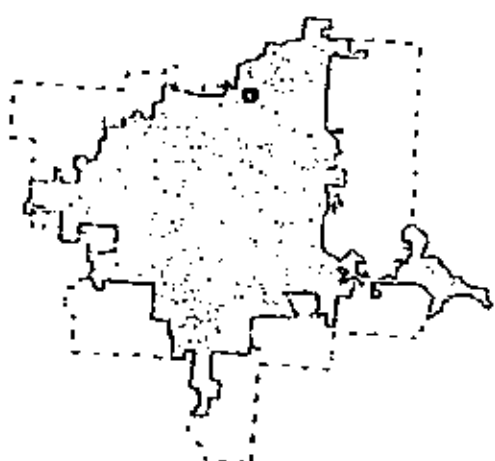
CUP05-1494

Close Up View

TGI FRIDAY'S



Overview



Legend

CUP05-1494

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

Planning Commission

May 23, 2005

Page 7

CUP 05-1494: (TGI FRIDAY'S, 173): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at LOT 16B OF CMN BUSINESS PARK II PHASE II. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.10 acres. The request is to permit 116 parking spaces (26 over maximum allowed) for the proposed Large Scale Development.

LSD 05-1468: Large Scale Development (TGI FRIDAY'S, 173): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at LOT 16B, CMN II, 463 E VAN ASCHE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.10 acres. The request is to approve the development of a restaurant with approximately 6,586 s.f. and 116 parking spaces proposed.

Ostner: The next item on our agenda is item number five, CUP 05-1494 for TGI Fridays. If we could have the staff report please.

Pate: Certainly. I would request that the Commission look separately but at the same time the Large Scale Development for TGI Friday's, LSD 05-1468. the preceding item, the Conditional Use is a request for excess parking over what is allowed with our current ordinances. The property is located on Lot 16B of CMN Business Park Phase II. It is zoned C-2, Thoroughfare Commercial and contains approximately two acres. The request is to approve the development of a restaurant with approximately 6,586 sq.ft. with 116 parking spaces proposed. The allowed number of parking spaces for this type of development with the square footage is 90 with the 30% increase allowed by ordinance and therefore, the Conditional Use request is a request for 29% over that permitted 90. As you can see in your Conditional Use staff report, that is definitely within the percentage that the Planning Commission has approved in this area as well as other parts of the city for additional parking for the restaurant use. Staff is supporting that Conditional Use request for excess parking with the findings of fact in your staff report with two conditions. Approval of the accompanying Large Scale Development plan and Planning Commission determination of the requested signage, which we will go into here in a moment. As I mentioned, this property is located in CMN Business Park. It is between two other existing restaurants, Fuddrucker's and Logan's Roadhouse. It is located within the I-540 Design Overlay District. Therefore, there are specific requirements that must be made and the applicant must comply with for curb cuts, lighting, exterior appearance, building materials, site coverage, outdoor storage, access and green space and signage. Those are specific requirements above and beyond our standard commercial design ordinances. This property does have street frontage and ingress and egress on both Mall Avenue and Van Asche Drive, which are collector streets. The access proposed along Van Asche Drive is a new access point. The one along Mall Avenue however, is a

shared access point that was planned when this property was subdivided and they are complying with that requirement. The proposal is to construct a TGI Friday's restaurant in this location. As I mentioned, it would be approximately 6,500 sq.ft., staff is recommending approval of this particular application and find that the development meets our development ordinances. There are a few issues with the signage that we will go over with you in our conditions of approval that we have drafted. Beginning on page 6.4, the conditions of approval are as stated, Planning Commission determination of commercial design standards. We are looking at commercial structures, this falls under the purview of the Planning Commission's findings with regard to both commercial design standards and exterior appearance of the building in the Design Overlay District. Based on materials and elevations submitted to date, staff does find that the elevations and materials submitted meet the design standards set forth in the Unified Development Code. I believe full color elevations are to be presented tonight. Item number two, Planning Commission determination of a Conditional Use request for 116 parking spaces. Again, staff has reviewed the percentages in this area and finds that they are compatible to the amount of requested overage. There is a lack of ability to share parking here because they are all similar uses and therefore, they have the same parking demand at the same time. I would reference one restaurant where a Conditional Use was not requested for a very good reason. O'Charley's has additional parking that could be shared in that shopping mall area. They did not request a Conditional Use for additional parking. However, this did not have that same opportunity without a significant hike to get to this property. We are supporting the Conditional Use request for additional parking on the property. Item number three, Planning Commission determination of sign variances. As we said at the agenda session, there are several variance requests that are on this property. I will go through those. Staff is recommending approval of the monument sign requested. The reason this is a variance request is because the logo that is typically is associated with TGI Fridays which states "In here it is always Friday." Is not part of the actual business name. The Design Overlay District specifically only allows the business name. There are other restaurants in this area where we have submitted signs and the Planning Commission has approved signs of this very nature and we feel that this is in keeping with those monument signs and therefore, are recommending approval of the sign as proposed. Staff is also recommending approval of the two larger wall signs proposed given that they do meet size requirements. Those will be permitted separately at the time of building permit. That is not actually a variance request, that is just a finding in the staff report. Staff is recommending denial of the smaller slogans underneath the large wall signs unless they are incorporated into the overall larger signs and also meet the Design Overlay District size requirements. The reasoning for this finding is that to be compatible with the decisions the Planning Commission and staff have made with regard to

sign permits those slogans are typically associated to the actual sign face, the overall larger sign. If you see some of those projects out there, all of them to my knowledge are incorporated with the overall larger sign. Of course, all of the signs are Planning Commission determination and if a variance is determined that they could be separated by the Planning Commission then that is your decision. That is something that you are able to grant at this point because it is a Design Overlay District requirement. Staff is recommending though that those be incorporated within the same sign. Staff is also recommending denial of the additional TGI Friday's wall sign on the west façade. This was discussed at the Subdivision Committee meeting in an effort to articulate the structure more and provide identification for the pick up area. The findings that we utilize by ordinance for this particular case such as poor visibility, inability to provide a monument sign, unusual conditions and circumstances that are not applicable to other land, structures or buildings in the district that would require additional wall signs. We couldn't make any of those findings for this sign. And therefore, are recommending denial of that request. This site has high visibility from two street frontages and staff was not aware of any special conditions that would warrant this particular sign variance request. Staff is also recommending a change on the sign that currently states another slogan, "easy come, easy go" to comply with our standards a maximum four square feet to identify directional signage such as curb side pickup or customer pickup or something else of that nature to identify that in order for us to permit that. I believe that the rest of the conditions of approval are relatively standard and have either been discussed or are standard ordinance requirements. If you do have any further questions feel free to ask.

Ostner: Is the applicant present? If you could introduce yourself and give us a presentation.

Morgan: My name is Mike Morgan. I'm from McClelland Consulting Engineers. We have with us in the audience today Mr. Ken Alexander, the architect for the TGI Friday's project and Design Works Studio. Mr. Steve Bell, President of Tricorp Management Group, TGI Fridays. We are here this afternoon, we certainly appreciate working together with the city to come to where we are today. As Jeremy said, we have received a lot of conditions placed upon us not only from Fayetteville but also within the Design Overlay District. It looks like it is coming down now after green space and everything else to a couple of issues here being the signage. We would like to work through these issues one by one. It is the Planning Commission's decision to come to a medium ground here. The first one he was talking about are the existing two main signs at the entry of the TGI Friday's. TGI Friday's has traditionally used the logo "In here it is always Friday" as part of their corporate identity for some time now. I am going to turn it over to Steve Bell who can speak about that.

Bell: Thank you very much. We are excited to be in Fayetteville. As Mike indicated, there are a couple of issues on signage that we would like to review with you tonight. Ken Alexander has some elevations that we would like to present to you that are our building elevations that we would like you to review. The designs, as you see, are in compliance with the plans that our Dallas Franchise has requested. There are currently 745 TGI Friday's around the world. This is a new design that they have recently imposed and you will start to see more and more of. It has the higher detail on the entry and then higher awnings. The rest of the elements we tried to go along with staff recommendations and there were some issues regarding articulation which we tried to address. The western elevation, the use of this additional sign, we feel like there is somewhat of a hardship because the monument sign that we are requesting at the corner of Van Asche and Mall Avenue is skewed a little bit because of the landscaping requirements. Our signage is in other directions. In driving around the area we noted that Fuddrucker's has three wall signs, Logan's has two logo signs plus another neon sign. O'Charley's has three wall signs. I think the only other sign variance requested was over the front door. The slogan "In here it is always Friday" has always been traditional with the Friday's logo sign. In this particular case we have included a canopy, this is an aluminum canopy. Those are backlit letters with Plexiglas. They are in front of the actual sign. We saw that Smokey Bones down the street and Logan's has slogans separated from the same sign. The "Easy Come, Easy Go" sign I'm sure is less than 4 sq.ft. It doesn't say customer pickup but we are trying to keep with what is appropriate for the theme. I was going to conclude the presentation with the screening wall in the back and I didn't hear whether or not there was an issue with it. The elevations we first submitted had a masonry wall across the back. We have in fact, raised those almost 3' and twisted it around to give it more detail and articulation. We have another set of windows here on the south side and some masonry columns. To the average person driving by or in the adjacent parking lot it looks like the building.

Ostner: At this point I will open it up to public comment if anyone would like to speak to this. We are talking about two items, the Conditional Use and Large Scale Development for TGI Friday's, please step forward. Seeing no public comment, I will close the public comment section and bring it back to the Commissioners for discussion.

Vaught: The signage issue, are we looking at that on both items?

Pate: We are. There are specific findings with regard to signage, lighting, things of that nature within the Conditional Use request so the findings could be made in either place.

- Vaught: I didn't know if we needed to make it specifically on the Conditional Use and then have the Large Scale refer to it.
- Pate: The conditions I have drafted refer to signage and so once those issues are determined you could include those in the Conditional Use motion.
- Allen: The applicant made mention of signage different on surrounding buildings and I wondered if in your opinion there were any inequities, do you think we are requiring something different of them than existing restaurants?
- Pate: Obviously, there are some. I honestly can't say that I know right off the top of my head of slogans that are separated. Unfortunately, I didn't go out there this weekend to check that out. Most of the permits that were issued that we pulled actual sign permits, the drawings showed the slogan incorporated with the sign and that really is the basis of our recommendation. Fuddrucker's is an example. I think it says "World's Greatest Hamburger" on it. It is incorporated into the actual sign face. The Red Robin Gourmet Burgers and Spirits I believe is incorporated from my recollection to the actual sign face of that. I think that honestly we are not opposed at all to having a corporate slogan. It is not something that outside of the Overlay District would be an issue at all because it would be considered all part of one sign. Typically what we do when we issue a sign permit is we draw a box around the TGI Friday's and the "In here it is always Friday" to determine the square feet and if it meets the square feet number we permit that as one sign. It is the fact that it is within the Design Overlay District that it really requires the variance request. That is why you are seeing it. Obviously, as we see more and more development in that area within the Design Overlay District we will probably see more and more of these types of requests to facilitate a little creativity. Again, it is Planning Commission's determination, we just felt that it was more appropriate that it be incorporated given the majority of the signs that we have seen being permitted in that area.
- Allen: You do not feel that we are asking more of them than we have of the existing buildings?
- Pate: Honestly, this has not been that large of an issue. I feel that we are recommending approval in situations where we have recommended approval in the past for other restaurants.
- Vaught: On O'Charley's we allowed a third wall sign just because of the view of the building coming from Steele. How does this compare? There is an issue with their monument sign being able to face which road and being able to see the monument sign before you have to turn in.

Pate: For the O'Charley's project specifically, which is in this area as well, within the Design Overlay District, that applicant actually requested a third wall sign, they only have two frontages, so it would be much like the TGI Friday's sign on the west façade. However, in that instance, they removed the monument sign to replace it with the wall sign to allow for another sign that was their offering to get another wall sign in that location. The reason was the monument sign was very difficult to locate because of the existing utilities in that area.

Vaught: On directional signage for pickup windows in the area, I know we allow four square foot wall sign, is that displayed on an awning or is that typically a sign on the wall next to the door?

Pate: It can be on the awning or the door as long as it is parallel to the plain of the surface and it is actually part of the exemptions so we don't permit that particular sign as long as it meets the four square feet and is considered directional, we don't issue a permit for that sign.

Vaught: So the issue here is the wording?

Pate: Yes. The fact that I'm not really sure if that sign is four square feet. We have never seen the size of that particular sign so we just wanted to make sure that it was no more than four square feet.

Vaught: I guess from my perspective, that is the least problematic as long as it is four square feet and it is serving as a directional sign, it is just saying something other than drive up pick up, it is a more fancy phrase. That doesn't bother me as long as they meet the four square foot requirement. I don't know how the other Commissioners feel.

Anthes: I have a separate question. How does the additional paving that is part of the Conditional Use request affect the floodplain and deed restricted area?

Pate: You can see on page three of five in your report, that the 100-year floodplain line is shown to the west of the property. It is not encroaching much into that area. A portion of property to the west is deed restricted and therefore, they cannot encroach into that area at all. Floodplain is allowed to be developed and has been developed in several instances with projects in this area as long as it is done appropriately with a floodplain development permit. There may be 8' at it's maximum point into the floodplain along the northwest corner.

Anthes: Mr. O'Neal, you are happy with the floodplain calculations that are a result of the additional pavement?

Planning Commission

May 23, 2005

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O'Neal: Yes, as long as the 100-year flood is not raised over 1/10 of a foot then there can be as much fill in the floodplain as they need.

Anthes: Ok. As far as commercial design standards go, do we have other instances where we have allowed a board fence in the Design Overlay District?

Pate: Off the top of my head I cannot recall one, that doesn't mean that there is not one out there. Regular commercial properties and projects they do that all the time. In the Design Overlay District we have typically recommended that it be some sort of masonry or dryvit or stucco or something that is more compatible with the actual structure. Ultimately, the idea is to screen that use and to be incorporated into the overall architecture of the building. I think this is the first, I think we saw something similar to this at our very first submittal at Technical Plat Review about a month ago, elevations that we made recommendations on are a little bit different. They do have the masonry wall. I'm not opposed at all to the masonry wall as long as there is something incorporated from the structure into that screening, whether it be the materials on the structure utilizes hardy board or other material such as that.

Anthes: I can go back and forth with that. We have restaurants in the area that might back up to an area where they might not be viewed or something like that that might be appropriate. When I am looking on the site plan, from what I understand here is this service court is actually in very close proximity and visibility to all the parking for Logan's, is that true?

Pate: It does face the north side of Logan's, there is a landscape strip between the two parking areas but yes, it does face the north side of Logan's.

Anthes: I think in that area I would have to agree with what you were saying about using some material such as a hardy board or some other material that is more permanent that might be more appropriate just because of the amount of visibility that site has. I guess while I'm talking, I will go to the signs. My recollection with O'Charley's is we granted the third wall sign because they traded it for the monument sign and we discussed that at length here and therefore, they felt that they would be more visible with that wall sign because of that particular location. Correct me if I'm wrong, but the reason why the location of that monument sign was so difficult is because there was a tremendous amount of utilities in the area and we couldn't put it over the utility easement.

Pate: That is correct.

Anthes: The other buildings that may have additional signs is because they have additional street frontages, is that correct?

Pate: I don't believe any of the properties out here have more than two street frontages. This property does have two street frontages because they are on a corner so at least two wall signs would be allowed by right. A variance would be processed to allow a third wall sign when an argument could be made that there was some sort of circumstance that would warrant that.

Anthes: From your report, you are not supporting that variance?

Pate: That is correct.

Anthes: The lighting of the signs in the Design Overlay District, isn't there some language about backlit?

Pate: I believe it just specifies indirect lighting for all monument and wall signage. The ordinance states that only indirect lighting may be used for illumination of all signs. At the time of sign permit we would review the lighting, just as we have done for all of the projects in that area.

Anthes: Are back lit signs considered directly lit or indirectly lit?

Pate: If it has a face with a light shining exterior with the light shining on it that would be an externally type of sign or a billboard type of face where the light is actually shining back on the sign. That is something that wouldn't be allowed. Again, we would permit those in accordance with our sign regulations much in keeping with what you see out there in that area. Logan's, Fuddrucker's, Olive Garden, Red Robin are all compatible and do meet those ordinance requirements.

Anthes: It seems to me that staff has been really thorough in their report. I have gone through this case by case and looking through the applicant's request and I believe that for consistency that staff has made a very good report and these recommendations to us. The one question I have is the same one that Christian has, whether or not the four square foot sign says curb side pickup, how do you designate that. I don't know that I have trouble with that verbiage either as long as it meets the four square foot requirement.

Ostner: Mr. Lack, did you have a comment?

Lack: My recollection of requirements are a bit fuzzy about would a wood siding be allowed? That is what I am gathering as an image here that we are actually looking at something that would look more like a wall material than a screen.

Pate:

Yes, it would be allowed and it is actually utilized as the primary material in some structures. Smokey Bones is wood, log lap siding type of material. That is their image. I don't think we are trying to say that we are opposed to that. You may remember the conversation at Subdivision Committee about what is included in the square footage of the building, we decided to include this portion because it is integral to the operations of the building and we feel therefore, it should be a portion of that structure and not look like a dumpster screen. It is an integral part of the operations that the building should be designed to meet those requirements if it is visible. There are situations that staff has recommended. There is not very much screening when a structure is not visible. It is both fortunate for TGI Friday's in our opinion that this site does have such high visibility and traffic in this area. It is unfortunate in the part that the service area tends to be a lot more high profile and therefore, need more screening from the public right of way and ultimately it is my interpretation that that is why the commercial design standards and design overlay district requirements for appearance really look at those elevations that are visible from the public right of way more so than others. Ultimately you are trying to protect what the public sees from the street right of way. To answer your question, I am not opposed to wood lap siding, I think that it is something that the Planning Commission ultimately does determine and I think if it is incorporated to the building that it would be perfectly fine.

Lack:

I think I do see the distinction between that sort of an image and between a wood fence infill which would appear to be more of a screen and less attractive.

Clark:

Do you want to consider the lighting variance with the first Conditional Use or go ahead and do the parking and then go to the second one?

Ostner:

How do you recommend we break this up Mr. Pate?

Pate:

The way I have drafted the conditions right now there are two conditions of approval, Planning Commission approval of the accompanying Large Scale Development plans with all of the conditions of approval as stated. You could just strike condition number two and go on and make findings on that report.

MOTION:

Clark:

I would like to move that we approve CUP 05-1494 with one condition, striking number two.

Ostner:

I have a motion for approval of CUP 05-1494.

Myres:

Second.

Ostner: Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to approve CUP 05-1494 was approved by a vote of 9-0-0.

Thomas: The motion carries.

Anthes: I have a question. Maybe I have interpreted this wrong. Are those panels a wood siding material? What are those panels?

Bell: That is called hardy plank. It has a 50 year warranty.

Anthes: I am familiar with the material, I didn't understand that that was the material during your presentation.

Bell: Were you talking about the fence or the building itself?

Anthes: The fence.

Bell: The fence is another composite fencing material which is similar to hardy plank that is projecting. We felt like if we ran it horizontally it would more closely resemble the brick. We have a brick soldier course and columns there so that would be a compatible use for that material facing Logan's, which, by the way, has a chain link fence on two sides for storage.

Ostner: We do have some specific determinations on this Large Scale Development. The commercial design standards and the elevations are the first topic. The second topic would be the parking and then the sign variances are the third determination. On the sign variances we had talked about allowing the "Easy Come Easy Go" as long as it met the four square foot rule.

MOTION:

Clark: I am going to make a motion that we approve LSD 05-1468 with the following items of fact. Number one, we do agree that it meets commercial design standards. Number two, in agreement with the Conditional Use for parking spaces. Number three, my motion will agree with all of what staff says until we get down to "Easy Come Easy Go" and I will change that to approve "Easy Come Easy Go" wall signage as long as it meets the four foot mandate. All others, I think you can incorporate the "it's always Friday" in your sign. I think some clever sign person can accommodate that so that is my motion.

Vaught: I missed what you said about the rear elevation.

Clark: I am going to agree that it meets it.

Myres: I will second it.

Vaught: My feelings on the third wall sign is that I'm not opposed to it. Most of the sites in this area are difficult because of their visibility and the fact that they are having to go through extra expense on it that they typically wouldn't. This site is interesting because they do have a lot of visibility on the rear and not that much on the front to I-540 which is what the Design Overlay District was designed to protect is that view shed. I don't know that this third wall sign is going to be visible from I-540 because you are approaching from Target and that is blocking a good deal of it. Their other two wall signs aren't visible from this direction so in a way I do relate it to something like O'Charley's even though other Conditional Uses are not precedent setting. I'm not opposed to the third wall sign if we could set a size limit on it. I do think it could help facilitate traffic headed that way. Their monument sign, per those regulations, is not very high and so you don't have visibility from it in this direction either as well as you do from other directions. My feelings are I'm not opposed to the third wall sign. That's my perspective. I do support a third wall sign.

Ostner: I believe if you would like to make a motion to amend the current item on the floor you are welcome to and we can vote on your amendment. From my perspective, I understand that that third wall sign wouldn't be that intrusive or visible, as you say. That is almost my exact reason for not seeing it's use. I think monument signs are very helpful. I would encourage the applicant to redo the landscape plan if that monument sign is not working and there are lots of options on the site for placing that monument sign. I guess I'm sort of falling on the other side. I think the monument sign is adequate. We have a motion and a second. If there is no further discussion I will call for a vote.

Roll Call: Upon the completion of roll call the motion to approve LSD 05-1468 was approved by a vote of 9-0-0.

Thomas: The motion carries.

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

Revised

C.10.
King Electric Contract
Page 1 of 18

21-Jun-05

City Council Meeting Date

Coy Hurd

Submitted By

Building Services

Division

Finance & Internal Services

Department

Action Required:

Approve an ordinance waiving competitive bidding for electrical relocation services required to allow the demolition of the Mountain Inn and related buildings and authorizing King Electrical Contractors, Inc to provide these electrical utility relocation services in an amount not-to-exceed \$100,000.00 which utilizes the remaining uncommitted funds of \$66,237 and up-to \$33,763 of the previously contingency.

\$66,237.00

Cost of this request

4490-9490-5805-00

Account Number

05038-2

Project Number

\$ 887,000.00

Category/Project Budget

\$ 820,763.00

Funds Used to Date

\$ 66,237.00

Remaining Balance

Highway 71 East Square
Redevelopment District #1

Program Category / Project Name

Program / Project Category Name

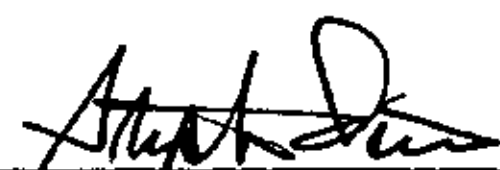
TIF Capital Improvements

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

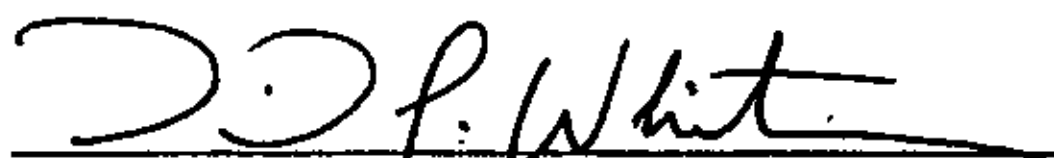

Department Director

6-13-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

6/14/05


Finance and Internal Service Director

6-13-05
Date

Received in City Clerk's Office




Mayor

6/14/05
Date

Received in Mayor's Office



Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

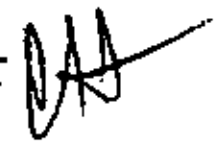
C.10.
King Electric Contract
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DEPARTMENTAL CORRESPONDENCE

June 21, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director 

FROM: Coy Hurd, Project Manager 

DATE: June 8, 2005

SUBJECT: A resolution to designate \$66,237 toward utility placement work associated with the construction of the new hotel to occupy the existing Mountain Inn site (in addition to \$33,763 of the previously approved contingency fund; total not to exceed \$100,000), and a waiver of the competitive bidding for these electrical services.

Recommendation: City Staff recommends that the City Council designate \$66,237 of the funds generated by the Tax Incentive Finance bonds to be used to pay for the work accomplishing the permanent utility placement (electrical work) necessary for the long-term power needs of the proposed new hotel complex to be constructed on the site.

Background: The City Council has designated \$887,000 of the funds generated by the T.I.F. Bonds to be used toward demolition, resolution of access issues, and utility relocation. The Patton Company's contract for the demolition of the buildings and the hazardous materials abatement is \$688,138. Environmental Enterprise Group's contract for oversight of demolition and abatement efforts is \$30,855. The contingency fund for the demolition/abatement effort has been authorized as \$101,770. The amount remaining from the designated \$877,000 is \$66,237.

Discussion: The City has agreed (by way of contract with John Nock et. al.) to utilize \$887,000 toward preparation of the Mountain Inn site in anticipation of construction efforts at that location. Once the City has expended these funds, Mr. Nock has agreed to accept the site in such condition as it is then in.

June 9 memo, page two

Electrical work during this first phase is being done by King Electric (and their subcontractors) through their existing contract with the city. If approved, this \$66,237 will be used toward work needed to supply the building site with permanent electrical power. Examples of these efforts are trenching and laying electrical conduit, purchase and installation of the electrical meter bases that will serve the future facilities, and placement of the electrical vault on the site.

The utility relocation work identified thus far includes:

- 1) relocating the electrical transformer in the alleyway, currently attached to the Mountain Inn Building. The demolition contractor has had to resequence the removal of the buildings to accommodate the Developers commitment to keep the Hoffbrau, Taste of Thai, and Petra Café open. The cost of the electrical relocation could total near \$100,000.
- 2) relocating the existing natural gas service. The Arkansas Western Gas Company is doing most of this work at their own costs, but may petition for reimbursement for some of the costs.
- 3) relocating the water and sewer lines to serve the buildings that remain and the new buildings to be built. The cost of this work will probably be between \$70,000 and \$100,000. The drawings and specifications for this work are yet to be developed. Until this is accomplished, the forecast of the total cost can not be more precise.
- 4) The final item that the Developers have identified as potential use of T.I.F. bond proceeds (to this point) is the removal of an underground fuel storage tank. This tank is located in the alleyway outside of the demolition project boundary. The proposed cost for the removal of this tank is \$13,800.

Because the City has only \$66,237 remaining from the T.I.F. proceeds, Staff recommends programming all of these funds to electrical relocations and notifying that that any further utility work will be paid for by the Developer.

King Electric Company has an existing contract with the City that allows \$20,000 per project. Staff is asking that an exception be made to allow that company to do this electrical work.

Due to the extreme schedule for this work and the undefined nature of some of the tasks which must be completed, it is imperative that King Electric Company be given dispensation on the \$20,000 ceiling on this particular project.

Memo, page three

Budgetary Impact: These funds are currently budgeted towards the project and reside in Account Number 4490 9490 5315.00.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING PAYMENT TO KING ELECTRICAL CONTRACTORS, INC. OF \$66,237.00 TO PROVIDE ELECTRICAL UTILITY RELOCATION SERVICES REQUIRED TO ALLOW THE CONTINUED DEMOLITION OF THE MOUNTAIN INN; AND APPROVING THE USE OF UP TO \$33,763.00 OF THE PREVIOUSLY APPROVED PROJECT CONTINGENCY.

WHEREAS, City staff recently became aware of the need to relocate certain electrical utilities to allow the Mountain Inn demolition to proceed on schedule; and,

WHEREAS, the extremely tight schedule of the Mountain Inn demolition does not allow sufficient time to select an electrical contractor through the formal competitive bidding process; and,

WHEREAS, King Electrical Contractors, Inc. has an ongoing contractual relationship with the City of Fayetteville to provide electrical contractor services, and is capable of competently performing electrical utility relocation services.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical; waives the requirements of formal competitive bidding, and approves payment to King Electrical Contractors, Inc. of \$66,237.00 to provide electrical utility relocation services required to allow the continued demolition of The Mountain Inn.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the use of up to \$33,763.00 of the previously-approved Project Contingency for electrical utility relocation.

PASSED and APPROVED this 2nd day of June, 2005.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

RESOLUTION NO. 88-00

A RESOLUTION AWARDDING BID NO. 00-48 TO CHRIS KING IN AN AMOUNT SET FORTH IN THE BID TABULATION AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT FOR ELECTRICAL, COMMUNICATIONS AND RELATED SERVICES FOR THE YEAR 2000, WITH FIVE ONE YEAR RENEWAL OPTIONS .

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

Section 1. That the City Council hereby awards Bid No. 00-48 to Chris King in an amount set forth in the bid tabulation and authorizing the Mayor and City Clerk to execute an agreement for electrical, communications and related services for the year 2000, with five one year renewal options. A copy of the bid tabulation and agreement is attached hereto marked Exhibit "A" and "B" and made a part hereof.

PASSED AND APPROVED this 5th day of July, 2000.

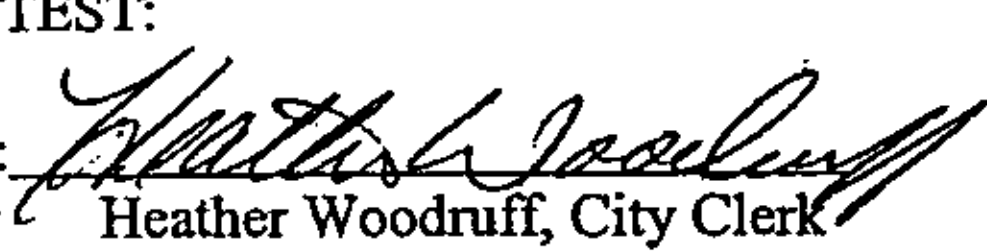
APPROVED:

By: _____


Fred Hanna, Mayor

ATTEST:

By: _____


Heather Woodruff, City Clerk

Orig Contract Date:_____

Page 2

STAFF REVIEW FORM

Description Bid #00-48 Electrical Contract Meeting Date 7/3/00

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

- ① need single bidder justification in memo
- ② fill in name of contractor on 1st page
- ③ 3rd pg is blank after #12

done - Pluse

done - Pluse

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C.10.
King Electric Contract
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DEPARTMENTAL CORRESPONDENCE

TO: The Fayetteville City Council

THRU: Fred Hanna, Mayor
John Maguire, Administrative Services Director

FROM: Harold Dahlinger, Facilities Superintendent 

DATE: June 12, 2000

RE: BID AWARD RECOMMENDATION

Attached is the Agenda Request for the award of Bid #00-48 to the lowest bidder meeting requirements for electrical work and related service needs of the City of Fayetteville for the calendar year 2000 (with option for five (one year) term renewal).

I recommend acceptance of the rates provided by Chris King Electric for Bid #00-48. Previous experience with this vendor on other City projects has shown that quality and workmanship is at a level which allows us to be very comfortable in recommending this bidder for the various projects which are budgeted for calendar year 2000. Chris King Electric has provided services to the City of Fayetteville for the past four years under a similar contract. We have found his services to be outstanding and very cost effective to the City and its projects.

Utilization of an annual acceptance of a bidder in this particular area should eliminate time delays in the bidding process on individual projects along with the ability to negotiate details of specific projects to assist in keeping better control of job pricing.

The budgeted amounts for these services will be taken from the applicable programs as specific projects are identified.

AGREEMENT FOR ELECTRICAL, COMMUNICATIONS
AND RELATED SERVICES

This AGREEMENT executed this 5 day of July, 2000, between the City of Fayetteville, Arkansas, hereinafter called the "City" and King Electrical Contractors, hereinafter called the "Contractor", and having an address at 2145 Moore, Fayetteville, AR 72704.

IN CONSIDERATION OF THE FOLLOWING COVENANTS contained herein the parties agree as follows:

1. The Contractor shall at the written request of the City provide material, labor and equipment for electrical, communications and related service(s) for the following:

- a. New construction as requested for jobs not bid separately;
- b. Repair as requested for jobs not bid separately;
- c. Additional work as required and as directed by owner.

2. The first term of this agreement shall be from award of contract through December 31, 2000. The City has the option to renew this contract for five consecutive one year terms. Annual increases will be allowed based on the Consumer Price Index for All Urban Consumers (Index) as published by the U.S. Department of Labor, Bureau of Labor Statistics, published as of October 31, using 1982-84 as the base year. The initial index to be used is October, 1999.

3. City shall pay Contractor for services rendered as set out in Contractor's Bid.

Charges will be invoiced to City at the end of each Contractor's monthly accounting periods based upon the fee schedule outlined in Contractor's Bid and the expense charges to the project during the preceding accounting period. All invoices are due upon receipt and shall be paid by the City unless disputed within thirty (30) days of their receipt.

4. The contract documents which comprise the contract between City and the Contractor consist of this contract and the following documents:

- a. Bid form identified as Invitation to Bid 00-48 with the specifications, conditions, and requirements typed thereon;

- b. The Contractor's proposal and all supporting documents and correspondence submitted by the Contractor in response to Bid 00-48.

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

6. Contractor shall not assign his duties under the terms of this contract.

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

8. The Contractor shall furnish a certificate of insurance addressed to the City, showing that he carries the following insurance which shall be maintained throughout the term of the contract.

Workers Compensation

Statutory Amount

Comprehensive General and
Automobile Insurance

Bodily Injury Liability	\$	500,000 for each person injured.
	\$	1,000,000 for each accident.
Property Damage Liability	\$	250,000 for each accident.
	\$	500,000 aggregate

The insurance shall include explosion, collapse and underground coverage. The premiums for all insurance and the bond required herein shall be paid by the Contractor.

9. Contractor agrees to begin work within ten (10) days after issuance by the City of a "work order" or "Notice to Proceed" and to complete the work within the time agreed to by the parties.

10. All work called for herein shall be coordinated directly with the project manager for each project as designated by the City.

11. City shall have the right to terminate this Agreement for City's convenience upon written notice of Contractor, and

Contractor shall terminate performance of services on a schedule acceptable to City. In the event of termination for City's convenience City shall pay Contractor for all services performed to date of termination.

12. Nothing in this agreement shall be construed to give any rights or benefits to anyone other than Contractor and City.

(Left Blank Intentionally)

IN WITNESS WHEREOF, City and Contractor have executed this agreement, the effective date of which shall be July 5, 2020.

CITY OF FAYETTEVILLE

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

King Electrical Contractors
Contractor-Company Name

By: Chris King
Title: President

ATTEST:

By: Karen King
Contractor-Company Secretary

INVITATION TO BID

BID # 00-48	DATE ISSUED: May 22, 2000	DATE AND TIME OF OPENING: June 5, 2000 at 2:00 p.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: As scheduled by Project Manager	
F. O. B. Fayetteville, AR	BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:	
ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE
1	Per Attached Specifications ELECTRICAL SERVICES Labor rate for the following: *Master Electrician per hour *Journeyman Electrician per hour *Apprentice Electrician per hour Laborer per hour	*License Required hour hour hour hour	\$ <u>25.00</u> hr. \$ <u>23.00</u> hr. \$ <u>18.00</u> hr. \$ <u>15.00</u> hr.
2	Percent additional rate for overtime		<u>50</u> %
3	Percent Additional rate for Sundays & Holidays		<u>50</u> %
4	Material Cost Plus Markup Percent		<u>13</u> %
5	Guaranteed Emergency Response Time		<u>1/4</u> hr.
6	Guaranteed Regular Response Time		<u>1/2</u> hr. <u>1/2</u> hr.
7	Dump Truck with Operator		\$ <u>45.00</u> hr.
8	Bobcat backhoe with Operator		\$ <u>45.00</u> hr.
9	Backhoe with Operator		\$ <u>45.00</u> hr.
10	Bucket Truck with Operator		\$ <u>45.00</u> hr.
11	Personnel Lift		\$ <u>16.00</u> hr.
12	Platform Lift		\$ <u>18.75</u> hr.
13	Rental Equipment Cost Plus Markup		<u>13</u> %
These services will be ordered as needed throughout the contract period. There is no guaranteed minimum or maximum amount.			
CONTRACTOR'S LICENSE NUMBER:		<u>0063870401</u>	
RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:			

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have 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.

UN SIGNED BIDS WILL BE REJECTED	NAME OF FIRM: <u>King Electric</u>	PHONE: <u>443-0006</u>	TAX PERMIT: —
	BUSINESS ADDRESS: <u>2145 W Moore Fay AR 72704</u>	CITY AND STATE: <u>Fayetteville AR</u>	ZIP: <u>72704</u>
	AUTHORIZED SIGNATURE: <u>Chb K6</u>	TITLE: <u>President</u>	DATE: <u>6-5-00</u>

**KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE ARKANSAS**

King Electric has 29 full time employees that specialize in commercial and industrial wiring. We also have employees specifically trained in the Hubbell Premise Wiring for data and telecommunications. They also are trained in leviton fiber optic terminating. We have personal lifts, platform lifts, mechanical benders for conduit up to 4", pipe threaders, meggers, wire tracers, ladders, and other equipment owned to do any size of electrical job. Our personal has been trained to use all of the above equipment in a safe and workmanlike manner. We are in the process of all employees attending the 10 hour OSHA safety training class. We just received an award from our insurance company for 3 years of no work loss personal injury. All lead men carry digital pagers and mobile telephones. All trucks are equipped to do most service calls.

Chris King

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
June 7, 2005**

A meeting of the Fayetteville City Council was held on June 7, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Dan Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

CONSENT:

Approval of the Minutes: Approval of the May 10, 2005 and May 17, 2005 City Council meeting minutes.

Water and Sewer Division Vehicle Purchase: A resolution approving the purchase of one (1) cab and chassis with dump body for the Water and Sewer Division from Landers Ford in the amount of \$34,590.00.

Resolution 104-05 as Recorded in the Office of the City Clerk.

Farmington Waterline Lump Sum Allocation: A resolution approving a lump sum allocation in the amount of \$170,005.00 for the purchase of easements required for the Farmington Waterline Project; and approving a 10% project contingency in the amount of \$17,001.00.

Resolution 105-05 as Recorded in the Office of the City Clerk.

Wastewater System Improvement Projects Lump Sum Allocation: A resolution approving a lump sum allocation in the amount of \$569,845.00 for the purchase of easements required for

Wastewater System Improvements Projects (WSIP) WL-1, WL-2, and WL-3; and approving a 10% project contingency in the amount of \$56,985.00.

Resolution 106-05 as Recorded in the Office of the City Clerk.

Hamestring Pumping Station Offer and Acceptance Contract: A resolution approving an offer and acceptance contract between the City of Fayetteville and the Clydene Scharlau Trust for the purchase of real property and easements required for the new Hamestring Pumping Station in the amount of \$27,000.00.

Resolution 107-05 as Recorded in the Office of the City Clerk.

RJN Group, Inc., Engineering Services Contract: A resolution awarding an Engineering Services Contract in the amount of \$420,216.00 with RJN Group, Inc. for sanitary sewer evaluation study and design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station; and approving a 5% project contingency in the amount of \$21,000.00.

Resolution 108-05 as Recorded in the Office of the City Clerk.

Designating Land for Recreation Purposes: A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.

This item was removed from Consent and moved to New Business.

Alderman Jordan moved to approve the Consent Agenda with item #7 moved to New Business. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Amend § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson: An ordinance to amend § 97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) Permits and (C) Fees. *This ordinance was left on the first reading at the May 17, 2005 City Council Meeting.*

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Connie Edmonston: I want to reiterate that the memo stated that we recommend that these fees go into effect in 2006.

Alderman Lucas: Which fees are we voting on?

Connie Edmonston: The lake recreation, which would include the daily fishing and season fishing and boating.

Alderman Lucas: Is this the one that the boat dock people recommended?

Connie Edmonston: Yes. What they are actually doing is combining fishing and boating together.

Alderman Lucas: But that's not in the ordinance. We need to amend the ordinance to combine the boating and fishing.

Connie Edmonston: Correct.

Alderman Thiel: You would amend it to the boat dock contractor's recommendations?

Alderman Lucas: Yes.

Alderman Marr: I just want to make sure I'm clear on it because one of my concerns at the last meeting was that the daily usage fees were going from \$2-\$6. We are not actually adding the two fees together we are combining them so that the user fees are less. And, we're actually between the Parks Board recommendation and the Ordinance Review Committee recommendation.

Alderman Lucas: Correct.

Connie Edmonston: Daily fishing would be \$3, daily fishing for senior citizens would be \$2, daily boating and fishing would be \$6, daily boating and fishing for senior citizens would be \$5. Season fishing would be \$30, season fishing for senior citizens would be \$20, season boating and fishing would be \$50, and season boating and fishing for senior citizens would be \$40. Lake Fayetteville boat stall rental for Fayetteville residents is \$300, and all of the stall rentals do include a \$50 or \$40 season fishing and boating pass with them. Lake Fayetteville boat stall rental for a resident senior citizen would be \$290. Lake Fayetteville boat stall rental for non-residents would be \$375. Lake Fayetteville boat stall rental for non-resident senior citizens would be \$365. Lake Sequoyah stall rental would be \$150. Lake Sequoyah boat stall rental for senior citizens would be \$140. These are annual cost fees.

Alderman Thiel: I think this is a fair recommendation. It's a compromise between what the Ordinance Review Committee and the Parks Board recommended. I certainly appreciate that the fishing and boating season pass has been added to the boat stall rental; because I think that will discourage people from using the boat stalls as just storage. I think it this will address the problem without having to make it a policy that you have to check on.

Alderman Ferrell: I appreciate all the work the Park's staff did on this.

Connie Edmonston: You're welcome.

Alderman Lucas moved to amend the ordinance to change the boating, fishing, and boat stall rental fees to the Park staff's recommendations. Alderman Marr seconded the motion. Mayor Coody asked shall the amendment pass. Upon roll call the motion to amend passed unanimously.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4707 as Recorded in the Office of the City Clerk

RZN 05-1448 (Staggs): An ordinance rezoning that property described in Rezoning Petition RZN 05-1448 for property located at 2824 S. School Avenue. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare. *This ordinance was left on the second reading at the May 17, 2005 City Council Meeting.*

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Jeremy Pate, Director of Current Planning: There was a question at the last meeting if adjacent property owners across the street had been notified. We have provided you with documentation to the applicant and staff of both notified property owners across the streets in all directions. We did not receive any public comment regarding this item.

Alderman Thiel: At the agenda meeting you noted that the building that is currently operating is not the building we are discussing.

Jeremy Pate: That is correct.

Alderman Thiel: It appears like there is a shared driveway.

Jeremy Pate: The applicant may be able to answer that question a little bit better. I think there's access from the street behind as well.

Alderman Thiel: But there will be a shared driveway if we approve the other one in the future?

Russell Staggs, citizen: The driveway is actually ours. I believe the owner got the right-of-way for the driveway and the other company has added on to our driveway. So, where the property line is, the driveway pretty much splits it down the middle. He did add a part of a driveway to ours.

Alderman Thiel: Ok. I noticed that there's a new bail bond office that has just opened up about a block south.

Jeremy Pate: We received that word today and we're issuing a violation notice. They're zoned R-O I believe, and it's not allowed in that zoning district.

Alderman Thiel: I'm really concerned about the two that are now in operation. This one is the only one that has actually applied. It concerns me that that whole row will be dotted with these little houses that have only been moderately remodeled. Basically, they have just put a neon sign in their window. They're not doing much to enhance that strip. However, I feel like this

applicant has been up front by applying for it. I feel like the applicant has done the right thing, and I support it.

Mayor Coody: Will we send letters to the two violators?

Jeremy Pate: We have sent letters to the one directly adjacent and they are actually going before the Planning Commission for a rezoning request. That will be coming before you if they recommend approval. We just heard about the other one, so we will be generating that violation letter. They will have 30 days to respond. If they apply for rezoning, that typically is seen as enough justification to basically freeze their business. They can continue operating, but no further activity, signage, or development can occur on that property until some sort of action has been taken, whether it is rezoning, approval or denial. If it's denied, they would have to move their business.

Alderman Ferrell: Can you think of anything that you all have commonality in that your business looks at, that might help avoid this if someone comes into town and is going to go into the bail bonding business?

Russell Staggs, citizen: No sir. This is my first go at this too. When we found out that we were residential, the first thing I did was get in touch with Jeremy.

Alderman Lucas: The first step should be to find out what the zoning is.

Alderman Reynolds: That's why we need a business license.

Mayor Coody: We keep talking about this but every time the subject of a business license comes up, it gets shot down. But, it would solve this problem.

Alderman Marr: What is the process of staff to look at a business use and assign it to a different zoning classification? My concern on these properties is abutting these residential neighborhoods and having uses in this zoning like an adult live entertainment club and bar and sexually oriented business. I'm uncomfortable rezoning these, I understand that that's the class and city code that these businesses go into, but I think we're really treading on the ability that if something happens or something goes out of business, the uses that we allow in this area, directly across from a residential street concerns me. It's very different than the bail bondsman business currently owned on business Highway 71, one block from the jail and already in the commercial business district.

Jeremy Pate: I think there are two ways to address that. One of course, is our future Land Use Plan, which we rely heavily upon when we make recommendations. That's the policy document that you all adopted and we adhere to as much as possible. The C-2 zoning classifications fits very well in that thoroughfare type commercial, which is this business corridor as noted in our future Land Use Plan. More directly, I guess, is that we have to look at a use when it is not specifically designated in our Use Units, under our Chapter 162. When we look at Use Units, there are lists of uses, but not all uses are listed, there's simply not a way to encompass everything. If it's not specifically listed we try to look at comparable uses and try to find the best classification. My job is to make an interpretation on where that use should fit in, and we have made the interpretation that it fits in this particular zoning district. Staff is actually going through all of those uses, because a lot of them have been assigned since 1970 and are no longer necessarily appropriate in the district that they're in. So, we're actually going through and doing

an inventory that we'll probably present to you at some point this year some modifications to clarify some of those and to shift some of those uses around to where they're more appropriately located. That's probably the more direct way to address that question.

Alderman Marr: Could you share with me why? What about a bail bond office makes it a higher impact use that makes it comparable to these C-2 zonings?

Jeremy Pate: It's not necessarily a high traffic impact use, for instance. The use there does not necessarily generate high traffic. But, in comparison to a lot of the other uses within that Use Unit 15, it's very comparable to a walk-in types of business. I think that determination was made before I was here, in other bail bonds offices across the city. So, we try to be consistent with those types of uses. That's the use that's been assigned previously to those types of uses in other places in the city.

Alderman Reynolds: Jeremy, why won't the bail bonding business fit into our R-O category?

Jeremy Pate: It's something we're looking at, not only bail bondsmen but professional offices; accounting businesses sometimes don't fit in zoning districts that seem entirely appropriate. Right now the Use Unit 15 is not allowed in the R-O district at all, by conditional use or by right. So, that would take a change to the actual zoning ordinance to allow that type of use. Again, if it's Council's desire, that's something we can look at and bring forward to actually spell out that bail bondsman offices should be used to a different Use Unit, so that it would be located in something like R-O or C-1.

Alderman Reynolds: I think we need to do that.

Mayor Coody: Would it be your suggestion that we table this for two weeks, let them come back with a modification to the zoning, to allow this in R-O?

Alderman Reynolds: If we can do it in two weeks. I don't want to hold his business up. But, he can go ahead and operate.

Alderman Thiel: Are you anywhere close to getting that ready?

Jeremy Pate: We are just beginning. There are hundreds of uses that we are looking at currently and trying to determine if they are appropriate where they are or if they should be shifted around. We'd like to present those all as one component. But again, even with the use changing, Alderman Reynolds, the future Land Use Plan shows that area to be zoned as a C-2 type of area with that type of use. Ultimately, that's something that we would need to look at as well when we're looking at our General Plan update.

Alderman Reynolds: I know it shows that, but we don't have to agree with it.

Jeremy Pate: That's true.

Alderman Lucas: The thing that concerns me is that it's right next to homes. We're talking about housing choices for all income levels, and this is just right next to that neighborhood. It just doesn't seem appropriate to me. I thought we looked at C-2 at intersections and things like that instead of strips.

Jeremy Pate: You are exactly right. A lot of the nodes of development that we see in our General Plan now show major intersections as potential commercial nodes to support residential activities. Currently, in our General Plan there are areas along College Avenue and along Highway 71 that do show that strip of commercial activity to be located.

Alderman Reynolds: I can see the west side of School Avenue being C-2, but where this is at, on the east side with residential behind it, I would like to see it a little lighter in zoning. It's not going to shut him down because there are two more out there in violation. We haven't approved anybody down there for bonding yet, have we?

Jeremy Pate: No sir. There are other C-2 properties along this strip. So, there are a lot of bail bondsmen moving in that are entirely appropriate. They are legal because they are in the right zoning district. There happens to be about three that are not, and this is one of them. Across School Avenue it is actually zoned I-1 and I-2, so it's pretty heavy industrial. That's a higher intensity use there.

Alderman Thiel: The Mountain Man business that has just been sighted is in R-O?

Jeremy Pate: That's correct; I believe they are located in an R-O district.

Alderman Thiel: I don't see how we can hold him up. He can't start his business until we approve something. The other ones are acting illegally, and we're basically giving them the opportunity to operate, and he's the only one that's applied.

Alderman Lucas: Can they not be fined?

Alderman Thiel: We can't shut them down apparently. Is that right?

Jeremy Pate: It has not been the city's policy currently to shut a business down if they are in violation. We send them a violation notice and we give them ample of time to respond. Again, we work with the city prosecutor's office to do that.

Alderman Rhoads: I'd like to see us go ahead and vote so these people could go ahead and get into business.

Alderman Lucas: Is there not anything that can be done with the ones that are operating when they shouldn't be?

Kit Williams: What we've done in the past is that we have prosecuted them. We had some problems on Old Farmington Road. We prosecuted them and got them to discontinue that improper usage. Unfortunately, later on, a new owner came in and started using the property illegally again. If our ordinances are not enforced, and basically the criminal prosecution does not work after an extended try, we can in fact seek an injunction. The problem with that is that there is potential liability to the city if you close an operating business down and then the judge later on determines in the case that maybe you shouldn't have, that you didn't have enough grounds to do that. The other difficulty is that the injunction usually will not be allowed until you have exhausted your legal remedies, the remedies of normally enforcing the ordinances where you have them enforced by the city prosecutor, which is what we do. I think that's what these warning orders have been. Normally people get into compliance fairly quickly. As you heard from Jeremy, the person that received the warning from the Planning Department is now

going to be in front of the Planning Commission on Monday night to get into compliance. So, I don't think anyone here is trying to not get into compliance; it just takes a while to go through the process.

Mayor Coody: I'm getting mixed signals here. On one hand, no one wants to keep the gentleman from going into business. On the other hand, I don't think the City Council wants to rezone this C-2, while we look at putting this Use Unit back under R-O.

Jeremy Pate: That is correct. Currently, it's zoned RSF-4, which only allows single-family residents.

Mayor Coody: How long do you think it'll be before you get your list ready to bring back to us for consideration?

Jeremy Pate: We can get on that just as soon as possible. We've been working on it for about a week and a half now. Would it need to go before Ordinance Review?

Kit Williams: It would probably need to go before the Planning Commission, so that's another stop along the way before it ever gets back to the City Council.

Mayor Coody: Is there a way where we don't have to rezone this property permanently, just because we're few weeks ahead of being able to do it properly?

Kit Williams: No zoning is permanent. The City Council has the overall authority to take a legislative decision and rezone property, even when it's not been so requested by a person. Now, if you rezone the property and take away most of its value, there is a chance that they could claim that there was ill taking, but I don't think a change from a C-2 to an R-O, especially if R-O would allow the business to continue operating, would be a problem. What you could do, if you wanted to tonight is go ahead and rezone this C-2, so he'll be in compliance. Then when the R-O is reconsidered in the future and expanded to include bail bondsmen you could certainly rezone his property then yourself to R-O, which would be in compliance with what he's already doing. I don't think that would be a detriment to the owner, so that would be one way to do it. This way, he would be operating legally after tonight.

Mayor Coody: Would it be ok if we followed this scenario where we went ahead and rezoned you C-2 this evening, but when all of our paperwork gets done, we rezone you back R-O, so you would be allowed to continue operating.

Russell Staggs, citizen: Yes, that would be fine. Basically, all we want to do anyway is be able to put a sign up to let people know we're in business.

Mayor Coody: Thank you for your compliance in coming to the city first before you set up your business.

Alderman Marr: Jeremy, in the packet, the Use Unit you have highlighted is Use Unit 16, shopping goods. Directly above that is neighborhood shopping goods, which are Use Unit 15, which is allowed in neighborhood commercial, which limits the uses of the more extensive businesses, it's a shopping goods business. I don't understand why it can't operate within that, which would take care of our issue of potentially more impact with this.

Jeremy Pate: Use Unit 15, does currently contain things such as bookstores, camera shops, clothing, drug, food, jewelry, hardware stores, hobby shops, pawn shops, optical goods, pet shops.

Alderman Marr: So if it allows a pawn shop, I don't understand how a bail bondsman would not be comparable to Use Unit 15.

Jeremy Pate: It comes down to what this use has been interpreted to fall under and what we've issued certificates of zoning compliance for other businesses operating under the same rules and regulations of a bail bondsman office. The neighborhood shopping goods is grouped in limited areas while prohibiting all others not necessary in residential areas. That's under Use Unit 15. Use Unit 16 is more regional or community wide, ordinarily purchased less frequently. I think that's probably one of the decisions one of the former director's made because they're not typically located near residential areas and are located in C-2 districts.

Alderman Jordan: I know we've been talking about the business licenses. When they come in and apply for the business licenses then we would know the area that they would be in? Then, everything would be checked out? Does that change things from what we're doing now?

Alderman Reynolds: The Planning Department would know where they were going.

Alderman Jordan: So basically we would have a tracking system?

Mayor Coody: Yes. I think this situation and others that keep popping up like this would be headed off if we had some kind of process.

Alderman Jordan: I think we need that.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Thiel, Cook, Rhoads, Ferrell and Reynolds voting yes. Alderman Marr, Lucas, and Jordan voting no.

Ordinance 4708 as Recorded in the Office of the City Clerk

NEW BUSINESS:

ANX 05-1451 (Lane): An ordinance annexing that property described in Annexation Petition ANX 05-1451 for property located at the end of Country Ridge Road, North of Hwy 16 East and West of Deerfield Way containing approximately 24.19 acres.

Mr. Williams read the ordinance.

Jeremy Pate gave a brief description of the property. Staff is recommending approval of this annexation and the Planning Commission voted 8-0 to forward this item with a recommendation for approval.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent during the vote.

Mr. Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent during the vote.

Mr. Williams read the ordinance.

Alderman Cook: I'm not going to support the annexation. My reasons are the same. The way that the city is financially structured, there is really no reason why we would annex any piece of property to be honest, because we don't collect property taxes. We do collect sales taxes but most likely these people already shop in the city, so I can't see any reason to support any annexation. I think that's a larger topic we should discuss and I know we are going to have a discussion on annexation next Wednesday and I look forward to that.

Alderman Thiel: These areas are going to be developed and I want to see them developed by city standards. I know the people that adjoin this property wanted to be developed under city standards. I want them to be on sewer rather than these experimental septic systems they're starting to put in in some subdivisions in some other areas that are not in the city but adjacent to properties that are very concerned about how these systems are going to work. Even though I certainly appreciate the fact that the city is going to have to deal with the growth and more annexations, I still would rather see these developments come in and meet our city standards. The people that live next to them want them to come in to city standards.

Alderman Reynolds: The neighbor next to this property is going to be coming to us with 16 acres that she wants annexed. They do want it. They want city services and don't mind paying for them.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. **Alderman Thiel, Rhoads, Ferrell and Lucas and Reynolds** voting yes. **Alderman Cook, Marr and Jordan** voting no.

Ordinance 4709 as Recorded in the Office of the City Clerk

RZN 05-1452 (Lane): An ordinance rezoning that property described in Rezoning Petition RZN 05-1452 for approximately 24.19 acres located at the end of Country Ridge Road, North of 16 East and West of Deerfield Way from R-A, Residential-Agricultural to RSF-4, Residential Single Family – 4 units per acre.

Mr. Williams read the ordinance.

Jeremy Pate gave a brief description of the property. The Planning Commission voted to forward this item with a recommendation for approval, after splitting the item into two requests. The 24 acres is recommended to rezone RSF-4 to be compatible with the property to the east, a single family subdivision and it comply with all city standards if developed.

Alderman Thiel: I guess the concern by the Planning Commissioners, was based on our Police Department's report and their finding that this would have a negative effect on their ability to serve this area based on the density. If we turn this down because of the request, can we amend this to RSF-2?

Kit Williams: The City Council can make a legislative decision to rezone property even if it's not so requested by the property owner in most cases.

Alderman Thiel: Has staff seen any of their preliminary plans or do they have any idea what density they're talking about?

Jeremy Pate: Staff has not. I think the applicant's design engineer is here. In the county of course, there is no density or land use regulations, so there could be any thing here, multifamily development, storage units or anything really. Generally, that's why a lot of times we support these types of rezoning annexation requests simply because they are adjacent to city properties that have been developed. Additionally with RSF-4, the maximum density they could develop at is 4 units per acre. Typically, what we've seen is not that maximum. Alderman Marr has mentioned several times that we typically see a 2.6-2.9 units per acre being developed. That's not to say that this development couldn't be very efficient with their layout and get 4 units per acre, but that would be the maximum. I would just defer to the applicant if they have any design plans.

Melvin Milholland, Milholland Engineering: I'm representing the Lanes in this request of the rezoning of the rear of a track of land that's about 31 acres total, this being the 24.91 acres.

Alderman Thiel: Based on this idea that generally they're not developed out to much more than a 2.9, would there be a problem with us making the amendment to this to RSF-2.

Melvin Milholland: If you ask my personal opinion, and knowing the money involved in developing and selling lots, I don't think that they would be able to develop the land at 2 lots per acre max in that part of town, it will not sell. You're talking about an estate type lot, a half an acre lot in Fayetteville. Your street cost, water and sewer cost and all of your development cost is still very expensive there and the market, I do not believe, will bare it. Like Jeremy said, even with RSF-4, I don't believe you can get 4 units per acre on any land. You are going to end up between 2.9 and 3.5 on most of them.

The Lanes have owned this berry farm for several years, and their desire is to sell it for the highest and best use that they feel will help them in their retirement and RSF-4 would be that. There are a lot of developers out there wanting to build homes on that type of yield, it is marketable and people in Fayetteville can afford those types of homes in this part of town. We would respectfully request you to rezone it that. We would like the front part of the land to be zoned RSF-4. The reason that this property was split was I did not want all 31 acres of the land to be denied by the Planning Commission just because of the way the front section was zoned. So, I requested we split the land for the vote, but we still want all of it to be zoned RSF-4.

Mayor Coody: I'm assuming that at this location this would be entry level housing, it wouldn't be expensive housing.

Melvin Milholland: Well, you can look at Deerfield next door and there is another track coming up to the west of us that will be annexed and rezoned. But, it won't be like northeast Fayetteville, no sir.

Mayor Coody: Thank you. We have a need for entry level housing here.

Alderman Thiel: Even though I am concerned about this rezoning because of our Police Department's comments, you have made a very good point about a need for affordable and attainable housing. That is something we lack and it does seem to be developing in this area. I appreciate that it can't be developed on half-acre lots.

Alderman Jordan: Who is representing the Fire Department here tonight?

Mayor Coody: Mr. Lynch is.

Alderman Jordan: Mr. Lynch, I see that the response time is nine minutes.

Mr. Lynch, Fire Department: Eight to ten I think.

Alderman Jordan: When the Tyson Fire Station is completed, what will that response time be?

Mr. Lynch: I don't know if we've actually ran the response numbers for that particular area, but I would estimate five to six minutes probably.

Alderman Jordan: When do you look for that fire station to come online do you think?

Mr. Lynch: We've been planning for sometime in mid to late 2006. Isn't that right, Mr. Mayor?

Mayor Coody: Yes. We've gotten the architects hired, so we're moving along.

Alderman Jordan: Who is representing the Police Department tonight?

Mayor Coody: It doesn't look like anyone is here representing the Police Department tonight.

Alderman Jordan: I thought they were suppose to attend the Council meetings.

Mayor Coody: I did too and I will visit with the Chief about that tomorrow.

Alderman Jordan: It basically says in the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 120 new homes will increase the traffic on an already congested arterial street, Huntsville Road. That causes me some concern; I will be perfectly honest with you. I know that at the last budget session, we had to add more policemen because of the growth we've had in the city. When I read something that says will possibly, I know that it has not happened. My concern is when I see the statement will possibly create an undesirable increase in police services that's like a warning flag that goes up for me and that this could be a problem. And, if we start down a road with one annexation and one development after another, we will have a problem. That's why we need this annexation policy done. That's why we need impact fees for fire and police and that is why we need strategic planning for this city in the future.

Mayor Coody: I think we have strategic planning. We are working on the impact fees. All those things were in the mill and I think it was mentioned earlier we are going to have the annexation meeting a week from Wednesday I believe. So, we're heading in the right direction.

Alderman Ferrell: Jeremy, on the 24 acre parcel did the majority of the Planning Commission vote in favor of it?

Jeremy Pate: That is correct.

Alderman Jordan: What were the reasons that the ones that voted against it voted against it?

Jeremy Pate: Honestly, Alderman Jordan, not off the top of my head.

Alderman Jordan: Well I can tell you that most of them voted against it because of the police response.

Jeremy Pate: There were definitely comments about the police response. Our recommendation simply came from the fact that the Police Department does respond much further east of this property currently and they do work a beat in that general area.

Alderman Jordan: I understand. Thank you.

Alderman Reynolds: They respond all the way to Lake Sequoyah Drive now and this is quite a ways east of that. With the fire station at Tyson's that is in the process we should have it open in 2006.

Alderman Jordan: My concern is on into this is when we look at the appeal.

Kit Williams: There's two, one Lane and the other Wimberly.

Alderman Jordan: In one of them, they said that it was not a problem, because it is closer in. But on these outer fringe ones they say we are possibly creating a problem.

Alderman Marr: I think that the point that Alderman Jordan brings up about potential increase in police services and how we've had discussion on police impact fees is why I had more trouble voting for the annexation, because that's the cost perspective. Once it's in the city, which it is now, we have to look at what's the best use for it. I think that the Planning staff has recommended that based on our 2020 Plan land use guidance and I think it's adjacent to an existing neighborhood that's already built out at this level. It's for those reasons I'm going to support it. But Alderman Jordan highlights why I have concerns about continuing to annex. Because at some point, regardless of where the line is drawn, we still have to provide services.

Mayor Coody: Yes, we do have that dilemma.

Mel Milholland: If I understood the completion date for the fire station is 2006 or 2007?

Mayor Coody: It's a round number, but somewhere around mid to late 2006, which probably wouldn't be any sooner than when you would be finished.

Mel Milholland: On this type of development, depending how fast if it is approved there's going to be a two year, plus or minus build out time on it. So, it's going to be awhile down the road before all of those houses are going to be occupied.

Alderman Jordan: That's good.

Alderman Lucas: Again, it just brings to our attention that we need to address how we're going to plan. Like Alderman Jordan said, we need to also look at how we're going to pay for the extra land area, such as impact fees, and I think this just brings to our attention that we need to address these things and be serious about it.

Alderman moved Marr to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4710 as Recorded in the Office of the City Clerk

ANX 05-1470 (Phillips/Baggett): An ordinance annexing that property described in Annexation Petition ANX 05-1470 for property located at 5150 and 5270 E. Huntsville Road containing approximately 29.59 acres.

Mr. Williams read the ordinance.

Jeremy Pate gave a brief description of the property. The Planning Commission and staff voted unanimously to support this annexation request.

Chester Nikeman, with the Law Firm of Harrington, Miller, Neihouse and Kieklak: I'm standing in tonight for Micki Herrington. I'm here for items three and four, the Phillips/Baggett Annexation. Mr. Baggett and his wife are here also. I believe the same considerations lie with this partial as with the one you just considered. We'll be here for any questions you may have.

Mayor Coody: Thank you very much.

Alderman moved Jordan to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Thiel, Rhoads, Ferrell, Lucas and Reynolds voting yes. Alderman Cook, Marr and Jordan voting no.

Ordinance 4711 as Recorded in the Office of the City Clerk

RZN 05-1471 (Phillips/Baggett): An ordinance rezoning that property described in Rezoning Petition RZN 05-1471 for approximately 36.99 acres located at 5150 and 5270 East Huntsville Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4-units per acre.

Mr. Williams read the ordinance.

Alderman Thiel: Jeremy, why do you think the Planning Commissioners differed on this vote from the previous annexation? The previous one was different, wasn't it?

Jeremy Pate: It was. The previous annexation vote was actually 5-3 and this one was 7-2. The two commissioners that did vote no were two of the commissioners that voted against the last one as well. I can't conjecture why the third person did not vote no on this one, but I think in response also to Alderman Jordan earlier, we did ask the Fire Department to run the response time and like the fireman that spoke earlier said we do have exactly five to six minutes response time. That may have been part of the concern. Essentially though, their property is directly adjacent to each other. They have the same response time; we have the same reports from the Police and Fire Department we did on the previous request. This does contain a little more acreage, but it's a relatively similar request, and we've supported it for those very reasons.

Alderman moved Thiel to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4712 as Recorded in the Office of the City Clerk.

Planning Commission Appeal (Lane): A request to appeal the Planning Commission's motion to deny the rezoning request rezoning approximately 6.68 acres of property located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision from C-1, Neighborhood Commercial, to RSF-4, Residential Single Family – 4 units per acre.

Jeremy Pate gave a brief description of the property. The Planning Commission voted 8-0 to deny rezoning the property from C-1 to RSF-4. Staff also voted against that proposal. We felt that including neighborhood commercial areas such as this helps to support residential areas with smaller shops, grocery areas, and things of that nature, which we do find in C-1 types of developments, as apposed to a thoroughfare commercial development. And for those reasons, we did feel that C-1 continued to be appropriate in this area and could develop as supported by residential growth. Obviously, the residential development has to be there typically before the commercial will build out. In this case, the property has just been rezoned; it has not been developed, but we felt, based on the future Land Use Plan, which again is our most important tool from the City Council to utilize when making recommendations, that it was appropriate to have this remain zoned as C-1 at this time.

Alderman Thiel: I think Swifty and I both have received calls. I've received calls from two people that live out there that are really concerned about this being zoned commercial. They are concerned because a large part of the commercial property that's out there right now is vacant, for sale, and not doing well (as indicated by sheets from Milholland). I understand Jeremy's argument that once they build out, they will, but the people that are adjacent to this definitely want it to be zoned residential. They do not want it commercial. There's commercial at the intersection of Mally Wagon Road across from there. The zoning is RSF-4 on the north side of that intersection. We've discussed why this possibly was zoned C-1 many years ago. Apparently at some time, someone that owned the berry farm wanted to have some type of market at the highway, but based on the calls from constituents, I would have to say that I would support it being residential. I think there is adequate commercial zoning along this quarter. I know we've kind of advocated keeping our commercial at nodes and not doing the strip. I will support this as residential.

Mayor Coody: A yes vote on this would be to approve the appeal and therefore rezone it to RSF-4?

Kit Williams: When it comes time to vote on the appeal, someone will make a motion to either grant the appeal or deny it. If you grant the appeal, then I will read an ordinance and put it on the first reading. If you deny the appeal, then that ends everything and we'll go on to the next item.

Alderman Reynolds: The neighbors in that neighborhood have made phone calls. I think there are petitions here tonight from the neighborhoods. When that neighborhood builds out, there are ten buildings they can move into that are commercial and empty. The neighborhoods have made their point and I'm going to support them and I will support RSF-4

Mel Milholland: The existing commercial facilities out there have not survived in a lot of areas. I'd like to hand this petition out to you; 65 signatures in the neighborhood are against commercial there. I think Jeremy mentioned that this had been zoned C-1 on the map for 35 or 40 years, but it's still sitting out there as a field. I don't think leaving it that way is going to do any good. I think it's evident that is the way it's going to be. I think the neighbors feel that way, and I was given this petition yesterday.

Alderman Thiel moved to grant the appeal. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-1. Alderman Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook voting no.

RZN 05-1452 (Lane): An ordinance rezoning that property described in Rezoning Petition RZN 05-1452 for approximately 6.68 acres located at 5450 Huntsville Road from C-1 Neighborhood Commercial, to RSF-4 Residential Single Family 4 Units per Acre.

Mr. Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook voting no.

Ordinance 4713 as Recorded in the Office of the City Clerk.

Planning Commission Appeal (Wimberly): A request to appeal the Planning Commission's motion to deny the rezoning request rezoning approximately 0.26 acres of property located at 155 E. Elm Street from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office.

Jeremy Pate gave a brief description of the property. Numerous surrounding neighbors have contacted the Planning Division; I have spoken with many myself, with concerns regarding this rezoning request. Several petitions against the rezoning were submitted. The applicant also has submitted information from neighboring property owners and business persons who utilize this property daily, and they have submitted a petition in favor of the rezoning request. All of these materials have been included as part of your staff report. This item was heard at the Planning Commission. The vote was 4-4; therefore, the motion failed and an appeal is before you tonight. The applicant did submit her appeal within the ten day period. Staff recommended approval of this request to rezone the property. While it is directly adjacent to a residential neighborhood that is what our residential office zoning district is typically utilized for. It is a transitional zoning district. Staff finds that this request does meet the future Land Use Plan, the primary tool we utilize when we look at rezoning requests. The requested zoning is also compatible with surrounding developed properties that do contain office uses. It will not create an appreciable increase in traffic based on the size of the property, 0.26 acres, what could be developed even if it were the most intense commercial or use you could have within the R-O district. We thus recommended approval of the rezoning request.

Alderman Thiel: Jeremy, are all the petitioners that are supportive of this business owners?

Jeremy Pate: I believe a majority are business owners around Green Acres and surrounding this property. There were also business owners that spoke at the Planning Commission meeting.

Alderman Thiel: I was wondering why, like Shirley brought up, why this couldn't be a conditional use. You stated that a massage therapy type business could be allowed as a conditional use only for a home occupation.

Jeremy Pate: Correct.

Alderman Thiel: Why is that a rule? Don't we have other businesses that can be conditional uses?

Jeremy Pate: The RSF-4 zoning district, which is our most common residential zoning district, is strictly limited to single family use. That's the only permitted uses within that zoning district and is very much appreciated by many residents living in those zoning districts. There are some conditional uses and a home occupation is one of those. However, the rules are that you have to live in the dwelling that you have the business in. This particular applicant already has a home; they're simply moving the business to this location.

Alderman Ferrell: Jeremy, does staff still recommend approval?

Jeremy Pate: Yes. We recommended approval.

Alderman Ferrell: I noticed that the building right across the street from this place is a business, Muzak-Fitzhugh Communications. I think I will support this but I would not support any R-O zoning west of there. I talked to citizens on both sides of this and the feeling I received was that they really don't have a problem with this being there, they just fear it will open the door for other R-O.

Alderman Lucas: It was zoned RSF-4 and has been RSF-4 all along, right?

Jeremy Pate: That is correct.

Alderman Lucas: Why did the 2020 Plan or Land Use Plan make it R-O?

Jeremy Pate: I believe that that plan was adopted in 2001, which was before my time here at the City.

Alderman Lucas: Do they just draw a line or do they look at the individual property?

Jeremy Pate: Staff and the Planning Commission did a lot of work to prepare that plan and present it to the Council for adoption. We're beginning the very first phases of creating a new one this year as part of our five year updates. I can speak very honestly in saying no; we do not look at every single parcel in the city when we're drawing those lines. But, we do take as close of a look as possible. This area has been a transitional area. You can tell easily from College Avenue, which is a mere block to the east, which is a very high impact type of commercial development zoned C-2. It then moves to more residential office type and small commercial businesses on Green Acres Road. It's sort of a transition area. I believe the Council and the Planning Commission felt it was appropriate for those types of transitions in this area. In the Elm Street neighborhood, there are several home occupation type uses. There are businesses operating out of homes, childcares, the Planning Commission has approved several types of businesses like that in those areas. The uses are within the neighborhood, although unfortunately, no one lives there and so that's why we really couldn't process conditional use for it.

Mayor Coody: I've heard indirectly that the parties involved in this issue have been exceedingly pleasant and friendly and nice to work with. I wanted to compliment everybody on their attitude, professionalism, and amicability.

Robert Ginsburg, neighbor: I've lived on Elm Street since 1985. We as a neighborhood are here together in continuity tonight. The people who live in the neighborhood are pretty universally against the rezoning. The neighborhood used to be primarily older residents and a lot of young families and young professionals have moved in. There are over 20 kids in the neighborhood. The transition has been good and has made the neighborhood more cohesive. The rezoning appeal at the end of our street is a major concern to all of us. The residents of the neighborhood are against it. We are uniquely positioned in Fayetteville in some ways. We're close to all the great things that Fayetteville has to offer and yet we're very close to what is commonly referred to as Tooth Acres, Green Acres Road where all the dentist offices and other businesses are and new businesses are opening there. There are a lot of empty businesses within

half a mile of Elm Street. Why would we want to take a neighborhood that is revitalized and uniquely positioned in our town and start imposing offices into this unique neighborhood? I feel like what the neighborhood has to offer to Fayetteville is greater than what another office would offer. I say that also in the face of what I think to be the most desirable property in this area right now, which is single family dwellings, in a unique existing neighborhood, that are under a \$150,000. That to me is a strong argument to maintain this as a residential neighborhood. The businesses that are currently on Green Acres and at the end of Elm Street, this is the perfect transition from residential to R-O, because the law office has a beautiful courtyard that is between them and the first residence, the one up for rezoning. This courtyard is the perfect buffer between a neighborhood and an office. On the other side is the Box building and between the Box building and the first house, it is zoned R-O, but is being rented to a single family. There's an empty lot there. That's the perfect transition on that side. The primary entrances and exists from these businesses are on Green Acres. This business will have one entrance on Elm only. I mirror your comment that this process has all been very amicable.

Sally Wimberly, Petitioner: After talking with the Planning Commission and the neighborhood, we heard that one of their major concerns was what might happen to this property if it's rezoned and I decide to sell it. As a result we came up with a strong bill of assurance that says that the only business that can operate at 155 East Elm is my reflexology massage therapy practice. If I should decide to sell, it goes back to being residential. We did that because we respect the neighborhood association and we want to support and protect the neighborhood. In talking with some of the neighbors and the neighborhood association, I heard from several of them, that they really didn't mind my business. They were worried about the domino effect and businesses taking over the neighborhood.

Ken Charmin, client of Ms. Wimberly's: I believe in Sally and I believe in what she does and I believe in supporting our small business community in Fayetteville. She has an established clientele, so she won't fail like a new business might. We seem to thrive on controversy in Fayetteville, but hopefully we can compromise and do what's best for all those concerned. The property is surrounded on 3 sides by R-O, and on the other side is rental property. Sally requires a quiet, meditative, contemplative, outdoorsy environment and this is not going to happen to her in some strip center. Professional office use has already occurred in this neighborhood. There is an asphalt parking lot directly behind the property.

Mr. Charmin presented photographs of the parking lot, surrounding commercial properties, and some unkempt surrounding residential property to make the point that it's a mixed neighborhood of residential and commercial dwellings. He also made the point that even if the property was to remain residential, it is impossible to control one's neighbors.

The most valuable residential real estate that we have in the City of Fayetteville is in downtown Fayetteville and downtown Dickson Street when you look at the cost of these living quarters per square foot. So, it's not the business that causes the property to deteriorate. It's the care that the property receives. Sally has already bought the property, she already is their neighbor. Do we destroy Sally's dream that something else better might happen on Elm Street? She's offered a bill of assurance, she runs a quiet business, it's going to be well landscaped and well-maintained, she's already planted trees, and she's a good neighbor. Do you want this property to be well-maintained and an asset to Fayetteville? I'm asking you to vote in favor of Sally's request.

Brian McFerrin, Neighbor: I'd like to see the property stay a single family home because I don't want that domino effect. I think it's a good transition the way it is right now.

Andréa Fondre, Citizen: I'm building a building down the street from Sally. I'm speaking on Sally's behalf. It won't domino because if she sells it, it has to go back to residential. It can only be an office if she's there, and I think that's a nice compromise. I'm in favor of it being R-O.

Beverly Hill, Neighbor: I would hate to see this property rezoned. I would like to see this neighborhood stay the way it is.

Michael Bower, Neighbor: The chairman of the Planning Commission made it very clear that rezoning goes with the land and that's why this is very interesting to all of us in the neighborhood. We're trying to protect the zoning as it is. We would like it to stay residential and keep the land intact per that zoning. When we talk about the domino effect, we're trying to eliminate any precedence. In the 2020 Plan, it's designated that 15%-20% of the single family residences in our neighborhood would have the potential to be rezoned R-O, so this is the potential start of that and that's why we're trying to eliminate the precedence. It's somewhat presumptuous to assume that this property could be rezoned and maintained as a single family character. If this begins to show precedence for the 2020 Plan to be implemented to its fullest, the two properties due west of the property under discussion could very well be zoned R-O. Then the Wimberlys could find themselves in an island trying to maintain something that resembles a single family residence, otherwise now encapsulated in something that's entirely R-O. They will have no control over what goes on next to them if in fact this was rezoned this evening. Operating a business is a 9:00 to 5:00 neighbor. It's not a neighbor there with children, it's not a neighbor there around the clock. I know we are very interested in mixed use, but this type of business is not something that supports community. It does nothing to encourage and support a community setting like a small grocery store or something.

Kathleen Blessing, Client of Ms. Wimberly: Sally is very professional in her ministries. It's about teaching people how your body can heal itself given the proper nutrition and environment and proper manipulation of the muscles and reflexes. The environment she presents is important to healing because it's not just physical healing, it's also emotional healing. She will leave the home in a much better condition than it is in now and the property value will increase. I pray that you will vote in favor of this property being rezoned.

Elizabeth Horhay, Neighbor: We are a family community. I respect these clients that have come forward, but with all honesty, they are clients. They are not part of our neighborhood; they are not on our street on the weekends when our children are out playing, they're not on our street when we have garage sales going on and the neighbors are visiting each others garage sale and talking and sharing. They aren't a part of our community, they're clients. I'm a professional working woman, but my business is elsewhere. I come home to my home. My home is my sanctuary and I don't want it intruded on by a business of any sort.

Robert Coffin, Neighbor: We would not like to see a marquee on Elm Street. I really would not like to see this go R-O. It would allow encroachment to the west, and I believe at this point in time, this community is strong and here to stay. We appreciate the proactiveness on the Fayetteville's Planning Commission with all the commercial growth and would respect that that commercial growth be allocated for those areas of town.

Alderman Thiel: I'd like some clarification about this bill of assurance. If this is rezoned, it's rezoned?

Kit Williams: This is the most restrictive bill of assurance I've seen since I've been City Attorney. Basically, the bill of assurance says that the applicant can use it as her reflexology clinic, but no other business could go in. So, if she retires or leaves, then someone else can't even come in and use it as a reflexology clinic because in her bill of assurance she says it's hers. My interpretation would be that she is the only one that could operate after that. And the only uses that property could have would be the same uses it has under RSF-4 right now. So, it would have to go back to an RSF-4 status basically. No other business could go in there. There is some possibility you could address the biggest concern from the neighbors. The 2020 Plan, which was actually adopted in the late 90's, certainly we did not look at every piece of property. We probably didn't study this piece of property either, because when you're doing the entire town, it's impossible to look at each piece of property. What you could do, Alderman Ferrell, if you wanted to attempt to protect the neighbors in the future, is to pass a resolution to amend the 2020 Plan by removing the office designation from Elm Street, West of 155 East Elm. That's only a small area that does intrude into the neighborhood, but if you did that, that would remove the normal recommendation that the Planning Department would make in following the 2020 Plan and provide this neighborhood some needed protection. In listening to what you have said and what the neighbors have said, I wanted you to know that is an option that the City Council has.

Alderman Thiel: Jeremy, you mentioned that there were home occupations on this street now. What are some of those home occupations?

Jeremy Pate: An architecture office. You can't have outside employees, it has to be only family members, so you have to live there and there are relatively strict requirements to have a home occupation so that it maintains the character and appearance of a single family home. Signage and parking are extremely limited. There is a child care operation that was a conditional use on the end of Baker that the Planning Commission passed last year that does allow for child care, which actually does generate more traffic than a standard home operation because they do have drop off and pick up times, but in that particular case, we didn't have much public opposition to that type of business operating there.

Alderman Ferrell: Kit, I like this idea. Does it go before the existing citizens that would be west of 155 Elm? How do we get around usurping someone's prerogative?

Kit Williams: The 2020 Plan took a lot of development for the Planning Commission and the City Council, but it is only a guide. No legal rights are granted to you under the 2020 Plan. It's a guide for the development of the city. Therefore, it's up to the City Council, which passed the 2020 Plan by resolution back in the late 1990's and has been amended since then. We've amended it by adding an annexation policy a couple of years ago. The map does not show this office going too deep into their neighborhood, but it does go into their neighborhood some, so I can understand why they're very concerned about that. So, it can be amended by the City Council, if that would be your choice. Normally, you would do a large study, which is what we're undergoing right now with our Planning Department over looking the entire city, but I don't think you'll ever be as informed about this particular neighborhood as you are tonight.

Alderman Ferrell: So the City Council has the power to do that?

Kit Williams: Yes.

Mayor Coody: It wouldn't change any zonings that are currently on the ground though because they're all RSF-4, isn't that right?

Kit Williams: The 2020 Plan does not change zonings; it is just a recommendation, a guide. So, you can certainly do that by resolution.

Mayor Coody: It would just change the future Land Use Plan as adopted by the previous City Council.

Kit Williams: Yes. You would be amending the 2020 Plan.

Alderman Ferrell: Unless there's opposition on the Council, I will endeavor to do that. I think that could turn this into a more palatable thing, I would hope, for everyone.

Mayor Coody: I've never heard the idea of a piece of property reverting back to its original zoning once someone left it.

Kit Williams: It does not revert back. The property would be officially zoned R-O subject to a bill of assurance. The bill of assurance is so limited that, except for her business, only single family residential can apply there. The map will show R-O, but if you look at the restrictive ordinance, it would only be for her reflexology clinic or residential single family.

Alderman Marr: We've had a lot of calls, and I've had a meeting with Ms. Wimberely. I've had several conversations with the neighborhood association and with representatives and other people who have called. It's an item I've struggled with, because in the center of the city, some of the issues we have are with rental units that create problems and residents don't want to see that. We have other issues with too many college students trying to live in a house. I can understand when I read this bill of assurance, I've been on the Planning Commission for three years and the Council going on five years, and this is the most restrictive bill of assurance that I have ever seen. One problem I have is that it conflicts philosophically with several issues. One is that we want to have affordable, attainable housing in Fayetteville. This is a neighborhood that is \$150,000 or less housing units. While I understand how some of them function, I don't think we should be taking those off the market as residential potential. It goes against guiding principle number nine. It concerns me when we have as many people who live there every day, 24 hours a day, communicating to us about the integrity of their neighborhood. I know it's the creep issue. I used to probably be on the side of saying "well, we'll do what Alderman Ferrell suggested and change the 2020 Plan," but the problem I have with that is we have creep within annexation. We have a city limit that's also our boundary, and then we turn around and continue to expand that. We set precedence on things. It is not personal. I believe that Ms. Wimberley is a great person and has a good business, but I believe we need to protect some of our older neighborhoods, some of our neighborhoods that are more desirable, where we aren't seeing new housing at this level being built in the City of Fayetteville, next to a school, which you want to continue to be livable and have people be able to walk there. It is for that reason that I'm not going to support this appeal.

Alderman Thiel: I generally support neighborhoods. I'm also concerned about the fact that they have a guarantee of a quiet neighbor for several years. In Ward 1, we have a lot of problems in our affordable housing neighborhoods with rental properties being rented to students and people who are not necessarily good neighbors. That can happen. I hope you all know what you're wishing for if this is what you really want. Are you all aware of the bill of assurance and were you all aware of that when you spoke tonight? That doesn't sway you at all and neither does the idea that this would not continue on?

(No comments were made).

Alderman Thiel: Ok.

Alderman Cook: I completely agree with Don's comments. One problem I have with this bill of assurance though is that it is restrictive, but there is item number five in there that says restrictions and terms shall run with the land and bind all future owners unless otherwise specifically released by resolution of the Fayetteville City Council. So, if someone else bought it in the future, they could come before the City Council and ask for a release of that.

Kit Williams: Or they could ask for a rezoning. Obviously, you can't bind future City Councils. The City Council can do whatever it wants to in the future.

Alderman Cook: In my opinion, it's not quite as binding as it speaks because it is rezoned R-O. At some point in the future, someone could say I want that released and have it be fully R-O at that point.

Kit Williams: And they could ask for it to have C-2. They could come and ask the City Council for any rezoning change they want. If the City Council wants to do it, they can do it.

Alderman Jordan: We've seen this before. I believe we had someone come in here that wanted to change a bill of assurance. We didn't go for that, but it has occurred.

Kit Williams: You certainly can release a bill of assurance in the future just like you can rezone property in the future.

Alderman Cook: I think Don's comments about protecting the neighborhoods and the downtown areas has certainly been an issue we deal with all the time. That's part of why I feel so strongly about the neighborhoods. We went through a downtown master plan, and I know that's a different part of the City, but at the same time, we are talking about the core of the city, and we want to maintain the residences we have in that core. It's right in the middle of a lot of things. By foot, you can get to businesses, you can go to the movie, you can get a beer down the road, or you can do whatever you want. You have a lot of options right there by foot. To me, that's an important piece of what we're trying to create in the core of Fayetteville. I would hate to see another house pulled off the market, and I know that there have been other comments about that also. In my opinion, the creep issue is a valid argument. I want to keep that neighborhood as it is, so I will not support the appeal either.

Alderman Reynolds: It looks to me like the Planning Commission had a hard time with it. It was four to four. It looks to me like the Aldermen from that ward are both against this. So, as Alderman in Ward 1, if I have a problem with something like this and the neighbors show up like they have, I would certainly want their support. So I'm going to support them tonight and vote with them.

Alderman Ferrell: It's great that the same public law that allows them to request the zoning is the same public policy that allows citizens to come together and say that they don't want that. All things considered at the end of the day, I think that this is this person's livelihood. I think it is important when you take into account one's livelihood.

Alderman Ferrell moved to approve the appeal to rezone the property. The motion died for lack of a second.

Alderman Cook moved to deny the appeal. Alderman Marr seconded the motion. Upon roll call the motion to deny the appeal passed unanimously.

Adopt Chapter 176, Outdoor Lighting: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations.

Mr. Williams read the ordinance.

Tim Conklin, Planning and Program Development Director: The Planning Commission voted 8-0 in favor to recommend this ordinance to City Council. This ordinance basically is an ordinance that requires a shield to be put over the light source. It applies to all private and public installations; it exempts all existing outdoor lighting that has been installed, unless you are replacing the entire fixture. The State of Arkansas has passed a new state law regarding shielding lighting fixtures, with a requirement that the public utilities go to the public service commission and provide a shielded type fixture and rate for that fixture. We have received some feedback from the community with regard to the ability currently to install shielded type street lights. We've heard some concerns regarding sports field lighting being exempt. We've had some discussions regarding whether or not the city should exempt our downtown master plan lighting. We did receive a call today regarding the exemption of single family and two family lighting and a concern about the term full cut off, which is an industry type standard that has a more restrictive definition. The Chamber of Commerce does support the ordinance in its current form as recommended by the Fayetteville Planning Commission. They do not support the changes to remove the exemption for outdoor ball field lighting. There are also some issues with the downtown master plan lighting. This ordinance, in my opinion, resolves about 95% of the issues that we have had complaints on in this community. Most non-residential lighting is already using a shoe box type design.

Mayor Coody: I know there are varying grades of cut off light fixtures, from semi cut off, to cut off, to full cut off. Full cut off being the most light restrictive. What's the difference between full cut off and cut off lighting?

Tim Conklin: The issue with the term cut off is the amount of light that is between 80% and 90% of the fixture that's being emitted. It's a measure of how much light is coming out of that fixture horizontally.

Leif Olson, Associate Planner: Full cut off is a more restrictive term typically, as Tim was saying that deals with the amount of light that is emitted at the horizontal plane. All full cut off fixtures would be considered fully shielded, but not all fully shielded fixtures would be considered full cut off. With a shielded fixture, the bulb is shielded and located in the fixture. The shielding comes down and you may actually have, like in the instance of the lights we have on South School, where the glass dome comes down but the light is shielded up in it. The refractions off of that glass dome may emit some light rays that might not meet a full cut off definition.

Mike Green, Citizen: The definition of the full cut off is a photometric term that restricts all light above the horizontal plane. Full cut off further puts qualifications on how much light can

be emitted in that 60 to 90 degree zone or the 80 to 90 degree zone up close to the horizon. Shielded basically stops any light from going above the horizon, full cut off does that plus it puts limitations on light that is very close to the horizon.

Mayor Coody: So it has a much narrower angle of illumination?

Mike Green: Right.

Mayor Coody: How does the cut off work?

Mike Green: The cut off allows approximately 5% of the light to be emitted above the horizon, and it has similar restrictions on the skirt of the light beam as far as limiting the brightness, the light that's emitted out in that zone. Any lamp or any fixture that has any kind of a drop lens on it, as Leif mentioned, is going to have some refraction even if you can't visibly see the lamp. Below the fixture, just the fact that that lens is down there is going to give you some light scatter, which will put maybe 3% to 5% of the light up above.

Mayor Coody: So you get sag light fixtures. I'm thinking that's the kind of light that Landers' has. Would that be considered a cut off light?

Mike Green: That is considered a cut off light, but not a full cut off light. The light fixtures on Dickson Street are part of the Master Plan. All of those fixtures are considered cut off but not full cut off because of this decorative lens below it that tends to give you some scatter back up in to the area above horizon.

Alderman Thiel: The terms full cut off and cut off were used in the original ordinance. Are they mentioned in this?

Tim Conklin: We did mention the term but it causes some confusion. It is under definitions.

Alderman Thiel: So you are saying shielding is a full cut off fixture?

Time Conklin: Our intent was to create a very basis definition. I don't think the intent for us was to meet the IES&A standard. It was to create a standard where the light bulb is shielded on top and on four sides and that the bulb is above that horizontal plane.

Alderman Thiel: So the intent is for a full cut off fixture?

Tim Conklin: The intent is to have a shielded light because I don't think we are going to be able to determine how much futons are being emitted between the 80% and 90% of the horizontal. To clarify the ordinance it is to have the light shielded on top and on four sides, that's the intent.

Alderman Marr: I need to better understand the definitions of glare and disabling glare. Disabling glare is a hazardous situation for pedestrians or motorists, whereas glare is just eye discomfort. What constitutes disabling glare?

Tim Conklin: In the definition it talks about potentially hazardous situations for pedestrians or motorists. I would lean on the Police Department somewhat to help evaluate whether or not it's causing a hazardous situation.

Alderman Marr: Are there any situations in the City of Fayetteville currently that you believe would constitute a disabling glare?

Tim Conklin: I am not aware of any.

Mayor Coody: The only place I can think of right off hand is the gas station at the intersection of Highway 265 and Highway 45.

Alderman Ferrell: I was going to vote for this ordinance until we had these proposed amendments. The term disabling glare is kind of an arbitrary and subjective thing. There is not any scientific identification there. I would suggest a change to Section B. to state that *existing lighting fixtures are exempt from this ordinance*.

Mayor Coody: This lightning ordinance is important and I want to see us pass this. If we can make minor modifications to this and finally get a lightning ordinance in Fayetteville passed it would be a good thing.

Alderman Thiel: I think I would like to see us define the term disabling glare. There may be some existing lights out there that need to come into compliance. I also have a concern about the term full cut off.

A discussion followed on the ordinance and changes to the ordinance.

Tim Conklin: The ordinance that is before you is the one that was approved by the Planning Commission. Any amendments would have to be approved by this City Council.

Kit Williams: Normally when we pass an ordinance, we grandfather in items that might possibly be in violation of it. If there is a problem somewhere, let's look at that and see if we can make a definition that will work on it. Otherwise if there is not a single identifiable problem existing in town right now, then I think we should grandfather in any existing uses. If there is a dangerous glare somewhere, then let's address it.

Alderman Marr: I think it has been our past practice to not go back and try to correct items that have already been in place.

Kit Williams: If it was a serious safety issue then I think the City Council would have the right to do that.

Alderman Ferrell moved to amend Section B by deleting unless they are determined to create a disabling glare defined by the ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend passed unanimously.

Mayor Coody: There are two exemptions in this ordinance that concern me. One is Section E. Sports Field Outdoor Lightning and the other is Section I. Decorative Street Lightning located within the Downtown Master Plan boundary. We don't need to be exempting ourselves from our own ordinance.

Alderman Rhoads moved to remove Section E from the ordinance. Alderman Marr seconded the motion. After discussion this motion was withdrawn by Alderman Rhoads and Alderman Marr.

Mike Green: I have been designing lighting systems for about 28 years. The lighting goals for sports lighting is safety. They need illumination from the bottom. That is why these sports fields have lighting that can not be full cut off, they can not be shielded. If it is shielded completely you are going to create a safety problem for the players.

He discussed different types of lightning and the problems inadequate lightning can cause.

A discussion followed on the types of lightning available, definitions of different lightings and what type of lightning would be appropriate on sporting fields.

Alderman Rhoads moved to remove Section I from the ordinance. Alderman Marr seconded the motion. Upon roll call the motion passed 6-2. Alderman Thiel, Cook, Marr, Rhoads, Lucas, Jordan voting yes. Alderman Ferrell and Reynolds voting no.

Daniel Hintz, Downtown Partners voiced his concerns about the lights in the downtown area and removing the exemption on the downtown lights.

Mayor Coody: The existing lights would be grandfathered in. He also discussed the current problem with the lamps that we have currently.

Alderman Marr stated that he supported the amendment because the city needs to be consistent with the rules that businesses have.

Alderman Ferrell: There is a feeling that this will be revisited in the next legislative session.

Bill Ramsey, Chamber of Commerce: Our Chamber Board passed a resolution supporting this lighting ordinance as it was written. That did not include any changes to it so any changes would void our support.

A discussion followed on the lighting in the down town area.

John Nooncaster, a citizen spoke of different lights and street lights. He discussed cut off lights and the effect they would have on streets. He stated street lights should be exempted from this ordinance. He also voiced his concern about tennis courts being exempted in this ordinance. He spoke of different terms for lighting. He said there were some items in the ordinance that concerned him. He said he thinks the city needs to take a look at designing a standard for street lighting but having it separate from this outdoor ordinance.

A discussion followed on the ordinance and some corrections that need to be made to the ordinance. They also discussed street lights and how different fixtures can help keep the light toned down. The different types of street lights were discussed.

This Ordinance was Left on the First Reading.

PZD Ordinance Amendment: An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts.

Mr. Williams read the ordinance.

Tim Conklin stated this ordinance will amend the current planned zoning district ordinance to reduce the amount of engineering design that is required for submittal. Basically all PZD's will have to submit more of a concept master development plan. It will standardize the information required for the master development plan, require a written statement of commitments from the developers and it will authorize phasing of the projects beyond the current expiration of permit. It will also allow some administrative approvals where things will not necessarily have to come back through the entire process before it comes back to the City Council. He said this will allow a third option. We will keep the option of applying for your zoning in subdivision or your zoning in large scale. This third option will allow you to obtain your zoning rights without having to have a development engineered and designed. He stated they have tried to put additional requirements for information with regard to the statement of commitments, development and architectural standards, and more of what the project is going to look like after it is built in this ordinance. That is the major change in the ordinance.

Alderman Lucas: It is my understanding that if this went straight to the Council before it went to the Planning Commission it would save the developer time is that correct?

Tim Conklin: That is correct.

Alderman Lucas: How much time?

Tim Conklin: We estimate two to three weeks.

Jeremy Pate: I think it would vary depending on the project and the time line set out by our office when something is submitted to be able to get it on the City Council agenda.

Alderman Lucas: It was my impression that it would save quite a bit of time.

Tim Conklin: The benefit of the Planned Zoning District Ordinance originated with the need for additional information. The benefit was providing information to the community. How much time it is going to save will depend on how much notification we want to give the neighborhoods on these planned zoning districts. A lot of things are worked out on a planned zoning district before the Council gets the item.

Alderman Marr: At the ordinance review meeting we were given a time frame of a four to six week time saving which is very different than a two week time savings. What has changed that?

Tim Conklin: Currently it is a 40 day process from application dead line submittal to Planning Commission. Then to get an item on the City Council agenda, it is another two to three week process.

A discussion followed on what was discussed at the ordinance review meeting and the time line to get an item on the City Council agenda.

Alderman Lucas: I don't want to change the process if all we are saving is two weeks for the developer.

Alderman Marr: I would completely agree with you, Shirley. I do think having a conceptual PZD would save engineering cost; all of those items are a huge benefit to a developer.

Tim Conklin: We will put together a schedule and time line for you to view.

Steve Mansfield, Mansfield Property Management: The time savings is not necessarily the time that you get to the point of breaking ground. The issue is the time to get to the zoning decision so that we know if we should spend hundreds of thousands of dollars in design and engineering effort to go through the process. Under the current PZD process, we have to spend incredible amounts of money before we know whether our zoning or PZD is going to work. Under the proposed ordinance, we are coming to you first with a concept plan to get an idea if that proposed project and the zoning that goes with it are acceptable to the Council. That savings is enormous. It saves us a lot of time and money. I am a big supporter of this proposed ordinance.

Mayor Coody: This would also stop those projects that would be undesirable before they go through the entire process.

This Ordinance was Left on the First Reading.

Minimum Bid Pricing of 35 Acres of City Land: A resolution setting the minimum bid price for the sale of 35 acres of the Westside Wastewater Treatment Plant Site, which is south of Persimmon Street and West of Broyles Road, at approximately \$25,000 per acre for total a minimum bid price of \$872,000.

Tim Conklin: Last September it was requested that we bring this forward. We have three appraisals. Due to the disparity between the high and low it is up to you to set the minimum bid price. Once you do that we will advertise and bring back the minimum bid.

Kit Williams: I would not recommend that you go down below the minimum appraised value for your bid.

Alderman Marr moved to amend the resolution to \$29,000 per acre. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: As part of this bid that will be offered do you want the specific requirements for the infrastructure completion of Persimmon adjoining this street, is that part of this bid?

Council Members: Yes.

Alderman Marr moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Resolution 109-05 as Recorded in the Office of the City Clerk.

The item below was moved from Consent to New Business.

Designating Land for Recreation Purposes: A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future

fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.

Alderman Thiel: The Barrington Park Neighborhood Association feels the City has made a commitment to turn the property along Highway 45 into park land. They have been paying to maintain that land. They are concerned about the two acres that will be kept in the general fund for a fire station. They were disappointed that we did this without their knowledge.

Mayor Coody: We want to put a fire station out there because of the public safety aspect. A lot of communities are putting fire stations and parks together. We thought this would be a perfect marriage. I hope they will bear with us and realize this will be an improvement not only just for them but the community as a whole.

Alderman Marr: I agree with you. I think we should not transfer land out that we will have to turn around and pay for in the future.

Alderman Marr moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 110-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 10:02 p.m.

Dan Coody, Mayor

Sondra Smith, City Clerk



Certificate of Completion

HUBBELL PREMISE WIRING

Hubbell Incorporated (Delaware)

hereby certifies that

Tim Edwards
of

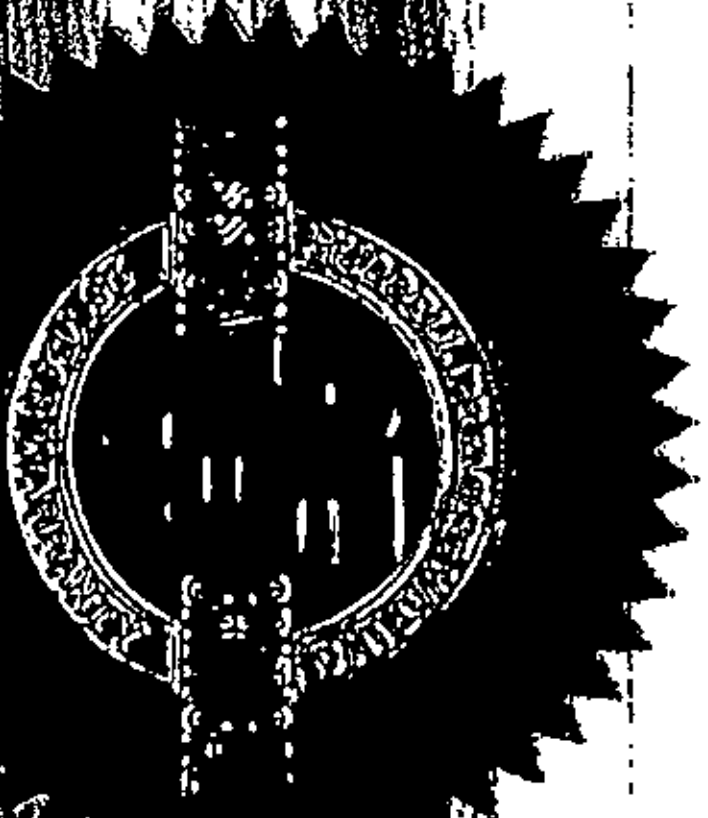
Kings Electric

has successfully completed the Hubbell Premise Wiring

Mission Critical Training Program

October 20th, 1999

Eric McKen
Hubbell Premise Wiring
Vice-President & General Manager



Kevin Egan
Hubbell Premise Wiring
Vice-President-Sales



Certificate of Completion
HUBBELL PREMISE WIRING

Hubbell Incorporated (Delaware)

hereby certifies that

Roger Jones
of

Kings Electric

*has successfully completed the Hubbell Premise Wiring
Mission Critical Training Program
October 20th, 1999*

Paul M. Miller
Hubbell Premise Wiring
Vice President & General Manager



Kevin J. Jones
Hubbell Premise Wiring
Vice President - Sales

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 21, 2005**

A meeting of the Fayetteville City Council will be held on June 21, 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**

A. CONSENT:

1. **Approval of the June 7, 2005 City Council meeting minutes.**
2. **Wilson Estes Contract for a Space Needs Study:** A resolution approving a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city owned buildings; approving a 5% contingency in the amount of \$2,431.00; and approving \$3,226.00 in reimbursable expenses.
3. **1 Nation Technology Contract for a Telecommunications System:** A resolution awarding Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the new Water & Sewer Operations Center; and approving a contingency in the amount of \$1,328.40.
4. **2005 Justice Assistance Grant:** A resolution to approve the application and accept an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and \$16,887.00 for the Washington County Sheriff's Department and to approve a budget adjustment for those amounts.
5. **New Holland Loader Purchase:** A resolution approving the purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$37,661.00.

6. **Staffing for Adequate Fire & Emergency Response Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset the cost of future staffing increases.
7. **Van Asche Boulevard Engineering Contract:** A resolution awarding a contract in the amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard Extension Project.

B. UNFINISHED BUSINESS:

1. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*
2. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*

C. NEW BUSINESS:

1. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.
2. **User Fee Policy:** A resolution adopting a User Fee Cost Recovery Policy for City Services.
3. **Planning Commission Appeal (TGI FRIDAY'S):** A request to appeal the Planning Commission's decision to alter the sign package submitted by TGI Friday's.
4. **Planning Commission Appeal (Dixie Development):** A request to appeal the Planning Commission's motion to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road.
5. **Ozark's Electric Cooperative Corp. Line Relocation:** A resolution authorizing the payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road Improvements at the Westside Wastewater Treatment Plant.
6. **McGoodwin Williams & Yates Contract Amendment:** A resolution approving Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction phase services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project.

7. **Woolsey Aviation, DBA, Contract:** A resolution approving a contract with Woolsey Aviation, d/b/a Million Air Fayetteville to provide aviation fueling and other services at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$24,000.00.
8. **Amend Title III, Chapter 33 Fire Protection Services:** An ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.
9. **RZN 05-1491 (Dixie Development):** An ordinance rezoning that property described in rezoning petition RZN 05-1491 for approximately 24.35 acres located at the northeast corner of Mount Comfort and Hughmount Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.
10. **General Plan 2020 Future Land Use Map Amendment:** A resolution to amend the General Plan 2020 Future Land Use Map by changing the "Office" designation on Elm Street beginning at 155 East Elm through its current western border to Residential.
11. **King Electric Contract for the Mountain Inn:** A resolution authorizing King Electrical Contractors, Inc. to provide electrical utility relocation services in support of the demolition of the Mountain Inn and associated properties in an amount not-to-exceed \$66,237.

D. INFORMATIONAL:

Council Tour: June 20, 2005 – 4:30 pm

Agenda Session Only: Introduction of Patrol Officers for Community Policing Assignments to Neighborhood Associations by Ward.

Agenda Session Only: Discussion on the Coyote Population in Fayetteville

Agenda Session Only: Airport and FBO Performance Audit Report

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 2
Wilson Estes Contract for a
Space Need Study
Page 1 of 32

DEPARTMENTAL CORRESPONDENCE

June 21, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director 

FROM: Coy Hurd, Project Manager 

DATE: June 1, 2005

SUBJECT: A resolution approving a contract with Wilson Estes Police Architects for a space needs study regarding the future utilization of five city-owned buildings (Police and Courts Building, Planning and Engineering Building, Interim City Hall Building, Fire Station #3 Replacement, and, the Tyson Complex). Approval is requested for the contract amount, five percent contingency, and an amount for reimbursables (the total amount of \$54,282).

Recommendation: Staff recommends the acceptance of the attached contract (in the amount of \$48,625) with Wilson Estes Police Architects for this study. The Staff further recommends the authorization of a five percent contingency and a reimbursable fund. The study will be the basis of the programming of renovation work to be done at the Tyson Building (and other city buildings) as Staff needs are identified and evaluated.

Background: On May 2, 2005, the Architect Selection Committee met to reach consensus regarding the selection of an architectural firm to design renovations at the recently purchased Tyson property. The committee unanimously chose Wilson Estes Police Architects to do this work. Since that time, negotiations have been ongoing regarding the fee for the first phase of the work: a space needs and allocation study of five city-owned (and proposed) buildings, considering the pending relocation of appropriate City Staff to the Tyson Complex and the construction of the replacement of Fire Station #3. It is anticipated that this study will result in recommendations from the architects as to which Staff should relocate to the property.

June 1, page two

Discussion: The last comparable space needs study was completed in 1991 by the Roth and Shepard Firm. In reviewing the scope of the 1991 study and the amount of funds which the City invested in that work, Wilson Estes' proposal would certainly seem to be a good value.

The Roth Study considered the needs for the Police operations and the Court operations in one building (the Police and Courts Building) for a fee of \$18,000. For comparison sake, an \$18,000 fee in 1991 would be the equivalent of \$28,080 in 2005 dollars (assuming a conservative inflation rate of four percent per year). The present Wilson proposal is \$48,625 for a study of five city-owned buildings involving all Divisions of the Fayetteville Police Department, including evidence; District Court; Prosecutor; Fire Station Number Three, including Fire Administration and Fire Marshals; Fire Training Center; and Development Services, including Planning, Engineering, Building Safety, Code Enforcement, and Building Services. The Assessment will include an evaluation of the existing space at 1851 East Huntsville Road (at \$9,725 per facility).

Budget Impact: Along with the fee of \$48,625, Staff requests the authorization of a five percent contingency fund (\$2,431), and \$3,226 for reimbursable expenses. The total would then be \$54,282. This amount is currently budgeted and resides in Account Number 4470 9470 5314 00.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF \$48,625.00 WITH WILSON ESTES POLICE ARCHITECTS FOR A SPACE NEEDS STUDY FOR FUTURE UTILIZATION OF FIVE (5) CITY-OWNED BUILDINGS; APPROVING A 5% CONTINGENCY IN THE AMOUNT OF \$2,431.00; AND APPROVING \$3,226.00 IN REIMBURSABLE EXPENSES.

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

Section 1. That the City Council of the City of Fayetteville hereby approves a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city-owned buildings. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville hereby approves a 5% contingency in the amount of \$2,431.00.

Section 3. That the City Council of the City of Fayetteville hereby approves \$3,226.00 in reimbursable expenses.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED:

By:

DAN COODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

AIA® Document B727™ – 1988

Standard Form of Agreement Between Owner and Architect for Special Services

AGREEMENT made as of the 23rd day of June in the year of two thousand and five

BETWEEN the Owner:
(Name and address)

City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

and the Architect:
(Name and address)

Wilson Estes Police Architects, Subchapter S Corporation
5799 Broadmoor
Suite 520
Mission, Kansas 66202

For the following Project:
(Include detailed description of Project, location, address and scope.)

Fayetteville Public Safety Center and miscellaneous facilities.

The City and the Architect agree as set forth below.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 1 ARCHITECT'S SERVICES

(Here list those services to be provided by the Architect under the Terms and Conditions of this Agreement. Note under each service listed the method and means of compensation to be used, if applicable, as provided in Article 8.)

Service to be provided	Method and means of compensation
Needs Assessment Study	Guaranteed Lump Sum

General Description:

A comprehensive Needs Assessment Study that determines current and future facility needs for all Divisions of the Fayetteville Police Department, including evidence; District Court; Prosecutor; Fire Station No. 3, including Fire Administration and Fire Marshall; Fire Training Center; and Development Services, including Planning, Engineering, Building Safety, Code Enforcement, and Building Services. The Assessment will include an evaluation of the existing space at 1851 East Huntsville Road, known as the Tyson complex, to support the public safety departments identified above, and the ability of the current Police and Court buildings located at 100 West Rock Road to serve other city departments listed above. Additionally, as an alternative to reuse of the Tyson building, demolition of all, or part of the Tyson complex, will be evaluated to support the development of new facilities for Public Safety on the Huntsville Road Site. Cost models will be developed to allow a comparative evaluation of probable development scenarios.

Task #1: Inventory Current Space

- 1.1 The work in this phase will be to determine the physical properties of the existing building space. The primary goal shall be to discover exactly how much space exists to support the requirements developed in the programming phase of the work (discussed in Task #2), whether or not new building additions will be required to expand the current space, and to what extent various portions of the existing space would have to be reconstructed to achieve a satisfactory end result. In addition, a cursory review shall be given to the finishes and systems in the existing building for consideration in evaluating the potential costs of a development option that involves renovation.

Task #2: Programming

- 2.1 On-Site Information Gathering: The Architects will lead meetings with a group representing a cross-section of the above identified departments. At a minimum, these groups should consist of key department managers. Primary goals of these interactive meetings will be to understand specific details about the community and the operations of the departments, evaluate potential growth in the staffing of the departments, and determine and catalog all individual functional elements and their relationship to each other. (Functional elements are comprised of personnel, activities, and accessory support spaces. The list includes each distinct function, which in the design phase will become a room or space).
- 2.2 Growth Analysis: Estimate facility needs out to 2025 through the forecasting of department personnel for the planning horizon. Projections shall be developed by applying the city's anticipated percentage population increase for the period (from city accepted figures) to the current year departmental personnel count. Additional personnel adjustments will be made in response to projected changes in policing trends (if the appropriate data is available).
- 2.3 Work Station Standards Development: One component factored into the determination of space assigned to a specific functional element (sub-task 2.4) is the use of planning standards. This can come in many forms, but is primarily related to the size of a workstation, seating, locker, or table requirement to perform a task, or multiple tasks within the functional element. It can also be a standard for a room size based on the area required to perform a known set of tasks. We will utilize our database of national averages for municipal facilities to tailor planning standards for Fayetteville.
- 2.4 Square Footage Development: Utilizing specific data obtained in the on-site group meetings, and the development of planning standards, we will apply our database of national averages for area required for municipal facilities.
- 2.5 Establish interactive relationships between all functional elements.

Task #3: Development Options Analysis

- 3.1** Following the determination of the functional elements in the programming task and the space required for those elements, including circulation space, walls, and all other space that composes the gross square footage of the building; determine the following:
 - 3.1.1** Evaluate the available space in the existing facility for sufficiency to meet the programmed space needs. If sufficient space does not exist, establish the area required for a new addition. For the existing space, make a determination as to the extent of reconstruction necessary to support the services operating in the space.
 - 3.1.2** For new construction establish the most probable floor level that any specific functional element, or group of functional elements may likely occupy, and the resulting number of floors and area of each floor. From this establish the probable building footprint.
 - 3.1.3** Site Masterplanning: After determining probable footprints for each possible development scenario (both renovation and new construction), make a determination of parking spaces needed and other site requirements, provide site diagrams for each scenario indicating the building footprint, public and staff parking, access points to the buildings, and the relationship of each of these.
 - 3.1.4** Cost Estimate: Utilizing our database for facilities built around the country over a lengthy time period, we will apply typical facility construction costs adjusted for the region and a projected bid date. (We analyze the accuracy of the database by comparing the local construction market through telephone surveys of regional contractors having recent experience in similar facility types). For space to be renovated, we will apply percentages of adjusted costs corresponding to the extent of the renovated space. For each development scenario cost estimate, provide an estimate of probable costs for "other" project costs, such as furnishings, AE fees, phones and data, security and access, and landscaping and irrigation.
 - 3.1.5** Findings: Evaluate the probable development scenarios and identify the strengths and weaknesses of each. Primary factors for consideration will be the degree of anticipated project success as defined by the functionality of a proposed scenario, probability of longterm adequacy of proposed facilities, relative cost, and the degree of difficulty associated with phasing construction.

Task #4: Documentation

- 4.1** Develop a written report documenting the study process, findings, and recommendations for further project development. Submit four copies of the draft report for review and follow-up meetings between the Architect and city personnel.

OPTIONAL NEEDS ASSESSMENT SERVICES:

The following optional services will be provided at the City's discretion for the additional services fees stated in Article 8.5. The Architect shall provide these services only if authorized in writing by the Owner.

5.1. Structural Analysis:

- 1. From existing plan documents and a walk-through of the buildings, provide a structural analysis of the existing structure and assist the Architect in determining cost implications and feasibility related to building design alterations.

5.2 Mechanical/ Electrical Systems Analysis:

- 1. From existing plan documents and a walk-through of the building, provide a cursory evaluation of the existing mechanical systems with regard to the age and efficiency of the primary heating/ cooling equipment and the cost impact associated with replacement. Provide recommendations pertaining to the most efficient development of mechanical systems to support existing and expanded building space.

2. From existing plan documents and a walk-through of the building, provide a cursory evaluation of the existing electrical systems with regard to the current capacity to support power requirements in a renovated facility as well as an assessment of code compliance and adherence to fire and life safety issues.

5.3. Conceptual Plans:

1. Utilizing the information in the primary need assessment services, develop a conceptual floor plan for each of the following; 1) Tyson building developed as a Public Safety Center; 2) new public safety facilities located on the Tyson complex site utilizing none, or part of, the existing Tyson building; and 3) reuse of the West Rock Road buildings to serve the City departments identified above, not related to public safety.

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 The City shall provide full information regarding requirements for the Project. The City shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Architect shall be entitled to rely on the accuracy and completeness thereof.

§ 2.2 The City shall designate a representative authorized to act on the City's behalf with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

ARTICLE 3 USE OF ARCHITECT'S DOCUMENTS

§ 3.1 The documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The City shall be permitted to retain copies, including reproducible copies, of the Architect's documents for the City's information, reference and use in connection with the Project. The Architect's documents shall not be used by the Owner or others on other projects.

(Paragraphs deleted)

ARTICLE 5 TERMINATION OR SUSPENSION

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

§ 5.2 If the City fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services.

§ 5.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 5.4.

§ 5.4 Termination Expenses shall be computed as a percentage of the compensation earned to the time of termination, as follows:

1. For services provided on the basis of a multiple of Direct Personnel Expense, 20 percent of the total Direct Personnel Expense incurred to the time of termination; and
2. For services provided on the basis of a stipulated sum, 10 percent of the stipulated sum earned to the time of termination.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 Unless otherwise provided, this Agreement shall be governed by the law of the State of Arkansas.

§ 6.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Section 8.4.

§ 6.3 The City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither City nor Architect shall assign this Agreement without the written consent of the other.

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

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

§ 6.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

ARTICLE 7 PAYMENTS TO THE ARCHITECT

§ 7.1 DIRECT PERSONNEL EXPENSE

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

§ 7.2 REIMBURSABLE EXPENSES

§ 7.2.1 Reimbursable Expenses are in addition to the Architect's compensation and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project for:

- .1 expense of transportation and living expenses in connection with out-of-town travel authorized by the City;

(Paragraph deleted)

- .3 fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 reproductions;
- .5 postage and handling of documents;
- .6 expense of overtime work requiring higher than regular rates, if authorized by the City;
- .7 renderings and models requested by the City;
- .8 expense of additional coverage or limits, including professional liability insurance, requested by the City in excess of that normally carried by the Architect and the Architect's consultants; and

(Paragraph deleted)

§ 7.3 PAYMENTS ON ACCOUNT OF THE ARCHITECT'S SERVICES

§ 7.3.1 Payments on account of the Architect's services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or as otherwise provided in this Agreement.

§ 7.3.2 An initial payment as set forth in Section 8.1 is the minimum payment under this Agreement.

§ 7.4 ARCHITECT'S ACCOUNTING RECORDS

§ 7.4.1 Records of Reimbursable Expenses and expenses pertaining to services performed on the basis of a multiple of Direct Personnel Expense shall be available to the City or the City's authorized representative at mutually convenient times.

ARTICLE 8 BASIS OF COMPENSATION

The City shall compensate the Architect as follows:

§ 8.1 AN INITIAL PAYMENT OF zero (\$ 0.00).

§ 8.2 COMPENSATION FOR THE ARCHITECT'S SERVICES, as described in Article 1, Architect's Services, shall be computed as follows:

(Insert basis of compensation, including stipulated sums multiples or percentages, and identify the services to which particular methods of compensation apply, if necessary.)

8.2.1 For Core Services identified in Article 1.1., a Guaranteed Lump Sum of \$48,625 plus reimbursable expenses. (Refer to attached Exhibit B, detailed cost itemization).

8.2.2.1 For Additional Services identified in Article 1-5.1 as Structural Analysis, an Hourly Rate Against a Maximum Fee of \$5,000 plus reimbursable expenses. Hourly rates are as follows:
Structural Engineer, Principal: \$125 per hour
Structural Engineer: \$95 per hour

8.2.2.2 For Additional Services identified in Article 1-5.2 as Mechanical/ Electrical Systems Analysis an Hourly Rate Against a Maximum Fee of \$4,000 plus reimbursable expenses. Hourly rates are as follows:
Vice-President, Principal: \$120 per hour
Sr. Project Manager: \$90 per hour
Engineer II: \$70 per hour

8.2.2.3 For Additional Services identified in Article 1-5.2 as Conceptual Plans, a Guaranteed Lump Sum of \$23,000 plus reimbursable expenses.

§ 8.3 FOR REIMBURSABLE EXPENSES, as described in Article 7, and any other items included in Article 9 as Reimbursable Expenses, a multiple of one-point-one (1.1) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

§ 8.4 Payments are due and payable thirty (30) days from the date of the Architect's invoice.

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

§ 8.5 IF THE SCOPE of the Project or of the Architect's services is changed materially, the amounts of compensation shall be equitably adjusted.

ARTICLE 9 OTHER CONDITIONS

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

CITY

(Signature)

Dan Coody, Mayor

(Printed name and title)

ARCHITECT

(Signature)

James Estes, Principal

(Printed name and title)

Attest:

AIA® Document B141™ – 1997 Part 1

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

TABLE OF ARTICLES

- 1.1 INITIAL INFORMATION
- 1.2 RESPONSIBILITIES OF THE PARTIES
- 1.3 TERMS AND CONDITIONS
- 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS
- 1.5 COMPENSATION

AGREEMENT made as of the 23rd day of June in the year Two-thousand,
five.
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the City:
(Name, address and other information)

City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

and the Architect:
(Name, address and other information)

Wilson Estes Police Architects, PA
5799 Broadmoor
Suite 520
Mission, Kansas 66202
Telephone Number: (913) 384-1115
Fax Number: (913) 384-2292

For the following Project:
(Include detailed description of Project)

Fayetteville Public Safety Center and miscellaneous facilities.

The City and Architect agree as follows:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 1.1 INITIAL INFORMATION

§ 1.1.1 This Agreement is based on the following information and assumptions.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.1.2 PROJECT PARAMETERS

§ 1.1.2.1 The objective or use is:

(Identify or describe, if appropriate, proposed use or goals.)

Needs assessment, design, and construction services for the purpose of facility development for the following city departments: Police, including evidence; District Court; Prosecutor; Fire Station No. 3, including Fire Administration; Fire Training Center; and Development Services, including Planning, Engineering, Building Safety, Code Enforcement, and Building Services.

§ 1.1.2.2 The physical parameters are:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)

Renovation and/or new construction at 1851 East Huntsville Road, and 100 West Rock Road, with the specific construction approach to be determined in the need assessment included as a part of this contract.

§ 1.1.2.3 The City's Program is:

(Identify documentation or state the manner in which the program will be developed.)

A needs assessment developed in accordance with document B727, and included as a part of this agreement.

§ 1.1.2.4 The legal parameters are:

(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)

Unknown at time of execution.

§ 1.1.2.5 The financial parameters are as follows.

- 1 Amount of the City's overall budget for the Project, including the Architect's compensation, is: unknown at time of execution of this agreement
- 2 Amount of the City's budget for the Cost of the Work, excluding the Architect's compensation, is: to be determined through the Needs Assessment Study accepted by the City.

§ 1.1.2.6 The time parameters are:

(Identify, if appropriate, milestone dates, durations or fast track scheduling.)

90 days for needs assessment services stipulated in document B727. Unknown at time of execution of this agreement for design and construction services stipulated in B141, Part 2.

§ 1.1.2.7 The proposed procurement or delivery method for the Project is:

(Identify method such as competitive bid, negotiated contract, or construction management.)

Unknown at time of execution of this agreement.

§ 1.1.2.8 Other parameters are:

(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)

Not applicable.

§ 1.1.3 PROJECT TEAM

§ 1.1.3.1 The City's Designated Representative is:

(List name, address and other information.)

Coy Hurd, Ph.D.
113 W. Mountain
Fayetteville, Arkansas 72701
Telephone Number: 479-575-8361
Mobile Number: 479-263-0301
churd@ci.fayetteville.ar.us

§ 1.1.3.2 The persons or entities, in addition to the City's Designated Representative, who are required to review the Architect's submittals to the City are:
(List name, address and other information.)

§ 1.1.3.3 The City's other consultants and contractors are:
(List discipline and, if known, identify them by name and address.)

Consultants anticipated are Land Surveyor, Geotechnical Engineer, construction testing lab, furnishings consultant or supplier.

§ 1.1.3.4 The Architect's Designated Representative is:
(List name, address and other information.)

James Estes
5799 Broadmoor
Suite 520
Mission, Kansas 66202
Telephone Number: (913) 384-1115
Fax Number: (913) 384-2292
jamese@policearchitects.com

§ 1.1.3.5 The consultants retained at the Architect's expense are:
(List discipline and, if known, identify them by name and address.)

Mechanical Engineer.....Gibbens, Drake, Scott
Electrical Engineer.....Gibbens, Drake, Scott
Structural Engineer.....A.T. Renczarski & Co., Inc.
Civil Engineering.....To be determined
Landscape Design.....To be determined

§ 1.1.4 Other important initial information is:

Security and access control design and specifications provided by Wilson Estes Police Architects. Space and power provisions shall be made in planned facilities development for use of existing communications/ 911 equipment. Services provided under this agreement do not cover design and specifications for new communications/ 911 equipment.

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

§ 1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the City and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and,

in that event, the City and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Section 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

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

§ 1.2.2 CITY

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

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

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

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

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

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

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

§ 1.2.3 ARCHITECT

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

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

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

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

of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the City.

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

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

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

ARTICLE 1.3 TERMS AND CONDITIONS

§ 1.3.1 COST OF THE WORK

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

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

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

§ 1.3.2 INSTRUMENTS OF SERVICE

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

§ 1.3.2.2 Upon execution of this Agreement, the Architect grants to the City a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the City shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the City shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the City's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the City to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

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

Instruments of Service shall be at the City's sole risk and without liability to the Architect and the Architect's consultants.

§ 1.3.2.4 Prior to the Architect providing to the City any Instruments of Service in electronic form or the City providing to the Architect any electronic data for incorporation into the Instruments of Service, the City and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

§ 1.3.3 CHANGE IN SERVICES

§ 1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement. Changes, modifications, or amendments in scope, price or fees to this agreement shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees. CityCityCity Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Section 1.5.2, and to any Reimbursable Expenses described in Section 1.3.9.2 and Section 1.5.5.

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

- .1 change in the instructions or approvals given by the City that necessitate revisions in Instruments of Service;
- .2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;
- .3 decisions of the City not rendered in a timely manner;
- .4 significant change in the Project including, but not limited to, size, quality, complexity, the City's schedule or budget, or procurement method;
- .5 failure of performance on the part of the City or the City's consultants or contractors;
- .6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto;
- .7 change in the information contained in Article 1.1.

(Paragraphs deleted)

§ 1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

§ 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the State of Arkansas, unless otherwise provided in Section 1.4.2.

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

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

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

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

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

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

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

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

§ 1.3.8 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

§ 1.3.9 PAYMENTS TO THE ARCHITECT

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

1.3.9.1.1 Monthly invoicing for Needs Assessment services shall be based upon the percentage of completion for the work stipulated in Document B727.

1.3.9.1.2 Monthly invoicing for services stipulated in Documents B141 shall be determined in accordance with the percentage of work completed for each phase of the work, where the percentage of each phase as it relates to the total service is as follows:

Schematic Design Phase.....	Fifteen percent (15%)
Design Development Phase.....	Twenty percent (20%)
Construction Documents Phase.....	Forty percent (40%)
Bidding Phase.....	Five percent (5%)
Construction Contract Administration Phase.....	Twenty percent (20%)

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

- .1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- .4 expense of overtime work requiring higher than regular rates if authorized in advance by the City;
- .5 renderings, models and mock-ups requested by the City;
- .6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the City in excess of that normally carried by the Architect and the Architect's consultants;
- .7 reimbursable expenses as designated in Section 1.5.5;
- .8 other similar direct Project-related expenditures.

§ 1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the City or the City's authorized representative at mutually convenient times.

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

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

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

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

§ 1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, or as follows:

(List other documents, if any, delineating Architect's scope of services.)

§ 1.4.1.3 Other documents as follows:

(List other documents, if any, forming part of the Agreement.)

AIA Document B727, Standard Form of Agreement Between Owner and Architect for Special Services.

§ 1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

1.4.2.1 Architects shall maintain the following insurance amounts, generally stated as follows:

Professional Liability	\$1,000,000;
Commercial Liability, including Automobile:	\$1,000,000;
Workers' Compensation	Statutory

1.4.2.2 "Freedom of Information Act". City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, WEPA will do everything possible to provide the document 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.

ARTICLE 1.5 COMPENSATION

§ 1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:

1.5.1.1 For Needs Assessment Study, as stipulated in Document B727.

1.5.1.2 For Design and Construction Contract Administration Services stipulated in Document B141, a percentage of construction cost of the work* plus reimbursables, whereby cost of the work is utilized to determine the percentage of fee in accordance with attached Exhibit A, and whereby Police and Court facilities are considered as "Group 2", and all other Departments for consideration are considered "Group 3".

** Construction Cost of the Work will be developed in the Needs Assessment Study for each separately identified construction project as a Statement of Probable Construction Cost, including contingencies, and shall be agreed upon by the City of Fayetteville.*

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

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

The basis of compensation will be equitably determined by mutual agreement between the City and Architect at the time of any change in services occurring after the initiation of design services for any specific construction project

identified through the Needs Assessment Study. The basis shall be the value of the work multiplied by the corresponding fee percentage stated in Exhibit A, or hourly at the rates listed below:

Principals	\$105.00
Project Manager	\$ 80.00
Technical Staff	\$ 55.00
Administrative	---\$ 55.00

Designated principals are James Estes and Cliff Wilson.

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

§ 1.5.4 For Reimbursable Expenses as described in Section 1.3.9.2, and any other items included in Section 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of one-point-one (1.1) times the expenses incurred by the Architect, and the Architect's employees and consultants.

§ 1.5.5 Other Reimbursable Expenses, if any, are as follows:

Not applicable.

§ 1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices, subject to approval by the City Council, if occurring before the initiation of design and construction services on any specific construction project.

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

§ 1.5.8 Payments are due and payable thirty (30) days from the date of the Architect's invoice..
(Insert rate of interest agreed upon.)

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

§ 1.5.9 If the services covered by this Agreement have not been completed within a time to be determined at the outset of any specific construction project, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Section 1.5.2.

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

CITY

(Signature)

Dan Coody, Mayor

(Printed name and title)

Attest:

Sondra Smith, City Clerk

ARCHITECT

(Signature)

James Estes, Principal

(Printed name and title)

AIA® Document B141™ – 1997 Part 2

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

TABLE OF ARTICLES

- 2.1 PROJECT ADMINISTRATION SERVICES**
- 2.2 SUPPORTING SERVICES**
- 2.3 EVALUATION AND PLANNING SERVICES**
- 2.4 DESIGN SERVICES**
- 2.5 CONSTRUCTION PROCUREMENT SERVICES**
- 2.6 CONTRACT ADMINISTRATION SERVICES**
- 2.7 FACILITY OPERATION SERVICES**
- 2.8 SCHEDULE OF SERVICES**
- 2.9 MODIFICATIONS**

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 2.1 PROJECT ADMINISTRATION SERVICES

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

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

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

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

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

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

§ 2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

§ 2.1.7.1 Through the Needs Assessment Study defined in Document B727, the Architect shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the City of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the City's budget, the Architect shall make appropriate recommendations to the City to adjust the Project's size, quality or budget, and the City shall cooperate with the Architect in making such adjustments.

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

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

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

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 1.3.8.5; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

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

ARTICLE 2.2 SUPPORTING SERVICES

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

§ 2.2.1.1 The Needs Assessment Study defined in Document B727, City shall furnish a program setting forth the City's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

§ 2.2.1.2 The City shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and

information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

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

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

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

ARTICLE 2.4 DESIGN SERVICES

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

§ 2.4.2 SCHEMATIC DESIGN DOCUMENTS

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

§ 2.4.3 DESIGN DEVELOPMENT DOCUMENTS

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

§ 2.4.4 CONSTRUCTION DOCUMENTS

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

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

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

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

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

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

§ 2.5.4 COMPETITIVE BIDDING

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

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

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

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

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

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

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

§ 2.5.5 NEGOTIATED PROPOSALS

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

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

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

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

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

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

§ 2.6.1 GENERAL ADMINISTRATION

§ 2.6.1.1 The Architect shall provide administration of the Contract between the City and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract

Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

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

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

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

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

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

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

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

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

§ 2.6.2 EVALUATIONS OF THE WORK

§ 2.6.2.1 The Architect, as a representative of the City, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the City and the Architect in Article 2.8, (1) to become generally familiar with and to keep the City informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the City against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.2.2 The Architect shall report to the City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or

charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

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

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

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

§ 2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

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

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

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

§ 2.6.4 SUBMITTALS

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

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

§ 2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals

related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 2.6.5 CHANGES IN THE WORK

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

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

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

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

§ 2.6.6 PROJECT COMPLETION

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

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

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

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

ARTICLE 2.7 FACILITY OPERATION SERVICES

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

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

ARTICLE 2.8 SCHEDULE OF SERVICES

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

- .1 up to three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.
- .2 up to four visits each month to the site by the Architect over the duration of the Project(s) during construction.
- .3 up to three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
- .4 up to three (3) inspections for any portion of the Work to determine final completion.

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

- .1 review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 responses to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other City-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service;
- .4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;
- .5 evaluation of an extensive number of claims submitted by the City's consultants, the Contractor or others in connection with the Work;
- .6 evaluation of substitutions proposed by the City's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;
- .7 preparation of design and documentation for alternate bid or proposal requests proposed by the City; or
- .8 Contract Administration Services provided 60 days after the date of Substantial Completion of the Work.

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

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.1 Programming	— Architect	— Document B727*
.2 Land Survey Services		
.3 Geotechnical Services		
.4 Space Schematics/Flow Diagrams		
.5 Existing Facilities Surveys	— Architect	— Document B727*
.6 Economic Feasibility Studies		
.7 Site Analysis and Selection	— Architect	— Document B727*
.8 Environmental Studies and Reports		
.9 Owner-Supplied Data Coordination		
.10 Schedule Development and Monitoring		
.11 Civil Design	— Architect	— B141, Article 1.1.3.5
.12 Landscape Design	— Architect	— B141, Article 1.1.3.5
.13 Interior Design		
.14 Special Bidding or Negotiation		
.15 Value Analysis		
.16 Detailed Cost Estimating		
.17 On-Site Project Representation		
.18 Construction Management		

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.19 Start-up Assistance		
.20 Record Drawings		
.21 Post-Contract Evaluation		
.22 Tenant-Related Services		
.23		
.24		
.25		

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

*Scope of Services is defined in Document B727.

ARTICLE 2.9 MODIFICATIONS

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

Not Applicable.

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

CITY

(Signature)
Dan Coody, Mayor

(Printed name and title)

ARCHITECT

(Signature)
James Estes, Principal

(Printed name and title)

Attest:

Sondra Smith, City Clerk

Exhibit A

Standard Architectural/Engineering (A/E) Fee Schedule

The fee percentages on this schedule are based upon the basic standard services described in the American Institute of Architects (AIA) Document B141-1997.

"Facility Cost" refers to the Construction Cost of the work as defined in Article 1.3.1 of the AIA Document B141 Standard Form of Agreement Between Owner and Architect

Projects involving renovation:

For projects involving renovation, the fee percentages below shall be increased 1.5% for the portion of the Work involving renovation.

Facility Cost	Group 1	Group 2	Group 3		Facility Cost	Group 1	Group 2	Group 3
\$1,000,000	10.92%	9.51%	8.10%		\$3,800,000	9.61%	8.28%	6.95%
\$1,100,000	10.84%	9.43%	8.02%		\$3,900,000	9.58%	8.26%	6.93%
\$1,200,000	10.76%	9.36%	7.95%		\$4,000,000	9.56%	8.23%	6.91%
\$1,300,000	10.69%	9.29%	7.88%		\$4,100,000	9.53%	8.21%	6.88%
\$1,400,000	10.62%	9.23%	7.82%		\$4,200,000	9.50%	8.18%	6.86%
\$1,500,000	10.56%	9.16%	7.76%		\$4,300,000	9.48%	8.16%	6.84%
\$1,600,000	10.50%	9.10%	7.71%		\$4,400,000	9.45%	8.14%	6.82%
\$1,700,000	10.44%	9.05%	7.65%		\$4,500,000	9.42%	8.11%	6.80%
\$1,800,000	10.39%	9.00%	7.61%		\$4,600,000	9.40%	8.09%	6.78%
\$1,900,000	10.33%	8.95%	7.56%		\$4,700,000	9.38%	8.07%	6.76%
\$2,000,000	10.28%	8.90%	7.51%		\$4,800,000	9.35%	8.05%	6.74%
\$2,100,000	10.23%	8.85%	7.47%		\$4,900,000	9.33%	8.03%	6.73%
\$2,200,000	10.19%	8.81%	7.43%		\$5,000,000	9.31%	8.01%	6.71%
\$2,300,000	10.14%	8.77%	7.39%		\$5,100,000	9.28%	7.99%	6.69%
\$2,400,000	10.10%	8.73%	7.36%		\$5,200,000	9.26%	7.97%	6.67%
\$2,500,000	10.06%	8.69%	7.32%		\$5,300,000	9.24%	7.95%	6.65%
\$2,600,000	10.02%	8.65%	7.29%		\$5,400,000	9.22%	7.93%	6.64%
\$2,700,000	9.98%	8.62%	7.25%		\$5,500,000	9.20%	7.91%	6.62%
\$2,800,000	9.94%	8.58%	7.22%		\$5,600,000	9.18%	7.89%	6.61%
\$2,900,000	9.90%	8.55%	7.19%		\$5,700,000	9.16%	7.87%	6.59%
\$3,000,000	9.87%	8.51%	7.16%		\$5,800,000	9.14%	7.85%	6.57%
\$3,100,000	9.83%	8.48%	7.13%		\$5,900,000	9.12%	7.84%	6.56%
\$3,200,000	9.80%	8.45%	7.10%		\$6,000,000	9.10%	7.82%	6.54%
\$3,300,000	9.77%	8.42%	7.08%		\$6,100,000	9.08%	7.80%	6.53%
\$3,400,000	9.73%	8.39%	7.05%		\$6,200,000	9.06%	7.79%	6.51%
\$3,500,000	9.70%	8.36%	7.03%		\$6,300,000	9.04%	7.77%	6.50%
\$3,600,000	9.67%	8.34%	7.00%		\$6,400,000	9.02%	7.75%	6.48%
\$3,700,000	9.64%	8.31%	6.98%		\$6,500,000	9.00%	7.74%	6.47%

Facility Cost	Group 1	Group 2	Group3		Facility Cost	Group 1	Group 2	Group 3
\$6,600,000	8.99%	7.72%	6.46%		\$8,900,000	8.63%	7.41%	6.19%
\$6,700,000	8.97%	7.71%	6.44%		\$9,000,000	8.61%	7.40%	6.18%
\$6,800,000	8.95%	7.69%	6.43%		\$9,100,000	8.60%	7.38%	6.17%
\$6,900,000	8.93%	7.68%	6.42%		\$9,200,000	8.59%	7.37%	6.16%
\$7,000,000	8.92%	7.66%	6.40%		\$9,300,000	8.58%	7.36%	6.15%
\$7,100,000	8.90%	7.65%	6.39%		\$9,400,000	8.56%	7.35%	6.14%
\$7,200,000	8.88%	7.63%	6.38%		\$9,500,000	8.55%	7.34%	6.13%
\$7,300,000	8.87%	7.62%	6.37%		\$9,600,000	8.54%	7.33%	6.12%
\$7,400,000	8.85%	7.60%	6.35%		\$9,700,000	8.53%	7.32%	6.11%
\$7,500,000	8.83%	7.59%	6.34%		\$9,800,000	8.51%	7.31%	6.10%
\$7,600,000	8.82%	7.57%	6.33%		\$9,900,000	8.50%	7.30%	6.09%
\$7,700,000	8.80%	7.56%	6.32%		\$10,000,000	8.49%	7.28%	6.08%
\$7,800,000	8.79%	7.55%	6.31%		\$10,100,000	8.48%	7.27%	6.07%
\$7,900,000	8.77%	7.53%	6.29%		\$10,200,000	8.47%	7.26%	6.06%
\$8,000,000	8.76%	7.52%	6.28%		\$10,300,000	8.45%	7.25%	6.05%
\$8,100,000	8.74%	7.51%	6.27%		\$10,400,000	8.44%	7.24%	6.04%
\$8,200,000	8.73%	7.49%	6.26%		\$10,500,000	8.43%	7.23%	6.03%
\$8,300,000	8.71%	7.48%	6.25%		\$10,600,000	8.42%	7.22%	6.02%
\$8,400,000	8.70%	7.47%	6.24%		\$10,700,000	8.41%	7.21%	6.01%
\$8,500,000	8.69%	7.46%	6.23%		\$10,800,000	8.40%	7.20%	6.00%
\$8,600,000	8.67%	7.44%	6.22%		\$10,900,000	8.38%	7.19%	5.99%
\$8,700,000	8.66%	7.43%	6.21%		\$11,000,000	8.37%	7.18%	5.98%
\$8,800,000	8.64%	7.42%	6.20%					

"Group 1" facilities are those of *more than the average* degree of Design Difficulty. Examples are as follows:

Art Galleries, Auditoriums, College Building with Special Facilities, Communications Building, Complex Engineering Projects, Courthouses, Developmental Centers, Extended Care Facilities, Historical Monuments, Hospitals, Laboratories (Prod. & Research), Maximum Security Correctional Facilities, Medical Office Facilities and Clinics, Museums, Residences – Institutional, Schools for the Blind, Schools for Hearing Impaired, Sewage Treatment Plants, Theaters (performing), Power Plants, Veterinary Hospitals, Veterans Hospitals, and Water Treatment Plants.

"Group 2" facilities are those with an *average degree* of Design Difficulty. Examples are as follows:

College Classroom Facilities, Convention Facilities, Dietary Facilities/Restaurants, Dining Halls (Institutional), Dormitories, Gymnasiums, Laundry Facilities, Medium and Minimum Security Correctional Facilities, Office Buildings, Park/Playground and Recreational Facilities, Police Stations, Schools (Elementary and Secondary), Science Labs (Teaching), Stadiums, Theatres, Transportation Terminals, Complex Electrical Distribution, Fire Stations/Power Plants, Vocational Schools, Computer Rooms, and Libraries.

"Group 3" facilities are those of *less than the average degree* of Design Difficulty. Examples are as follows:

Apartments, Armories, Cold Storage Facilities, Farm Structures, Hangars, Industrial Buildings, Parking Structures and Repetitive Garages, Shop & Maintenance Buildings, Simple Industrial Buildings, Warehouses, Fences, Guard Towers, and Site Work (Water/Sewer/Roads, etc.). 2001

EXHIBIT B

FEE PROPOSAL ITEMIZATION

Task 1: Current Space (This task will actually occur after the on-site information gathering that occurs in Task 2).

Sub-task	Personnel	Rate	Hours	Cost
1.1 On-site inventory of current space	Proj. Manager	\$80	20	\$1,600
	Technical	\$55	20	\$1,100
1.2 As-built drawings	Proj. Manager	\$80	3	\$ 240
	Technical	\$55	24	\$ 1,320
				<u>\$ 4,260</u>

Task 2: Programming

Sub-task	Personnel	Rate	Hours	Cost
2.1 On-Site Information Gathering	Principals	\$105	68	\$ 7,140
2.2 Growth Analysis	Principal	\$105	16	\$ 1,680
	Ad. Assist.	\$ 55	6	\$ 330
2.3 Work Station Standards Development	Principal	\$105	24	\$ 2,520
	Technical	\$ 55	18	\$ 990
2.4 Square Footage Development	Principal	\$105	60	\$ 6,300
	Ad. Assist.	\$ 55	20	\$ 1,100
2.5 Adjacency Relationship diagramming	Principal	\$ 95	3	\$ 285
	Ad. Assist.	\$ 55	12	\$ 660
				<u>\$21,005</u>

Task 3: Development Options

Sub-task	Personnel	Rate	Hours	Cost
3.1 Renovation Analysis	Principal	\$105	32	\$ 3,360
	Proj. Manager	\$ 80	16	\$ 1,280
	Technical	\$ 55	16	\$ 880
3.2 New Construction Analysis	Principal	\$105	8	\$ 840
3.3 Site Master planning	Principal	\$105	32	\$ 3,360
	Proj. Manager	\$ 80	32	\$ 2,560
	Technical	\$ 55	24	\$ 1,320
3.4 Cost Estimates	Principal	\$105	24	\$ 2,520
3.5 Comparative Analysis, New vs. Renovation	Principal	\$105	32	\$ 3,360
				<u>\$19,480</u>

Task 4: Documentation

Sub-task	Personnel	Rate	Hours	Cost
4.1 Synthesize Study Process and Findings in a Formal Report	Principal	\$105	16	\$ 1,680
	Ad. Assist.	\$ 55	40	\$ 2,200
				<u>\$ 3,880</u>

Total Fee.....\$48,625

City of Fayetteville
Staff Review Form

A. 2
Wilson Estes Contract for a
Space Need Study
Page 32 of 32

21-Jun-05

City Council Meeting Date

Coy Hurd

Submitted By

Building Services

Division

Financial and Internal Services

Department

Action Required:

The required action is the approval of a contract with Wilson Estes Police Architects for a space needs study regarding the future utilization of five city-owned buildings. Approval is requested for the contract amount, a five percent contingency fund, and for reimbursables. Please refer to attached memo and contract.

\$54,282.00

Cost of this request

4470 9470 5314 00

Account Number

05006

Project Number

\$842,000

Category/Project Budget

0

Funds Used to Date

\$ 842,000.00

Remaining Balance

Fire Station #3 - expansion

Program Category / Project Name

Fire Safety Improvements

Program / Project Category Name

Sales Tax Capital Improvement Fund

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

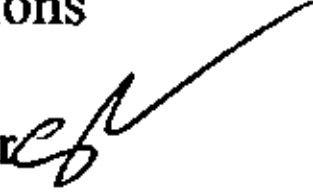
Comments:

Parking Access and Revenue Control Equipment
June 21, 2005 Council Meeting
Page 1 of 2

AGENDA REQUEST MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Jenkins, Parking Manager 

DATE: June 1, 2005

SUBJECT: Bid Award for Norstar Telecommunications System Purchase for the new Water and Sewer Operations Center Building

RECOMMENDATION

Staff recommends approving a bid award to purchase a Norstar Telecommunications System for the new Water and Sewer Operations Center building. The total purchase price is \$15,808.00. (Equipment cost is \$13,284.00; Sales & Use tax is \$1,195.60; 10% project contingency is \$1,328.40.)

BACKGROUND

The City has a Telecommunications Technician on staff that will perform the installation and programming of the telecommunications system. This bid award is simply for the purchase of the equipment which is the same system used at all City facilities. This system is the switching device that will extend our existing telecommunications infrastructure out to this new facility.

DISCUSSION

We received bids from 6 vendors for the telecommunications equipment. The bids are as follows in order of lowest bid to highest bid:

- ◆ Bid #1 – CMS Communications submitted a bid of \$13,234.00
- ◆ Bid #2 – 1 Nation Technology submitted a bid of \$13,284.00
- ◆ Bid #3 – National Telephone submitted a bid of \$16,035.02
- ◆ Bid #4 – Office Works submitted a bid of \$17,040.60
- ◆ Bid #5 – Black Box submitted a bid of \$20,870.55
- ◆ Bid #6 – Agent XT submitted a bid of \$22,939.41

Although the bid from 1 Nation Technology was \$50.00 more than the lowest bidder, they offered a 5-year warranty over a 1-year warranty offered by CMS Communications. Therefore, staff recommends awarding this bid to 1 Nation Technology.

BUDGET IMPACT

The telecommunications equipment totals \$15,808.00. The project budget has a \$206,883.33 remaining balance.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #05-38 TO 1 NATION TECHNOLOGY IN THE AMOUNT OF \$14,479.60 FOR THE PURCHASE OF A NORSTAR TELECOMMUNICATIONS SYSTEM FOR THE NEW WATER & SEWER OPERATIONS CENTER; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$1,328.40.

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 awards Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the New Water & Sewer Operations Center.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency in the amount of \$1,328.40.

PASSED and APPROVED this 21st day of June 2005.

APPROVED

By: _____
DAN GOODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**CITY OF FAYETTEVILLE
UTILITIES MANAGEMENT DIVISION
INVITATION TO BID
BID NO. 05-38
NORSTAR TELECOMMUNICATIONS SYSTEM**

The City of Fayetteville is accepting bids for a new Norstar Telecommunications System. The materials list to be bid upon is attached. The System will be installed by City of Fayetteville staff and will be utilized at the new Water and Sewer Operations Facility.

Questions or clarifications should be submitted to Jamie Bytheway, Communications Coordinator, City Administration Building, 113 W. Mountain St., Fayetteville, AR 72701, phone number 479-575-8245.

Bids must be submitted in a sealed envelope labeled "Norstar Telecommunications System, Bid No. 05-38" on or before 2:00 pm, May 23rd, 2005 to the following address:

City of Fayetteville
Peggy Vice, Purchasing Manager
113 West Mountain Street
Fayetteville, AR 72701

Bids will be opened on May, 23rd, 2005 at 2:00p.m. in Room 306 at the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas 72701.

Person Submitting Bid: Carissa Weeke
Name of Business: 1 Nation Technology
Street/P.O. Box: 4027 Tampa Rd. Ste 3000
City: Oldsmar State: FL Zip Code: 34677
Authorized Signature: Carissa Weeke Title: Acct. Manager
Email Address: Cweeke@1nationtech.com
Phone Number: (813) 349-6816 Fax Number: (813) 176-8166



813-349-6816
813-676-8166 Fax
cweeke@1nationtech.com

Carissa Weeke
Account Manager

4027 Tampa Road
Suite 3000
Oldsmar, FL 34677

Vendor Responsibility

1. The vendor shall bid only new equipment per materials list (not used or refurbished).
2. Vendor shall clearly state the warranty terms of all equipment bid.
Nortel 5yr. warranty except on
cell pilot - only 1 year
3. Vendor shall state delivery time for all items.
will ship in 3 days of getting PO
4. All contracts will be written under the laws of the State of Arkansas.
5. In such case the vendor finds instance where their product(s) does not function in a manner consistent with the bid specifications, it is permissible to take exception by clearly identifying the exception with a thorough written explanation, and a description of the advantages of the exception, if any.
6. Vendor shall include part numbers for each item bid on the Materials List, if applicable.
7. Vendor must include applicable Arkansas sales tax in total bid price.
8. Vendors shall respond to each and every item in the bid specifications and include part numbers for each items; failure to reply to specific items could result in rejection of the vendor's bid proposal.
9. Vendor must submit, as a part of their bid proposal, a copy of their standard contract.
10. To facilitate proposal evaluation and contract negotiation, the terms and conditions presented in the bid proposal, including price quotations, must remain in force for a period of at least sixty (60) days from the date of the bid deadline.

Pricing - Equipment/Materials List

Item No.	Description	Part No.	Qty.	Unit Price	Extended Price
1	0x32 KSU		1	\$ 400	\$ 400
2	MICS 6.1 Software		1	\$ 425	\$ 425
3	6-port Slim Fiber Card		1	\$ 375	\$ 375
4	0x16 Fiber Station Module		1	\$ 325	\$ 325
5	12x0 Fiber Trunk Module		4	\$ 295	\$ 1180
6	LS/DS Trunk Card		5	\$ 185	\$ 925
7	CLID Trunk Card		5	\$ 295	\$ 1475
8	Call Pilot 150 with 32 Mailboxes	includes line 9 & 10	1	\$ 2100	\$ 2100
9	Additional 20 Mailboxes	included line 8	1	\$ —	\$ —
10	Call Center Enabled	included line 8	1	\$ —	\$ —
11	T7316E Telephone Sets		23	\$ 121	\$ 2783
12	T7208 Telephone Sets		7	\$ 110	\$ 770
13	T7406 Cordless Telephone		1	\$ 395	\$ 395
14	24 Button KIM Add-on Module		2	\$ 175	\$ 350
15	Polycom ACU Conference Telephone		1	\$ 525	\$ 525
16	Triplite SMART 1500XL & BP36V27 UPS (or equiv.)		1	\$ 1025	\$ 1025
17	Power Strip		2	\$ 18	\$ 36
18	Shipping		1	195	\$ 195.00
19	Sales Tax		1	USE	\$ USE
20	TOTAL BIDDING PRICE				13,286.00

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 3
1 Nation Technology Contract for
a Telecommunications System
Page 6 of 6

21-Jun-05

City Council Meeting Date

Sharon Jenkins

Submitted By

Telecommunications

Division

Operations

Department

Action Required:

A resolution approving a bid award for the purchase of Norstar Telecommunications System from 1 Nation Technology in the amount of \$15,808.00. (Equipment is \$13,284.00; use tax is \$1,195.60; 10% contingency is \$1,328.40.)

\$15,808.00

Cost of this request

\$

1,631,832.00

Category/Project Budget

Water & Sewer Operations Building

Program Category / Project Name

5400-5600-5801-00

Account Number

\$

1,424,948.67

Funds Used to Date

Fixed Assets

Program / Project Category Name

98076-1

Project Number

\$

206,883.33

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

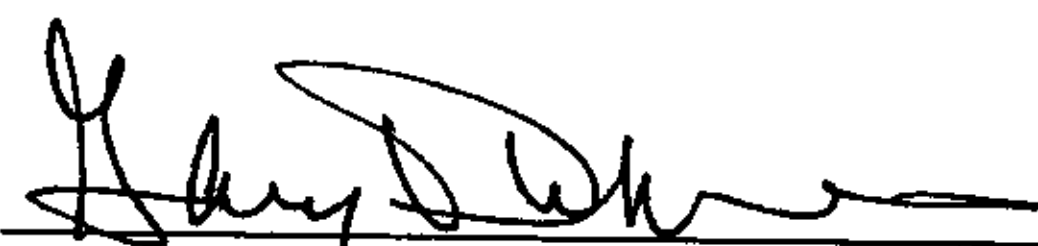
n/a

Original Contract Date:

n/a

Original Contract Number:

n/a



Department Director

6-1-05

Date



City Attorney

6/2/05

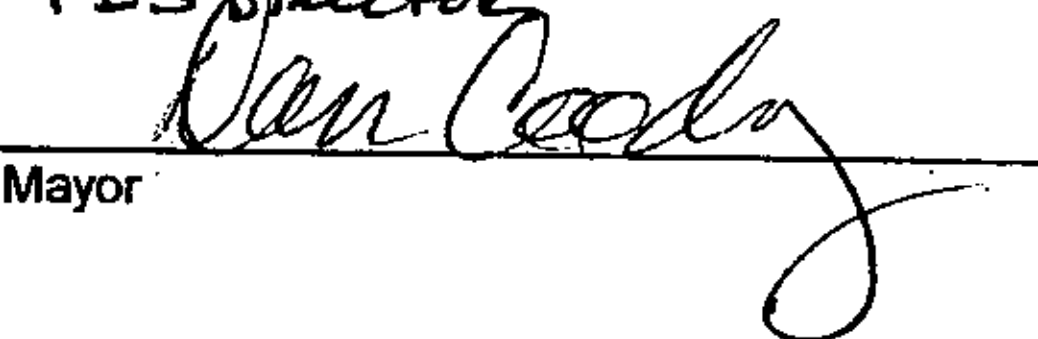
Date



FES Director

6-3-05

Mayor



6/4/05

Date

Received in City Clerk's Office

ENTERED
6-1-05

Received in Mayor's Office

ENTERED
6/2/05

Comments:



City Council Meeting Date: June 21, 2005

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: Mayor Coody and member of the City Council
From: Frank Johnson, Chief of Police *FJ*
Date: June 3, 2005
Subject: Approve Application and Accept Award of 2005 Justice Assistance Grant

Recommendation:

It is recommended the City Council approve the application in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the City of Springdale Police Department and \$16,887.00 for the Washington County Sheriff's Department for a total of \$84,435.00. Also approve the budget adjustment recognizing the revenue.

Background:

The City of Fayetteville Police Department has received a Local Law Enforcement Block grant since 1996. This grant, along with the Edward Byrne grant was combined and renamed Justice Assistance Grant (JAG). This year the grant was awarded to the three entities listed above with the City of Fayetteville acting as the lead agency.

Discussion:

The Fayetteville Police Department will utilize these funds to purchase laptop computers with docking port, internet protocol modems and in-car cameras to provide these systems in all marked police vehicles. The City of Springdale Police Department will purchase additional tasers and replacement radios for Police Officers. Washington County will purchase digital in-car video systems and the wireless interface with storage. The additional funds provided through this grant will greatly enhance each of these projects by allowing each agency to purchase more items than current funding will provide.

Budget Impact:

This is a non-matching grant therefore the budget impact is not a factor a budget adjustment is attached to recognize the revenue and expenditures.. The City of Fayetteville Police Department will follow City purchasing practices when purchasing the above items. The City of Springdale and Washington County will follow their purchasing practices.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE APPLICATION AND ACCEPT AN AWARD OF THE 2005 JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$41,373.00 FOR THE FAYETTEVILLE POLICE DEPARTMENT; \$26,175.00 FOR THE SPRINGDALE POLICE DEPARTMENT AND \$16,887.00 FOR THE WASHINGTON COUNTY SHERIFF'S DEPARTMENT AND TO APPROVE A BUDGET ADJUSTMENT FOR THOSE AMOUNTS

WHEREAS, the Fayetteville Police Department can receive \$41,373.00 as a Justice Assistance Grant for the purchase of laptop computers with docking ports, internet protocol modems and in-car cameras for all marked police cars.

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 application and accepts an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and \$16,887.00 for the Washington County Sheriff's Department and approves a budget adjustment for those amounts.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 4
2005 Justice Assistance Grant
Page 3 of 6

Budget Year 2005	Department: Police Division: Police Program: Patrol	Date Requested 6/3/2005	Adjustment Number
-------------------------	---	--------------------------------	-------------------

Project or Item Added/Increased:
Recognize revenue from the Justice Assistance Grant and allow the Police Department to purchase Laptop computers with docking ports and internet protocol modems for marked police units. Also transfer \$26,175.00 to Springdale and \$16,887.00 to Washington County sheriff.

Project or Item Deleted/Reduced:

Justification of this Increase:
This is an opportunity to receive non-matching grant funds for the purchase of equipment.

Justification of this Decrease:

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Minor equipment	1010	2940	5210	00	41,373	
#N/A	1010	6600	5737	00	26,175	
#N/A	1010	6600	5738	00	16,887	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Federal Grant-Operational	1010	0001	4309	01	84,435	

Approval Signatures

Requested By	Date
Budget Manager	Date
	6/3/05
Department Director	Date
	6/7/05
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			

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION		3. DATE RECEIVED BY STATE	State Application Identifier
Application Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name		Organizational Unit	
City of Fayetteville, Arkansas		Police Department	
Address		Name and telephone number of the person to be contacted on matters involving this application	
113 W. Mountain ST Fayetteville, Arkansas 72701-6069		Cohea, Judy (479) 587-3581	
6. EMPLOYER IDENTIFICATION NUMBER (EIN)		7. TYPE OF APPLICANT	
71-6018462		Municipal	
8. TYPE OF APPLICATION		9. NAME OF FEDERAL AGENCY	
New		Bureau of Justice Assistance	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT	
NUMBER: 16.738 CFDA EDWARD BYRNE MEMORIAL JUSTICE TITLE: ASSISTANCE GRANT PROGRAM		This is a three department grant. Washington County will utilize funds for mobile video in patrol cars, Springdale will utilize funds for additional Tasers assigned to officers and Fayetteville will purchase laptops and modems to be used in police cars to gain access to city, state and federal information.	
12. AREAS AFFECTED BY PROJECT			
Washington County which includes the cities of Fayetteville and Springdale Arkansas.			
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date: June 01, 2005 End Date: May 31, 2006		a. Applicant b. Project AR03	
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
Federal	\$84,435	This preapplication/application was made available to the state executive order 12372 process for review on 05/20/2005	
Applicant	\$0		
State	\$0		
Local	\$0		
Other	\$0		
Program Income	\$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
TOTAL	\$84,435	N	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.			

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

21-Jun-04
City Council Meeting Date

<u>Frank Johnson</u>	<u>Police</u>	<u>Police</u>
Submitted By	Division	Department

Action Required:

City council approve application and accept Justice Assistance Grant in the amount of \$84,435.00 of which the Fayetteville will utilize \$41,373.00. The City of Springdale will receive \$26,175.00 and Washington County Sheriff w receive \$26,175.00.

\$84,373.00	\$ 168,620.00	Materials and Supplies
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-2940-5210.00	\$ 111,431.00	Patrol
Account Number	Funds Used to Date	Program / Project Category Name
	\$ 57,189.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒

Frank Cohen 6/3/05
Department Director Date

[Signature] 6/6/05
City Attorney Date

[Signature] 6-7-05
Finance and Internal Service Director Date

[Signature] 6/7/05
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office

ENTERED
6/3/05

Received in Mayor's Office

ENTERED
6/6/05

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 5
New Holland Loader Purchase
Page 1 of 8

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent 
Date: June 3, 2005
Subject: Purchase of loader for Solid Waste from Williams Tractor

RECOMMENDATION: That City Council approve the purchase of one four wheel drive articulated loader with attachments for Solid Waste Division from Williams Tractor for the bid price of \$120,255 less trade-in on unit #648 of \$47,000, and approval of the attached Budget Adjustment to transfer funds for the upgrade and the attachments.

BACKGROUND: This is a replacement for unit #648, a 2001 New Holland four wheel drive articulated loader. A larger machine is needed for the Solid Waste compost site (the application for which #648 is used.) #648 has been plagued with overheating problems and substantial downtime for various repairs as it is not heavy duty enough for the demands placed on it in this application. With the opportunity to replace this machine and receive 70% of its original acquisition cost in trade, it is appropriate to upgrade at this time and purchase additional attachments to enhance productivity of the larger loader.

The 4.0 cubic yard light material bucket will nearly double the amount of mulch and compost handled per cycle versus the 2.25 yard 4 in 1 bucket specified with the loader for general utility and dirt work. The brush rake with grapple will more than double the amount of limbs and brush handled per cycle and will allow dirt to sift out before reaching the grinder. The loader is equipped with a quick change bucket mount that facilitates changing of bucket attachments in less than 5 minutes.

Funds for this purchase are available in 2005 Fleet Replacement Project 02076 – Backhoes and Loaders in the amount of \$35,594. Solid Waste grant funds for the upgrade \$21,349 and the attachments \$16,312 will be transferred to the Shop fund.

The purchase of this unit with attachments was approved by the Equipment Committee at the meeting of May 31, 2005.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF A MODEL LW130B NEW HOLLAND ARTICULATED LOADER WITH ATTACHMENTS IN THE AMOUNT OF \$120,255.00 FROM WILLIAMS TRACTOR, INC. FOR USE BY THE SOLID WASTE & RECYCLING DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$37,661.00.

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 purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$37,661.00.

PASSED and APPROVED this 21st day of June 2005.

APPROVED

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 5
New Holland Loader Purchase
Page 3 of 8

Budget Year 2005	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 6/3/2005	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased:

\$37,661 is requested in the Shop Fund account for the upgrade portion on the new loader and the purchase of two additional items, a 4.0 cubic yard light material bucket and a brush rake with grapple. \$21,349 for upgrade portion and \$16,312 for additional options

Project or Item Deleted/Reduced:

To recognize \$37,661 of revenue from state grants.

Justification of this Increase:

The ADEQ grants will allow the purchase of a larger loader with attachments and improve the composting operation.

Justification of this Decrease:

Grant funds will cover expense.

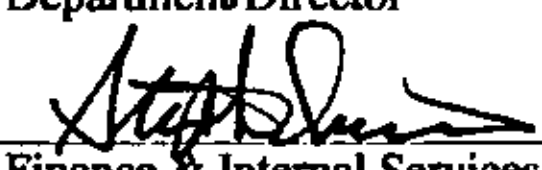
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Vehicles and equipment	9700	1920	5802	00	37,661	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Trans from Solid Waste	9700	0970	6602	50	37,661	

Approval Signatures

Requested By	Date
Budget Manager	Date
	6-3-05
Department Director	Date
	6-7-05
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			

BID TABULATION**BID NO. 05-36**A. 5
New Holland Loader Purchase
Page 4 of 8

	BIDDER Williams Tractor	BIDDER Scott Const. Equip.	BIDDER Riggs Tractor	BIDDER Hertz Equipment
Delivery Days	60	60	60	60
Delivery Specified	60	NP		

ITEM 1 FOUR WHEEL DRIVE ARTICULATED LOADER

			NO BID	NO BID
QUANTITY	1			
BRAND	New Holland	Case		
MODEL	LW130.B	621D		
BID AMT.	\$103,943.00	\$102,582.00		

ITEM 4 TRADE-IN ALLOWANCE UNIT #648

QUANTITY	1		
BRAND	New Holland	New Holland	
MODEL	LW110	LW110	
BID AMT.	-\$47,000.00	-\$40,000.00	
SUBTOTAL	\$56,943.00	\$62,582.00	

ITEM 2 4.0 CUBIC YARD LIGHT MATERIAL BUCKET

QUANTITY	1		
BRAND	JRB	ACS	
MODEL	416		
BID AMT.	\$6,333.00	\$7,080.00	

ITEM 3 BRUSH RAKE WITH HYDRAULIC GRAPPLE

QUANTITY	1		
BRAND	JRB	ACS	
MODEL	416		
BID AMT.	\$9,979.00	\$12,808.00	
TOTAL BID	\$73,255.00	\$82,470.00	



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Bobby Ferrell
Don Marr
Lioneld Jordan
Billy Sweetser

FROM: David Bragg, Fleet Operations Supt

DATE: May 23, 2005

SUBJECT: Solid Waste Loader Purchase

APPROVED
5/31
RRB

Bid #05-36 was opened on May 16, 2005 for one four wheel drive articulated loader for use by Solid Waste Division. Two bid responses and two "no bid" responses were received. A detailed tabulation sheet is attached.

The lowest bid from Williams Tractor Co. of Fayetteville meets all specifications and is commensurate with the budget numbers discussed at the last Equipment Committee meeting.

I recommend acceptance of the bid from Williams Tractor Co. in the amount of \$56,943 exercising the trade in option.

This is a replacement for unit # 648, a 2001 New Holland four wheel articulated loader. As discussed in our last meeting, a larger machine is needed for this application. Unit # 648 has been plagued with overheating problems as well as substantial downtime for various repairs. With the opportunity to replace this machine and receive 70% of its original acquisition cost in trade, it is appropriate to upgrade at this time and purchase additional attachments to enhance productivity of the larger loader.

Funds for this purchase are available in 2005 Fleet Replacement Project Account 02076 – Backhoes and Loaders (Replacement portion \$35,594) and Solid Waste grant funds (Upgrade portion \$21,349).

I also recommend purchase of optional items 2 and 3 from Williams Tractor Co. in the amount of \$16,312.

Item 2, the 4.0 cubic yard light material bucket, will essentially double the amount of mulch and compost handled per cycle versus the 2.25 yard 4 in 1 bucket specified with the loader for general utility and dirt work.

Item 3, the brush rake with grapple, will more than double the amount of limbs and brush handled per cycle and allow dirt to sift out before reaching the grinder. The loader is equipped with a quick change bucket mount that facilitates changing of bucket attachments in less than 5 minutes.

Funds for purchase of the optional attachments are available from Solid Waste grant funds.

Cc:
Gary Dumas

City Of Fayetteville (Not a Purchase Order)

Vendor #	11133	Vendor Name:	WILLIAMS TRACTOR	Requisition No.	Date:
Address:		Fob Point:		P.O Number	Expected Delivery Date:
City:		State:		Mail Yes: <u>XX</u> No: <u>XX</u>	6/3/2005
Zip Code		Ship to code:		Taxable Yes: <u>XX</u> No: <u>XX</u>	
Requester	BARBARA OLSEN	Requester's Employee #	1940	Division Head Approval	Quotes Attached
		Extension:	495	Yes: <u>XX</u> No: <u>XX</u>	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	LW130B NEW HOLLAND LOADER,	1	EA	\$120,255.00	\$120,255.00	9700.1920.5802.00	02076		
2	4 WHEEL DRIVE, ARTICULATED		EA		\$0.00				
3	TO BE UNIT #665, FIXED ASSET		EA		\$0.00				
4	#700665, PER BID 05-36		EA		\$0.00				
5	LESS TRADE IN ON #648	1	EA	-\$47,000.00	-\$47,000.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: 73,255.00

Tax: EXEMPT

Total: 73,255.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

21-Jun-05
City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

Action Required: Approval of purchase of one four wheel drive articulated loader with attachments for Solid Waste Division from Williams Tractor for the bid price of \$120,255 less trade-in on #648 of \$47,000 and approval of the attached Budget Adjustment to transfer funds for the upgrade and the attachments from Solid Waste.

\$120,255.00

Cost of this request

\$ 444,970.00

Category/Project Budget

Backhoes/Loaders

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 268,240.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02076.1

Project Number

\$ 176,730.00

Remaining Balance

Shop

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director

Date

Received in City Clerk's Office

Received in Mayor's Office

City Attorney

Date

Mayor

Date

Comments:

City Council Meeting of June 21, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Operations Director

From: Fire Management Team

Date: June 1, 2005

Subject: Resolution approving the application for the 2005 Assistance to Firefighters SAFER Grant Program.

RECOMMENDATION

The Fire Department recommends approval to apply for the 2005 Assistance to Firefighter Staffing for Adequate Fire and Emergency Response (SAFER) Grant Program in an effort to increase overall effectiveness. The SAFER Grant Program was created to provide funding directly to fire departments to help increase the number of firefighters. The goal is to enhance the ability of fire departments to attain 24-hour staffing and thus assure that their communities have adequate protection from fire and fire-related hazards.

BACKGROUND

In 2005, Congress appropriated \$65,000,000 to fund the grant program. This money is available to local fire departments. Priority will be given to communities facing growth issues that out-pace budgetary means. The Fayetteville Fire Department can show through past growth patterns, overtime costs, and future needs, that this grant program will help offset staffing concerns. This grant will allow the Fire Department to move toward attaining our goal of being able to assemble an effective firefighting force to handle two (2) moderate risk incidents simultaneously. A moderate risk incident is defined as the occurrence of an event/disaster that is an intermediate threat. These events pose a threat due to their inherent danger, but no major loss of life is expected. Significant community and/or individual economic impact may occur. An example of a moderate threat for our community is a working structural fire. Currently, the Fire Department's resources are 75% depleted when we have one (1) moderate risk event.

The Fire Department Deployment Study completed in 2003, identifies key projects that will provide enhanced fire protection for our community. Decision packages outlining the proposed improvements and their costs are explained in the study. Attached decision packages 1B through 4 that are proposed for implementation through 2009.

DISCUSSION

The funding for this grant program is spread out over a five (5) year period with the initial year's subsidy at 90%. The Fire Department will assume the total cost of the employees during the fifth year of this program. The Department is requesting to apply for eighteen (18) positions that will enhance operations, reduce overtime costs, and help us prepare for staffing of future stations.

BUDGET IMPACT

The actual budget impact for each year based on \$40,000 annual salary and benefits is as follows:

Year 1	\$72,000	Grant Subsidy 90%
Year 2	\$148, 000	Grant Subsidy 80%
Year 3	\$360,000	Grant Subsidy 50%
Year 4	\$504,000	Grant Subsidy 30%
Year 5	\$720,000	Grant Subsidy 0%

This opportunity to offset the city's funding for future staffing is a benefit to the community. The Fire Department's Deployment Study of 2003 identified the need for future fire stations. This study serves as the Fire Department's Strategic Plan for the next ten (10) years. The City's acquisition of the Tyson complex located at Huntsville Street and Happy Hollow provides the opportunity for the next expansion fire station. This grant will allow the Fire Department to hire and prepare staffing for this location, reduce overtime costs, and impact the budget in a positive manner. The Fire Management Team will continue to seek alternative funding sources for future growth of the department.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE FIRE DEPARTMENT TO APPLY FOR A STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT FOR \$1,800,000.00 TO OFFSET THE COST OF FUTURE STAFFING INCREASES.

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 Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (SAFER) grant for \$1,800,000.00 to offset the cost of future staffing increases.

PASSED and APPROVED this 21st day of June, 2005

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

Decision Package 1 B
Addition of Fire Station 3
Proposed Implementation 2006

Addition of Fire Station 3 (Engine 3 & Ladder 3) or (Quint 3)

Fire Station 3 is proposed for the southeast quadrant of the city. Over the last two years, the southeast area of the city has witnessed an increase in multi-story residential structures. Additionally, the Insurance Services Office's evaluation of the high-value industrial park located in this quadrant has been affected by inadequate ladder company coverage. In an effort to provide resources that allow for proper coverage of the target hazard groups in this quadrant, the Fire Department has identified the need for both an engine and a ladder/service company or a combination engine/ladder called a "quint".

The engine and ladder company will provide enhanced distribution and concentration of resource coverage for southeast, east, and south central areas of Fayetteville. An engine/ladder dual role unit called a quint can combine the personnel from two separate units into a single unit that can perform the necessary critical tasks. Operating a quint with a minimum staffing of five as opposed to eight for traditional engine and ladder companies allows this unit to perform both engine and ladder functions using a single apparatus. Any one of these vehicle and staffing options will enhance protection provided to this area of the city and have a positive effect on the response and concentration goals identified by the Fire Department.

Current Situation

Decision Package 1 A proposes relocating Fire Station 5 to a site north of its current location. This move would address crucial response issues in northeast Fayetteville, but would leave the southeast area with inadequate coverage. Currently, Engine 5 exceeds the total response time of 6 minutes on 43% of its calls. Those calls are split between areas north and south of the current fire station location. In researching the need for Fire Station 3, it was identified that 53% of Engine 5's calls, with a response time of ≥ 6 minutes, occurred in the proposed Fire Station 3 response area. This geographic concentration emphasizes the need to locate a Fire Unit in the southeast area of the community.

Construction of large apartment complexes, multi-story residential structures, and continued development of southeast and east Fayetteville continues to challenge the Department's ability to meet the community's service needs in this area. In order for the Department to assemble an effective response force in within 10 minutes for structure fires or meet the goal of 6 minute response times to 90% of emergency responses it will be necessary to place a combination unit in this area. The Fire Department believes the use of a Quint in this location will effectively meet the needs of the community while remaining fiscally responsible.

Recommendation

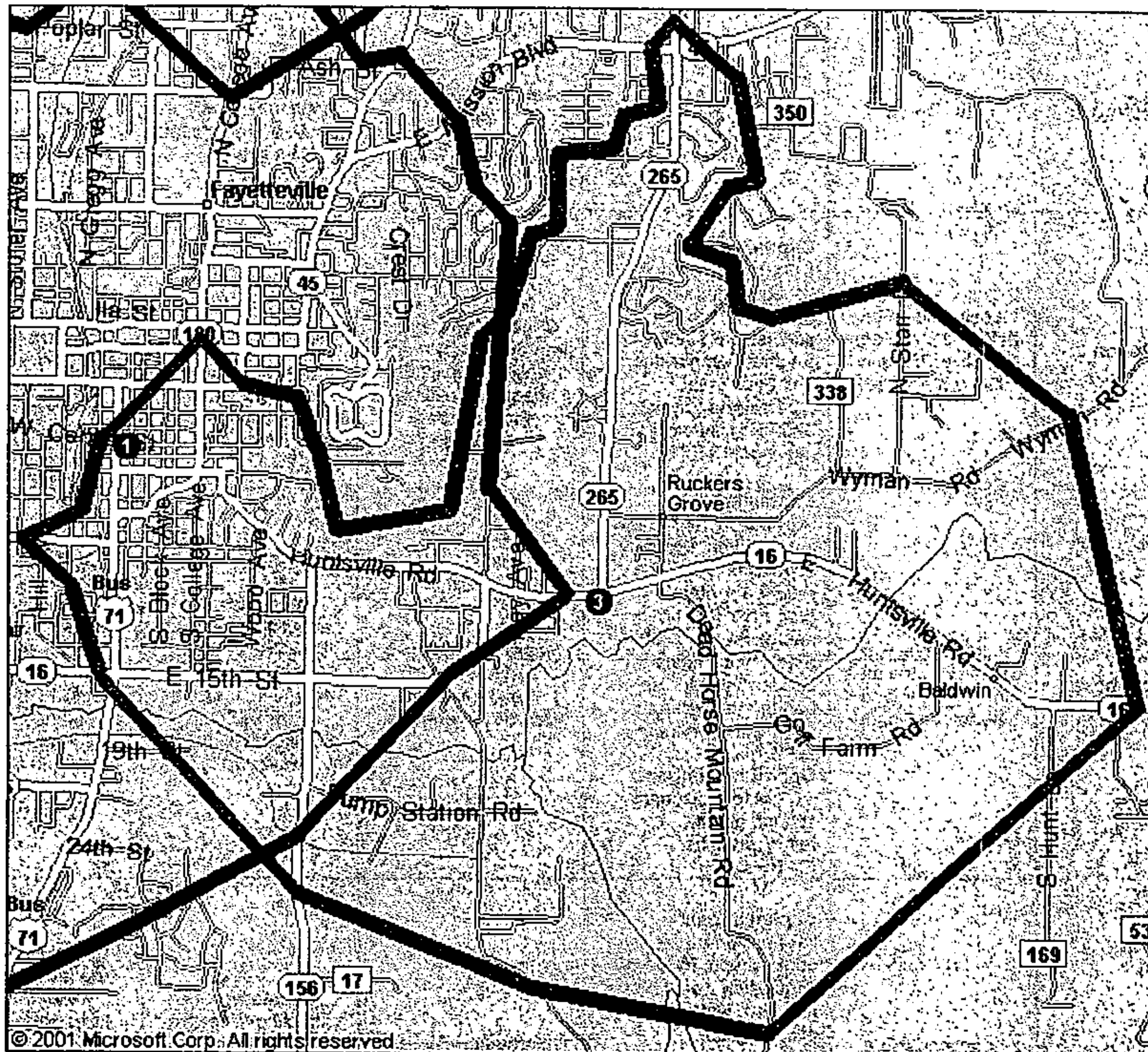
The fire department recommends option 3 or option 4 to provide adequate services in the east, southeast, and southern areas of the city. (*Guiding Principle #'s 2,4,5,& 10*)

Decision Matrix Addition Fire Station 3 (Apparatus & Staffing)

Decision Options	Actions	Fiscal Impact	Service Impact	Risk Potential	Additional Factors
Option 1.	No Change	None	Extended Response Times	Increased risk potential as City continues growth in South and Southeast Fayetteville	This area is experiencing moderate growth in conjunction with extended response times for fire, ems and rescue services.
Option 2.	Locate new Fire Station 3 in the area of Hwy. 265 and Huntsville Road.	Capital Impact: \$1.4 million for facility construction. \$100 - \$200 K for property acquisition. \$396 K for Engine 3" apparatus and equipment. Operations Impact: \$750 K for additional staffing. (15 FF's)	Improved response times to South, Southeast and Central Fayetteville. Improve Department's ability to maintain adequate coverage for secondary response.	Increased risk affecting "Effective Response Force" response. Decreased risk potential for growth areas in South, Southeast and East Fayetteville.	The addition of the facility will allow the Department to provide more efficient and effective fire, ems and rescue services to citizens in South and Southeast Fayetteville.
Option 3.	Locate new Fire Station 3 in the area of Hwy. 265 and Huntsville Road.	Capital Impact: \$1.4 million for facility construction. Property acquisition would be required. Potential property cost approximately \$200 K. \$396 K for Engine 3. Ladder 3 would use Ladder 1's apparatus after replacement in 2007. Operations Impact: \$1.2 M for additional staffing of both response units. (24 FF's)	Improved response times to South, Southeast and Central Fayetteville.	Decreased risk affecting "Effective Response Force". Decreased risk potential for growth areas in South, Southeast and East Fayetteville.	The addition of the facility will allow the Department to provide more efficient and effective fire, ems and rescue services to citizens in South and Southeast Fayetteville.
Option 4.	Locate new Fire Station 3 in the area of Hwy. 265 and Huntsville Road.	Capital Impact: \$1.4 million for facility construction. Property acquisition would be required. Potential property cost approximately- \$200 K. No additional apparatus costs. Quint 3 would use Lad. 1's apparatus after replacement in 2007 Operations Impact: \$900 K for additional staffing of Quint 3. (18 FF's)	Improved response times to South, Southeast and Central Fayetteville.	Decreased risk affecting "Effective Response Force". Decreased risk potential for growth areas in South, Southeast and East Fayetteville.	The addition of the facility will allow the Department to provide more efficient and effective fire, ems and rescue services to citizens in South and Southeast Fayetteville.

Source: Fayetteville Fire Department, 2003

**Map # 4 - ISO 2.5 Mile Ladder Company Response Zone
After Addition of Ladder 3 or Quint 3**



Source: Fayetteville Fire Department, 2003

Performance Projections

2003	1999-2003	In Progress	Decision Package 1	
Deployment Plan Goal	5 Year Avg.	Addition of FS 7	Simultaneous Relocation of FS 5 & Addition of FS 3	Maintaining the status quo
		2004	2006	
The first due company will respond to 90% of emergency calls for assistance within a Total Response Time of 6 minutes.	78.75%	82%	86%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
The initial attack company will arrive at the fire scene within 6 minutes Total Response Time to 90% of structural fire calls.	79.51%	82%	86%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
A minimum of 16 personnel will be assembled on the fire scene within a 10 minute Total Response Time to 90% of structural fire calls.	40.00%	45%	60%	As Call Volume increase, a decline will be observed in the ability to attain the response goals

Source: Fayetteville Fire Department, 2003

DECISION PACKAGE #1

PART B			
Build FS #3			
<u>ADDITIONAL OPERATING EXPENSES:</u>		<u>Engine & Ladder 3</u>	<u>Quint 3</u>
Number of New Positions	24		18
Total Personnel Services Increase:		1,069,536	802,152
Total Material & Supplies Increase:		55,992	41,994
Total Services & Charges Increase:		75,456	56,594
Total Maintenance Increase:		5,000	3,000
Total Operating Expenses Increase:		1,205,984	903,738
<u>ADDITIONAL CAPITAL:</u>			
Land		200,000	200,000
Apparatus		395,500	0
Station Construction		1,300,000	1,300,000
Total Capital Expenditure Increase:		1,895,500	1,500,000
NET INCREASE/<DECREASE> IN TOTAL COSTS:		3,101,484	2,403,738
<u>Additional Information</u>		-L1(scheduled replacement 2007) to move to L3	-L1 (scheduled replacement 2007) to move to Quint 3
		-E3 Already in proposed purchase plan for apparatus	

*** All costs are based on 2004 estimates***

Decision Package 2
Addition of Engine 8
Proposed Implementation 2007

Addition of Engine 8

As Engine 1 continues to approach the threshold of 10% missed calls, the addition of an engine company to split the calls in the district is imminent. Adding an additional unit at Fire Station 1 will provide two distinct benefits to the community: First, it will dramatically reduce the number of missed assignments which result in call queuing; Second, it will add a company to the department's overall resources to enhance the agency's ability to meet its concentration goals.

Current Situation

Engine 1 is currently experiencing a high level of missed responses because of its current call volume. When Engine 1 responds to a call and another call is received in its primary response district it is necessary for other Engine units to respond. This creates the expansion of all response areas and in turn extends response times throughout the system, which causes Citizens to wait longer for the delivery of critical emergency services. All units in the system are currently at a moderately high call queuing percentage (at or above 5%), which results in multiple occurrences of units responding outside their primary response areas.

It is becoming evident that an additional unit will be needed in order to assure that the current response goals can be met in the near future.

Recommendation

The Fayetteville Fire Department recommends option #2 to enhance the quality of service to the community. (*Guiding Principle #'s 2,4,5,&10*)

Decision Matrix Addition of Engine 8

Decision Options	Actions	Fiscal Impact	Service Impact	Risk Potential	Additional Factors
Option 1.	No Change	None	Increase number of missed calls in Engine 1's area.	Increased risk in the number of calls that require extended response and waiting times.	This area is experiencing a rapid increase of call volume and additionally has missed calls and extended response times.
Option 2.	Add Engine 8 at Fire Station 1	Capital Impact: \$396 K for apparatus and equipment. Operations Impact: \$750 K for additional staffing of Engine 8 (15 FF's)	Reduce the amount of missed calls and improve total response times in south Fayetteville.	Decreased risk potential to south Fayetteville.	Improvement of the overall concentration of companies in the city to enhance the ISO rating. Citizen and firefighter safety would be improved.

DECISION PACKAGE #2

Operate Engine #8

ADDITIONAL OPERATING EXPENSES:

Total Personnel Services Increase:	15	668,460
Total Material & Supplies Increase:		34,995
Total Services & Charges Increase:		47,160
Total Maintenance Increase:		2,000
Total Operating Expenses Increase:		752,615

ADDITIONAL CAPITAL:

Land	
Apparatus	395,500
Station Construction	
Total Capital Expenditure Increase:	395,500

NET INCREASE/<DECREASE> IN TOTAL COSTS: **1,148,115**

Additional Information

-E8 Already in
proposed purchase
plan for apparatus

*** All costs are based on 2004 estimates***

Decision Package 3 **Addition of Ladder/Rescue 7** **Proposed Implementation 2008**

Addition of Ladder/Rescue 7

A "Ladder Rescue Unit" is a staffed response unit that carries ground ladders, rescue and ventilation tools and personnel. A Ladder Rescue unit carries equipment and personnel without the hydraulic elevating ladder found on a traditional ladder company. This type of unit is used predominantly in residential areas where hydraulic elevating ladders are not commonly used.

The critical emergency response tasks performed by this unit and its crew are split into those tasked designed for engine companies and those tasks designed for ladder units with specialized tools and techniques. This deployment study has identified the need for a ladder rescue company to cover west Fayetteville.

Current Situation

Currently, the city is protected by only two ladder companies. Because of the demands placed on these units it is not unusual for response times to be as long as 20 minutes for the second arriving ladder unit. For the department to achieve its effective response force goal (i.e., all units arriving on scene within 10 minutes in at least 90% of all emergency incidents) an additional service company is required to reduce the total response time. With the addition of Ladder/Rescue 7, the city can be divided into four quadrants resulting in quicker total response times to emergencies involving fires, hazardous materials incidents, vehicle and industrial extrication, and technical rescues. Implementation of this type of unit will also reduce the wear and tear on existing ladder trucks and subsequently extend the life expectancy of these expensive units.

Recommendation

The fire department recommends option 2, which is a ladder/rescue unit with staffing, to improve the capabilities in the west and northwest sections of the city. (*Guiding Principle #'s 2, 4, & 10*)

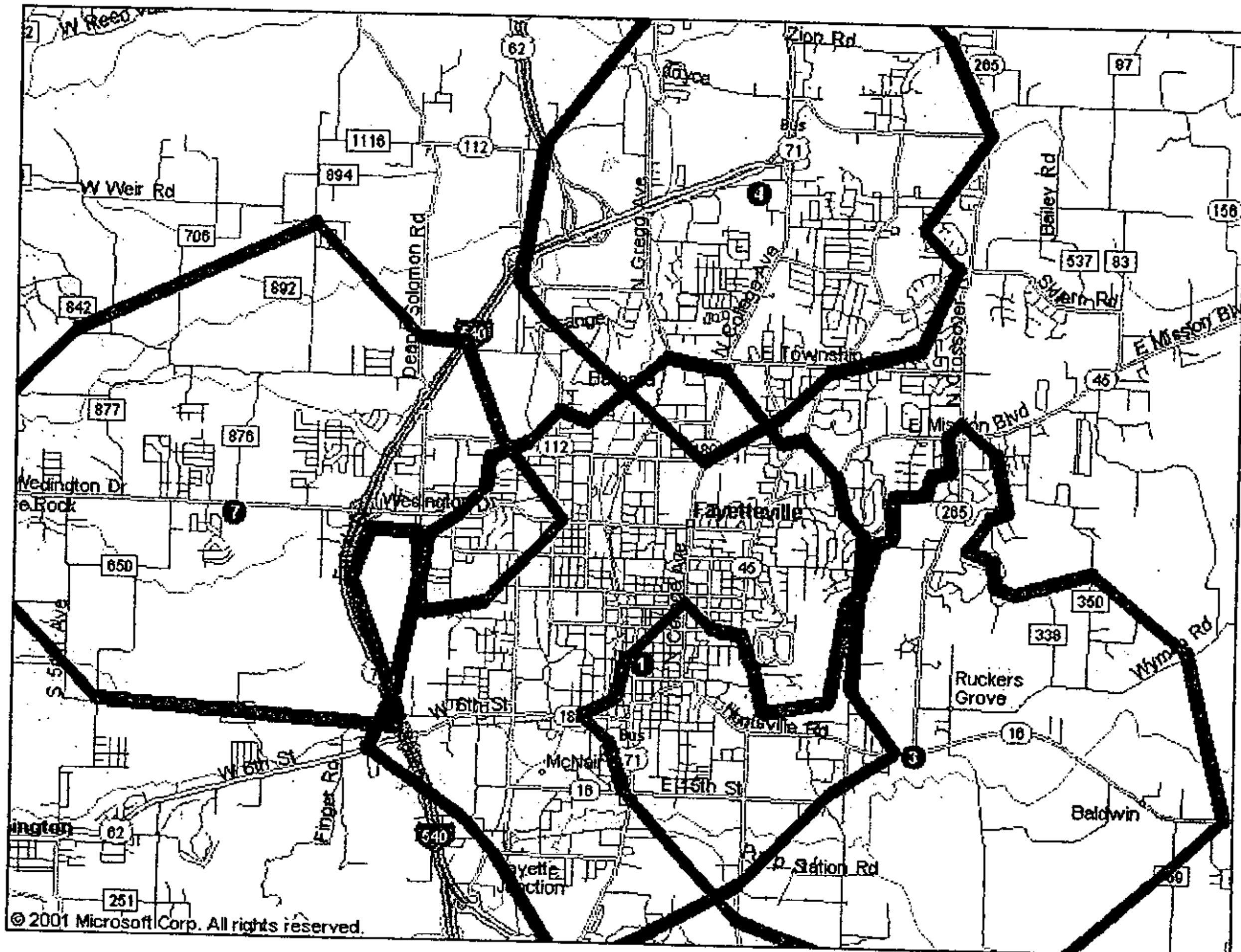
Decision Matrix Ladder/Rescue 7

Decision Options	Actions	Fiscal Impact	Service Impact	Risk Potential	Additional Factors
Option 1.	No Change	None	Extended Response Times	Increased risk affecting "Effective Response Force" response. Increased risk potential as City continues growth in West and Northwest Fayetteville	This area is experiencing rapid growth and currently has extended response times for Ladder/Service Companies.
Option 2.	Locate Ladder/Rescue 7 at Fire Station 7	Capital Impact: \$500 K for apparatus and equipment. Operations Impact: \$750 K for additional staffing. (15 FF's)	Improved response times to West, Northwest and Central Fayetteville. Improve Department's ability to maintain adequate concentration coverage.	Decreased risk potential for growth areas in West and Northwest Fayetteville.	The addition of the company will allow the Department to provide more efficient and effective fire, ems and rescue services to citizens in West and Northwest Fayetteville.
Option 3.	Locate a traditional Ladder Company at Fire Station 7	Capital Impact: \$950 K for apparatus and equipment. Operations Impact: \$750 K for additional staffing. (15 FF's)	Improved response times to West, Northwest and Central Fayetteville. Improve Department's ability to maintain adequate concentration coverage.	Decreased risk potential for growth areas in West and Northwest Fayetteville.	The addition of the company will allow the Department to provide more efficient and effective fire, ems and rescue services to citizens in West and Northwest Fayetteville.

Performance Projections

2003	1999-2003	In Progress	Decision Package 1	Decision Package 2	Decision Package 3	
Deployment Plan Goal	5 Year Avg	Addition of FS 7	Simultaneous Relocation of FS 5 & Addition of FS 3	Place Engine 8 in service at FS 1	Addition of Service Company	Maintaining the status quo
		2004	2006	2007	2008	
The first due company will respond to 90% of emergency calls for assistance within a Total Response Time of 6 minutes.	78.75%	82%	86%	88%	88%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
The initial attack company will arrive at the fire scene within 6 minutes Total Response Time to 90% of structural fire calls.	79.51%	82%	86%	88%	88%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
A minimum of 16 personnel will be assembled on the fire scene within a 10 minute Total Response Time to 90% of structural fire calls.	40.00%	45%	60%	70%	85%	As Call Volume increase, a decline will be observed in the ability to attain the response goals

Source: Fayetteville Fire Department, 2003



This map shows the response zones for current Ladder 1 & 4 (red) and the proposed response zones for Ladder/Rescue 7 & Quint/Ladder 3 (blue).

DECISION PACKAGE #3

	Addition of Ladder/Rescue Unit #7
<u>ADDITIONAL OPERATING EXPENSES:</u>	
Total Personnel Services Increase:	668,460
Total Material & Supplies Increase:	34,995
Total Services & Charges Increase:	47,160
Total Maintenance Increase:	2,000
Total Operating Expenses Increase:	<u>752,615</u>
<u>ADDITIONAL CAPITAL:</u>	
Land	
Apparatus	500,000
Station Construction	
Total Capital Expenditure Increase:	<u>500,000</u>
NET INCREASE/<DECREASE> IN TOTAL COSTS:	<u>1,252,615</u>

Additional Information

-Not included in
proposed
purchase plan for
apparatus

*** All costs are based on 2004 estimates***

Decision Package 4
Relocation of Fire Station 2
Proposed Implementation 2009

Relocation of Fire Station #2

Fire Station 2, located on Garland Avenue near Eagle Street, was built in 1967 after the University of Arkansas reclaimed the previous facility which was constructed at a location the University's campus. When the current Fire Station 2 was constructed, its location was consistent with the population trends and building concentration; however, this facility was built to accommodate minimum staffing levels of two fire fighters per shift. At this time, the Fire Department's current minimum staffing levels are set at 3 fire fighters per unit per shift, which creates difficulty in a facility designed for two fire fighters. At this time, Fire Station 2 is undersized and will not allow for additional growth or expansion of service delivery due to these tight living quarters.

Current Situation

As part of the Insurance Services Office's evaluation of Fayetteville, the distribution of fire stations is a primary factor related to the overall class rating. The response areas for Fire Stations 1 and 2 currently overlap, exaggerating the discrepancy between the city's needs and the outdated placement of these facilities.

The proposed relocation of Fire Station #2 would place it within a significant density area between the current location of Fire Stations 2 and 4. Relocating Fire Station 2 will provide enhanced coverage to an area of the City that has experienced elevated response times and increased call volume while maintaining Engine 2's ability to assist units from Fire Stations 1 and 4 more effectively. Further, by relocating Fire Station 2 the City will see a direct benefit in its Insurance Services Office's distribution factor and grading schedule. This will help in the process of improving the current ISO rating for the City as we strive to move from a "Class 4" to a "Class 3".

Recommendations

The Fire Department recommends option #2, relocating Fire Station 2 to a potential location of north Leverett at the University Farms. (*Guiding Principle #s 2, 4, & 10*)

Decision Matrix Relocation of Fire Station #2

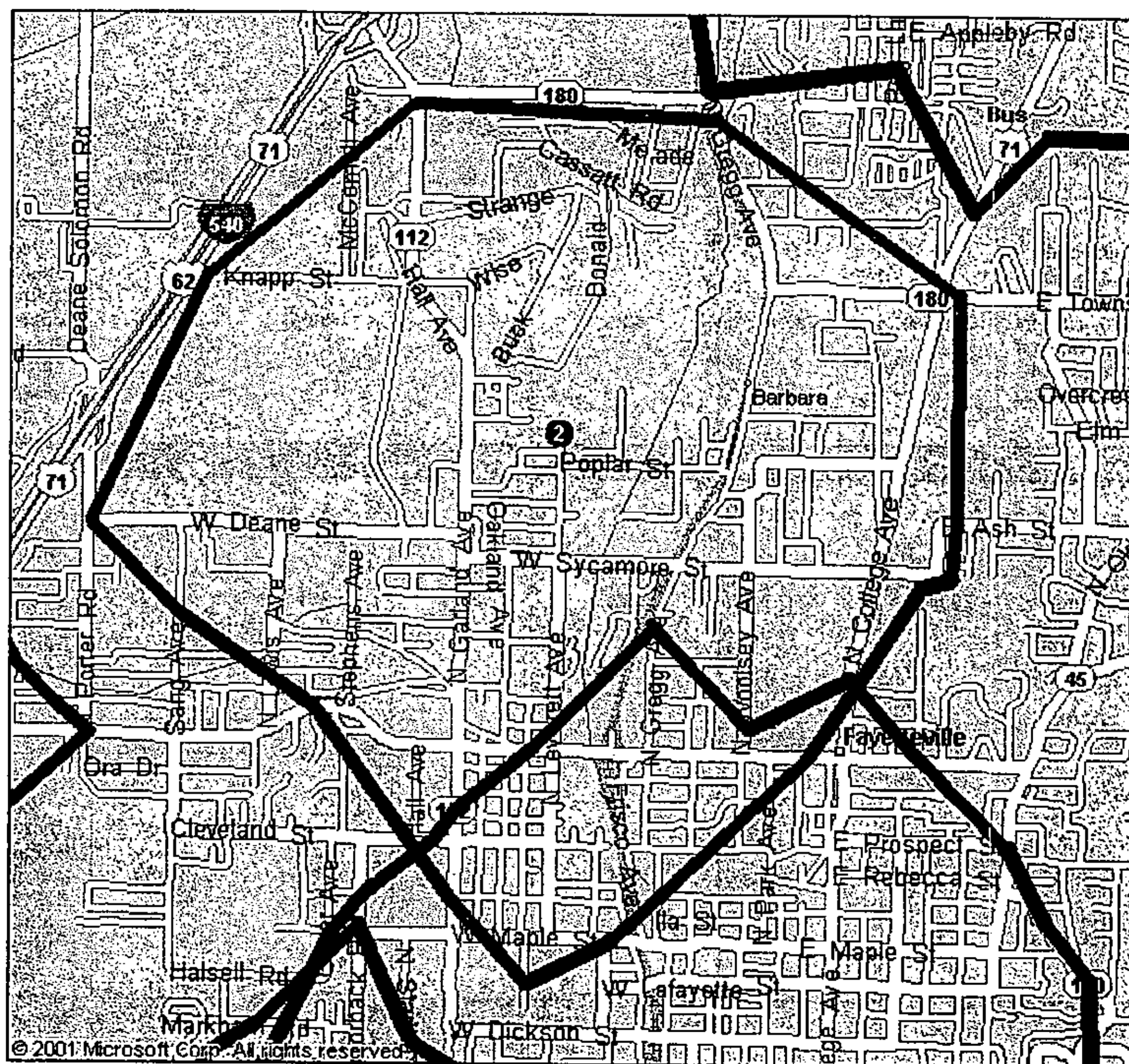
Decision Options	Actions	Fiscal Impact	Service Impact	Risk Potential	Additional Factors
Option 1.	No Change	Increased maintenance costs to an aging facility.	Decreased benefit in distribution of companies under ISO's grading schedule. Extended response times to the northwest section of the city.	Increased risk potential as the city continues to grow to the northwest.	This area is experiencing rapid growth and currently has extended response times.
Option 2.	Relocation of Fire Station 2 to the area of north Leverett and UofA Farms.	Capital Impact: \$1.3 M for facility construction. 300k for property acquisition. No additional expense for apparatus or equipment. Operational Impact: None.	Improved response times in north-central and northwest Fayetteville.	Decreased risk potential in critical growth areas in northwest Fayetteville.	This will increase our company distribution and may enhance the ISO fire class rating.

Performance Projections

2003	1999-2003	In Progress	Decision Package 1	Decision Package 2	Decision Package 3	Decision Package 4	
Deployment Plan Goal	5 Year Avg	Addition of FS 7	Simultaneous Relocation of FS 5 & Addition of FS 3	Place Engine 8 in service at FS 1	Addition of Service Company	Relocation of FS 2	Maintaining the status quo
		2004	2006	2007	2008	2009	
The first due company will respond to 90% of emergency calls for assistance within a Total Response Time of 6 minutes.	78.75%	82%	86%	88%	88%	90%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
The initial attack company will arrive at the fire scene within 6 minutes Total Response Time to 90% of structural fire calls.	79.51%	82%	86%	88%	88%	90%	As Call Volume increase, a decline will be observed in the ability to attain the response goals
A minimum of 16 personnel will be assembled on the fire scene within a 10 minute Total Response Time to 90% of structural fire calls.	40.00%	45%	60%	70%	85%	90%	As Call Volume increase, a decline will be observed in the ability to attain the response goals

Source: Fayetteville Fire Department, 2003

**Map #6 - ISO 1.5 Mile Response Zone
after the Relocation of Fire Station 2**



Map Source: Fayetteville Fire Department, 2003

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

A. 6
Staffing for Adequate Fire &
Emergency Response Grant
Page 22 of 22

6/21/2005

City Council Meeting Date

Fire Management Team
Submitted By

Fire
Division

Operations
Department

Action Required:

A resolution to approve the Fire Department to apply for the 2005 Assistance to Firefighters Grant Program under SAFER (Staffing for Adequate Fire and Emergency Response) in the amount of \$1,800,000.

\$1,800,000

Cost of this request

1010.3020.5101.00

Account Number

Project Number

\$5,583,859

Category/Project Budget

\$2,148,940

Funds Used to Date

\$3,434,919

Remaining Balance

SAFER Act - New Hires

Program Category / Project Name

Personnel Services

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Date

Received in City Clerk's Office

Received in Mayor's Office

ENTERED
6/6/05

ENTERED
6-3-05

Comments: This grant is to cover personnel services costs for 18 additional firefighter positions for a period of 5 years.

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor Dan Coody and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer

From: Matt Casey, Assistant City Engineer *MC*

Date: June 2, 2005

Subject: Van Asche Boulevard
Engineering Contract

RECOMMENDATION

Staff recommends approval of the Contract with Garver Engineers, in the amount of \$225,200.00 to provide surveying, engineering design and bidding services for the Van Asche Boulevard Extension project. This project is the extension of Van Asche Boulevard approximately 1,600 feet from Gregg Avenue to the existing street located in the CMN Business Park.

BACKGROUND

The Preliminary Plat of the CMN Business Park II, Phase I was approved by City Council on October 6, 1998. The developer (Nanchar, Inc. and MSB Properties, LLC) agreed at that time that once 75% of the development had been sold to private developers that: "The Developer shall construct at the Developer's expense, two of the four lanes for the Steele and Van Asche Boulevards."

On February 15, 2005, the City Council passed a resolution approving a supplemental agreement for cost share of early construction of Van Asche Boulevard. This agreement allows the City to proceed with the design and construction of the street extension. The agreement requires that the Developer reimburse the City for 50% of the engineering and construction costs once 75% of the development has been sold or within five years whichever is earlier.

On February 25, 2005, the engineering selection committee selected Garver Engineers as the consultant for this project.

DISCUSSION

Garver Engineers has worked with the City's Engineering Division to develop a contract with a scope of work that covers the items necessary for the design and bidding of this project. The scope includes the design of the roadway, storm sewer, the bridge over Scull Creek and a study of Scull Creek from Mud Creek to the Fulbright Expressway. It is anticipated that the design will begin in the third quarter of 2005 and be completed in the first quarter of 2006 with construction also starting in the first quarter of 2006.

BUDGET IMPACT

Van Asche Boulevard (Project # 05027) will be charged the \$225,200.00 required for this project. On February 15, 2005, the City Council approved a budget adjustment in the amount of \$1,982,788.00 to provide the funds for this project.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT IN THE AMOUNT OF \$225,200.00 TO GARVER ENGINEERS FOR ENGINEERING, SURVEYING AND BIDDING SERVICES FOR THE VAN ASCHE BOULEVARD EXTENSION 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 awards a contract the an amount of \$225,200.00 to Garver Engineers for engineering surveying and bidding services for the Van Asche Boulevard Extension Project. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

City Of Fayetteville

(Not a Purchase Order)

Contract #	52650	Vendor Name:	Garver Engineers, LLC	Requisition No.:		Date:	6/21/2005
Address:	3810 Front Street, Suite 10	City:	Fayetteville	State:	AR	P.O Number:	
Requester:	Requester's Employee #:	2119	Zip Code:	72703	Ship to code:	90	Expected Delivery Date:
Requester:	Requester's Employee #:	2119	Extension:	429	Division Head Approval:	<i>[Signature]</i>	
Requester:	Requester's Employee #:	2119	Project/Subproject #	05027	Inventory #		

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Van Asche Boulevard Engineering Contract				\$225,200.00		05027		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal:	\$225,200.00
Tax:	
Total:	\$225,200.00

Approvals:

Mayor: _____ Department Director: _____

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ IT Manager: _____

Utilities Manager: _____ Other: _____

RESOLUTION NO. 34-05

A RESOLUTION TO APPROVE A SUPPLEMENTAL AGREEMENT FOR COST SHARE OF EARLY CONSTRUCTION OF VAN ASCHE BOULEVARD WITH NANCHAR, INC., AND MSB PROPERTIES LLC AND TO APPROVE A BUDGET ADJUSTMENT OF \$1,982,788.00

WHEREAS, the owners/developers of the CMN Business Park (NANCHAR, Inc. and MSB Properties LLC) agreed On October 6, 1998 pursuant to the City Council approval of the Preliminary Plat of CMN Business Park II, Phase I, that once 75% of the CMN Business Park II, Phase I had been sold to private developers that: "The Developer shall construct at the Developer's expense, two of the proposed four lanes for the Steele and Van Asche Boulevards. If the City Council is unable, or unwilling to participate in the cost-share for the construction of any street or bridge that the Developer, at the Developer's expense provide a minimum 36 ft. street for all sections of Steele, Van Asche and the Bridge"; and

WHEREAS, the City of Fayetteville and NANCHAR, Inc. and MSB Properties LLC agree that Van Asche should be built as soon as possible and that the developers/owners will reimburse the City for their agreed cost share of its construction as soon as 75% of the land in CMN Business Park II, Phase I is sold or within five (5) years of the completion of Van Asche (whichever is sooner); and

WHEREAS, the cost estimate of construction of Van Asche as agreed with all sidewalks, bridges, turnouts and intersections is \$1,770,348.00 and the cost of engineering, inspection and construction management is estimated to be \$212,440.00. Thus, the total estimated cost for this project is \$1,982,788.00.

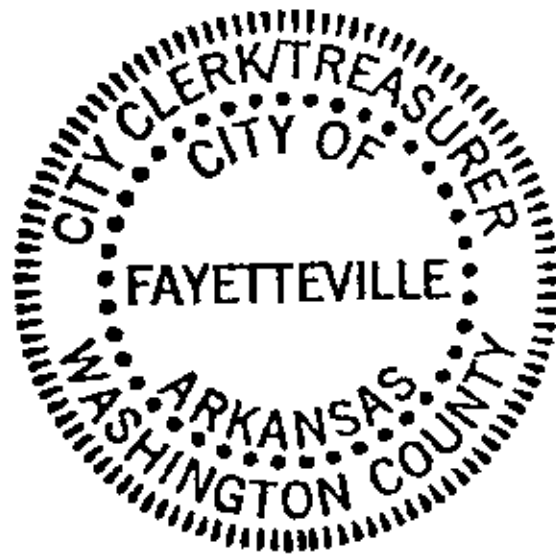
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Supplemental Agreement for Cost Share Of Early Construction of Van Asche Boulevard with NANCHAR, Inc. and MSB Properties LLC. (Attached as Exhibit 1)



Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached budget adjustment of \$1,982,788.00 as estimated engineering and construction costs for the Van Asche Boulevard Project east of Gregg Avenue.

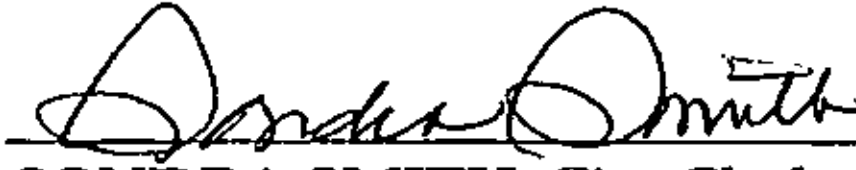
PASSED and APPROVED this 15th day of February, 2005.



APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk

SUPPLEMENTAL AGREEMENT FOR COST SHARE OF EARLY CONSTRUCTION OF VAN ASCHE BOULEVARD

The City of Fayetteville and the owners/developers of CMN Business Park NANCHAR, INC. and MSB PROPERTIES LLC (hereinafter referred to as "CMN Properties") agree as follows:

WHEREAS, CMN Properties agreed on October 6, 1998 pursuant to the City Council approval of the Preliminary Plat of CMN Business Park II, Phase I, that once 75% of the CMN Business Park II, Phase I had been sold to private developers that: "The Developer shall construct at the Developer's expense, two of the proposed four lanes for the Steele and Van Asche Boulevards. If the City Council is unable, or unwilling to participate in the cost-share for the construction of any street or bridge that the Developer, at the Developer's expense provide a minimum 36 ft. street for all sections of Steele, Van Asche and the Bridge." "At 75% sale of property (Phase I), Boulevard connection from Van Asche west to Gregg Avenue shall be made. At the time that Van Asche is extended to Gregg Avenue, the normal process of right-of-way and easement dedications shall be made and depicted on the final plat of Phase III. And 50/50 cost sharing with the City shall be the same as with Steele and Van Asche Boulevards in Phase I."

WHEREAS, CMN Properties agrees that Van Asche west to Gregg Avenue ("Van Asche Boulevard") should be built as soon as possible and that they will reimburse the City for their agreed cost share of its engineering and construction as soon as 75% of the land in CMN Business Park II, Phase I is sold or within five (5) years of the date that the construction contract for Van Asche Boulevard is entered into by all parties (whichever is sooner); and

WHEREAS, the cost estimate of construction of Van Asche Boulevard, with all sidewalks, bridges, turnouts and intersection sis **\$1,770,348.00** and the cost of engineering, inspection and construction management is estimated to be **\$212,440.00**. Thus, the total estimated cost for this project is **\$1,982,788.00**.

NOW, THEREFORE, in consideration of the above premises and the mutual promises stated below, the City of Fayetteville and NANCHAR, Inc. and MSB Properties, LLC agree as follows:

1. The City of Fayetteville shall promptly effect the engineering and construction of Van Asche Boulevard as shown on the Final Plat of CMN Business Park II as further delineated on Exhibit "A" to this agreement. Both the



City of Fayetteville and CMN Properties must agree in writing to the Engineering Contract and later to the Construction Contract to engineer and then to build Van Asche Boulevard before those contracts will become effective.

2. The City will provide copies of bids received for the Construction Contract to CMN Properties for review and evaluation prior to acceptance, as well as engineering contracts to any outside engineering firms. CMN reserves the right to reject any and all bids if such are determined to be priced higher than commercially reasonable rates. The City also agrees to provide copies of reports of construction progress and change orders as CMN Properties may request, and a final accounting of the Total Costs for approval, prior to the required date of reimbursement.

3. The City, through the retained engineering firm (paid jointly by both parties), shall be responsible for supervising the bid process, all engineering, inspection and construction management, and all construction of Van Asche Boulevard, and for ensuring the work is performed to City standards.

4. CMN Properties shall reimburse the City of Fayetteville pursuant to the requirements of the 2001 Final Plat for its cost share. The City of Fayetteville and CMN Properties agree that all land necessary for Van Asche Boulevard (110 foot wide right-of-way), intersections, etc. has been or shall be dedicated to the City without charge and that the total costs for engineering, inspection, construction management and construction shall be shared equally between the City and CMN Properties.

5. CMN Properties' 50% share of the project's total cost shall inflate at 3% per year, from the date the Construction Contracts are entered into by all parties until the Developers pay the City their 50% cost share.

6. CMN Properties shall pay their reimbursable cost share amount as soon as 75% of CMN Business Park II, Phase I has been sold or within five years of the date of the Construction Contract is entered into by all parties, whichever is earlier. CMN Properties have the right to pay their 50% cost share at any time earlier than required.

7. The Large Scale Development and Final Plat of CMN Business Park II, Phase I, approved in 2001 and Exhibit "A" shall be considered a part of this Supplemental Agreement.

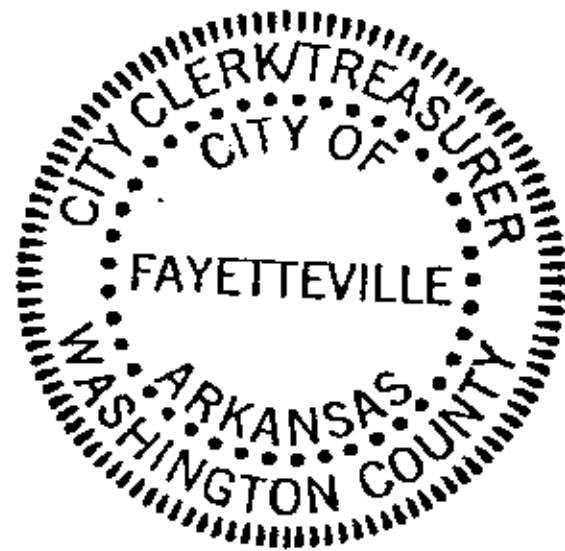
8. If either party does not agree to the Construction Contract for Van Asche Boulevard by May 1, 2006, this Supplemental Agreement For Cost Share Of Early Construction Of Van Asche Boulevard is terminated, null and void, except that CMN Properties shall immediately pay one-half of the costs of the approved engineering contract incurred by the City up to that point.

In Agreement With All The Terms And Conditions Above And In Witness Whereof the parties hereto have set their hands and seals this 15th day of February, 2005.

CITY OF FAYETTEVILLE

By: *Dan Coody*
DAN COODY
Mayor

Attest: *Sandra Smith*
Sandra Smith, City Clerk

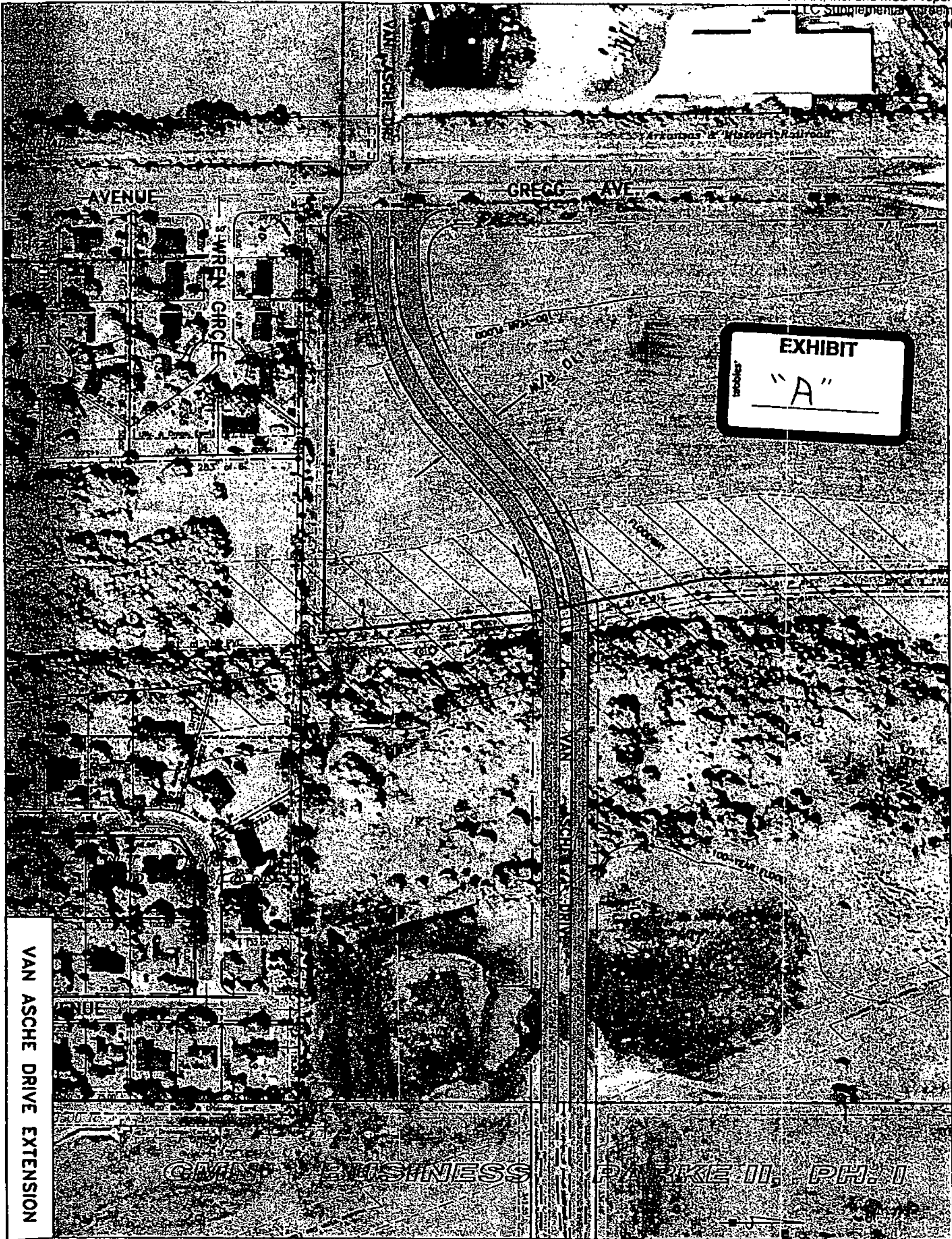


**NANCHAR, INC and
MSB PROPERTIES, LLC**

By: *Nancy Rubeck*
NANCY RUBECK,
NANCHAR, INC

By: *Charlotte Steele*
CHARLOTTE STEELE,
NANCHAR, INC

By: *Marjorie S. Brooks*
MARJORIE S. BROOKS
MSB Properties, LLC



AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER ENGINEERS, LLC

THIS AGREEMENT is made as of _____, 2005, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Garver Engineers, LLC with offices located in Fayetteville (hereinafter called GARVER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, and construction of roadways within the City of Fayetteville, and in particular, engineering and surveying services related to proposed improvements to Van Ashe Drive from its termination in the existing CMN Business Park II, Phase I, west to Gregg Avenue or as further described in Appendix A. Therefore, CITY OF FAYETTEVILLE and GARVER in consideration of their mutual covenants agree as follows:

GARVER 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 GARVER'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. If Construction Phase Services are to be provided by GARVER under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

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 GARVER. Assignments may include services described hereafter as Basic Services or as Additional Services of GARVER.
- 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 GARVER

2.1 General

- 2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil engineering services, surveying services, and support incidental thereto.
 - 2.1.1.1 The Scope of Services to be furnished by GARVER during the Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.
 - 2.1.1.2 The Scope of Services to be furnished by GARVER during the Bidding Phase is included in Section 2.3 hereafter and in Appendix A attached hereto and made part of this Agreement.
 - 2.1.1.3 The Scope of Services to be furnished by GARVER during the Construction Phase is included in Section 2.4 hereafter and will be negotiated in full and added by an amendment to this agreement. Additional scope of services for the Construction Phase will be described in Appendix B.
- 2.1.2 Execution of this agreement will authorize the Engineer to proceed with the services as described herein.

2.2 Design Services

- 2.2.1 GARVER will perform engineering, surveying and related services in order to prepare for and incorporate in the Contract Documents detailed drawings to show the character and scope of the Work to be performed by contractors on the Project (hereinafter called the "Contract Drawings"), and Invitation to Bid, Instructions to Bidders, Bid Form, Agreement and Bond forms, General Conditions, and Specifications (all of which, together with the Contract Drawings, are hereinafter called the "Bid Documents") for review and approval by CITY OF FAYETTEVILLE, its legal counsel, and other advisors as appropriate, and assist CITY OF FAYETTEVILLE in the preparation of other related documents.

- 2.2.1.1 Bid Documents shall be based on the City of Fayetteville's standard Contract Documents and shall incorporate CITY OF FAYETTEVILLE's standard general conditions and forms. Technical Specifications will be Garver Standard Roadway Specifications similar to previous jobs completed for the City of Fayetteville. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2000 or later software. Contract drawings shall be prepared using Garver standard borders, sheet sizes, title blocks and CADD standards. GARVER may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk® AutoCAD version 2000 or later.
- 2.2.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project design schedule in which GARVER shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by GARVER in the completion of this final design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, performance of services by CITY OF FAYETTEVILLE's consultants, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond GARVER's reasonable control.
- 2.2.1.2.1 The progress design schedule shall consist of a tabular list of milestones and calendar days for each phase of services.
- 2.2.1.3 When requested by the CITY OF FAYETTEVILLE's City Engineer, prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the design.
- 2.2.1.4 The Engineer will coordinate and conduct a public meeting and request all local utilities be present. The Engineer's exhibits for this public meetings will address the City's Conceptual Design comments. The exhibits will include a current set of full-sized Plans and foam display boards at a 1"=20' scale, utilizing aerial photographs and property information.

- 2.2.1.5 If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall be developed and described in accordance with Title 22, Article 9-203 of the Arkansas Code.
- 2.2.2 Prepare technical criteria, written descriptions, design data, and applications necessary for filing applications for permits from or approvals of the following applicable governmental authorities having jurisdiction to review or approve the final design of the Project and assist in securing approvals. Actual Filing and Permit Fees will be paid by the CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.
 - 2.2.2.1 Coordinate the project with the U.S. Army Corps of Engineers (COE) as required for a 404 Permit for the bridge.
 - 2.2.2.2 Coordinate with the Arkansas Department of Health for water and sewer relocation as required.
- 2.2.3 Advise CITY OF FAYETTEVILLE of adjustments in excess of five percent of the cost opinion for the Project caused by changes in scope, design requirements, or construction costs and furnish a revised cost opinion for the Project based on the final Bid Documents.
- 2.2.4 Advise CITY OF FAYETTEVILLE of final Opinion of Probable Project Costs, including, but not limited to, construction, inspection, testing, and one-year performance evaluation.
- 2.2.5 Furnish CITY OF FAYETTEVILLE with 5 copies of the final Bid Documents.
- 2.2.6 Determine land and easement requirements and provide consultation and assistance on property procurement as related to professional engineering services being performed.
- 2.2.7 Provide appropriate professional interpretations of data, geotechnical investigations, core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests, and inspections of samples, materials and equipment obtained through subcontract services for authorized Project services including property, boundary,

easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.

2.2.7.1 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided, and the value of the subcontract agreement.

2.2.7.2 Incorporate into all subcontract agreements for planning and design engineering services the applicable milestone dates from the performance schedule contained in Appendix A.

2.2.8 Design shall be reviewed by CITY OF FAYETTEVILLE, or such parties as CITY OF FAYETTEVILLE shall designate, at the applicable completion levels outlined in Appendix A.

2.3 **Bidding Phase**

2.3.1 Arrange for bidding notices to be sent to contractors publishing services and direct mailing to contractors of record. Notices shall comply with requirements of CITY OF FAYETTEVILLE. The legal notice to be placed in legal notices section of a local newspaper(s) of countywide and statewide circulation and shall be coordinated with CITY OF FAYETTEVILLE purchasing agent and an affidavit of publication secured.

2.3.2 Prepare addenda for drawings and Bid Documents as required and submit to CITY OF FAYETTEVILLE in timely manner such that addenda can be issued by GARVER in accordance with Construction Contract General Conditions.

2.3.3 Secure updated state and federal wage rate decisions and incorporate into the Bid Documents. Update wage rate decision by addendum if necessary.

2.3.4 Assist CITY OF FAYETTEVILLE by issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Print and distribute copies of plans and specifications for all prospective bidders and plan rooms. Collect from prospective bidders an appropriate non-refundable fee to offset cost of reproducing and distributing Bidding Documents.

- 2.3.4.1 GARVER shall organize, attend, convene and conduct a Pre-Bid Conference to explain the project requirements and receive questions from prospective bidders. The CITY OF FAYETTEVILLE shall be invited to attend. GARVER shall consider the questions received and issue necessary clarifications and changes to the Bid Documents through the use of addenda.
- 2.3.5 Assist CITY OF FAYETTEVILLE in obtaining and evaluating bids and preparing construction contracts.
- 2.3.6 Consult with and advise CITY OF FAYETTEVILLE as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
- 2.3.7 Make recommendations regarding award of construction contracts.
- 2.3.8 Attend City Council meeting to recommend and/or provide support to the project. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.
- 2.4 **Construction Phase**
 - 2.4.1 The scope of Construction Phase Services will be described in detail in Appendix B, which will be added with a future amendment to this agreement.

SECTION 3 - ADDITIONAL SERVICES OF GARVER

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by GARVER, GARVER shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Flood Plain/Floodway Map Revisions

Prepare applications and supporting documents for submission to FEMA for revising floodplain/floodway maps.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond GARVER's control, GARVER shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to GARVER. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, GARVER shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

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

- 4.1 Provide HEC-HMS Hydrologic and HEC-RAS Hydraulic models for GARVER's use.
- 4.2 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 4.3 Assist GARVER by placing at GARVER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.4 Guarantee access to and make all provisions for GARVER to enter upon public and private property as required for GARVER to perform his services under this Agreement.
- 4.5 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by GARVER and render in writing decisions pertaining thereto.
- 4.6 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.7 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

- 4.8 Give prompt written notice to GARVER whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees. Unless otherwise described in the attached Scope of Work.
- 4.10 Pay for placement of legal notices and advertisements in newspapers or other publications.
- 4.11 Furnish, or direct GARVER to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.12 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for GARVER's use in coordinating the Contract Drawings and Specifications.
- 4.13 CITY OF FAYETTEVILLE and/or its representative will provide all available environmental information and data related to Skull Creek and the CMN Business Park development in a timely manner.
- 4.14 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to GARVER in a timely manner.

SECTION 5 - PERIOD OF SERVICE

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

SECTION 6 - PAYMENTS TO GARVER

6.1 Compensation

6.1.1 Design Surveys, Property Surveys, and Property Acquisition Documents

For the Survey Phase described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$29,100.**

6.1.2 Traffic Studies and Signalization Design

For Traffic Studies and Signalization Design described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$18,200.**

6.1.3 Geotechnical Services

For Geotechnical Services, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$10,000.**

6.1.4 Conceptual Design

For the Conceptual Design described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$52,500.**

6.1.5 Substantially Complete Design

For the Substantially Complete Design described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$74,900.**

6.1.6 Final Design

For the Final Design described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of **\$35,100.**

6.1.7 Bidding Services

For the Bidding Services described herein, CITY OF FAYETTEVILLE shall pay GARVER the lump sum amount of \$5,400.

6.1.8 Construction Phase Services

For the Construction Phase, CITY OF FAYETTEVILLE shall pay GARVER an amount to be negotiated at a later date.

6.1.9 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to GARVER shall be negotiated at the time Additional services are authorized.

6.2 Statements

Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Design services consistent with GARVER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by GARVER and approved by CITY OF FAYETTEVILLE. Statements will be based on GARVER's estimated percent of services completed at the end of the preceding month.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of GARVER'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 GARVER 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.

6.4 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, GARVER 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 GARVER 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 GARVER or his sureties under this Agreement or applicable performance and payment bonds, if any. Final payment for each phase of services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of each phase for the Project.

6.5 Fee Changes

Subject to the City Council approval, adjustment of the lump sum amount may be made should GARVER 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, unless noted herein, 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.

Any unused portion of the fee, not billable due to delays beyond the Engineer's control, will be increased 6% annually with the first increase effective on or about May 1, 2006.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

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

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$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

GARVER 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.

- 7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and GARVER as additional insureds, or, to endorse CITY OF FAYETTEVILLE and GARVER ENGINEERS as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and GARVER. All contract insurance carriers shall be required to list GARVER and CITY OF FAYETTEVILLE as certificate holders, furnishing copies of the contractor's insurance certificate to each party.
- 7.1.3 CITY OF FAYETTEVILLE and GARVER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of GARVER's services. A provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and GARVER for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 GARVER will exercise reasonable skill, care, and diligence in the performance of GARVER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to GARVER any defects or suspected defects in GARVER's services of which CITY OF FAYETTEVILLE becomes aware, so that GARVER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and GARVER further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of GARVER.

7.2.2 In addition GARVER will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by GARVER's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by GARVER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on GARVER's experience, qualifications, and judgment as a design professional. Since GARVER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, GARVER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by GARVER.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of GARVER'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 GARVER.

7.5 Termination

7.5.1 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:

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

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

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

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

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

7.5.3 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

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

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

7.5.4 If termination for default is effected by GARVER, 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 GARVER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs

reasonably incurred by GARVER relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, GARVER shall:

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

7.5.5.2 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 GARVER in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of GARVER to fulfill contractual obligations, it is determined that GARVER 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 in Paragraph 7.5.4 of this clause.

7.6 Delays

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

7.7 Rights and Benefits

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

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and GARVER 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 GARVER in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, 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 in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 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;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give GARVER written Notice at the address listed in Paragraph 7.14 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.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and GARVER 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 GARVER 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.

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

7.10 Publications

Recognizing the importance of professional development on the part of GARVER's employees and the importance of GARVER's public relations, GARVER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to GARVER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to GARVER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of GARVER's activities pertaining to any such publication shall be for GARVER's account.

7.11 Indemnification

- 7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and GARVER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

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

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of

CITY OF FAYETTEVILLE. GARVER may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by GARVER as part of the Services shall become the property of CITY OF FAYETTEVILLE when GARVER has been compensated for all services rendered, provided, however, that GARVER shall have the unrestricted right to their use. GARVER 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 GARVER.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. GARVER 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.

7.14 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; Attn: Ron Petrie, PE
113 West Mountain
Fayetteville, AR 72701

GARVER's address:

Garver Engineers; Attn: Brock Hoskins, PE
1088 East Millsap Road
Fayetteville, AR 72703

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and GARVER 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 GARVER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 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.

7.17 Entire Agreement

This Agreement represents the entire Agreement between GARVER 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 GARVER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by GARVER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of GARVER:

8.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve GARVER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 GARVER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by GARVER'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.

8.1.3 GARVER's obligations under this clause are in addition to GARVER's other express or implied assurances under this Agreement or State law and in no way diminish any

other rights that CITY OF FAYETTEVILLE may have against GARVER for faulty materials, equipment, or work.

8.2 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 GARVER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 GARVER 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. GARVER shall also maintain the financial information and data used by GARVER 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. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State 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. GARVER will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, 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.

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

8.3.3.1 Negotiated prime agreements:

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

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

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

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

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

GARVER 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 contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by GARVER 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.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that GARVER or any of GARVER'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 GARVER 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.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against GARVER as it could pursue in the event of a breach of the Agreement by GARVER. 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 GARVER incurs in providing any such gratuities to any such officer or employee.

8.6 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, GARVER 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.

8.7 Debarment And Suspension

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

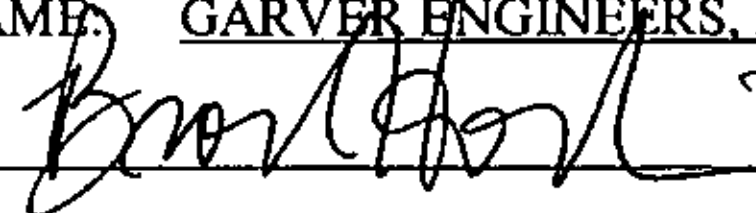
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against 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: GARVER ENGINEERS, LLC

SIGNATURE: 

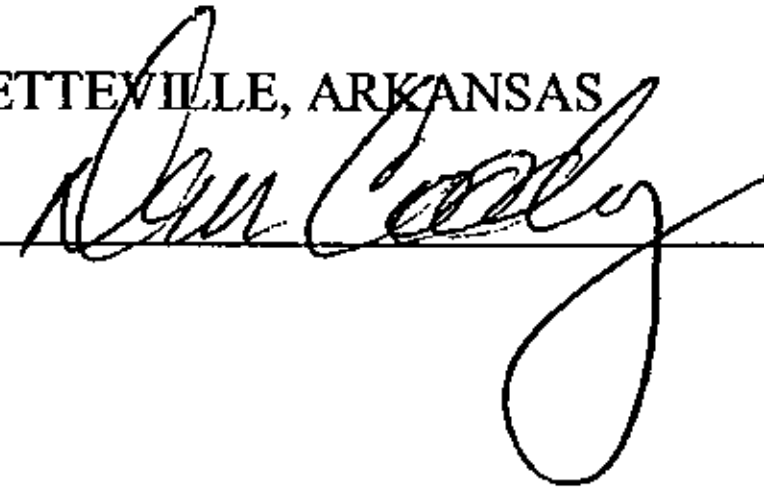
DATE: 6-1-05

PRINTED NAME: Brock Hoskins

TITLE: Vice President

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

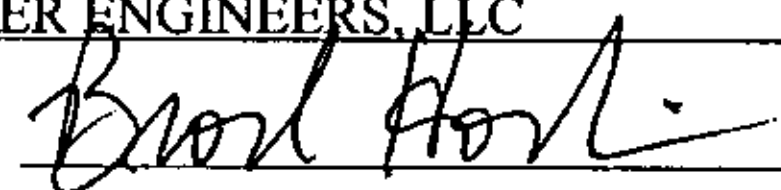
CITY OF FAYETTEVILLE, ARKANSAS

By: 
Mayor

ATTEST:

By: _____
City Clerk

GARVER ENGINEERS, LLC

By: 

Title: VP

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

APPENDIX A – SCOPE OF SERVICES

2.1 General

Generally, the scope of services includes surveying, design, preparation of property acquisition documents, and bidding services for improvements to Van Asche Drive from its existing termination in the CMN Business Park II, Phase I west to Gregg Avenue in Fayetteville, Arkansas and will include intersection improvements on the west side of Gregg Avenue. Improvements will consist primarily of new street construction, including curb and gutter and drainage improvements, a bridge crossing Skull Creek, and attendant improvements to Skull Creek (if required). The typical section will be in accordance with the City of Fayetteville's principal arterial standard. The median will be reduced to allow for a turn lane at Gregg Avenue. The Engineer will provide traffic studies and signalization design at the intersection of Van Asche Drive and Gregg Avenue. Improvements will also likely include a connection of Northwood Avenue with Van Asche, as directed by the City.

2.2 Design Surveys, Property Surveys, and Property Acquisition Documents

2.2.1 Design Surveys

The Engineer will provide all field survey data for designing the project. The Engineer will conduct field surveys consisting of cross sections, utilizing radial topography methods, at intervals and for distances on each side of the existing and proposed streets as appropriate for modeling the existing ground, including locations of any pertinent features or improvements between sections along the designated footprint of the project, and extending up to 500 feet upstream and 500 feet downstream on Skull Creek. Buildings and other structures, streets, drainage features, trees over eight inches in diameter, general boundaries of tree lines, visible utilities, underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be encountered on the project site, will be located.

Permanent control points will be established along the alignment utilizing GPS methods in combination with electronic total stations and data collectors noting the coordinates and elevations to the nearest 0.01 foot. All survey data will be tied to the City of Fayetteville's plane coordinate system and all elevations will be tied to the National Geodetic Vertical Datum (NGVD) 1929.

2.2.2 Property Surveys

The Engineer will locate existing monuments representing right-of-way and/or easements based on record data. The Record data will be provided by an abstractor under a separate agreement with the Engineer.

2.2.3 Property Acquisition Documents

The Engineer will provide mapping as required for preparing Right-of-Way/Easement acquisition documents for the Owner's use in acquiring the property. Documentation will include a key map showing all affected properties and an individual tract map with description of temporary and permanent acquisition for each property. The acquisition documents shall be in a format agreed to by the City and the Engineer. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than 3 properties.

Property acquisition document preparation will begin after receiving the Owner's comments from the Conceptual Design review.

2.3 Conceptual Design

This conceptual design phase will be for the purpose of coordinating the proposed improvements with the City and the utility companies, developing an order of magnitude cost estimate for the project, and Northwood Avenue modifications, determining the proposed bridge and channel improvements at Skull Creek.

The submittal will include preliminary typical sections, plan and profile sheets showing horizontal and vertical geometry of the roadway and channel improvements, and bridge layout, utility conflicts, cross sections, right-of-way requirements, proposed water and sewer relocation plan, and an opinion of probable construction cost.

The Conceptual Design phase will represent approximately 30 percent of final construction contract plans. The Engineer will not begin preliminary design until the conceptual design review comments are received and the Plans are approved by the Owner in writing. The Engineer will furnish three sets of conceptual plans to the Owner and one set to each potentially affected utility company.

The Engineer will coordinate and conduct a public meeting and request all local utilities be present. The Engineer's exhibits for this public meeting will address the City's Conceptual Design comments. The exhibits will include current set of full-sized Plans and foam display boards at a 1"=20' scale, utilizing aerial photographs and property information. The Engineer will attend the next scheduled City Council meeting after the public meeting.

2.4 Substantially Complete Design

During the Substantially Complete Design Phase of the project, the Engineer will address the City's Conceptual Design comments regarding the proposed improvements and will initiate the permitting process with the Corps of Engineers (COE).

The Substantially Complete Design Phase submittal will include preliminary typical sections, plan and profile sheets showing horizontal and vertical geometry of the roadway and channel improvements, bridge plans, signalization plans for the Van Asche Drive and Gregg Avenue intersection, cross sections, right-of-way requirements, a single sheet maintenance of traffic plan for the Gregg Avenue intersection, driveway plans, drainage improvements, water and sewer relocation plans, sidewalks, signing and striping plans, a median irrigation plan, and an opinion of probable construction cost.

The Substantially Complete Design Phase will represent approximately 90 percent of final construction contract plans. This submittal will include technical specifications and "front end" contract documents. The Engineer will not begin final design until the preliminary design review comments are received and the Plans are approved by the Owner in writing. The Engineer will furnish three sets of Substantially Complete Plans to the Owner and one set to each potentially affected utility company.

2.5 Final Design

During the Final Design Phase of the project, the Engineer will address the City's Substantially Complete Design comments

The Engineer will conduct a final utility coordination meeting at the onset of this phase. The

Engineer will review the City's comments with the utilities and integrate any utility relocation information received at this meeting.

The final design phase will include preparation of final construction plans and specifications for one construction contract, including final construction details and quantities, special provisions, opinion of probable construction cost, and all other work required to advertise for bids. The Engineer shall make a final field inspection with Owner and will make any needed plan changes as a result of the final field inspection and/or special easement acquisition considerations. Contract documents shall be based on the City of Fayetteville's standard Contract Documents and shall incorporate the City of Fayetteville's standard general conditions and forms. Technical Specifications will be Garver Standard Roadway Specifications similar to previous jobs completed for the City of Fayetteville.

2.6 Environmental Surveys, Permitting, and Coordination with COE

We understand as part of the original development process for the CMN Business Park, the corridor for the extension of Van Asche to Gregg Avenue has already been designated. We also understand as part of that process, the environmental mitigation has already been accomplished including clearances from the Corps of Engineers regarding wetlands, U.S. Fish and Wildlife Service, and the State Historic Preservation Office.

The Engineer will work with COE to obtain the 404 permits for the project. Due to the size of the project, both an Individual and Nationwide Permit are expected.

2.7 Traffic Studies and Signalization Design

The Engineer will complete a traffic study for the intersection of the proposed Van Asche extension and Gregg Avenue. The Engineer will perform traffic counts on Gregg Avenue and project traffic volumes on Van Asche Drive. Left-turn lanes, storage lengths, and other improvements will be recommended based upon the results of the study.

The Engineer shall coordinate with the City's Traffic Division for proper phasing design of signalization for the intersection. Signalization design shall be incorporated into the construction plans and specifications.

2.8 Drainage Study for Bridge

The Engineer will meet with the City to discuss the scope of the drainage study.

The Engineer will develop a new hydrologic model using HEC-HMS and will perform hydrologic analyses of the Scull Creek drainage basin. Methodology will be selected by the Engineer but will be as permitted in the City Drainage Criteria Manual. Modeling parameters, such as areas, slopes, drainage paths, and distances will be obtained from City provided planimetric contour maps and aerial photos and verified by field investigations. Runoff characteristics for non-developed areas will be based on current land-use plans.

The Engineer will review the existing HEC-RAS hydraulic model provided by the City.

The Engineer will develop a GIS-based HEC-RAS model for the portion of Scull Creek from the downstream edge of Fulbright Expressway to Mud Creek. The flow rate from the 100-year storm event will be used to evaluate channel and bridge improvements for the Van Asche Street crossing of Scull Creek.

Backwater analyses will be performed, using the new model, to determine the extent of the selected bridge and channel improvements and to determine limits of 100-year floodplain and floodway for the portion of Scull Creek from the downstream edge of Fulbright Expressway to the confluence with Mud Creek. The starting water surface elevation for the new hydraulic model will be taken from the model provided by the City.

The City-provided hydraulic model upstream of Fulbright will be modified by:

- Deleting the portion of the model downstream of Fulbright Expressway and replacing the deleted portion with a starting water surface elevation at the new downstream cross section;
- including updated flow rates obtained from the new HEC-HMS model developed by the Engineer.

The Engineer will meet with City staff to review the recommended channel and bridge improvements. Upon the City's final selection of channel and bridge improvements the Engineer will perform final hydrologic and hydraulic analyses and submit to the City electronic copies of the HEC-HMS and HEC-RAS models and a drainage report.

The drainage report will include the following:

- Floodplain and floodway profiles and tables for the area downstream of Fulbright;
- Water surface profile and table for the 100-year event for the proposed channel and bridge improvements;
- City planimetric map showing cross-sections and floodplain and floodway limits downstream of Fulbright;
- Tables showing input data for the HEC-HMS model;
- Schematic of the HEC-HMS model;
- A map showing drainage basins and subbasins.

Coordinate with COE to acquire Nationwide permit for utilities and individual permit for bridge and channel.

2.9 Bidding Services

During the bidding phase of the project, the Engineer will dispense construction contract documents to prospective bidders (at the approximate cost of reproduction and handling), support the contract documents by preparing addenda as appropriate, participate in a pre-bid meeting if necessary, attend the bid opening, prepare bid tabulation, evaluate bids, recommend award, and prepare construction contracts.

The Engineer will attend the City Council meeting when the Construction contract is scheduled to be awarded.

2.10 Geotechnical Services

The Engineer will be responsible for obtaining, interpreting, and evaluating geotechnical data necessary for the design of this project, including the roadway and bridge.

2.11 Construction Phase Services

The scope of Construction Phase Services will be added with a future amendment to this agreement.

2.12 Project Deliverables

The following will be submitted to the Owner, or others as indicated, by the Engineer:

1. Two copies of the Traffic Study Report.
2. One copy of the Geotechnical Report.
3. Two copies of the Drainage Report for Skull Creek.
4. One electronic copy of the HEC-HMS and HEC-RAS models.
5. Three copies of the Conceptual Design with opinion of probable construction cost.
6. One copy of the revised Conceptual Plans (from the City and Public Meeting comments) to each potentially affected utility company.
7. Three copies of the Substantially Complete Design with opinion of probable construction cost.
8. Three copies of the Substantially Complete Plans to each potentially affected utility company.
9. Five copies of the Final Design with opinion of probable construction cost.
10. One copy of the Final Plans to each potentially affected utility company.
11. Three copies of the Final Plans and Specifications to the Contractor.
12. Three copies of the right-of-way acquisition documents.
13. Electronic files as requested.

2.14 Extra Work

The following items are not included under this agreement but will be considered as extra work:

1. Redesign for the Owner's convenience or due to changed conditions after prior approval or conflicting direction from the City.
2. Submittals or deliverables in addition to those listed in paragraph 2.13.
3. Design of any utilities relocation other than water and sewer.
4. Retaining wall or other significant structural design other than what is required for a bridge structure.
5. Street lighting or other electrical design beyond that required for traffic signalization.
6. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to ADEQ.
7. Construction materials testing.
8. Wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
9. Map revisions (CLOMR/LOMR) to FEMA Maps
10. Construction phase services.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and the Engineer.

2.15 Schedule

The Engineer shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Traffic Study	45 days from start date
Geotechnical Engineering	45 days from start date
Surveys - Design and Property	45 days from start date

Conceptual Design	100 days from start date
Public Meeting	15 days from receipt of Conceptual Design Comments
Substantially Complete Design	60 days from Conceptual Design Approval
Property Acquisition Documents	15 days from Conceptual Design Approval
Final Design	45 days from Substantially Complete Design Approval

APPENDIX A-2

CITY OF FAYETTEVILLE VAN ASCHE EXTENSION - STEEL TO GREGG

FEE SUMMARY

Surveys - Topographic/Property/Acquisition Documents	\$29,100.00
Conceptual Design	\$52,500.00
Substantially Complete Design	\$74,900.00
Final Design	\$35,100.00
Traffic Studies and Signalization Design	\$18,200.00
Bidding Services	\$5,400.00
Construction Phase Services	\$0.00
Subtotal	\$215,200.00
Geotechnical Services	\$10,000.00

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Surveys - Topographic/Property/Acquisition Documents

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Project Landscape Architect	Senior Tech/Draftsman	Tech./Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Constr Engineer	Senior Constr Observer	Constr Observer
1. Surveys - Topographic																	
Control Traverse and Levels																	
Topographic Surveys																	
Utility Surveys																	
Locate Soil Borings and Test Pits																	
Subtotal - Surveying																	
2. Surveys - Property																	
Record Research Evaluation																	
Field Research																	
Ties to Existing Monumentation & Reference Existing Monuments																	
Data Processing and Property Line Definition																	
State Proposed Right-of-Way																	
Subtotal - Property																	
3. Acquisition Documents																	
Permanent Right-of-Way Acquisition Documents																	
Utility & Temporary Construction Easements																	
Coordination with Owner																	
ROW and Easement Map																	
Subtotal - Acquisition Documents																	

Hours	0	0	0	0	0	0	0	0	0	0	0	0	154	0	0	0	0
Salary Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,560.00	\$0.00	\$0.00	\$608.00	\$480.00	\$168.00	\$20,020.00	\$0.00	\$0.00	\$0.00	\$27,838.00

SUBTOTAL - HOURLY COSTS \$27,838.00

DIRECT NON-LABOR EXPENSES	
Reproduction/Printing/Courier	\$19.00
Survey Supplies	\$25.00
Abstractor Record Research	\$300.00
MARKUPS Utility Location Services	\$750.00
Travel Costs	\$170.00
Subtotal	\$29,100.00

SUBCONSULTANTS \$0.00

TOTAL COST: \$29,100.00

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Conceptual Design

WORK TASK DESCRIPTION																	
Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Project Landscape Architect	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Const. Observer	
\$150.00	\$135.00	\$110.00	\$52.00	\$88.00	\$80.00	\$52.00	\$78.00	\$84.00	\$76.00	\$60.00	\$42.00	\$130.00	\$80.00	\$80.00	\$80.00	\$44.00	
IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	
1. Civil Engineering																	
Data Processing/DTM Preparation																	
1		4			16	16				10							
Proposed Roadway Improvements on PAP Sheets																	
1		2		4	4					12							
Typical Sections and Alternate Sections																	
1		2		4	16					4							
Drainage Design and Drainage Area Map - Streets																	
2																	
Bridge and Channelization																	
2		8															
Meet with City to discuss scope of study																	
Perform hydrologic analyses of entire South Creek																	
drainage basin to confluence with Mud Creek																	
Determine boundaries of drainage basin and sub-basin areas																	
1		8			12												
Determine basin input data characteristics based on City provided planimetric contour maps and																	
field verify drainage basin boundaries and characteristics, existing drainage facilities, and bed/channel characteristics																	
1		4		16													
Develop hydrologic model using HEC-HMS																	
		2		16													
Review City provided HEC-RAS model																	
		2		8													
Revise steady flow data in City provided HEC-RAS model for area upstream of Fulbright Expressway																	
		1		4													
Develop GIS based HEC-RAS model for existing condition from downstream edge of Fulbright Expressway to confluence with Mud Creek																	
1		4			16												
Perform iterative analysis to determine size and extent of channel and bridge related to the Van Asche roadway crossing and evaluate HEC-RAS model																	
		4			16												
Determine limits of floodplain and floodway for portion of South Creek from downstream edge of Fulbright Expressway to confluence with Mud Creek																	
1		4			16												
Produce floodplain and floodway map on City planimetric mapping																	
1		4			16												
2		4		4	4					3							
Prepare drainage report for submission to City																	
1		8		20						4							
Submit drainage report to City																	
2		20		40						6	2						
Coordinate with COE - Nationwide permit for utilities and individual permit for bridge and channel																	
Northwood Modifications																	
1		4		8						18							
Opinion of Probable Construction Cont.																	
4		4		4						8							
Meetings/Coordination with City - Street																	
4		4		2						4							
Public Meeting																	
2		2		2						4							
Meeting/City Council																	
2		4		2						4							
Coordinate with Geotechnical Consultant																	
2		4		8													
QC Review																	
2		4															
Subtotal - Civil Engineering																	
33	8	111	8	36	208	16	8	0	0	72	7	8	0	0	0	0	
2. Structural Engineering																	
Coordination with Geotechnical Consultant																	
	4																
Determine Bridge Structure Type																	
8	8	8		12													
Conceptual Layout																	
2	2			8						12							
Cost Option																	
2	2			4													
Subtotal - Structural Engineering																	
8	14	8	0	24	0	0	0	0	0	12	0	0	0	0	0	0	
3. Mechanical Engineering																	
Subtotal - Mechanical Engineering																	
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
4. Electrical Engineering																	
Subtotal - Electrical Engineering																	
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Hours																	
33	22	118	8	68	208	16	8	0	0	84	7	8	0	0	0	0	
Salary Costs																	
\$4,950.00	\$2,870.00	\$13,060.00	\$0.00	\$3,160.00	\$18,364.00	\$1,312.00	\$0.00	\$0.00	\$0.00	\$5,420.00	\$264.00	\$0.00	\$0.00	\$0.00	\$0.00	\$61,930.00	
SUBTOTAL - HOURLY COSTS																	
\$21,538.00																	
DIRECT NON-HOURLY EXPENSES																	
Reproduction/Printing/Course																	
Travel Costs																	
\$914.00																	
\$58.00																	
SUBTOTAL																	
\$970.00																	
SUBCONSULTANTS																	
\$62,960.00																	
TOTAL COST:																	
\$64,908.00																	

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Substantially Complete Design

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Engineer	Design Engineer	Design Engineer	Project Supervisor	Survey Coord	Project Landscape Architect	Senior Tech/Draftsman	Tech/Draftsman	Chief	Survey Crew	Senior Const Engineer	Const Engineer	Senior Const Observer	Const Observer
1. Civil Engineering	\$150.00 hr	\$135.00 hr	\$110.00 hr	\$82.00 hr	\$68.00 hr	\$62.00 hr	\$79.00 hr	\$84.00 hr	\$78.00 hr	\$60.00 hr	\$42.00 hr	\$130.00 hr	\$80.00 hr	\$68.00 hr	\$80.00 hr	\$64.00 hr
Address Conceptual Plan Review Comments																
Plan & Profile Sheets - Street	2		2		12					20						
Typical Sections			8		12					40						
Cross Sections (Roadway, Side Roads, Driveways)			2		4					8						
Street Intersection Plans			2		12					16						
Driveway (Plan View in Plans and Separate Profile)			1		8					16						
Drainage Improvements-Street			2		4					8						
Channelization - Plan, Profile, Cross Sections	2		4		24					16						
MOT/Sequence of Construction			2		4					8						
Water and Sewer Relocation			8		16					8						
Stormwater and Erosion Control Plans			8		20					20						
Median Integration Plan			1		2					16						
Northwood Modifications			2		8			32		20						
Opinion of Probable Construction Cost	1		4		20					16						
Written response to review comments	1		2		4					8						
Coordinate with CDE - Nationwide permit for utilities and individual permit for bridge and channel	2		20		8					20						
Meetings/Coordination with City																
Utility Companies Coordination	2		8		4					4						
Contract Documents & Technical Specifications	1		4		4					24						
Special Provisions	1		8		12					16						
QC Review	2		16		16					4						
Subtotal - Civil Engineering	14	9	120	0	132	180	0	40	0	240	20	0	8	0	8	0
2. Structural Engineering																
Update Layout																
General Notes and Quantities			4							8						
End Bent Details			2		8					8						
Interior Bent Details			4		8					12						
Superstructure Details			4		8					12						
Barrier Details			4		8					16						
Transition Details			1		4					8						
Bridge Specifications			2		4					8						
Opinion of Probable Construction Cost / Bid Proposal			2		4					8						
QC Review			4		4					8						
Subtotal - Structural Engineering	0	23	40	0	48	0	0	8	0	80	0	0	0	0	8	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	14	23	140	0	180	180	0	48	0	320	20	0	8	0	8	0
Salary Costs	\$2,100.00	\$3,045.00	\$17,600.00	\$0.00	\$15,480.00	\$12,420.00	\$0.00	\$3,360.00	\$0.00	\$19,200.00	\$840.00	\$0.00	\$0.00	\$0.00	\$0.00	\$74,105.00
SUBTOTAL - HOURLY COSTS																
DIRECT NON-LABOR EXPENSES																
Reproduction/Printing/Courier		\$745.00														
Travel Costs		\$50.00														
Subtotal																
SUBCONSULTANTS																
TOTAL COST:																

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Final Design

WORK TASK DESCRIPTION		Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Project Landscape Architect	Senior Tech./ Draftsman	Tech./ Draftsman	Classical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Const. Observer
1. Civil Engineering		\$150.00 hr	\$125.00 hr	\$110.00 hr	\$92.00 hr	\$48.00 hr	\$60.00 hr	\$42.00 hr	\$70.00 hr	\$44.00 hr	\$70.00 hr	\$60.00 hr	\$42.00 hr	\$130.00 hr	\$80.00 hr	\$60.00 hr	\$40.00 hr	\$44.00 hr
Address Preliminary Plan Review Comments		1		1		4	8					8						
Plan & Profile Sheets - Streets				1		4	4					8						
Typical Sections				1		1						1						
Cross Sections (Roadway, Side Roads, Driveways)				1		4	4					4						
Street Intersection Plans				1		2	4					4						
Driveway (Plan View in Plans and Separate Profile)				1		2	2					2						
Driveway Improvements-Street				1		2	2					4						
Channelization - Plan, Profile, Cross Sections				2		2	4					2						
Sequence of Construction - MOI Plan				1		2						2						
Water and Sewer Relocation				4		8	8					4						
Median Infiltration Plan				1						8		4						
Northwood Modifications				1		2						2						
Utility Companies Coordination				2														
Prepares quality control testing schedule				2														
Meets/Coordinates with City				2														
Meets/City Council				2														
Verifies response to review comments				1		10						10						
Coordinates with COE - Nonconformity permit for utility and individual permit for bridge and channel				1		10						10						
Contract Documents & Technical Specifications				1		10						10						
Special Provisions				1		4						4						
Calculate Construction Quantities and submit in notebook format				2		2	4					16						
QC Review				2		8												
Subtotal - Civil Engineering		11	0	50	0	47	50	0	0	12	0	71	12	0	0	0	0	0
2. Structural Engineering																		
Update Layout				1		4						8						
General Notes and Quantities				1		4						8						
End Bent Details				1		4						8						
Interior Bent Details				1		4						8						
Superstructure Details				1		4						8						
Barrier Details				1		4						8						
Transition Details				1		4						8						
Bridge Specifications				2		8						16						
Calculate Construction Quantities				2		4						12						
QC Review				4		4												
Subtotal - Structural Engineering		4	15	38	0	40	0	0	0	0	0	68	0	0	0	0	0	0
3. Mechanical Engineering																		
Subtotal - Mechanical Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																		
Subtotal - Electrical Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours		15	15	88	0	87	50	0	0	12	0	139	12	0	0	0	0	0
Salary Costs		\$2,250.00	\$2,075.00	\$9,800.00	\$0.00	\$7,482.00	\$3,450.00	\$0.00	\$0.00	\$1,008.00	\$0.00	\$8,340.00	\$504.00	\$0.00	\$0.00	\$0.00	\$0.00	\$33,859.00

SUBTOTAL - HOURLY COSTS \$33,859.00

DIRECT NONLABOR EXPENSES

Reproduction/Printing/Courier \$1,166.00

Travel Costs \$75.00

Subtotal \$35,100.00

SUBCONSULTANTS \$0.00

TOTAL COST: \$35,100.00

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Traffic Studies and Signalization Design

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Project Landscape Architect	Senior Tech/Draftsman	Tech./Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Const Engineer	Senior Constr Observer	Const Observer
1. Civil Engineering	\$150.00 hr	\$135.00 hr	\$110.00 hr	\$92.00 hr	\$88.00 hr	\$68.00 hr	\$82.00 hr	\$79.00 hr	\$84.00 hr	\$76.00 hr	\$60.00 hr	\$42.00 hr	\$130.00 hr	\$90.00 hr	\$68.00 hr	\$80.00 hr	\$64.00 hr
Traffic Study																	
Data Collection		2			8						16						
Data Analysis		10			8												
Report/Recommendations		12	2		4												
Coordination with City		4	4														
QC Review	1		2														
Signalization Plans		40			12						24						
Specifications		8	2		12							4					
Subtotal - Civil Engineering	1	76	18	0	44	0	0	0	0	0	40	4	0	0	0	0	0
2. Structural Engineering																	
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																	
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Hours	1	76	18	0	44	0	0	0	0	0	40	4	0	0	0	0	0
Salary Costs	\$150.00	\$10,280.00	\$1,100.00	\$0.00	\$3,784.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,400.00	\$168.00	\$0.00	\$0.00	\$0.00	\$0.00	\$17,862.00

SUBTOTAL - HOURLY COSTS

\$17,862.00

DIRECT NON-LABOR EXPENSES

Reproduction/Printing/Courier	\$100.00
Traffic Counting Equipment	\$200.00
Travel Costs	\$38.00
	\$338.00

Subtotal

\$18,200.00

SUBCONSULTANTS

\$0.00

TOTAL COST:

\$18,200.00

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Bidding Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Project Landscape Architect	Senior Tech/Draftsman	Tech./Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Constr Engineer	Senior Constr Observer	Constr Observer
1. Civil Engineering																	
Disperse Plans and Specs to Prospective Bidders			1			2						10					
Addendum/Inquiries		1	8			8						6					
Pre-Bid Meeting			1														
Bid Opening			1														
Prepare Bid Tabulation			1			2											
Evaluate Bids and Recommend Award			2														
Prepare construction contracts		1	4									8					
Notice to Proceed																	
Subtotal - Civil Engineering	0	2	18	0	0	12	0	0	0	0	0	22	0	0	0	0	0
2. Structural Engineering																	
Addendum/Inquiries		2		0													
Subtotal - Structural Engineering	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																	
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Hours	0	4	18	6	0	12	0	0	0	0	0	22	0	0	0	0	0
Salary Costs	\$0.00	\$540.00	\$1,080.00	\$552.00	\$0.00	\$928.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$924.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,824.00

SUBTOTAL - HOURLY COSTS

\$4,824.00

DIRECT NON-LABOR EXPENSES

Reproduction/Printing/Counter	\$552.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Travel Costs	\$24.00
Subtotal	\$576.00

\$5,400.00

SUBCONSULTANTS

\$0.00

TOTAL COST:

\$5,400.00

APPENDIX A-2

CITY OF FAYETTEVILLE
VAN ASCHE EXTENSION - STEEL TO GREGG

Construction Phase Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Surveyor	Project Landscape Architect	Senior Tech / Draftsman	Tech / Draftsman	Clerical	Survey Crew	Senior Civil Engineer	Civil Engineer	Senior Civil Observer	Civil Observer
1. Civil Engineering	\$197.00	\$142.00	\$116.00	\$87.00	\$80.00	\$72.50	\$68.00	\$63.00	\$68.00	\$60.00	\$40.00	\$44.00	\$137.00	\$84.00	\$72.50	\$84.00	\$47.00
Prepare for and Attend Preconstruction Meeting																	
Prepare for and Attend Utility Coordination Meeting																	
Coordinate with ALLTDA/Utility Agencies																	
Review Contractor's Schedules																	
Review and Respond to Contractor's Shop Drawings/Calculations																	
Site Visits and Support of Owner/Resident																	
Coordination with Contractor/RFI Responses																	
Prepare and Submit Monthly Progress Reports																	
Review and Process Monthly Pay Requests																	
Substantial Completion Project Inspection and Punchlist																	
Final Project Inspection and Punchlist																	
Coordination with Owner																	
As-Built Surveys																	
Record Drawings																	
Resident Construction Observation (77 calendar days per week/77 hours per day)																	
2. Structural Engineering																	
Subtotal - Civil Engineering																	
Prepare for and Attend Preconstruction Meeting																	
Prepare for and Attend Utility Coordination Meeting																	
Coordinate with ALLTDA/Utility Agencies																	
Review Contractor's Schedules																	
Review and Respond to Contractor's Shop Drawings/Calculations																	
Site Visits and Support of Owner/Resident																	
Coordination with Contractor/RFI Responses																	
Prepare Change Orders																	
Review and Process Monthly Pay Requests																	
Prepare and Submit Monthly Progress Reports																	
Substantial Completion Project Inspection and Punchlist																	
Final Project Inspection and Punchlist																	
Coordination with Owner																	
As-Built Surveys																	
Record Drawings																	
Resident Construction Observation (77 calendar days per week/77 hours per day)																	
3. Mechanical Engineering																	
Subtotal - Structural Engineering																	
Prepare for and Attend Preconstruction Meeting																	
Prepare for and Attend Utility Coordination Meeting																	
Coordinate with ALLTDA/Utility Agencies																	
Review Contractor's Schedules																	
Review and Respond to Contractor's Shop Drawings/Calculations																	
Site Visits and Support of Owner/Resident																	
Coordination with Contractor/RFI Responses																	
Prepare Change Orders																	
Review and Process Monthly Pay Requests																	
Prepare and Submit Monthly Progress Reports																	
Substantial Completion Project Inspection and Punchlist																	
Final Project Inspection and Punchlist																	
Coordination with Owner																	
As-Built Surveys																	
Record Drawings																	
Resident Construction Observation (77 calendar days per week/77 hours per day)																	
4. Electrical Engineering																	
Subtotal - Mechanical Engineering																	
Prepare for and Attend Preconstruction Meeting																	
Prepare for and Attend Utility Coordination Meeting																	
Coordinate with ALLTDA/Utility Agencies																	
Review Contractor's Schedules																	
Review and Respond to Contractor's Shop Drawings/Calculations																	
Site Visits and Support of Owner/Resident																	
Coordination with Contractor/RFI Responses																	
Prepare Change Orders																	
Review and Process Monthly Pay Requests																	
Prepare and Submit Monthly Progress Reports																	
Substantial Completion Project Inspection and Punchlist																	
Final Project Inspection and Punchlist																	
Coordination with Owner																	
As-Built Surveys																	
Record Drawings																	
Resident Construction Observation (77 calendar days per week/77 hours per day)																	
5. Electrical Engineering																	
Subtotal - Electrical Engineering																	
Prepare for and Attend Preconstruction Meeting																	
Prepare for and Attend Utility Coordination Meeting																	
Coordinate with ALLTDA/Utility Agencies																	
Review Contractor's Schedules																	
Review and Respond to Contractor's Shop Drawings/Calculations																	
Site Visits and Support of Owner/Resident																	
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Substantial Completion Project Inspection and Punchlist																	
Final Project Inspection and Punchlist																	
Coordination with Owner																	
As-Built Surveys																	
Record Drawings																	
Resident Construction Observation (77 calendar days per week/77 hours per day)																	
Hours	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Salary Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SUBTOTAL - HOURLY COSTS																	
DIRECT NON-LABOR EXPENSES																	
Reproduction/Printing/Cover		\$0.00															
Survey Supplies		\$0.00															
Aerial Photography		\$0.00															
GPS Equipment		\$0.00															
Computer Modeling/Software Use		\$0.00															
Travel Costs		\$0.00															
Subtotal																	
SUBCONSULTANTS																	
TOTAL COST:																	

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

21-Jun-05
City Council Meeting Date

Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Approval of a resolution awarding a contract with Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard extension project.

\$225,200.00	\$ 1,982,788.00	Van Asche Boulevard
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	\$ -	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05027	\$ 1,982,788.00	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 3 Jun 05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

 6/6/05
City Attorney Date

Received in City Clerk's Office 

 6-6-05
Finance and Internal Service Director Date

Received in Mayor's Office 

 6/7/05
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 20, 2005

Subject: Ordinance amending Title XV: Unified Development Code, to provide for the regulation of outdoor lighting installations.

RECOMMENDATION

The Planning Commission on May 9, 2005 voted 8-0 to recommend to City Council the approval of Chapter 176: Outdoor Lighting and attached exhibits.

BACKGROUND

In recent years concerns have been raised in the community regarding the installation and operation of outdoor lighting at commercial, industrial, and multi-family residential sites. Obtrusive aspects of outdoor lighting in the form of glare, trespass, energy waste, and sky glow can be effectively managed with consideration to the design, installation, and use, of outdoor lighting fixtures. Staff has researched the use of outdoor lighting ordinances by other communities and has drafted an ordinance that we feel will effectively address these issues with minimum additional staff workload.

Planning staff supports the adoption of **Chapter 176: Outdoor Lighting** and believes that it will address the adverse impacts associated with improperly designed and installed lighting fixtures. Additionally, this ordinance will provide a mechanism to achieve goals outlined in Section 9.12 of Fayetteville's General Plan 2020 which guides policies for neighborhood commercial areas. Specifically, section 9.12b states "Protect adjoining properties from the potential adverse impacts associated with commercial uses adjacent to and within residential areas with proper mitigation measures that address scale and massing, traffic, noise, appearance, **lighting**, drainage, and effects on property values". A good outdoor lighting ordinance works to achieve this policy.

BUDGET IMPACT

Budget impact is expected to be minimal.

Left on the first reading 6/7/05

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, OF THE CODE OF FAYETTEVILLE, TO PROVIDE FOR THE REGULATION OF OUTDOOR LIGHTING INSTALLATIONS.

WHEREAS, unnecessary and improperly designed light fixtures cause glare, light pollution, and wasted resources; and,

WHEREAS, glare and light pollution can result in hazardous circulation conditions for all modes of transportation, the diminishing ability to view the night sky; light trespass into residential neighborhoods; and unattractive townscape; and,

WHEREAS, the City of Fayetteville desires to protect the health, safety and welfare of the general public, and to protect the night sky that adds to the quality of life of the City;

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

Section 1. That Chapter 151: Definitions, Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting Exhibit "A" attached hereto and made a part hereof.

Section 2. That Section 156.03(C), Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting the following:

§156.03 DEVELOPMENT.

C. Consideration By The Planning Commission.

7. Outdoor Lighting Plan.

a. **Undue Hardship.** So that substantial justice may be done and the public interest secured, a developer may petition the Planning Commission for a variance from the requirements of Chapter 176: Outdoor Lighting, by showing that their strict application would cause undue hardship as applied to the proposed development; provided that such variance shall not have the effect of nullifying the intent and purpose of the chapter.

b. **Conditions.** In granting variances, the Planning Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied.

Section 3. That Title XV: Unified Development Code, Code of Fayetteville, is hereby amended by inserting Chapter 176: Outdoor Lighting, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 4. That Title XV: Unified Development Code, Code of Fayetteville, is hereby amended by inserting "Outdoor Lighting Fixture Examples," a copy of which marked Exhibit "C" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of June, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

EXHIBIT "A"

To be inserted at Chapter 151: Definitions, Unified Development Ordinance:

DEFINITIONS.

1. *Lamp or Bulb* (Outdoor Lighting) means the light producing source installed in the socket portion of a luminaire.

2. *Luminaire or Fixture* (Outdoor Lighting) means a complete lighting unit including the lamps or bulbs, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

3. *Light Pollution* (Outdoor Lighting) means general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.

4. *Glare* (Outdoor Lighting) means the brightness of a light source that causes eye discomfort.

5. *Disabling Glare* (Outdoor Lighting) means lighting that impairs visibility and creates a potentially hazardous situation for either pedestrians or motorists.

6. *Shielding* (Outdoor Lighting) means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible and no light is emitted from the sides of the fixture. Also considered a full-cutoff fixture.

7. *Accent Lighting* (Outdoor Lighting) means any directional lighting which emphasizes a particular object or draws attention to a particular area.

8. *Spotlight or Floodlight* (Outdoor Lighting) means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Exhibit "B"

Chapter 176 Outdoor Lighting

§176.01 PURPOSE. This chapter is intended to:

A. Protect the privacy of property owners by limiting the potential for glare and light trespass from outdoor lighting fixtures located on adjacent properties;

B. Protect drivers, pedestrians, senior citizens, and the visually impaired from the glare of non-vehicular light sources that can impair safe travel;

C. Promote efficient and cost effective lighting;

D. Allow for flexibility in the style of light fixtures;

E. Reduce atmospheric light pollution.

§176.02 APPLICABILITY

A. All outdoor lighting fixtures installed on private and public property after the effective date of this ordinance shall comply. This ordinance shall not apply to single or two family residential dwellings.

B. All outdoor lighting fixtures existing and legally installed and operative before the effective date of this ordinance are exempt from these requirements unless they are determined to create a disabling glare as defined by this ordinance.

C. When an existing fixture is replaced, the replacement fixture

shall meet the requirements of this article.

D. Compliance with this ordinance shall be administered by the City of Fayetteville Planning Department.

E. In the event of a conflict with any other section of this article, the more stringent requirement shall apply.

§176.03 EXEMPTIONS.

The following are exempt from the provisions of this ordinance:

A. Single and two-family residential uses.

B. Street lights installed prior to the effective date of this ordinance.

C. Navigation lights (i.e. airports, heliports, radio/television towers).

D. Seasonal decorations with individual lights in place no longer than 60 days.

E. Sports field outdoor lighting (i.e. ball fields, soccer fields)

F. Other special situations approved by the City for temporary or periodic events (i.e. parades, festivals, etc.)

G. Security lights of any wattage that are controlled by a motion-sensor switch and which do not remain on longer than 12 minutes after activation.

H. Flags displaying national, state, or local governmental bodies. Flags advertising businesses are not exempt from the provisions of this ordinance.

Exhibit "B"

I. Decorative street lighting located within the Downtown Master Plan boundary.

J. Fossil fuel lighting.

§176.04 SUBMITTALS.

A. Applications for building permits or applications for review by the Planning Commission which include the installation of outdoor lighting fixtures for new construction, shall provide evidence of compliance with the requirements of this ordinance. The submittal shall contain the following information and shall be submitted as part of the site plan to the Planning Department.

B. 1) Plans indicating the location, type, and height of the luminaire including both building and ground mounted fixtures;

2) A description of the luminaire, including lamps, poles or other supports and shielding devices which may be provided as catalogue illustrations from the manufacturer;

3) Photometric data, such as that furnished by the manufacturer, showing the angle of light emission; and

4) Any additional information as may be required by the City Planning Department in order to determine compliance with this Ordinance.

§176.05 GENERAL STANDARDS

The following standards shall apply to all outdoor lighting installed after the effective date of this ordinance,

which is not exempted above:

A. Outdoor lighting shall be hooded, shielded, and aimed downward. Examples of acceptable and unacceptable light pollution control shielding and hooding are shown in exhibit B, attached herein.

B. The hood or shield shall mask the direct horizontal surface of the light source. The light shall be aimed to insure that the illumination is only pointing downward onto the ground surface, with no escaping light permitted shining upward into the sky.

C. Any bright light shining onto adjacent property or streets which would result in disabling glare shall not be permitted. Light trespass beyond property boundaries or above the horizontal plane shall be considered non-compliant.

D. Existing fixtures may be adapted to comply with this ordinance by adding a properly designed hood or shield, or by pointing any upward-mounted, shielded fixture downward onto the ground surface.

E. All outdoor lighting fixtures shall be designed, installed, located and maintained such that all direct illumination is kept within the boundaries of the fixture owner's property.

F. This section may be enforced on the basis of a formal complaint

Exhibit "B"

filed in with the Planning
Department.

G. Accent lighting, when so
approved, shall be directed
downward onto the building or
object and not toward the sky or
onto adjacent properties.

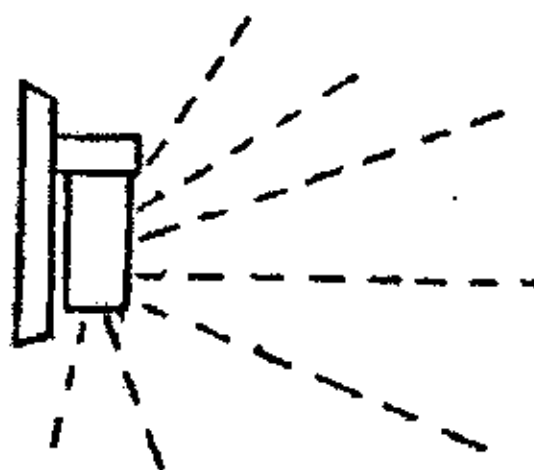
H. Spotlighting on landscaping and
foliage shall be limited to 150
watts. The lamp shall be shielded
and shall not create disabling
glare.

DRAFT

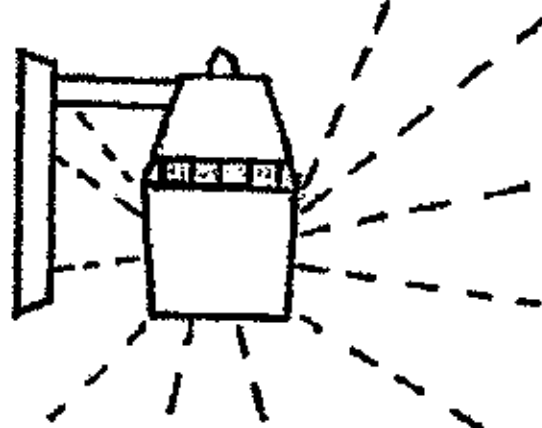
Exhibit "C" - Outdoor Lighting Fixture Examples.

MODIFYING EXISTING FIXTURES

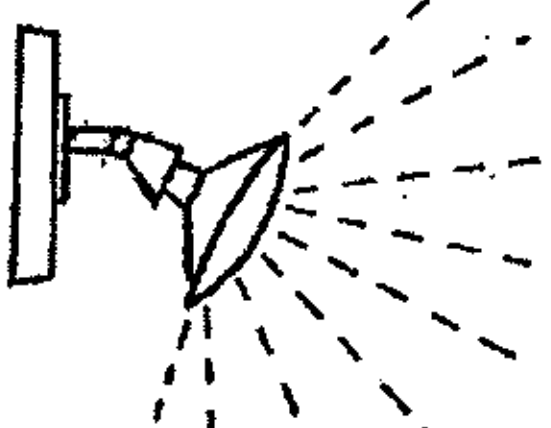
NOT PERMITTED



Typical "Wall Pack Fixture"

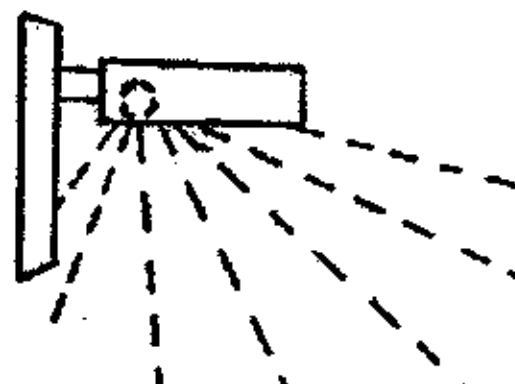


Typical "Barn Light"

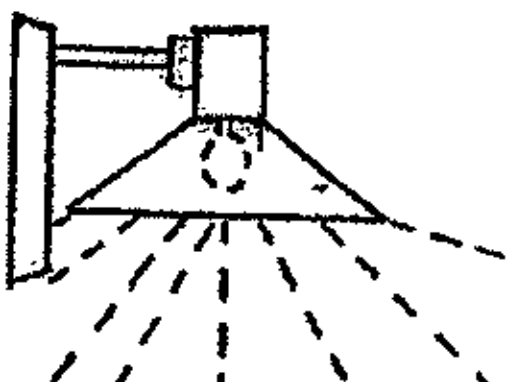


Area Flood Light

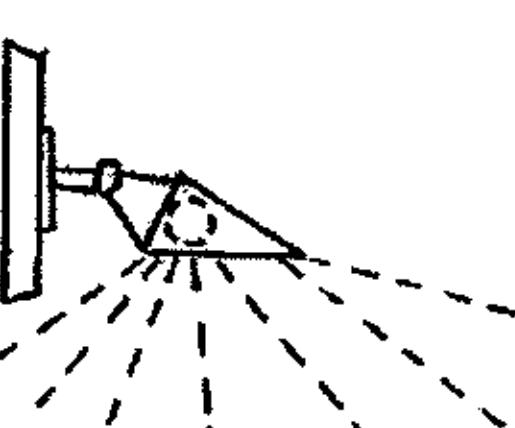
PERMITTED



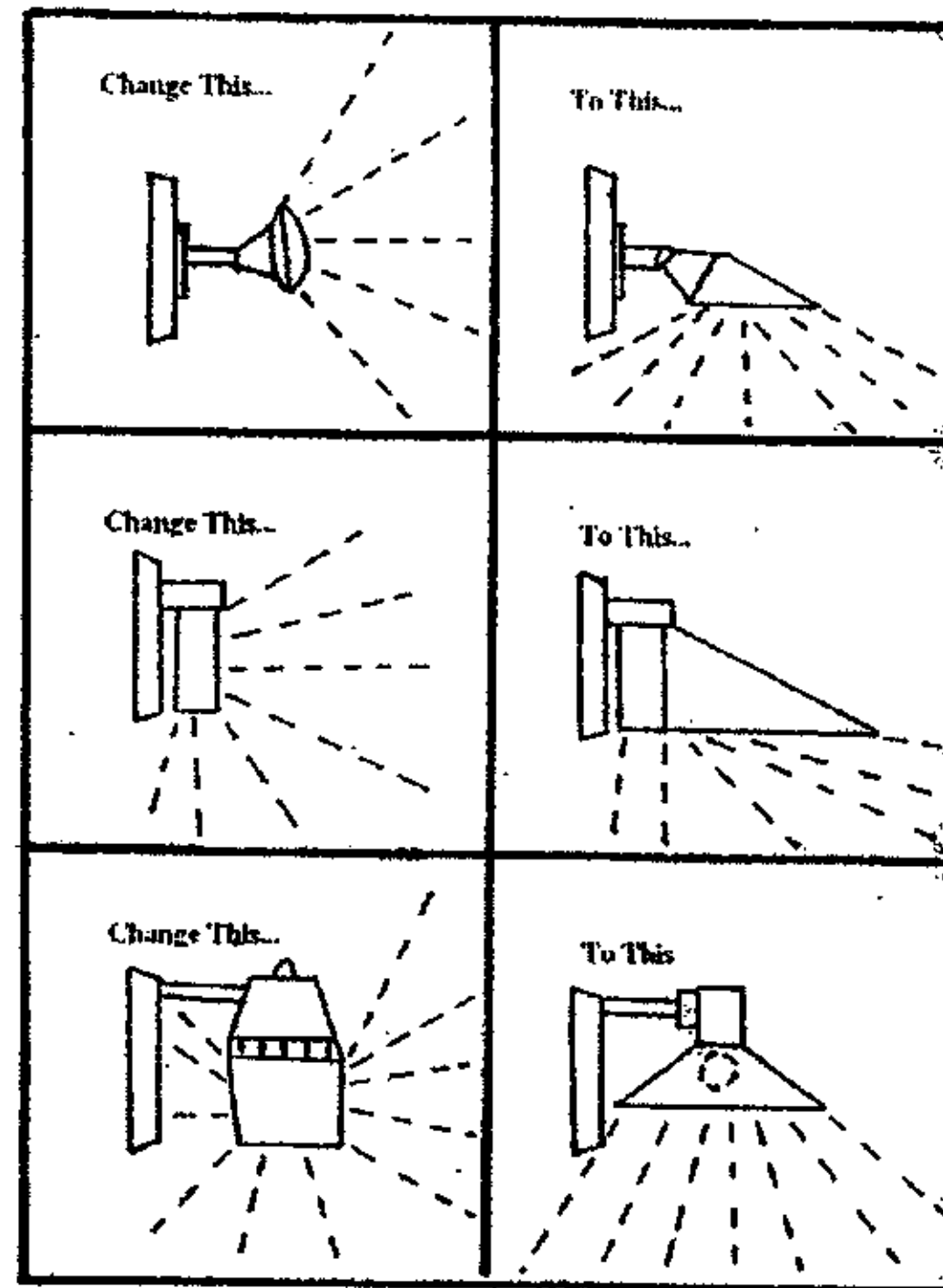
Typical "Shoe Box Fixture"



Opaque Reflector (lamp inside)

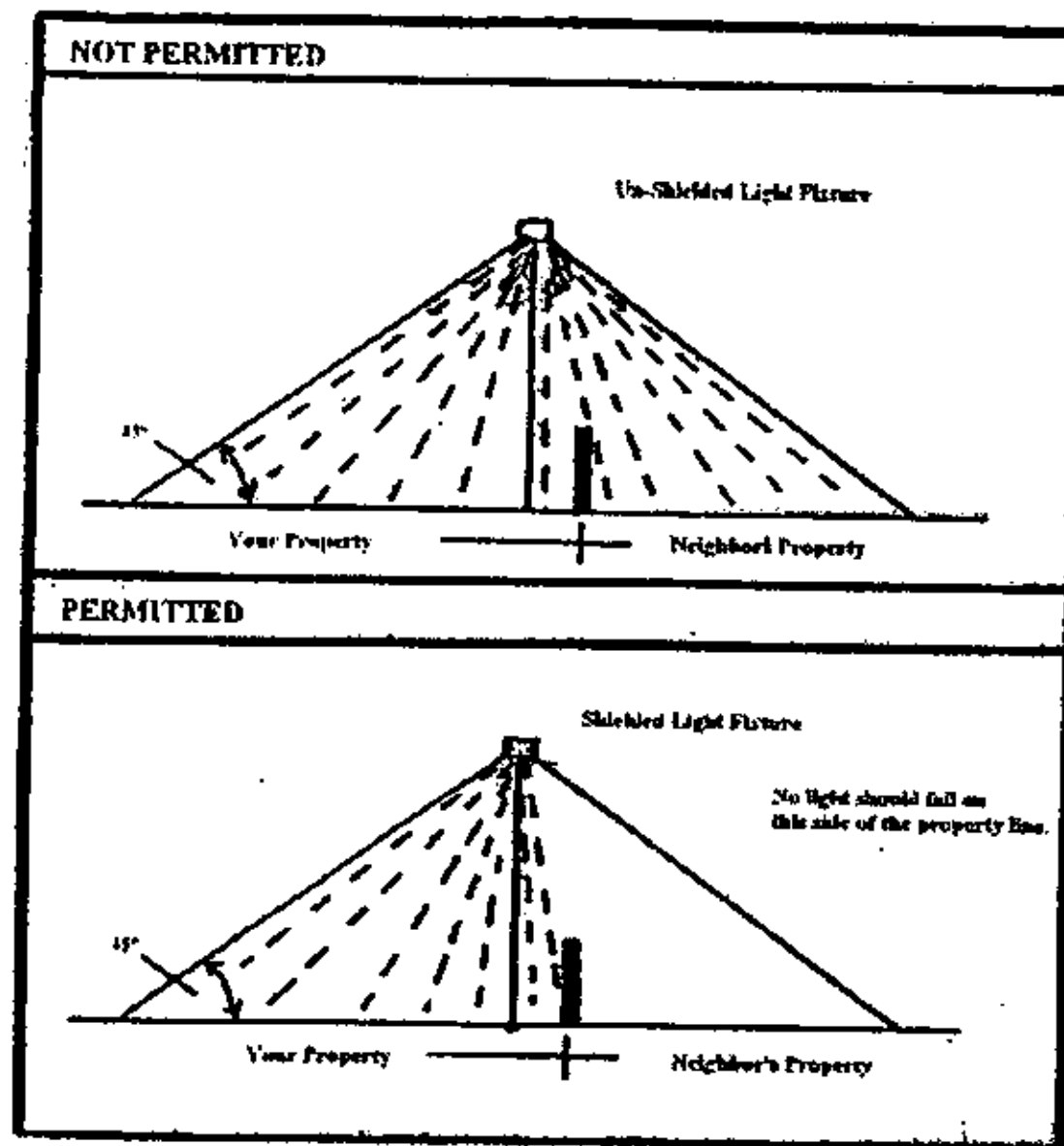


Area Flood Light with Hood/Shield



DRAFT

Exhibit "C" - Outdoor Lighting Fixture Examples.



DRAFT

Stricken language would be deleted from and underlined language would be added to the law as it existed
prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/30/05

A Bill

HOUSE BILL 2665

5 By: Representative Ledbetter
6
7

For An Act To Be Entitled

9 AN ACT TO ENCOURAGE THE USE OF SHIELDED OUTDOOR
10 LIGHTING; AND FOR OTHER PURPOSES.
11

Subtitle

12 THE SHIELDED OUTDOOR LIGHTING ACT.
13
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Title 8 is amended to add an additional
19 chapter to read as follows:

20 8-14-101. Title.

21 This chapter shall be known and may be cited as the "Shielded Outdoor
22 Lighting Act".
23

24 8-14-102. Purpose.

25 The purpose of this chapter is to conserve energy and preserve the
26 environment through the regulation of outdoor lighting fixtures.
27

28 8-14-103. Definitions.

29 As used in this chapter:

30 (1) "Outdoor lighting fixture" means an automatically-controlled,
31 outdoor artificial illuminating device, whether permanent or portable, used
32 for illumination or advertisement, including searchlights, spotlights, and
33 floodlights, whether for architectural lighting, parking lot lighting,
34 landscape lighting, billboards, or street lighting; and

35 (2) "Shielded" means a fixture that is covered in a manner that light
36 rays emitted by the fixture, either directly from the lamp or indirectly from



As Engrossed: H3/30/05

HB2665

1 the fixture, are projected below a horizontal plane running through the
2 lowest point on the fixture where light is emitted.

3
4 8-14-104. Shielding - Prohibitions - Exemptions.

5 (a) After January 1, 2006:

6 (1)(A) No public funds shall be used to install an outdoor
7 lighting fixture unless it is shielded.

8 (B) The provisions of subdivision (a)(1) of this section
9 shall not apply to a municipally owned utility if the municipal employee
10 responsible for procurement determines that the cost of acquiring a shielded
11 outdoor lighting fixture will be more expensive than the alternative after
12 comparing:

13 (i) The cost of the fixtures; and

14 (ii) The projected energy cost of the operation of
15 the fixtures;

16 (C) No state funds shall be used for the installation of a
17 shielded or unshielded mercury vapor outdoor lighting fixture.

18 (2) The Arkansas Department of Environmental Quality shall
19 promulgate regulations prohibiting any person or entity from knowingly
20 placing or disposing of lights containing mercury in a landfill after January
21 1, 2008.

22 (3)(A) Each electric public utility shall offer a shielded
23 lighting service option.

24 (B) Not later than January 1, 2006, each electric public
25 utility shall file an application with the Arkansas Public Service Commission
26 to establish a schedule of rates and charges for the provision of a shielded
27 lighting service option to the utility's customers.

28 (C) The Arkansas Public Service Commission shall require
29 each electric public utility to inform its customers of the availability of
30 the shielded lighting service.

31 (b) This chapter does not apply to acquisitions of:

32 (1) Incandescent outdoor lighting fixtures of one hundred fifty
33 watts (150W) or less or other light sources of seventy watts (70W) or less;

34 (2) Outdoor lighting fixtures on advertisement signs on
35 interstate or federal primary highways;

36 (3)(A) Outdoor lighting fixtures existing and legally installed

As Engrossed: H3/30/05

HB2665

1 before the effective date of this chapter.

2 (B) However, if an existing outdoor lighting fixture
3 exempted from the provisions of this chapter under subdivision (b)(3)(A) of
4 this section needs to be replaced, the acquisition of the replacement outdoor
5 lighting fixture shall be subject to the provisions of this chapter;

6 (4) Navigational lighting systems at airports or other lighting
7 necessary for aircraft safety; and

8 (5) Outdoor lighting fixtures that are necessary for worker
9 safety at farms, ranches, dairies, or feedlots or industrial, mining, or oil
10 and gas facilities.

11
12 8-14-105. Penalties.

13 Violations of this chapter are punishable by:

14 (1) A warning for a first offense; and

15 (2) A fine of twenty-five dollars (\$25.00) minus the replacement
16 cost for each offending outdoor lighting fixture for a second or subsequent
17 offense or for an offense that continues for thirty (30) calendar days from
18 the date of the warning.

19
20 8-14-106. Enforcement.

21 This chapter may be enforced by a town, city, or county of this state
22 by seeking injunctive relief in a court of competent jurisdiction.

23
24 8-14-107. Provisions supplemental.

25 The provisions of this chapter are cumulative and supplemental and
26 shall not apply within a town, city, or county of this state that by
27 ordinance has adopted provisions restricting light pollution that are equal
28 to or more stringent than the provisions of this chapter.

29
30 /s/ Ledbetter
31
32
33
34
35
36

ADM 05-1497: Administrative Item: Outdoor Lighting Ordinance (formerly AD 01-15): Submitted by Long Range Planning as a proposal to add an Outdoor Lighting Ordinance to the Unified Development Code.

Ostner: The first item on our agenda is ADM 05-1497 for the Outdoor Lighting ordinance.

Olson: We have before us the outdoor lighting ordinance. As most of you are probably aware, staff has worked on this off and on for quite some time and we feel that this ordinance before you is a pretty straight forward ordinance that will achieve our purpose however, it will have a minimum additional work load for staff in terms of review and things of that nature. I have a short PowerPoint presentation for you tonight. There is the United States from a satellite photo. There is lots of light. The purpose of the outdoor lighting ordinance is to limit glare and light trespass on adjacent properties. Protect drivers and pedestrians from hazardous glare. Promote the efficient and cost effective outdoor lighting while allowing for flexibility and design and the style of outdoor light fixtures. Finally, to reduce atmospheric light pollution. The applicability, any outdoor lighting fixtures in new development would have to comply with the regulations of this ordinance and any outdoor lighting fixtures being completely replaced would also have to comply. There are a number of exemptions from the ordinance. Single and two family residential dwellings. Any street lights that were installed prior to the adoption of the ordinance. Of course, your navigational lights for airports and towers. Seasonal decorative lighting. Sports field lighting. Security lighting that is controlled by timed motion sensors and the decorative street lighting that is located in the downtown master plan area. How this ordinance will be enacted is much the same way as how we now get a landscape plan or a grading plan. At the time of submittal the applicant would provide staff with an outdoor lighting plan. On that plan, the applicant would indicate the location and type of fixture, the description of the lamina or the bulb, including lamps, poles and shielding devices and then also the photometric data showing the angle of light emission. The photometric data is available from the manufacturer of the fixture. Any outdoor lighting shall be coated, shielded, and aimed downward. The hood or shield shall mask the direct horizontal surface of the light source. Light trespass beyond property boundaries shall be considered non-compliant. Again, when an existing fixture is replaced the replacement must meet the requirements of this ordinance. When you speak of shielded fixtures, these are some examples, the bulb is located up in the fixture, no light escapes above the horizontal plain of the fixture. All of that light is directed downwards onto the ground. These are examples of parking lot street lighting type applications. These are wall mounts. You typically see floodlights on walls with commercial type development. These fixtures are all shielded, the light is directed downward. Lighting manufacturers are making more ornamental type

fixtures that are fully shielded so there is a lot of flexibility in design out there. Those are just some examples of what a shielded fixture looks like. This gives you an idea of what it does for you. The fixture on the left is a shielded shoe box fixture, the light is coming down. The pictures to the right are not shielded and the light is going in all directions. That kind of gives you a good idea of the difference in shielded verses unshielded fixtures. It is directing that light down to the ground, not allowing any light to escape above the horizontal plain. I have some pictures of the city. This is a light fixture that is intended to light the canopy of a gas station. The gas station has lighting in the canopy but these fixtures project onto the canopy to light the logo of the company. This is what it looks like during the daytime and this is what it looks like at night. It is 6' off the ground, unshielded, focused up into the atmosphere. If you look past this fixture you see more lighting in the gas company there. Those are not shielded. The lens sags below the canopy so it emits a lot of light out in all directions. This is a typical gas canopy light, convenience store light. Again, you see the bulb is located down in the lens. This is what it looks like at night. These were taken with a digital camera with the flash off. Here is a gas station canopy and that is what it looks like at night. Obviously, there is a lot of glare there. These are typical parking lot type applications. Where the fixture is a good fixture, it is just that it is aimed at a 45° angle so you are not directing that light downward onto the ground, you are throwing it out at a 45° angle. That kind of gives you some ideas. If you drive around the city at night you can see some good and bad examples of outdoor lighting. This ordinance is intended to give a lot of flexibility to the lighting designer while achieving our purpose of directing that light onto the ground and reducing light pollution, energy waste and the glare is the biggest issue with pedestrians and drivers, seeing that glare shine into your eyes from badly installed outdoor lighting. In your packet on 4.1 is the staff report. It kind of walks through some of your basic questions in terms of what does an outdoor lighting ordinance do. How does the proposed outdoor lighting ordinance, what will it regulate, what will it exempt. Then on page 4.3, 4.4, and 4.5 you have the actual ordinance. The ordinance itself is about three pages and then there is another page of examples of fixtures. I would be happy to entertain any questions.

Ostner: Commissioners? I have one question. You handed out this bill from the State Legislature, could you elaborate on that a little bit?

Olson: The State Legislature passed a bill in the last session titled "An Act to Encourage the Use of Shielded Outdoor Lighting and Other Purposes." It is the shielded outdoor lighting act. I became aware of this Friday. The shielded definition is almost word for word the definition that we have in our ordinance. Basically, this state law says that no public funds shall be used to install an outdoor lighting fixture unless it is shielded. For

example, any highway lighting that would be state or federally funded, they would have to put up shielded fixtures. The other thing that it does, in Section 3(a) it says that each electric public utility shall offer a shielded lighting service option. Currently in the City of Fayetteville if you were to develop a subdivision I believe they give you two or three options of street light fixtures that you can put in your development. None of which are shielded fixtures. This state law actually mandates that by January 1, 2006 each electric public utility shall have shielded fixtures for installation. That was a question with previous ordinances as to street lighting and how do we get the utility companies to go along with this. This state law is actually going to mandate that for them. It really works in conjunction with the outdoor lighting ordinance that we have proposed.

Clark: Does the state law include sports field outdoor lighting?

Olson: The state law doesn't make mention of sport field lighting.

Allen: We have been playing around with this for a long time with other efforts, we have taken a league of new employees in order to implement it and I commend you for making this simple enough. I know we could tweak it to the end of the earth but I think you have done a good job and I think it is an ordinance that can be implemented. I am going to move for approval of ADM 05-1497 to be forwarded to the City Council.

Myres: I will second.

Ostner: I have a few questions. I would agree that this is a good ordinance and we have been trying to do this for a long time. On page 4.2 we are talking about proposed outdoor lighting ordinances, what uses will it regulate and what uses will it exempt? Will these ordinances apply to parking lots?

Olson: Yes, they will apply to parking lots in commercial and multi-family residential and industrial uses.

Ostner: Parking lots for parks or non-commercial uses?

Olson: That is a good question, I don't know that we address that. It addresses sports field lighting for parks and schools and such as exempting them. I would say that it would. We could clarify that. Jeremy might have something.

Pate: I don't know that we have specifically indicated exempt or not. I would just make mention that most city divisions are typically required to follow most city ordinances, much like the city follows it's own ordinances for a LSD or the Parks Division does the same. I think there are specific exemptions with regards to certain things but if that is something that this

Planning Commission, the Ordinance Review Committee or the City Council would like to exempt we can certainly pass forward that information to them for their review as well.

Ostner: That is the same reasoning I was thinking. Since we are exempting the Downtown Master Plan lights it was an idea that crossed my mind. On the issue of trespassing onto someone else's property, here again, I understand this is in the beginning phases and has a lot of tweaking until it gets done, I would be interested on whether a property owner's front property line would be considered a property line. There are specific drawings at the bottom of page 4.6 that talk about shielding to not spill over onto the neighbor's property. Front right of way is a form of property line. It is not the same as your side property. I would encourage the staff to look into that. Those are a few of my issues. Are there any other questions from anyone else? At this point I am going to open this issue up to public comment. If anyone would like to speak on the outdoor lighting ordinance please step forward and share your comments. Seeing none, I will close it to the public comment section and bring it back to the Commission. There is a motion and a second to forward, if there is no other comment go ahead and call the roll Renee.

Roll Call: Upon the completion of roll call the motion to forward ADM 05-1497 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries.

RESOLUTION

THE FAYETTEVILLE ARKANSAS CHAMBER OF COMMERCE

WHEREAS the City of Fayetteville has been working on a Lighting Ordinance for over two years, and

WHEREAS the Fayetteville Chamber of Commerce, its Past Chairmen's Club and Construction and Developers Committee have monitored the Lighting Ordinance issue with concern and input, and

WHEREAS the Fayetteville Chamber of Commerce and its volunteer committees represent the business community of the City of Fayetteville, Arkansas, and

WHEREAS the Past Chairmen's Club and the Construction and Developers Committee recommends the Fayetteville Chamber of Commerce Board of Directors endorse the latest attached draft of the Lighting Ordinance that will go before the Fayetteville City Council on June 9

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Fayetteville, Arkansas Chamber of Commerce support the latest attached draft of the Lighting Ordinance and that a copy of this resolution be forwarded to the Mayor and City Council of the City of Fayetteville.

Passed and approved this 23rd day of May 2005.

By: Cathy Foraker
Cathy Foraker
Vice Chairman of the Board
Fayetteville Chamber of Commerce

Attest: Bill Ramsey
J. W. "Bill" Ramsey
President/CEO
Fayetteville Chamber of Commerce

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Jun-05
City Council Meeting Date

Leif Olson
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of an Outdoor Lighting Ordinance for the City of Fayetteville, see attached Staff Report and Ordinance.

\$0.00

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

n/a

Remaining Balance

n/a

Fund Name

Budgeted Item

Budget Adjustment Attached

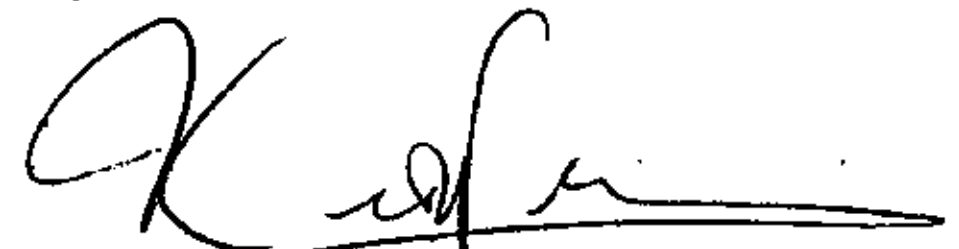

Department Director

5-20-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

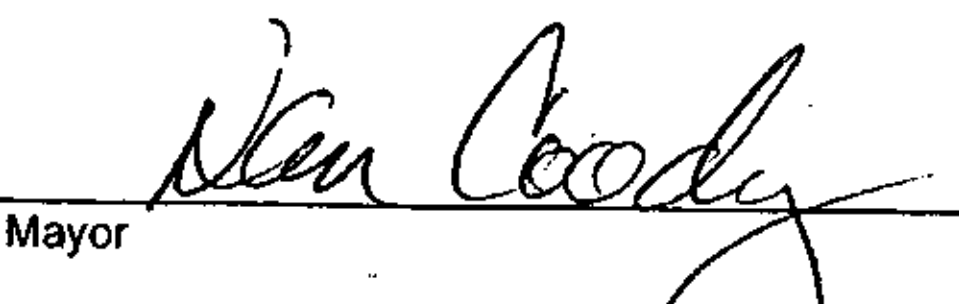
Original Contract Number: n/a


City Attorney

5-23-05
Date

Received in City Clerk's Office




Mayor

5/26/05
Date

Received in Mayor's Office



Comments:

City Council Meeting of October 05, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 17, 2005

Subject: Ordinance amendment to add an additional Planned Zoning District (PZD) option to allow applications to be approved as a Master Development Plan without submittal and approval of a large scale development or preliminary plat.

RECOMMENDATION

The Planning Commission voted 8-0-0 on January 10, 2005 to recommend approval of the revised ordinance to the City Council.

BACKGROUND

Staff has brought forward amendments to the Planned Zoning District ordinance to address several issues that have been discovered since the passage of the ordinance in 2002. The following amendments are addressed in the proposed ordinance:

- Significant reduction in the amount of design and engineering required for submittal (No Large Scale Development and Preliminary Plat required for land use changes)
- Standardization of required information for all PZD's Master Development Plans.
- Increased level of detail in written form as a "Statement of Commitments" to clarify what is presented to the City for approval
- Authorization to phase projects beyond the current expiration of approvals
- Authorization to administratively approve minor modifications

At the ordinance review committee on April 27, 2005, the committee discussed the idea of having PZD's that do not include preliminary plat and large scale development go directly to the City Council.

The committee asked staff to present this idea to the Planning Commission and get their comments. Staff has attached their comments regarding this issue.

The overall goal of this amendment is to meet the informational needs of the citizens, elected and appointed officials, the development community and staff to make informed policy decisions regarding land uses changes within the community without development approval (Preliminary Plat and Large Scale Development).

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 166.06 PLANNED ZONING DISTRICTS (PZD), AND SECTIONS 161.25 (C), (D), AND (E) PLANNED ZONING DISTRICT, TITLE XV OF THE UNIFIED DEVELOPMENT CODE, FAYETTEVILLE CODE OF ORDINANCES, TO ALLOW MASTER DEVELOPMENT PLANS TO BE SUBMITTED AS AN OPTION WITHOUT SUBMITTING A SUBDIVISION OR LARGE SCALE DEVELOPMENT AND CLARIFYING OTHER REQUIREMENTS, CONDITIONAL USES, AND DEVELOPMENT STANDARDS PLANNED ZONING DISTRICTS

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

Section 1. That Section 166.06 Planned Zoning Districts (PZD), Title XV of the Unified Development Code, Fayetteville Code of Ordinances, is hereby deleted in its entirety and replaced in its stead by Exhibit A, attached hereto and made a part hereof..

Section 2. That Sections 161.25(C), (D), and (E) Planned Zoning Districts (PZD), Title XV of the Unified Development Code, Fayetteville Code of Ordinances, is hereby amended to add the following section under R-PZD, C-PZD, and I-PZD:

Conditional Uses. All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

PASSED and APPROVED this 7th day of June 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT A

166.06 Planned Zoning District (PZD)

(A) *Applicability.* To be considered for a planned zoning district, the applicant shall meet all of the following criteria:

- (1) *Location.* Eligible properties include those located within the city limits.
- (2) *Ownership.* Eligible applicants for preliminary plan review shall be a landowner of record or an authorized agent. The approved **PZD master** development plan shall be binding on all subsequent owners of the land until revised or modified.
- (3) *Size.* There shall be no minimum or maximum tract size for a PZD application.

(B) *Application.* The initial application for a PZD shall include the following items:

- (1) *Application.* Complete application form to request a PZD.
- (2) *Copies.* Copies of a **PZD master** development plan in accordance with the submission requirements on the project application form.
- (3) *Fee.* Applicant shall pay all required filing fees for a planned zoning district as set forth in Chapter 159 Fees of the UDC. If a subdivision or **large scale development** is proposed, a fee for **that application** shall also be paid.

(C) *Review and approval procedures.*

- (1) *Pre-application meeting.* Before submitting an application the landowner or authorized agent shall confer with the Planning Division in order to become familiar with the **PZD** process. The staff shall inform the applicant of any perceived problems that may arise. A further purpose of the pre-application meeting is to make sure the applicant has, or will be able to, submit the necessary information for filing the application. The intent of this conference is to provide guidance to the applicant prior to incurring substantial expense in the preparation of plans, surveys and other data required in a **PZD master development plan**.
- (2) *Required City Council Approval.* **PZD Master Development Plans that are processed without a preliminary plat or large scale development shall only require City Council approval.**
- (3) *Required Planning Commission and City Council Approval.* **PZD Master Development Plans that are processed with a preliminary plat or large scale development shall follow the procedures for large scale development and preliminary plat approval through the Planning Commission when processed concurrently as set forth in Chapter 166 of the UDC.**

- (4) *City Council.* If the **PZD master** development plan is approved by the Planning Commission, it shall be forwarded to the City Council for review. The City Council may grant or deny as submitted, or as they may so amend, defer for requested changes or more information, or return the application to the Planning Commission for further study. The applicant shall not modify to a design other than that reviewed and approved by the Planning Commission prior to City Council review. The City Council may direct the Planning Commission to reconsider specific aspects of the plan. If the master development plan is approved, an ordinance shall be prepared which incorporates the plan, **statement of commitments, development and architectural standards**, and conditions.

(5) Development and Subdivision Approval. Preliminary Plat and/or Large Scale development approval is required for all PZD Master Development Plans.

- (6) *Appeals.* Appeals from the action of the Planning Commission shall be in accordance with Chapter 155 Appeals of the UDC.
- (7) *Repeals.* The owner of an approved planned zoning district may, for cause, request repeal of the ordinance establishing the development when it has been determined that the development will not occur. A written request may be filed with the city clerk at any time up to three (3) years after the date of adoption of the ordinance creating the planned zoning district. The request shall be addressed to the Mayor and City Council, setting forth the cause for repeal.

The request shall be set for a public hearing at the earliest possible time to expedite the required action. The owner of the subject planned zoning district zoned land shall provide notice of hearing to adjacent property owners. Notice to others as required by law shall be provided by city staff and signs shall be posted.

(D) General Requirements.

- (1) ***Application of a Planned Zoning District is permitted only in accordance with a master development plan prepared and approved in accordance with the provisions herein. Large Scale Development, Site Plan, and/or Preliminary Plat approval may be concurrently processed through the PZD process.***
- (2) ***Planned Zoning Districts may be controlled by one or more owners and shall be developed under unified control or by a unified master development plan. The owners, successors, heirs, or assigns shall be bound by the approved master development plan, including any modifications or amendments thereto as approved by the Zoning and***

Development Administrator or City Council.

- (3) Master development plans may include more restrictive regulations than that which is included in other sections of the UDC, but standards shall not be established that fall below these minimum standards.***

(E) Approval or Rejection Criteria For Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;***
- (2) Whether the application is in compliance with all applicable statutory provisions;***
- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;***
- (4) Whether the proposed rezoning is compatible with the surrounding land uses;***
- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;***
- (6) Whether the intended land use would create traffic congestion or burden the existing road network;***
- (7) Whether the planned development provides for unified development control under a unified plan.***
- (8) Whether any other recognized zoning consideration would be violated in this PZD.***

(F) Master Development Plan Summary and Required Information

Master Development Plan (MDP) is a useful tool for both developers and planners to reach consensus and agreement about the way an area is developed, where a variety of uses and impacts may be proposed on one property. They differ from engineered site plans in that they address the bigger picture, rather than the minutia of a detailed engineered site plan. A MDP should depict the larger planning issues such as basic densities, open space, access, internal circulation, availability and location of existing water and sewer, existing topography, drainage, and the general location of uses, while giving the developer some leeway to address grading, utility construction, street construction, building placement, driveways, and number and location of parking spaces further along at the development review or building permit stage.

The following information shall be submitted by the applicant in written narrative form:

(1) The name and address of:

- (a) landowner/applicant**
- (b) representative, if applicable**

(2) General project concept:

- (A) Street and Lot Layout**
- (B) Site Plan Showing Proposed Improvements**
- (B) Buffer Areas**
- (C) Tree Preservation Areas**
- (D) Storm Water Detention Areas and Drainage**
- (E) Undisturbed Natural Areas**
- (F) Existing and Proposed Utility Connections And Extensions**
- (G) Development and Architectural Design Standards**
- (H) Building Elevations**

(3) Proposed development phasing and time frame

(4) Proposed Planning Areas, described and depicted (Planning Areas (PA) are those areas within an MDP designated with specific zoning and development standards, as required herein. Any number of PA's may be allowed within an MDP, subject to approval by the City Council.)

(5) Relationship to the existing and adjacent land uses

(6) Impacts on City services

(7) A traffic study when required by the Planning/Engineering Divisions.

(8) An analysis of the site characteristics related to the proposal, including any environmentally hazardous, sensitive or natural resource areas. Describe any natural or manmade hazards.

(9) Compliance with the Fayetteville General Plan 2020

(10) A description of the recreational facilities, including existing and proposed park sites, open space and accessibility to parks and open space areas.

(11) Proposed Zoning and Development Standards

(12) A chart comparing the proposed master development plan to the current zoning district requirements.

(13) Any other required information as applicable when other applications are processed in conjunction with the PZD master development plan application (i.e. preliminary plat, large scale development).

(G) Master Development Plan Level of Detail

(1) Sheet 1

- (a) The name of the proposed master development plan shall be centered at the top of the sheet along the long dimension of the sheet.**

(b) The following wording shall be placed verbatim on the sheet:

GENERAL PROVISIONS

Authority

This PZD master development plan is authorized by Sections 161 and 166 - Planned Zoning Districts of the City of Fayetteville Unified Development Code. The provisions of this PZD master development plan shall run with the land. The landowners, their successors, heirs, or assigns shall be bound by this master development plan, as amended and approved by the City Council.

Adoption

The adoption of this PZD master development plan shall evidence the findings and decision of the Fayetteville City Council that this Planned Zoning District for (name of development) is in general conformity with the Fayetteville General Plan 2020; is authorized by the provisions of Sections 161 and 166 of the City of Fayetteville Unified Development Code.

The provisions of this PZD master development plan shall prevail and govern the development of (name of development), provided, however, that where the provisions of this Master development plan do not address a particular subject, the relevant provisions of the City of Fayetteville Unified Development Code, as amended, or any other applicable resolutions or regulations of the City of Fayetteville, shall be applicable.

Enforcement

To further the mutual interest of the residents, occupants, and owners of the PZD Master development plan and of the public in the preservation of the integrity of the Plan, the provisions of this Plan relating to the use of land, statement of commitments, development and architectural standards, and the location of common open space shall run in favor of the City of Fayetteville and shall be enforceable at law or in equity by the City without limitation on any power or regulation otherwise granted by law.

Conflict

Where there is more than one provision within the PZD Master development plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator.

Maximum Level of Development

The total number of dwellings or the total commercial, business, or industrial intensity approved for development within the Planning Areas is the maximum development requested for platting or construction. The actual number of dwellings or level of development for commercial, business, or industrial properties may be less due to subdivision or site improvement plan requirements or other requirements of the City Council.

Project Tracking

At the time of subdivision final plat, ~~site plan~~, or large scale development the applicant shall provide a summary of the development, to date, to the Planning Division, in order to assure maximum development limits are not exceeded.

(2) Sheet 2 Zoning and Development Standards By Planning Area

The name of the proposed PZD master development plan shall be centered at the top of the sheet along the long dimension of the sheet. The proposed zoning and development standards shall be formatted to follow the established UDC zoning format. Beginning in the upper left hand column of the sheet, state the following for each Planning Area category, e.g., single family:

**Permitted uses by Use Unit
Conditional uses by Use Unit
Land Use Density and/or Intensity
Bulk and area regulations
Lot width minimum
Lot area minimum
Land area per dwelling
Setback requirements
Height
Building area
Landscaping
Parking
Site Planning
Architectural Design Standards
Other standards or requirements provided in the UDC shall apply to this PZD Master Development Plan
Complete legal description. The staff planner may allow this to be provided on a separate sheet, if lengthy.**

(3) Sheet 3 Master Development Plan.

The name of the proposed PZD master development plan shall be centered at the top of the sheet along the long dimension of the sheet. This sheet shall graphically depict the site and include the following:

- 1. A block in the lower right hand corner, or along the right hand margin, which includes the following:**

North Arrow

**Graphic and written scale at 1" = 100' or 1" = 200' or as otherwise approved by the Zoning and Development Administrator or staff planner
Date of Preparation**

- 2. Vicinity map that depict the relationship to the surrounding area within a 1 mile radius.**

The vicinity map shall be superimposed on a current City of Fayetteville Plat Page, on a current City of Fayetteville Zoning Map, and on a current City of Fayetteville Master Street Plan maintaining the same scale .

- 3. Dimensions, bearings, and control points along all exterior property lines.**
- 4. Topography shall be shown at maximum 10' contour intervals, including high and low spot elevations and shadow areas of 15% or greater slope. The staff planner may request that other significant topographic conditions be depicted at greater or lesser intervals where appropriate.**
- 5. Access**
 - (1) Arterials and collectors shall be depicted in all planning areas.**
 - (2) Trails as coordinated with the Parks Division**
- 6. Existing easements/right-of-way**
- 7. 100 year floodplains, floodway, and stream/creek centerline**
- 8. Proposed Land/ROW/Easement Dedication**
- 9. Public or private, regional and community parks, open space and trails shall be depicted and referenced by number, letter or symbol. Local park dedication shall be determined at the time of platting/development.**
- 10. Planning Areas – Areas Identified for a Specified Permitted and/or Conditional Uses**

All planning areas and open space areas shall be shown overlaid on topography at a scale that clearly delineates the

planning area boundaries so that they can be located on the site.

For each planning area shown on the development plan or within a separate table, indicate the following, as applicable:

- A. Acreage**
- B. Number of dwelling units**
- C. Land use designation**
- D. Residential density**
- E. Nonresidential square footage**

NOTE: The number of dwellings indicated in the Planning Areas is the maximum number of dwellings requested, the total of which cannot exceed the total number approved for the proposed PZD. The density range for each Planning Area, when calculated to the maximum proposed, shall not exceed the total number of dwellings for the entire PZD. The actual number of dwellings approved by the Council may be less than shown on the plan due to subdivision or site improvement plan requirements or other requirements of the Council and Planning Commission.

11. Land Use Table

A separate land use table, which indicates the total land use for the planned development, shall be prepared as follows utilizing the following categories and symbols: Partial Example:

SYMBOL	LAND USE	DENSITY	UNITS	ACRES	%
SF	Single Family	3	120	40.0	26%
MF	Multifamily	9	765	35.0	23%
DP	Dedicated Parks	-	-	42.5	28%
SUBTOTAL		8.38	885	117.5	77%
C	Commercial	566,280 sq. ft.		25.0	17%
I	Industrial	217,800 sq. ft.		9.0	6%
O	Office				
M.U.	Mixed Use				
		SUBTOTAL 784,080 sq. ft.			34%

(H) Statement of Commitments.

The statement of commitments shall be provided in the following format:

"STATEMENT OF COMMITMENTS"

The statement of commitments shall, in all cases, describe the development commitments including a method for assigning responsibility to heirs, successors, or assigns, and timing of the fulfillment of these commitments for the following:

- 1. Dedication: Proposed public dedication for parks, streets, drainage, sewer, water, etc., either in specific acreage dedication (referenced by symbol) or specific cash in lieu of land or facilities. Describe the proposed ownership, utility provision, improvement schedule, and maintenance provision. In all cases, dedicated land shall be conveyed to the City of Fayetteville.**
- 2. On or off site improvements: Provision shall be made for the construction of, or payment of fees for, community or off site improvements through current UDC requirements for guarantee of improvements at the time of development.**
- 3. Natural Resources and Environmental Sensitive Areas Such as Trees, Wetlands, Floodplain**
- 4. Project phasing restrictions**
- 5. Fire protection**
- 6. Other commitments imposed by the City**
- 7. Parks/Trails/Open Space Commitments**
- 8. Proposed Preliminary Building Elevations (Residential and Commercial)**

(I) Amendments to the PZD Master Development Plan.

The Zoning and Development Administrator shall determine whether an amendment request shall be considered a minor modification or a PZD City Council rezoning based on the criteria established herein. The applicant may appeal the Zoning and Development Administrator's decision to deny an administrative modification within 10 working days of said decision to the council, in writing.

(1) Minor Modification - Criteria

An amendment request may be considered as an administrative minor modification if it meets the following criteria:

Building Setbacks –An increase or decrease of the required building setback when such modification is no more than a 20% change to the originally approved setback.

Minimum Lot Size –An increase or decrease of the minimum lot size when such modification is no more than a 20% change to the originally approved minimum lot size.

Building Height -An increase or decrease of the building height when such modification is no more than a 20% change to the originally approved maximum building height.

Increased Number of Dwelling Units -An increase of the number of dwelling units in a planning area of 20% or less. Such increase shall be accompanied by a corresponding decrease in dwelling units in another planning area located within the same approved PZD Master Development Plan.

Decreased Number of Dwelling Units -A decrease of the number of dwelling units in a planning area up to 20%. Such decrease shall result in a net loss of dwelling units unless these units are concurrently approved as an increase of units in another planning area.

Commercial/Non-residential Development Intensity An increase or decrease of the square footage of development intensity when such modification is no more than a 20% change to the originally approved development intensity.

Text Changes -Insubstantial changes to the text, as determined by the Zoning and Development Administrator, to add clarity, when such changes do not change the commitments.

Street Alignment -The Zoning and Development Administrator upon review by the City Engineer shall determine whether an insignificant shift in the alignment of a street shall be considered as a minor modification require no amendment.

(2) City Council Approval. Rezoning through the PZD process is required to modify any aspect of the PZD which is not allowed under the Minor Modification process. A planning area within a Master Development Plan may be amended separately from the remainder of the approved master development plan with City Council approval.

(J) Phasing. Phasing of a PZD master development plan may vary from the requirements of Chapter 166 of the UDC with regard to the expiration of permits and plans only when phasing has been identified, described, and approved as part of the PZD master development plan process.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.
- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.
- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
 - (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.
- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall be used as general guidelines to establish parking and loading standards for the PZD master development plan.
- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.
- (6) *Sidewalks.* As required by §166.03.
- (7) *Street Lights.* As required by §166.03.
- (8) *Water.* As required by §166.03.
- (9) *Sewer.* As required by §166.03.
- (10) *Streets and Drainage.* Streets within a PZD may be either public or private.
 - (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City **unless otherwise approved by the City Council as part PZD master development plan.**
 - (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, a minimum 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.

- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.
- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall guarantee to the City completion of the nonresidential facilities **in the amount no less than 150% of the estimated cost of said facilities.**
- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.
- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.
- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased **master development plan** schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff ~~may~~ report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, detention ponds, drainage structures, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities ██████████ be approved by the City Attorney. The Planning Commission shall consider and approve the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.
 - (f) The association must be able to adjust the assessment to meet changing needs.

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ADM 04-1326: Administrative Item (PZD Ordinance Amendment)

Ostner: The next item on our agenda is ADM 04-1326. An administrative amendment to the PZD Ordinance. If we could have the staff report please.

Pate: This item, before you tonight staff is recommending that a formal recommendation be brought up by the Planning Commission and sent on and processed. This is an amendment to our Planned Zoning District Ordinance. As you may know, there are two sections in our Unified Development Code that talk about the Planned Zoning District Ordinance. The first section is Chapter 161, Zoning. The second is Chapter 166. All of these amendments, as shown and as indicated in your packet, refer to Chapter 166. The entire Ordinance has been submitted here with strikeouts in bold areas where revisions have been submitted for your review. This is a significant amendment of this Ordinance. Mr. Williams, correct me if I am wrong, this passed back in early 2003, so it's been about two years on the books now. There has been a learning process of this Ordinance, which was very new to the City of Fayetteville, and a lot of questions both by City Council and by the Planning Commission, by the general public, developers and property owners questioning this new process, as we fully anticipated. Any new process is going to come under some certain amount of scrutiny and will need revising and tweaking to get to a better point. One of the larger issues that we have dealt with is how to process some of the larger projects that you have seen. A couple of the projects specifically have been larger than, for instance, a developer could design everything for all the parking lots, the commercial buildings the homes, the lots, could not be platted and shown to you on such a large scale at 100, 200, 300 acres. That is a weakness that we feel is in the existing ordinance that does need to be addressed. A couple of other items that did need to be addressed are amendments to the Planned Zoning District that we currently have really no way to amend a Planned Zoning District Ordinance that is easy to process. Additionally, phasing, sometimes these larger projects especially require phasing, we currently on the books for all development plans have a one year time frame in which you have to get your building permits, your construction permits. When you're developing 200 acres, there's sometimes not the ability for a developer or property owner to be able meet that time frame. So we're going to address some of those issues with these larger projects with these Ordinance Amendments. Of course, we will not go over all of the Amendments for you but just to hit some of the highlights, what this Ordinance does create is what's called a Master Development Plan. Any Planned Zoning District would be required to go through what's called the Master Development Plan, which is outlined in pages 2, 3, 4, 5, 6 and 7 in your packets. What that does is standardized those things. It gives you sheet one, this is the information that needs to be included. Sheet 2, this is the information that needs to be included and likewise on sheet 3. A couple of the options that are available, you can process just the Master Development Plan with these

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three sheets. What that would get you is some sort of conceptual type of plan, you would create your Zoning District, you would create your firming by creating the Zoning District. If you look in your Chapter 161, in the Zoning Ordinances, they would create that table of information, the land uses permitted, uses even permit like conditional use, the bulk and area requirements, set backs, density, the land intensity if it's a commercial project, the maximum square footage for each one of the areas they're looking at developing. It would not be a formal subdivision or a large scale. On the other hand, if you would like to process like the process we do now with the Preliminary Plat or a Large Scale Development which is the current means by which an applicant processes a Planned Zoning District, you still have that option. You can still submit your full building elevations and, if the City Council approves it, you submit for your building permit the next day if you have that ability. This does not take that out of the hands of the smaller property owners that would like to develop as well. What it does it does is it does add three sheets essentially and some information that would need to be required with the Master Development Plan. In an effort to standardize and help make this information a lot more clear. Like I mentioned, what it does, it does add some new things, it does tweak some old things. You will notice some changing like the phasing items, some of the amendment items is brand new so we had to kind of come up with that by looking at Ordinances across the country that do allow amendments, it would allow for an Administrative Amendment within a certain percentage so that you would not have to come back for another rezoning request or go before the City Council and Planning Commission every single time they wanted to change something. There are, of course, allowances in there and a percentage set so, if the Zoning & Development Administrator feels that the intent of the original ordinance is not being met, then it would come back to the Planning Commission and City Council. As I mentioned, some of the existing, I think probably one of the more important things for staff and hopefully for the Commission and Boards looking at that, is with the projects, it would standardize a lot of things. Some of the problems that we face in recommending applicants and property owners to process these projects is how much time it would take, how much money it would take, that is an often question with the Planned Zoning District Workshop, the Planning Commission and City Council held last fall I believe, those were a lot of the questions, not wanting to spend all the money up front in the design phases just to present a project to you to see if you felt, and the City Council felt, the land use was appropriate. This Master Development Plan would allow for that sort of conceptual idea. It would also establish standards. It would establish development commitments. It would establish things that the developer could commit to within reason obviously, as part of this development and it would vest certain development rights or at least zoning rights for these properties. I guess with that, I will leave it up to any questions that you might have. Again, staff is recommending that the Planning Commission make a recommendation on this tonight for approval.

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This will need to go before the Ordinance Review Committee as well as our Legal Department to make sure everything is in order before it gets to the City Council. We're excited about this new ordinance and I think it's got a lot of positive things that need to be changed to the existing ordinance.

Ostner: Thank you, Mr. Pate. At this point I will bring it to the Commission for discussion.

Shackelford: Jeremy, if you would just to make sure this is clear in my mind. I am just a dumb old banker so I have got to think real slow on these sometimes. As I read through this PZD Master Development Plan is basically the new concept, in a lot of areas we're striking the language of large scale development, preliminary plat, that sort of thing. That basically has to do with the phasing. Assume that we have a thousand acre project that comes through with the PZD Master Development Plan. In my understanding, is that through that plan, they will be able to say this 400 acres is residential, this 200 acres is office, this piece is multi-family without having to particularly prepare preliminary plats for the residential, come forward with large scale development, that sort of thing. Is that correct?

Pate: That is correct and staff has proposed in some of this language the term "planning area" which at the agenda session was questioned, maybe we need to utilize another term because we have the overall planning area outside the city limits. Currently, what we have here is essentially, for instance, that 1000 acre parcel, you could establish the usage, the density or the intensity of commercial office space, the building height restrictions both maximum and minimum, the green space requirements, the parking standards for instance, you could establish your ratio at that time for each one of those areas and essentially it would be like more of a diagrammatic drawing. You would still be using some of the Concept Plats that you have previewed. It would not be a subdivision of land unless the applicant is choosing to go forward with that full process and they want to subdivide that full 1000 acres. But this would allow for those areas to be identified within certain means and establish a Zoning District specific to each one of those.

Shackelford: As those areas are further developed, the traditional Large Scale Development and Preliminary Plat, those processes will remain in tact as they are today. Is that correct?

Pate: That is correct.

Shackelford: Assume that the developer wants to make changes. What is the process after the concept, or the Master PZD Development Plans, in place, what process would they have to go through to modify that original proof?

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Pate: The amendment section in our Ordinances basically has two options. You can, if it's deemed an administrative modification sort of like our minor modifications for large scales now, it could be administrative to a certain degree. There are certain restrictions, you can find that in Section I, Amendment to the PZD Master Development Plan. The Zoning & Development Administrator would have the ability to a certain degree to modify certain densities for instance in a planning area set backs, building envelope, green space requirements within a certain percentage. Keep in mind however, say you have two planning areas and you have a maximum number of dwelling units, if you want to increase one, you have to decrease the other. The maximum, the ceiling is set with the rezoning process. But this allows a little bit of flexibility within the planning area. So if the developer dependent upon their marketing plan of the development at that time occurring, that they would have that flexibility. The other process would be a straight rezoning if it changes more than this or if the Zoning & Development Administrator feels that whatever modification is being presented does not meet the spirit and intent of the original ordinance as it was passed by the City Council, they can deny that. There is an appeal section in this that they could appeal within 10 days to the City Council.

Shackelford: So where it states that you have a minor modification is density of 20% or less, that you say would have to still fall under the cap that the entire project was originally approved under?

Pate: That is correct.

Ostner: For administrative changes.

Shackelford: Right, for administrative. Anything beyond that would have to come back before this Board and that process.

Pate: That is right.

Shackelford: Okay. I will defer to the board this time. I have one more question that I can't think of.

Anthes: I just wanted to say to Staff that this is a much improved ordinance. I appreciate that you all had the meeting with us and the developers to start talking about how to outline this process and agree with Jeremy that the Master Development Plan is a good way to start talking about larger tracts and some smaller ones. I still have a question though. The PZD Ordinance is really the only method for us to get a true mixed use development in the live areas of Fayetteville and I am concerned still when we do this Master Development Plan that we're encouraging this 40 acres of single family, 40 acres of multi-family, something of this, something of that, that again does not allow for the kind of complexity that we're looking for in creating

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community in larger tracts of lands. How are we going to handle that? What about this ordinance is going to help support people that are trying to do that kind of use in their projects?

Pate: I suppose the way it would support that is that this Planned Zoning District does allow, any Planned Zoning District as we see currently, does allow for this mixture of uses by any means which the developer or property owner wishes to do that within obviously, certain bounds. The way we have it written, we support those mixtures of uses with mixtures of density, building types, commercial types, office types, residential types within the same planning area for instance. However, it really is left up to the creativity and the willingness of the developer to do that. This is the method of the vehicle by which that property owner may pursue those types of developments. It=s really up to them though to have the willingness and education, most of which are outside of this community at this time. We are seeing some mixed use developments but it=s bringing that information in and looking at those types of mixed use developments within the city that we are trying to support with this ordinance.

Anthes: If we=re talking, let=s use the 1000 acres and kind of breaking it into manageable parcels to come through with basically the preliminary or the large scale process. Is there=s something in the messiness of mixed use that is going to make those internal divisions unclear and difficult for a potential developer to document for us or do you think that it can be accomplished easily? The reason why is if sometimes something is a lot harder to do, it doesn=t get done. It gets done in the more simpler way and I just want to make it the most easy to have people think creatively and think in this way we can talk to them.

Pate: I suppose that the flexibility in this allows for that creativity to bring itself forward. For instance, we=re not requiring the developer to establish 10 planning areas per 1000 acres for instance. They can have one big planning area and the amount on the uses, all uses permitted by right, within that one Zoning District. If that=s something that the Planning Commission and City Council would like to see. It is staff=s opinion that creating this vehicle allows for those mixtures of uses. So you can have planning area number one that is 10 acres right in the middle of the property. I am just using theoretical bounds here, that has a mixture of single family, Use Unit 8, multi-family is Use Unit 26, Use Unit 12 office/commercial spaces, Use Unit 25 which is more intense commercial types of uses. Those could all be located within the exact same planning area. It would establish the maximum square footage for instance within that planning area. So that=s kind of why we would like to utilize the existing Zoning District. It is relatively easy to see and recognize the density permitted and the use units permitted so it would read like the chart does and the charts do in Chapter

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161 where you see RSF-4, the use is permitted, the Conditional Uses, the bulk and area requirements. This would read much in the same manner. The uses permitted could include any type of uses they would like. I think you're correct that most of the uses that we typically review with Planned Zoning Districts are either single use Planned Zoning Districts or multiple use Planned Zoning Districts divided into separate area. I think that's more of a challenge for the developers than really it is for us to mandate how the developer or property owners develop. Again, that speaks to bringing in that creativity project into our system. We will gladly process it.

Anthes: I guess I just wanted to hear from Staff that they felt comfortable that this was not making it anymore difficult to create those kinds of districts. It might make the lines on the page a little fuzzy here or a little more circuitous than squared off blocks of certain kinds of zoning but it sounds easy enough to do.

Pate: I think too, you have to keep in mind that we would process 1000 acres if you need to use that as an example, as one Planned Zoning District, we would have the legal description that our GIS could map and say this is the Planned Zoning District. Within those planning areas, we would also likely have area tabulations in the using of the supply for those specific areas and I guess in contrast, I feel that Creating a Master Development Plan, by standardizing some of the information will make it more clear. I think that the fuzzy lines will go away a little bit because you can reference things that we already have in our Ordinance. For instance, I will refer back to the Chapter 161. You're creating your own zoning district and that's definitely a challenge for staff to get across to potential applicants and developers, is that they are customizing their own zoning district and this will allow them to follow this table, follow this chart. Here's where this information goes. Here's the commitments I need to fulfill and the development standards, architectural standards, everything of that nature that the applicant needs to present to the Council.

Vaught: Following up on that, for an example this is the way I have to think of what we have seen, the project, the mixed use project that is just out the Southern View, that had office and residential. For instance, that project, if it came through on that, would have one planning area with its use units for the office and for the residential then they would just specify how many square feet of office. How many units of residential, correct?

Pate: That's correct. In a couple of different ways. Sorry to interrupt.

Vaught: That's what I am asking.

Pate: They could process a Master Development Plan without showing full blown elevations and everything and actually establish their architectural standards,

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establish an idea of what you=d like to see or they could process exactly what they did which is a large scale development along with this new criteria that we have established with the Master Development Plan. So yes, you are correct. It would likely be one planning area with the number of uses, the maximum dwelling units and the maximum square footage, building heights, etc.

Vaught: Thank you.

Ostner: So, am I understanding this, that if this passes the MDP that is being laid out here. There are no drawings required, no, well when I say no drawings, no elevations required, that the statement of commitments could have some sketches that flesh out their ideas, their plat could, as Ms. Anthes said, have fuzzy lines. The lines are approximate and they=re going to go a little bit one way or a little bit another. Is that, am I understanding that clearly?

Pate: Well, I think if you read the Ordinance, it would require some drawings to be submitted. We require property boundaries for instance, legal descriptions, things of that nature. Anyway, you=d have to set out those planning areas and depending upon the way the architect or the applicant=s architect or engineer, designer, landscape architect might present that it could very well include conceptual elevations. What we have seen on concept plats in the recent past, an idea of what to expect from this project. Those would be kept on file and be filed just as part like we see with any Planned Zoning District we see today. They could include just statements such as, for instance, an architectural development standard, all structure shall have fronts facing the street with no parking located in the street. That is one example of a standard that they could establish there and you would expect to see that written information so that you can clearly see what the applicant is committing to at that point.

Ostner: I am trying to envision the first large acreage PZD, we had to wrestle with at springwoods and, in my mind, if springwoods had had this tool they, please correct me if I am wrong, they would not have had to lay out their subdivision. I guess, Subdivision was the first big meeting we had on springwoods. That subdividing of land was also their land use and that=s really where we got bogged down, is that we=re talking about land use, we wished we were talking about development. They were not ready to talk about development. So springwoods would go totally differently if this were in place.

Pate: Potentially, I mean again, it could.

Vaught: It could. Okay, that=s what I was hoping to hear.

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Pate: I think that a lot of the questions that came up from the Planning Commission and Council on that specific project were a lot of, not necessarily the details but, what would lead to the details. Ms. Clark, for instance, questioned many times, what is this going to look like and I think that with some language in here about development standards and their commitments to specific items that we have listed in this Ordinance, for instance, green space, architectural standards, tree preservation, we don't expect to review a full blown tree preservation plan for 1000 acres. Please do not submit that. What we expect to see is the intent and what the developer is doing with that. And then as the development comes in as a subdivision or a large scale development, we would then be able to evaluate those based on what we have in our development ordinances.

Vaught: I have one question and this is just on our stand point and administering and approving these, I guess, PZD=s, Master Plan Developments, whatever. We=re going to see a number of them come through and I think each time they=re going to have a little bit different material and what I=m worried about is, you know, we have someone come through that gives tons of detail which is above and beyond holding the next person that comes through to that same standard, I just want to make sure that there=s a clear, not a clear minimum, but I think, we as Commissioners, and this might be an issue outside of the Ordinance, it may be direction from City Council, I don=t know but where we have something to rule it by because that is what our charge is. I=m worried a little bit about that having a different set of standards produced by someone that would be way out to the ballpark but that is way beyond what we need someone to do and I just kind of wondering how we=re going to judge that.

Pate: I suppose my response is that this Ordinance is established, like our Development Ordinances do establish, the minimum requirements and the minimum=s have been cut so to say with regard to the Master Development Plan. You can refer to page three, we will have specific findings on number E 1-7, where these are met. Like the rezoning for instance, the specific findings would need to be made. Item F, it tells you where on the page one, where their pieces of information go. Item G, the Master Development Plan level of detail talks about sheet one and there=s some information there that would have to be included. I agree there are some developers that will go above and beyond and we will continue to support that because it will give the Commission and Council even more information to make your decision based on our Ordinance requirements. I would also state though, as I mentioned, that this is establishing the minimums. Number two, the permitted uses, conditional uses, land use density, bulk and area regulations, lot width. These are all the same type of information that any zoning district is required to have if you have a piece of property in RMF 24 zoning district. You know exactly what you can do within that zoning district, if you meet

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the development guidelines. In addition though, it establishes some items here in the bottom parking ratio, architectural design standards and then any other standards or requirements provided in the UDC. They have to meet, at minimum, they have to meet the Unified Development Code. So they can always exceed that but they do have to meet the minimums.

Vaught: I guess my question comes in on some of the additional criteria. For instance, we're talking about would we see pictures or not, would we see drawings and, from my understanding, is maybe. It's not required necessarily if they outline it in enough detail in written word and so that's just where I want to be sure that we're clear on that and with the city attorney that we are sure we have enough understanding from our point to be able to interpret and hold the fair standard.

Pate: I guess in response, this would be processed through the full development review cycle just like any plan. It is a Planned Zoning District so we would go through Technical Plat Review in order to determine if there is, for instance, major transmission lines that they need to stay away from because that is going to be important information for them in the development of their development plans. It would go through Subdivision Committee so, if there's not enough information submitted, they would need to get some more information, some drawings or some photos. It would get to the Planning Commission and again Council level so it would follow the same development track in, just like Plan Zoning District. Hopefully, we would get to a better result after a few have been processed. There are always going to be questions. I mean, there's never going to be a standard that you can get every project in. I think this does a much better job than what we have on the books.

Myers: I agree.

Shackelford: These are great theoretical questions and I need to go back on the technical side. I remember the other question I had. On section letter J, on phasing, phasing with PZD Master Development Plan may vary from the requirements of chapter 166, the UDC with a guard to expiration of permits. Only when phasing has been identified described and approved as part of the PZD Master Plan. How may the expiration of permits vary? Is that defined in here somewhere and I missed it? What is the new variations of expiration dates that is allowed by this change?

Pate: It is not varied by specific reference. Basically, this is what we have for phasing currently for a Master Development Plan for this amended PZD Ordinance. Currently the requirement is you have one year to get your building permits or construction permits. You may apply for an extension for an additional year. If Planning Commission grants that, you have two years and then once that two year period is up, if you still have not gathered

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all your permits for that project, you have to resubmit. All permits that have been gathered are null and void. This allows for a bit of discretion on the part of the Planning Commission and the City Council to allow for a time period. We did not set a specific time period because I think it will vary again with the size of the project but what we did set out is that the applicant is required, if they're going to phase the project, they have to submit it to the Planning Commission and City Council for approval. In which phases are going to happen by how many years or how much amount of time. The reason that phasing came into effect was because there were a lot of projects that had not been built and were approved decades ago and had never been built and then they were all of a sudden built. City Council passed essentially a sunset clause stating that you had to get all these permits, all these projects built and now we have, by Ordinance, a one year expiration date.

Shackelford: So this was purposely written vague to the point that the one year expiration is taken out by this but there's no final sunset clause to this. Is that correct?

Pate: It does not have to be taken out. It says it may vary. I mean, if no phasing is submitted, it would be one year.

Shackelford: So go back to my theoretical 1000 acre development, we want to see the big picture so we require a PZD. The final piece of that is town homes that they are going to have to permit within a year or come through this process for an extension. The extension that could be approved by the Planning Commission/City Council could exceed another year. Is that correct?

Pate: I think by writing this by what we anticipate occurring is that, with the initial project, the applicant would set out the phasing schedule and planning area one would be complete by a certain or within a certain amount of time and planning area two would be complete within a certain amount of time. The Planning Commission and City Council will use their best judgment, as you do in all of these decisions, to see if that's a fair amount of time. I know that there are times when the two years for certain projects still don't seem like enough time but our Ordinances don't allow for any extension beyond that so we have not yet set that out. If that is something that the Commission would like to see, we can take a look at that. As I just said, ultimately three years or ultimately five years, you have to have all your permits but we did leave it open because some of these larger projects do take longer than that to permit everything.

Shackelford: Thank you very much. I appreciate your input.

Clark: I believe that this Ordinance is a great advance to our code book. I don't necessarily think that it's the greatest in the world but I hope that, if we implement it and we find another flaw, we will continue to develop it. I

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think Staff and I know that Tim has put a lot of time in on this and it shows. I'm in favor of it. I'm comfortable making a recommendation that we forward it if everybody else is.

Ostner: Sounds like a motion.

MOTION:

Clark: I move that we forward this to the City Council with our recommendation of approval.

Ostner: I have a motion. Do I have a second?

Myers: Second.

Ostner: Second by Commissioner Myers. It was a motion by Commissioner Clark. Is there further discussion? Could you call the roll, Renee?

Roll Call: Upon the completion of roll call the motion to forward ADM 04-1326 was approved by a vote of 8-0-0.

Thomas: The motion carries.

Ostner: Thank you. Are there any further announcements? We stand adjourned.



PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: May 03, 2005

ADM 05-1504: (PZD Revisions)

Background: The Planning Commission on January 10, 2005 voted unanimously to forward the proposed amendments to the Planned Zoning District ordinance prepared by staff to the City Council with a recommendation for approval. The next phase of review consisted of a review by the Ordinance Review Committee, which is made up of four members of the City Council. Upon their first review, there were significant concerns with the conceptual nature of the language of the revisions. Staff was directed to revisit some specifics and report back to the Ordinance Review Committee. Last Wednesday, April 27, the Ordinance Review Committee again reviewed the proposal, with revisions. There were some minor revisions to be made, along with a couple of more significant revisions, one of which would directly affect the Planning Commission in its review of Master Development Plan Planned Zoning Districts.

Proposal: The Ordinance Review Committee has forwarded the ordinance to the full City Council for review and adoption. Prior to their consideration, however, staff was directed to prepare a memorandum describing the more recent change to the ordinance in order to have the Planning Commission respond.

The proposed amendment, which will be added to the ordinance for City Council review, enables an applicant to submit a Master Development Plan PZD in accordance with the criteria established by the new ordinance directly to the Planning Division for review as is currently done. Upon review by the Zoning Review Team (also a process currently in action), staff would make a recommendation directly to the City Council for approval or denial of the Planned Zoning District Master Development Plan, with its Statement of Commitments, Development/Design Standards, conceptual site plan, zoning criteria, etc. If passed by the City Council, an ordinance rezoning the property would be recorded. Subsequent development plans (subdivisions or large scale developments), based on the Planned Zoning District approved, would be reviewed and approved by the Planning Commission, as long as the criteria established in the land use decision by the City Council with the Planned Zoning District approval were met. The primary difference in this process and the one by which we review Planned Zoning Districts now is that it reduces the time of the development review process, potentially offering incentive to developers to bring forward more innovative designs without expending exorbitant amounts of money in design, engineering and time through the current development review process. Those applicants desiring to vest development rights with a large scale development or subdivision

approval simultaneously would still be afforded the right to come through the typical process that we follow now, with full development plans. There would still be a public review and comment process, through the City Council review of the proposal. The Planning Commission's role would be decreased in this initial phase of review and recommendation, though it would still be involved with the development review of the subsequent projects, which is ultimately the Planning Commission's charge as an appointed body.

Discussion: Staff welcomes comments from the Planning Commissioners regarding the change in this review process, which is staff's current direction from the Ordinance Review Committee. Language will be formulated to incorporate this process into the ordinance prior to the full City Council review. Minutes from this meeting will be forwarded to the City Council as part of that review of the revised Planned Zoning District ordinance.

Following are the written comments received by Planning Commissioners to include in this packet:

Alan Ostner:

Memo

To: Fayetteville City Council and Mayor Coody
From: Alan Ostner, Chair, Planning Commission
Re: Currently- Proposed PZD Ordinance
Date: Thurs. May 12th, 2005

Dear Council Persons,

The currently- proposed PZD Ordinance offers something I rarely see in municipal government: a real incentive for developers. This option would let developers write a 'custom zone' for their property along with its 'statement of intent' and for you all to consider it directly from Planning Staff's report with no discussion by the Planning Commission. Not having to wait through the 40-day Planning Commission schedule is a big change for developers and their rezoning requests. The savings in time is considerable, and the costs of needless delays in development can be devastating to a development project. I have a great deal of confidence in the Planning Staff and I know they will research every 'custom zone PZD' issue carefully in their presentations to you. I also suspect this change might get some hesitant developers to come on down to our area and try to do some business here whereas they might not want to right now. We need to attract quality developers to Fayetteville.

But I believe this fast- track approach to rezonings might have a price for the city as well. Even though I would be glad to get out of the rezoning business as a Planning Commissioner, I do believe our current system offers valuable input to the decisions you all make concerning rezonings. Part of the reason the Planning Commission has such lively conversations on rezonings comes directly from the fact that we are not elected, but are appointed. First, we are much more protected from the political process of having to answer daily to the voters as you all must. Second, since we are not elected, Commissioners are instructed to not discuss specific development items with anyone other than Staff until we are formally convened as a body. These one- on one conversations with either applicants, or concerned neighbors, or even other Planning Commissioners could easily result in a bias toward or against an issue, which we attempt to avoid. It is inappropriate and unethical for a commissioner to talk to anyone about these development items before the formal hearing, and I believe all Planning Commissioners hold this rule in high regard. When we hear items at Planning Commission meetings, we have a fairly 'clean slate' of opinion going into the meeting, having only talked about the item at the Agenda Session 4 days before. We are very similar to a jury, with Jeremy our 'judge.' And everyone knows you can't tamper with a jury. I believe our discussions enable you all to make better-informed decisions, much like the Subdivision Committee's discussions enable the Planning Commission to make better decisions on development items. I think we serve as a front- line for the development struggles: someone is almost always unhappy with a rezoning request and I think we often begin the valuable path toward a solution.

It seems as if a compromise PZD Ordinance might be another option. The developer writes the 'custom zone' with its statement of intents for his or her piece of property. Do not hire ANY

engineering for the project. Work your way through the Planning Department as if you were doing a straight rezone, like from R-A to RSF-4. This eliminates all the risky engineering and the months of engineering effort that was having to be done too early in the unpredictable political process. But this version of the 'custom rezoning request' still gets the full Planning Commission scrutiny and discussions, and staff comments. After the Staff's and Planning Commission's look, present the request to the City Council for your 3 readings. Walk away with vested development rights just like a straight rezone. Head to your engineer and get to work, and start the development process at Planning with a Large Scale Development or Preliminary Plat request, whichever the case may be.

Good luck with your decision. I'm sure you will create a well- rounded Ordinance that will benefit our town and its future.

Sincerely,

Alan Ostner

Nancy Allen:

Regarding the PZD ordinance, one would think that the Council would benefit from the discussion at PC level, and that the discussion generated would be especially beneficial to them.

Candy Clark:

Jeremy –

I am sorry to have taken so long responding to the proposed change in the PZD ordinance. Though my email is tardy, I have been giving this proposal much thought since our discussion in Agenda over two weeks ago. Initially, I was uncomfortable with bypassing the Planning Commission and allowing developers access directly to the Council via Planned Zoning District Master Development Plans. I can honestly say I have not changed my mind. I warn you, my thought process is not overly complicated and I can't really state statute or ordinance specifics but it is my humble opinion on the subject!

The concept of bypassing the Planning Commission with land use decisions is most troublesome. As you know, land use questions involve many significant issues that take time and effort to plow through. The Planning Commission is very restricted in what we can look at with regard to interpretation of the guidelines and rules governing land use in the City. Our role is to make certain all things are done to code or ordinance with the council having final say after considering other issues involved with the policy and or politics of development. Taking those decisions directly to the Council could, it seems to me, actually bog down the process and take even more time than routing things through the Planning Commission. If nothing else, council members will be asked to look at an incredible volume of information that has normally already been addressed through the Planning Commission and Planning Staff. On a more practical level, initially bypassing the Planning Commission could

lead to much more confusion and uncertainty. The Council is not restricted to staying within all the guidelines Planning Commission uses to make land use determinations. They can look at a host of other issues related to development that Planning Commission can not. Having the PZD go to the Council then BACK to PC could get things really muddled. I can see much more confusion interjected into this process than currently exists. I know the whole revision of the PZD ordinance is intended to help developers come forward with innovative development ideas without spending lots of money with engineering, elevations, etc. I just can't see this revision accomplishing that goal. Council members make policy. Planning Commission makes land use decision based on those policies. Something just seems out of step to bypass the Commission in land use decisions and basically reverse the system. I know I am relatively new to the Planning Commission and that I still have much to learn. But I am still struck with the belief that there has to be another way to help developers show what they intend to do with a PZD in a simple, streamlined and inexpensive manner. Sometimes I think we let technology get in our way and we keep adding things on top of other things we want to see. The result is a process that is time consuming and expensive for developers. There has to be another way to allow them to show PC and Council what they want to build and how it will look conceptually. There are definite things we can ask them to commit to within that initial process before anything overly expensive or technical has been done. Letting them just bypass the PC just does not seem to be the answer. I do thank the Council for allowing us input into this decision and discussion about the PZD ordinance. I am hopeful we can work together to find a better way.

Candy

Jill Anthes:

- 1) The current review process is a fast process already compared to many other city and county jurisdictions, without shortening it further.
- 2) Adequate time is needed for staff to prepare comprehensive reports.
- 3) The applicant, staff, and the Planning Commission can offer options for revisions through the process, rather than voting a project up or down without trying to find a middle ground.
- 4) There will be a learning curve for the Planning Commission with each one of these projects -- to understand the Master Plan concepts, commitments, standards, etc. that the City Council approved -- which may lead to more time in the review of the detailed plans at the time of development.
- 5) The proposed ordinance does not promote interaction between the applicant and the Planning Commission, which is particularly important when tied to a development plan that will be approved or denied by the Planning Commission

at a later date.

6) If the Planning Commission's role is to review and recommend land use decisions to the City Council, it is especially important (rather than less so) in "special cases" like the PZD.

7) The circumventing of the Planning Commission erodes the credibility of the Planning Commission, which may carry into all other decisions and interactions with developers.

8) Isn't the City Council supposed to receive the advice of the Planning Commission prior to deciding these matters? Are there legal findings to this effect?

There is an issue even bigger than these, however. The City of Fayetteville currently has no instrument to allow (more the less encourage) mixed-use development, other than the PZD. Wasn't the PZD ordinance written to encourage creative development that would not otherwise be allowed under current zoning regulations? If that's the case, the revised ordinance actually works in contradiction to this goal.

Let's say that a developer has 100 acres and submits a "master development plan" with a conceptual zoning diagram for 60 acres of RSF-4, 20 acres of RMF-24, 10 acres of R-O, and 10 acres of C-1. Don't be misled -- this is NOT mixed-use development. It is four parcels of single-use zoning that will develop only marginally different under one developer as it would if these were four separate tracts with separate owners/developers. One could even make the case that applying zoning in this way, without a full development plan, could result in what would otherwise be classified as spot zoning.

Seeing a development plan along with the zoning request allows the Planning Commission and City Council to approve a zoning that incorporates a true mix of uses. If this is burdensome for developers, then we should come up with another way to facilitate mixed-use development in our city.

Jill Anthes

Planning Commission

May 9, 2005

Page 70

ADM 05-1504: Administrative Item: PZD Ordinance Revision

Ostner: The last item on our agenda is ADM 05-1404 entitled PZD revisions.

Pate: We spoke about this at length at agenda session so I won't go too much in depth. You are entirely welcome to email your comments to me if you would like to not discuss them too much tonight. Obviously, City Council will be looking for minutes and any comments that you have so I would recommend that you get those to us so we can forward those this Friday to City Council. Background for the public listening, the Planning Commission voted unanimously to forward the PZD revisions to the City Council in January, 2005. The Ordinance Review Committee reviewed that, had suggestions for changes, staff made those changes and went back to the Ordinance Review Committee about a week and a half ago. There were some revisions and one of the major revisions was to have the master development plans come through without going to the Planning Commission. That is obviously, a significant change for this type of request. It is a rezoning request that is tied to at least a conceptual master development plan and would be a different scenario than what you experience now. Currently anything to do with planning that goes to City Council is made by a recommendation from the Planning Commission as well as Planning Staff. The Ordinance Review Committee is looking for feedback from you on that process. I've outlined as much as I could here. I have also included the current ordinance, we have yet to add this portion into it but we will by Friday for the agenda request to City Council. Essentially, what we are looking for is feedback on how you feel about that process and whether you do that now verbally or in writing is fine by us. We will forward those comments to the City Council and they are very interested to hear what you have. One of the big things is it does allow for an incentive for a developer to come through this process with a master development plan, PZD because it does forego some of the time associated with processing a project. Instead of 40 days to get to the Planning Commission plus 21 days to get to the City Council plus two readings, which is another two weeks which can be quite a lengthy time. It would essentially come in, we would review it with the Zoning Review Team and it would go straight to City Council with a recommendation. What the Planning Commission would be faced with then is looking at PZDs that were approved by the Council as land use decisions much like the zoning districts that you see now. As Mr. Ostner noted at agenda session, it would be a custom zoning created for that piece of property and staff would make a recommendation to determine if it met the intent, spirit and all of the commitment and development standards that were approved by the City Council. That would be the biggest change that you would not see the conceptual part of it, you would just make a recommendation on the development. With that, I would be glad to take any comments for the record or you can email me if you would like.

Planning Commission
May 9, 2005
Page 71

Ostner: Do Commissioners have comments that they would like to share on the PZD proposal? At agenda session when this was presented to us, I have to say from a development stand point the incentive to have any kind of fast track in this slow wheel is incredible. I think that is a real benefit and I think that will get the attention of a lot of people and I think that is important to not slow things down when they don't have to be slowed down. I'm also mixed because I do think we offer in sight. I understand that we do not grant rezoning requests but I believe our discussion and what happens in the audience with staff and neighbors is beneficial to the City Council. However, I am willing to be cut out of the custom rezoning business if the Council thinks it was a good idea. If anyone else has anything to say about this issue you can say them now or email to Jeremy.

Myres: I plan to email my comments.

Ostner: If there is no further discussion, this is an administrative item which does not require a motion.

Meeting adjourned: 9:38 p.m.

From: "Hank Broyles" <hbroyles@bhallc.com>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 5/23/05 9:37AM
Subject: Custom Zone

Good morning,

I would like to provide testimony in favor of the "Custom Zone". I think any step that skips the PC is wonderful.

We made numerous improvements to Aspen Ridge prior to our meeting with the planning commission. But they felt like they had to make changes to our proposal.

They think they have to make changes to every proposal they see.

I believe the PC has written guidelines to follow that instruct the PC to determine if the developer is complying with city ordinances. Not picking colors of buildings or how the buildings should sit on the site.

Many projects don't need their changes, but the PC now believes they are developers and know what is best for the City, so they make all kinds of changes, which I do not believe is within the scope of their authority.

As a developer, I am frustrated by these actions and I am willing to take the chance that I will make PC members mad at me by saying so. But, so what.

I also feel they should serve one term and leave.

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

B. 2
PZD Ordinance Amendment
Page 39 of 40

7-Jun-05

City Council Meeting Date

Tim Conklin
Submitted By

Planning and Development
Division

Operations
Department

Action Required:

PZD ORDINANCE AMENDMENT: Submitted by Tim Conklin for Ordinance amendment to add an additional Planned Zoning District (PZD) option to allow applications to be approved as a Master Development Plan without submittal and approval of a large scale development or preliminary plat.

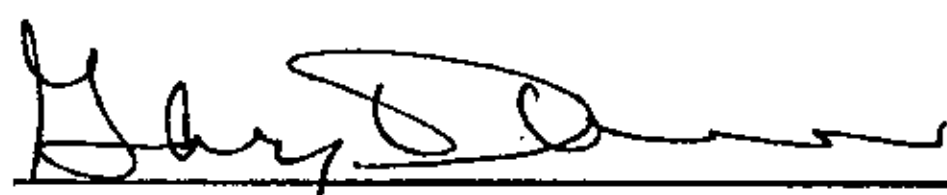
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

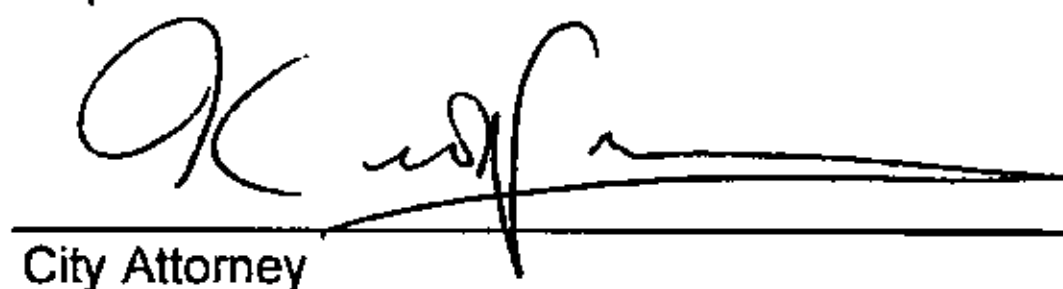


Department Director

5-20-05
Date

Previous Ordinance or Resolution # n/a

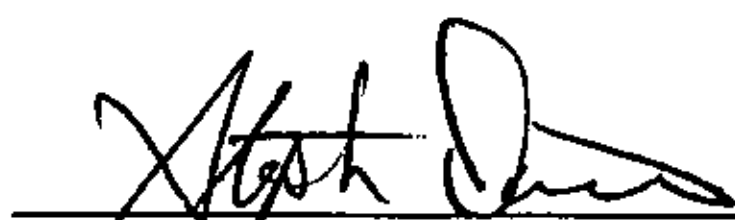
Original Contract Date: n/a



City Attorney

5-25-05

Original Contract Number: n/a



Finance and Internal Service Director

5-25-05
Date

Received in City Clerk's Office





Mayor

5/25/05
Date

Received in Mayor's Office

Comments:



City Council Agenda Item

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Terry Gulley, Transportation Manager
Date: June 3, 2005
Subject: Additional funding for the In House Pavement Improvements program.

Recommendation: Transportation Division staff recommends the approval of \$400,000 additional funding for the In-House Pavement Improvements program.

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. Additional funding is necessary in order to continue our current production.

Discussion: The asphalt overlay program has increased production during the last two years. This can be attributed to reorganization which allowed the division to obtain the maximum results from both personnel and equipment. In addition re-budgeted funds from prior years (\$750,000) were available to provide necessary funding for materials and to allow support for increased production. The current methods of street overlay results in the affected streets being restored to new-like condition. This includes all segments of the street along with curb and gutter, sidewalk and driveway approaches. This results in the entire street to be maintained in a scheduled recurring maintenance program which will provide the most efficient use of division funding.

The Transportation Division has also undertaken the responsibility of street cut repairs. This includes all new utility cuts as well as unsatisfactory repairs from the past.

Budget Impact: The current proactive program for street maintenance will require additional funding before the end of 2005 in order to maintain the program at the present level. The additional funding required will be \$400,000.00 for the remainder of 2005.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT
OF \$400,000.00 TO INCREASE FUNDING FOR THE STREET
OVERLAY PROGRAM**

**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 attached budget adjustment of \$400,000.00 for the In-House Pavement Improvements program.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C. 1
Street Overlay Program Funding
Page 3 of 4

Budget Year 2005	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 6/3/2005	Adjustment Number
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Project or Item Requested: \$400,000 is requested in the In-House Pavement Improvements capital project.	Project or Item Deleted: None. \$400,000 from the Use of Fund Balance.
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Justification of this Increase: The additional funding is needed in the project to increase the paving activity being performed.	Justification of this Decrease: There is sufficient fund balance remaining to meet 2005 objectives. Any remaining project budget of the \$400,000 by year end will revert back to Fund Balance.
---	--

Increase Budget (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Street maintenance	4470	9470	5417	00	400,000	02052	1

Decrease Budget (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	400,000		

Approval Signatures		Budget Office Use Only			
Requested By	Date	Type:	A	B	C
Budget Manager	Date				<u>D</u>
Department Director	Date	Date of Approval			
	6-6-05				
Finance & Internal Services Director	Date	Posted to General Ledger			
Mayor	Date	Posted to Project Accounting			
		Entered in Category Log			

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

6/21/2005
City Council Meeting Date

Terry Gulley
Submitted By

Transportation
Division

Operations
Department

Action Required:

The Transportation Division requests approval for additional funding in the In-House Pavement Improvements project and a budget adjustment in the amount of \$400,000.00 for materials and services needed to maintain the current level of street improvements.

\$ 400,000.00

Cost of this request

4470.9470.5809.00

Account Number

02052 / 1

Project Number

\$ 1,603,876.00

Category/Project Budget

\$ 1,603,705.54

Funds Used to Date

\$ 170.46

Remaining Balance

In-House Pavement Improvements

Program Category / Project Name

In-House Pavement Improvements

Program / Project Category Name

Sales Tax Capital

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

 6.6.05
Department Director Date

Previous Ordinance or Resolution #

Original Contract Date:

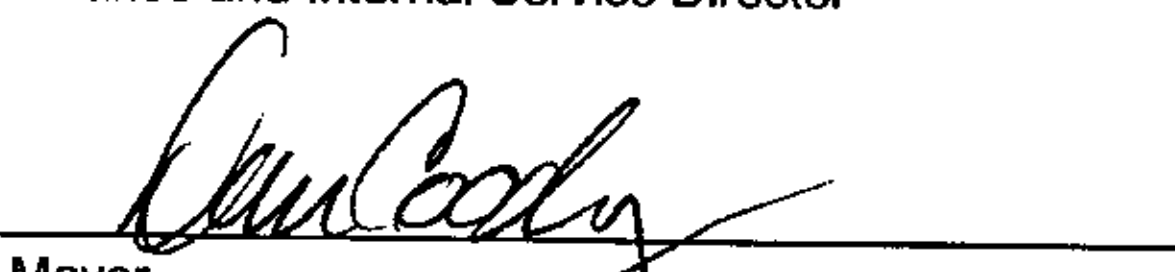
Original Contract Number:

 6/6/05
City Attorney Date

 6.6.05
Finance and Internal Service Director Date

Received in City Clerk's Office



 6/3/05
Mayor Date

Received in Mayor's Office

Comments:



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director 

FROM: Kevin Springer, Budget Manager 

DATE: June 3, 2005

SUBJECT: **User Fee Policy**

Recommendation

Staff recommends that City Council approve a User Fee/Cost Recovery Policy that stipulates acceptable subsidies from governmental revenues for services provided that are eligible for User Fees. The policy, as amended by the Ordinance Review Committee, is attached for City Council consideration and adoption.

Summary

Adoption of a policy statement by City Council will govern the timing of the fee area review as well as provide guidance for any future user fee adjustments.

This project began in mid-2003 when the City entered into a contract with Maximus, Inc. to perform user fee study and cost allocation studies, and to develop a user fee report, a cost allocation model, and train City staff on the use of cost allocation and user fee software. These items have been delivered to the City and the Maximus, Inc. contract is considered to be completed.

The original completion date for work was October 2003 to be available for the 2004 Budget. A revised schedule was approved that moved the completion date to June 2004. The consultant has provided staff the following items: cost allocation model, software, and software training. The draft User Fee policy was prepared and submitted to City Council as part of the September 21, 2004 agenda. City Council tabled the User Fee policy and remitted it to the Ordinance Review Committee for study and changes. The attached user fee policy is the result of meetings between City Council Ordinance Review Committee and City Staff. The Ordinance Review Committee met on the following dates:

January 20, 2005	Initial Staff briefing of the draft User Fee Policy to the Ordinance Review Committee.
February 3, 2005	User fees being discussed were for the Water & Sewer Maintenance and Animal Services divisions. The committee approved the recommended fees for City Council approval.

February 23, 2005	User fees being discussed were for the Parks & Recreation Division. The Parks & Recreation Division was going to submit recommendations to the Parks & Recreation Advisory Board for approval.
March 4, 2005	Internal division meeting to determine which resolutions and ordinances need to be submitted for City Council approval.

Background

The City has a long history of charging user fees for a number of City services. The initial user fee study was initiated by the City approving a contract with DMG, Inc. in mid-1991. The study results were delivered to the City in 1992 and due to the change in the form of government, staff was instructed not to bring the study forward. Portions of the 1991/1992 User Fee study were updated and were implemented in 1996. Staff identified funding in 2003 for an updated study, conducted a professional selection process and submitted a contract with Maximus, Inc. for City Council approve.

Budget Considerations

Adoption of a User Fee/Cost Recovery Policy will provide a mechanism for keeping user fees within pre-approved general revenue subsidy levels while maintaining the levels of service that are expected.

RESOLUTION NO. _____

A RESOLUTION ADOPTING A USER FEE COST RECOVERY
POLICY FOR CITY SERVICES.

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 adopts a User Fee Cost Recovery Policy for City Services, a copy of
which, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED

By:

DAN GOODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE, ARKANSAS POLICY STATEMENT

**For Adoption as of June 3, 2005
Replaces all previous versions**

**Effective Date: Effective Upon Adoption by City Council
Subject: User Fee Cost Recovery Policy for City Services**

This policy statement establishes the City's cost recovery policy for selected city services and establishes and sets guidelines for the periodic evaluation of the City's charges for City services.

General Policy

1. User fees should be considered as part of the City of Fayetteville's entire revenue system.
2. User fees should not be used for programs or services that generally benefit the citizenry as a whole or that are a basic service that should be provided through general revenue or enterprise revenues. Enterprise revenues shall be reviewed annually to assure compliance with the existing ordinance requirements:
 - A. City's adopted minimum reserve requirement,
 - B. Requirement of any bond/debt instrument that relies upon enterprise fund revenues, or
 - C. City Council approved capital improvement program to be funded pay-as-you-go.
3. User fees should be levied fairly and equitably and properly account for the benefit received by each user.
4. User fees should be accountable to the persons who will be burdened by the costs of the fee and its administration.
5. The following definitions shall have the meaning ascribed to them as listed below for the purposes of User fee cost determination:
 - A. Direct Cost (direct cost) shall be limited to the city employee/contractor providing the service and 6 $\frac{2}{3}$ % of the cost of all equipment/facility excluding buildings that are required for the service delivery and any additional expense incurred to provide the service.
 - B. Departmental cost (departmental cost) shall be limited to Direct Cost plus a pro-rated share of departmental overhead (supervision and

administration), plus pro-rated cost recovery for building/facilities (2% of original investment/reinvestment), plus pro-rated cost recovery for equipment (6 $\frac{2}{3}$ % of original investment/re-investment) and shall **not** include any indirect central service administration cost.

- C. Full cost (full cost) shall include **all** direct: departmental and indirect central service administration cost including pro-rated cost recovery for buildings/facilities (2% of original investment/re-investment) and equipment (6 $\frac{2}{3}$ % of original investment/re-investment.)

See Attachment 1 for examples depicting cost development for each item listed above.

6. The Finance & Internal Services Department (FIS) shall maintain a comprehensive listing of all City of Fayetteville User Fees and Charges to include, at minimum, fee title, enabling ordinance and last date amended.
7. Current user fees and charges shall be evaluated by the FIS Department on a three-year cycle except Animal Services which shall be reviewed in 2009 and then placed on a three-year cycle, as described in the table below, to ensure that all user fees contain the full cost of providing the service. This does not prohibit the responsible division from reviewing and modifying user fees more frequently. More frequent division review is encouraged to eliminate excessive tri-annual adjustment.

Division	Initial Evaluation Year
Airport Fees/Rents	2005
Parks & Recreation	2006
Development/Building Permits	2007
Water & Sewer – Maintenance	2008
Water & Sewer – Meter	2008
Animal Services	2009

8. The user fees adopted by City Council shall be adjusted annually by the maximum of 1) the All Urban Consumer Price Index published by the Bureau of Labor Statistics or successor organization on/about July 31 of the previous year, or, 2) the average merit increase for non-civil service employees of the City for the preceding twelve (12) months referred to as "formula increase." Additional adjustment to fees may be adopted by the City Council to recognize actual costs of service and service level changes.
9. All fee adjustments based on a formula increase become effective the following January 1.
10. Any adjustments to the existing structure of charges shall be published in the daily newspaper in advance of the annual budget public hearing notice.

11. The following general guidelines shall be used in the annual evaluation:

- A. Charges for municipal services, where appropriate, should recover 100% of the *full cost* of providing any municipal service that is not a general service of the City except those listed below.
- B. Animal adoption fees and low cost spay/neuter fees may recover less than 25% of full cost until 2009 unless City Council amends the cost recovery policy for these services. The measure for the effectiveness of this cost recovery policy for these services is the change (increase/decrease) in the people participation in the program.
- C. Charges related to Youth Sports Activities/Leagues and Family Activities shall recover between 25% and 75% of the departmental cost of providing the services. Fees for public admission to Wilson Park Pool may recover less than 25% based on recommendations of the Parks & Recreation Advisory Board.
- D. Charges related to Adult Sports Activities/Leagues shall recover no less than 75% of the departmental cost of providing the services.
- E. Development charges (annexation, rezoning, lot split, construction plan review, infrastructure, stormwater, etc.) shall recover 100% of the full cost of providing the services unless reduced or waived by City Council.
- F. Building Permits fees shall recover 100% of the full cost of providing the service unless reduced or waived by City Council.
- G. Fees for the Water/Sewer Maintenance Division to make new or replacement connections to existing water and/or sewer mains shall recover 75% of the full cost of providing the services.
- H. Services performed after normal work schedule, on weekends or holidays, should recover 100% of the actual full cost of performing the service.

12. The review process will not provide an automatic mechanism for passing along any inefficiency which may exist in the system. Cost information will be reviewed for significant fluctuations (greater than 10%) as a part of the evaluation process. Continual process evaluation by the implementing division heads and department directors is mandatory. Efficiencies achieved by the continuous review will be utilized to reduce or contain user fees.

13. In instances where under-recovery of a cost is occurring, an additional maximum of 10% above formula increases may be phased in until cost recovery percentages reach 100% or the percentage of recovery identified in this policy statement.

OVERVIEW

City policy and Arkansas municipal law provides that the charge for a municipal service is to be set at a level which does not exceed the cost of providing the service. The term "cost" in relationship to municipal services is defined as the allocable cost of direct and indirect labor, supplies, charges, and capital outlay used to provide each specific service. Allocations for both departmental and city wide administrative overhead are also included in the cost determination. Cost recovery levels of 75% to 100% are generally accepted as desirable for most services.

Service efforts and accomplishments (SEA's) measures used to review the charges for services include, as appropriate, the following:

Measures of Efforts

- Non-financial resources
 - Number of labor hours, by position, expended to deliver services
 - Cost of materials and equipment expended to deliver services
- Financial resources
 - Fully burdened labor costs, by position, expended to deliver services
 - Expenditures used to deliver services, including both direct and indirect costs

Measures of Accomplishments

- Output measures
 - Number of service units produced
- Outcome measures
 - Average cost per service unit produced
 - Average revenue generated per service unit produced

Measures of Efficiency

- Percentage of cost recovery
- Percentage increase or decrease of average cost per service unit from prior period
- Percentage increase or decrease of cost recovery from prior period

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

21-Jun-05

City Council Meeting Date

Kevin Springer

Submitted By

Budget & Research

Division

Finance & Internal Services

Department

Action Required:

City Council is requested to approve a User Fee Cost Recovery Policy that will provide policy guidance concerning the development of user fees, establishing the maximum general revenue subsidy for specific types of user fees, determining the frequency of fee review and adjustment and the preferred method for the periodic user fee adjustments.

N/A

Cost of this request

N/A

Category/Project Budget (2005)

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

6/6/05

City Attorney

Date

6/6/05

Mayor

Date

6/7/05

Received in City Clerk's Office



Received in Mayor's Office



Comments:



In Here, It's Always Friday.™

Appeal

C. 3
Planning Commission Appeal
(TGI FRIDAY'S)
Page 1 of 2

June 2, 2005

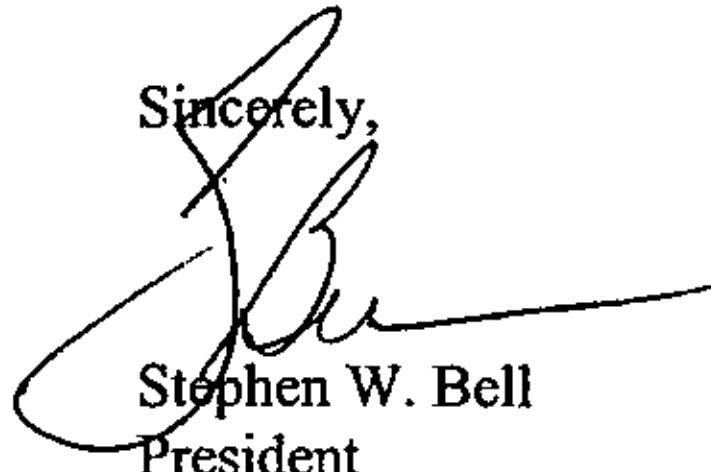
City Clerk's Office
Attention: City Clerk
113 W. Mountain Street
Fayetteville, AR 72701

Dear Sir:

On Monday, May 23, we had the opportunity to present our development plan to the Fayetteville Planning Commission for the construction of a T.G.I. Friday's restaurant at The Steele Crossing development in your city. I am pleased to say that, for the most part, our proposal met with approval, and we would like to move ahead with the construction of our restaurant. We did, however, have several issues that I would like to have your assistance in resolving. Our sign package was altered to exclude a rear sign and our trademark logo "In here, it's always Friday's" over the front entry. We believe that both signs fall within the guidelines of other restaurants in the area. We will be presenting our arguments to the City Council on June 21st. I have enclosed a picture of the door sign which we believe is tastefully done and will not be offensive to our guests or other visitors to the area. Would you please distribute the other pictures that I have enclosed to the Council Members for their review. As for the rear sign, we will be presenting examples of other restaurants that have been allowed signage similar to what we are requesting. As mentioned, we are anxious to get underway and would like any assistance you may be able to give us with resolving these issues.

Please feel free to call me should you have any questions.

Sincerely,



Stephen W. Bell
President

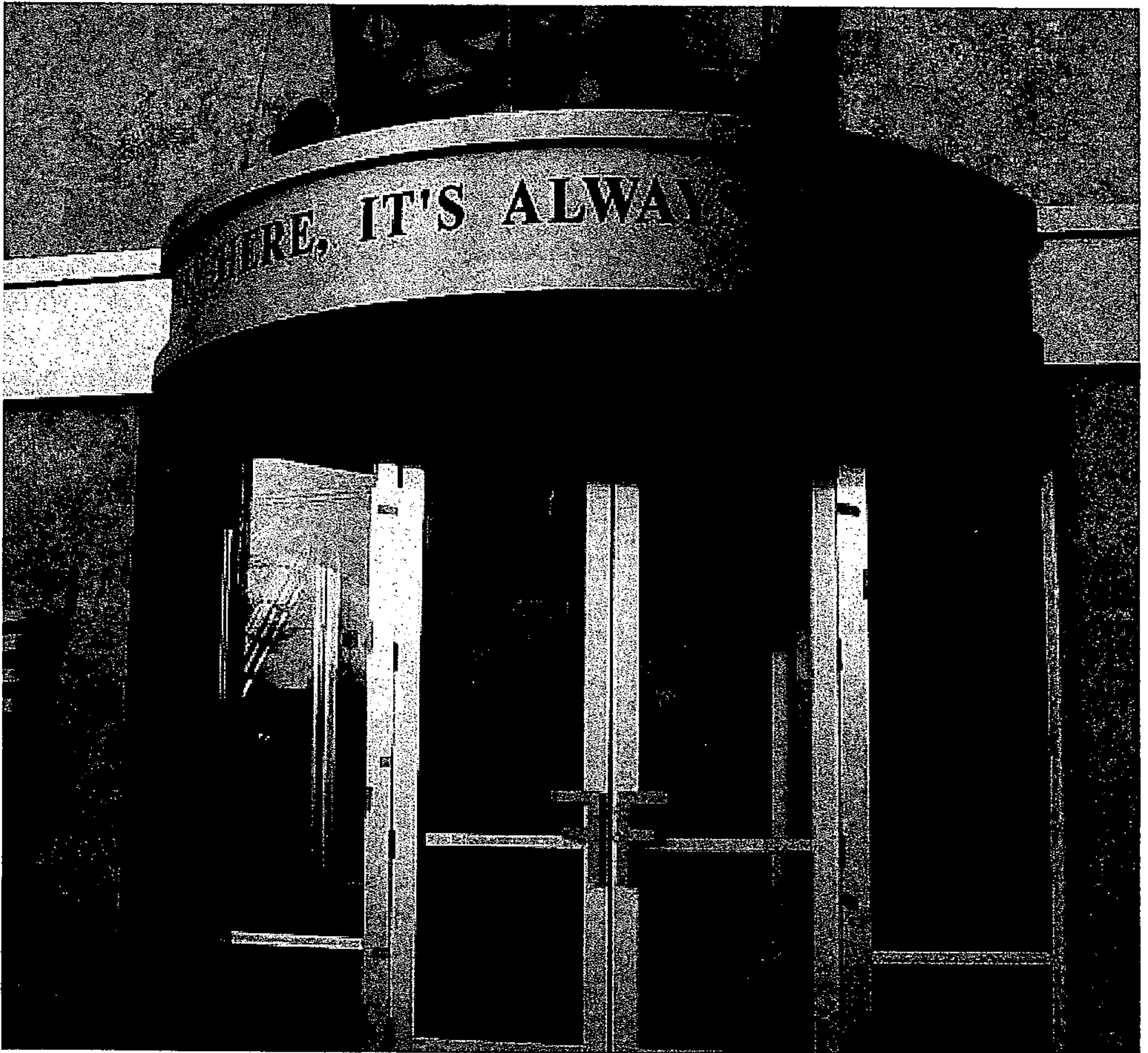
Enclosure

Tricorp Management Company
Licensed Franchisee
733 Crown Ind. Ct., Suite V
Chesterfield, MO 63005
(636) 537-9777
Fax (636) 537-9778

RECEIVED

JUN 03 2005

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**





3715 N. Business Drive, Suite 201
Fayetteville, AR 72703

RECEIVED

JUN 01 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

C. 4
Planning Commission Appeal
(Dixie Development)
Page 1 of 24

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

JUN 01 2005

RECEIVED

May 31, 2005

Ms. Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Appeal of Planning Commission decision to deny Annexation of 24.35 acre tract at
Mt. Comfort Road and Hughmount Road Fayetteville, AR

Dear Ms. Smith:

We would like to be placed on the City Council agenda to appeal the Planning Commission's decision to deny the annexation request ANX 05-1490. The Planning Commission denied the annexation because the annexation as requested would create a 3-acre island of land that would remain in the county.

The Planning Commission vote was 5 to 4 against the annexation, with four of the Commissioners voting for the annexation. The remaining Commissioners expressed their support for the annexation, but did not vote for our request due to the current City policy to not create islands of land that would remain outside the city limits.

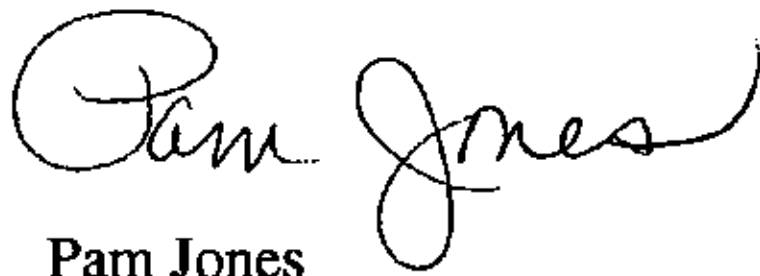
Dixie Development purchased this property in December 2004. We have been in discussion with the owner of the 3-acre parcel prior to closing on the tract. We have offered to purchase the 3-acres or to process an annexation request for the owner. We have not been successful with any of our offers to date.

Phone 479.251.0707
Toll Free 877.872.0707
Fax 479.251.0714

We understand the reasons for the City's policy on annexation. However, there are instances when, in the best interests of the citizens of Fayetteville, the policies must be adjusted. We believe this instance necessitates an adjustment.

Thank you for your attention to this matter.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Pam Jones". The signature is written in black ink and is positioned above the printed name and title.

Pam Jones
Special Projects, Dixie Development, Inc.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: June 01, 2005

Subject: Annexation for Dixie Development (ANX 05-1490)

RECOMMENDATION

The Planning Commission voted to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road. Planning Staff originally recommended denial of the annexation request as it would result in the creation of an island of unincorporated property. Beyond the policy directive to not create islands of unincorporated area, staff is supportive of the annexation request.

BACKGROUND

The subject property contains four parcels of property consisting of 24.35-acres. The property is owned by Dixie Development. It is located at the northeast corner of Mount Comfort Road, where the Minor Arterial Street turns north and continues as Hughmount Road, a Collector Street. The property adjoins the City limits to the east, where property has recently developed as Wildflower Meadows Subdivision. Other subdivisions, such as Bridgeport and Clabber Creek, are located south and east of the subject property.

The applicant requests 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.

No public comment was received for this item.

DISCUSSION

This item was heard at the regular Planning Commission on May 23, 2005. The Planning Commission voted 5-4-0 to deny this item, with Commissioners Vaught, Graves, Trumbo and Lack voting no. The applicant has submitted an appeal of the Planning Commission decision to the City Clerk within the 10-day appeal period.

Annexation of this property would create a three-acre island of unincorporated property located north of Mount Comfort Road. Annexation Guiding Policy 11.6.a states, "*Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.*" Staff had informed the applicant of the resulting island at the time a Petition

for annexation was submitted to the County Clerk and met with a representative from Dixie Development prior to the submittal of the annexation application to discuss this issue. At the Planning Commission meeting, the applicant's representative stated that his client had had discussions regarding annexation with the owner of the three-acre parcel and at one time had attempted to purchase this property to no avail.

BUDGET IMPACT

None.



PC Meeting of May 23, 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, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 18, 2005

ANX 05-1490: (DIXIE DEVELOPMENT, 321): Submitted by STEVE CLARK for property located at NE CORNER MT COMFORT AND HUGHMOUNT RD. The property is in the Planning Area and contains approximately 24.35 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: DIXIE DEVELOPMENT

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends denial of this annexation request as it would result in creation of an island of unincorporated property within city limits and based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u> ☐ Approved ☒ Denied
Date: <u>May 23, 2005</u>	Motion to Deny by Anthes/Clark ² 5-4-0 w/ Vaught, Graves, Trumb & Lack voting no.
CITY COUNCIL ACTION:	Required <u>YES</u> ☐ Approved ☐ Denied
Date: <u>June 21, 2005 (1st reading if recommended)</u>	

BACKGROUND:

Property description: The subject property contains four parcels of property consisting of 24.35-acres. The property is owned by Dixie Development. It is located at the northeast corner of Mount Comfort Road, where the Minor Arterial Street turns north and continues as Hughmount Road, a Collector street. The property adjoins the City limits to the east, where property was recently developed as Wildflower Meadows Subdivision. Other subdivisions such as Bridgeport and Clabber Creek are located south and east of the subject property.

Proposal: The applicant proposes annexation of 24.35 acres into the City of Fayetteville.

Public Comment: Staff has received no public comment concerning the requested annexation.

Recommendation: Based on the information submitted to date and the findings herein, staff recommends denial of this annexation request. Incorporation of this property will create an island of County property containing approximately 3 acres within the city limits. Staff has contacted the applicant's representative on several occasions to inform him that creation of an island is contrary to the City's Annexation Policy.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Hamestring Creek; Residential Single Family on large lots	Planning Area
South	Large Lot Residential Development	Planning Area
East	Wildflower Meadows Subdivision	RSF-4, Res. Single Family – 4 units/acre
West	Large Lot Residential Developoment	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to Mt. Comfort Road. Mt. Comfort Road is a minor arterial along the south boundary of the property and a collector along the west side of the property by the current Master Street Plan. Road improvements required for Mt. Comfort Road along the property are to include: right-of-way dedication, pavement 14' from centerline, curb and gutter, storm drainage, and sidewalks.

Surrounding Master Street Plan Streets:

South: Mount Comfort Road, Minor Arterial

West: Mount Comfort Road and Hughmont Road, Collector Streets

East: Morning Mist Road, Collector Street

Water: Public water is adjacent to the site. There is an 8" main along the south and west side of Mt. Comfort Road. There is a 4" main parallel to the 8" main along the north side of Mt. Comfort Road. There is a 6" main along Hughmont Road. There may be existing water stub-outs from development on the east side of the development. Water service would need to be extended within the property at the time of development. Minimum size of new water mains is 8". Additional connections may be required to complete a looped system. This may include an off-site connection to be determined at a later date. No long range improvements to the water system are planned at this time for this area. A study of the water supply to serve this property **shall** be conducted prior to development at the cost of the developer.

Sewer: The site **does** have access sanitary sewer. There is a 15" sewer main approximately 520 feet south of the property along Hamestring Creek, and an 8" main within the development to the east. Minimum size of new sewer mains is 8". Sewer would need to be extended to serve the property. A capacity analysis

of the downstream sewer lines **shall** be conducted and a capacity analysis of the lift stations downstream of the site **shall** be conducted by the developer prior to development.

Fire: The subject property is located approximately 1.8 miles from Fire Station #7. Response time to the property is projected at 5 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 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 a peninsula or extend the current city limits further west of the surrounding city boundary. Annexation of this property will create an island of County property within the City of Fayetteville. Staff finds that the incorporation of property which would result in the creation of an island does not meet the objectives of the City's Annexation Policy and suggests the applicant further evaluate the possibility of incorporation of the adjacent three-acre parcel with this annexation request.

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 east.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently utilized for several single family homes and agriculturally related activities. The annexation of this property would neither include nor exclude subdivisions/neighborhoods. The applicant anticipates subdivision of this property for single family use.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels, not natural

corridors.

11.6.e Timing of services within annexation areas should be considered.

Finding: Surrounding property, developed for single family use, is currently being served by city utilities and fire and police emergency services. Fire response times are projected at approximately 5 minutes. Extension of water and sewer services will be required at the time of development. A study of water supply and the sewer and lift station capacity will be required 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 consists of cleared pasture land. No information has been presented to designate the subject property environmentally sensitive. Incorporation of this property would allow for the requirement of parks, open space and tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The surrounding subdivisions south and east of this property currently receive public services. Staff finds that public services will be able to be provided efficiently in this location. The Engineering Division has requested studies on water and sewer capacity to ensure that current services may sustain any further development on the property.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: The service area of the city will not extend further west with the annexation of this property. Additionally, the adjacent Minor Arterial and Collector Streets that surround and stub-out to this property will provide a direct route for emergency services to the subject property.

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. The subject property is not being served by city sewer, but does have access to water at this time.

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: Annexation and future development of this property will result in an increased demand on the City water and sewer services. Increased use of the existing services in the area may negatively impact the water supply and sewer capacity in this area. Development of the property would require an extension of the existing sewer lines. Off-site street improvements will be evaluated. Mount Comfort Road is an unimproved road and extensive improvements are planned. An assessment for standard street improvements adjacent to the property will be required at the time of development at the cost of the developer. This property is also located in the Clabber Creek Bridge Assessment area.

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 annexation and rezoning of this property to RSF-4, Residential single family - 4 units/acre. Increased density on this property will increase the demand of services in this residentially developed area. Staff finds

that the area proposed for annexation will receive the same level of service available to the surrounding properties.

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 24.35 acres owned by Dixie Development. Staff recommends the inclusion of the adjacent 3-acre tract to the east and potentially the adjacent tract to the west along Hughmount Road with this annexation request. Doing so will create a more acceptable City boundary and meet the criteria of the Annexation Policy which discourages annexation of property that would result in the creation of an island.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 24.35 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.

May 16, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

In reference to **ANX05-1490: (DIXIE DEVELOPMENT, 321)**: Submitted by STEVE CLARK, for property located at NE CORNER MT. COMFORT AND HUGHMOUNT RD. The property is in the Planning Area and contains approximately 24.35 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 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.

Sincerely,

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Department Service Delivery Impact: Zoning Review May 10, 2005										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to 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
ANX05-1488	Collins/Kinghorn	YES	17.33	*3				0	0	0
RZN05-1489	Collins/Kinghorn		17.33	*3	4.4 miles	8 minutes	8.5 minutes	16	6	10
RZN05-1489	Collins/Kinghorn		17.33	5	5.5 miles	12 minutes	12 minutes	16	6	10
ANX05-1490	Dixie Develop	YES	24.35	7				0	0	0
RZN05-1491	Dixie Develop		24.35	7	1.8 miles	5 minutes	5.5 minutes	22	9	13
ANX05-1495	Benton Develop	YES	10.66	7				0	0	0
RZN05-1502	Benton Develop		10.66	7	2.6 miles	6 minutes	6.5 minutes	10	4	6

* = Proposed Station 3

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 05.1490 Dixie Mgmt. Return by: 4-29
Parcel: DD1-1182-004; 003; DD1-16809-000, -003

Plat Page#: 321
Section: 1
Township: 16
Range: 30

Current Zoning: County
Proposed Zoning: R-A1

Submittal:

1st

2nd

3rd

Closure error / comments: OK / ALREADY CHECKED 2-16-2005

Has the applicant been contacted with requested revisions:

YES

NO

Checked by:

CR

Date shape file was created:

2/16/2005 → 4/22/2005

FILED

2005 MAR 23 AM 9 27

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY

**IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS**

NO: CC 2005-3

ORDER OF ANNEXATION

Now on this 14th day of March, 2005, this cause comes on to be heard, the Petitioners, Dr. Ben Israel, as General Partner of Dixie Management and Investments LP, an Arkansas Limited Partnership, who is represented by the engineer of record, Steve Clark, 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 7th day of February, 2005 at which time this Court fixed the 14th day of March, 2005, at 10:00 am 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 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 part of the City of Fayetteville, Arkansas, in accordance with Act 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 22nd day of March, 2005

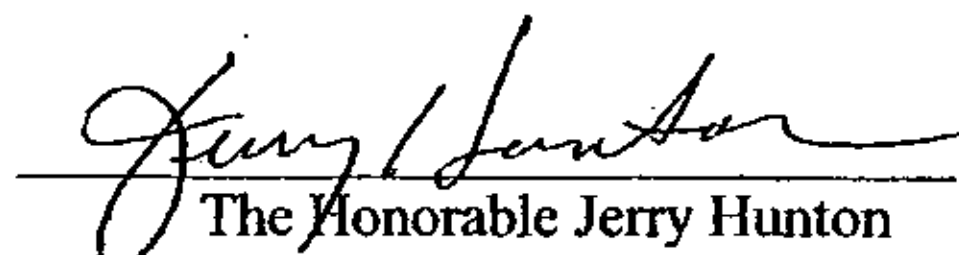
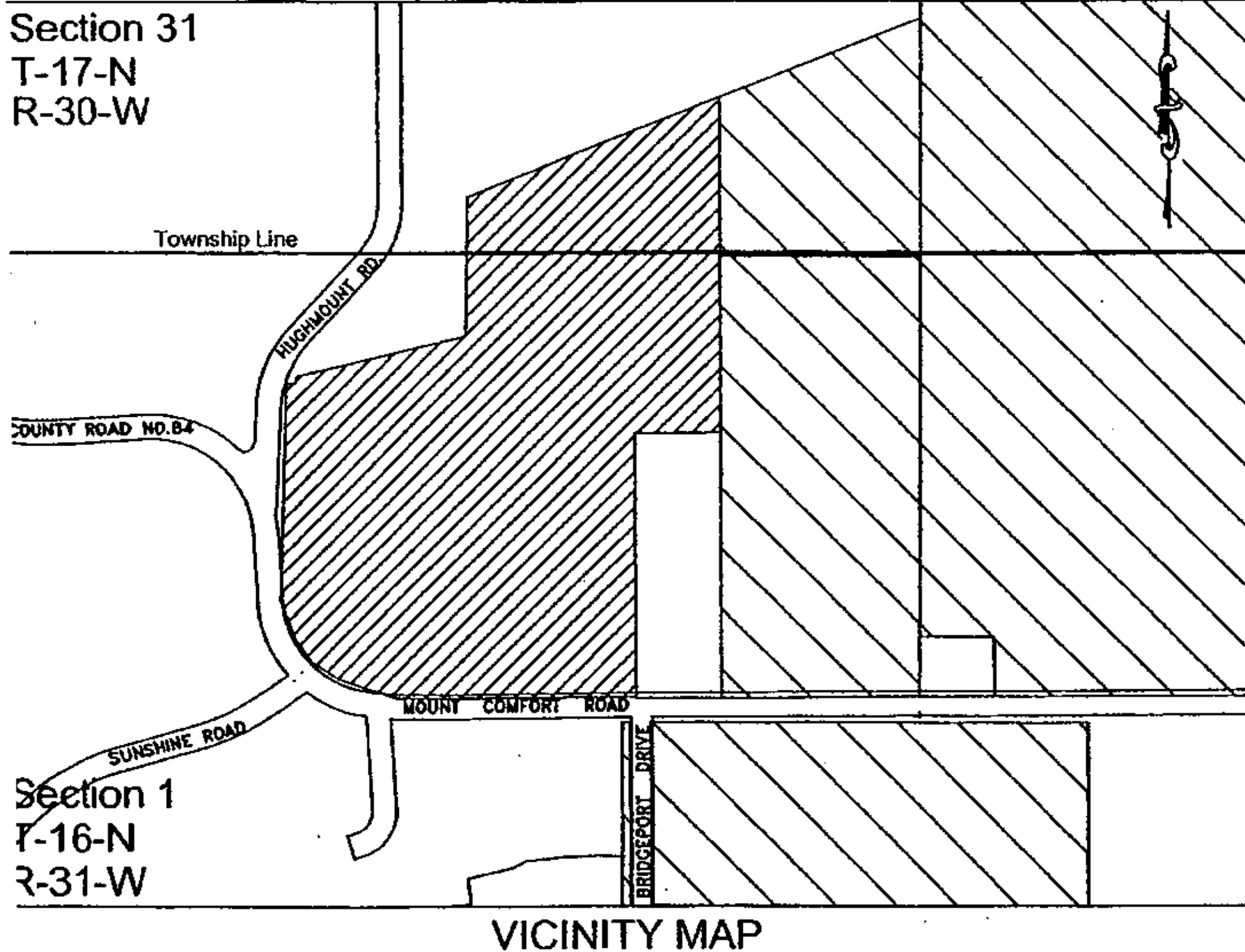

The Honorable Jerry Hunton
Washington County Judge

Exhibit A

Part of the Fractional Northwest Quarter (FRL NW 1/4) of Section 1, Township 16 North, Range 31 West, and part of the South Half (S 1/2) of Section 31, Township 17 North, Range 30 West, of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows:

Commencing at a found iron bolt, said bolt accepted and used as the Southwest corner of the Southeast Quarter (SE 1/4) of the Fractional Northwest Quarter (FRL NW 1/4) of said Section 1, Township 16 North, Range 31 West thence North 01 degrees 53 minutes 58 seconds East a distance of 28.33 feet to a found 1/2 inch diameter iron pin and the POINT OF BEGINNING ; thence North 84 degrees 40 minutes 38 seconds West a distance of 19.29 feet to a found 1/2 inch diameter iron pin; thence North 76 degrees 20 minutes 32 seconds West a distance of 63.43 feet to a found 1/2 inch diameter iron pin; thence North 64 degrees 58 minutes 43 seconds West a distance of 61.18 feet to a found 1/2 inch diameter iron pin; thence North 47 degrees 49 minutes 33 seconds West a distance of 69.50 feet to a found 1/2 inch diameter iron pin; thence North 35 degrees 00 minutes 05 seconds West a distance of 67.78 feet to a found 1/2 inch diameter iron pin; thence North 15 degrees 54 minutes 21 seconds West a distance of 70.73 feet to a found 1/2 inch diameter iron pin; thence North 00 degrees 20 minutes 48 seconds East a distance of 563.56 feet to a set cotton picker spindle; thence South 85 degrees 36 minutes 33 seconds East a distance of 23.81 feet to a set 5/8 inch diameter iron pin; thence North 40 degrees 05 minutes 48 seconds East a distance of 15.55 feet to a found 1/2 inch diameter iron pin; thence North 79 degrees 34 minutes 49 seconds East a distance of 437.56 feet to a found 1/2 inch diameter iron pin; thence North 03 degrees 47 minutes 41 seconds East a distance of 354.75 feet to a found 1/2 inch diameter iron pin; thence North 71 degrees 56 minutes 02 seconds East a distance of 112.10 feet to a found 1/2 inch diameter iron pin; thence North 71 degrees 55 minutes 52 seconds East a distance of 556.38 feet to a found 1/2 inch diameter iron pin and the northwest corner of Wildflower Meadows Subdivision; thence along the west line of said Wildflower Meadows Subdivision South 03 degrees 06 minutes 36 seconds West a distance of 832.24 feet to a found 1/2 inch diameter iron pin; thence leaving said west line North 87 degrees 56 minutes 15 seconds West a distance of 208.26 feet to a found 1/2 inch diameter iron pin; thence South 03 degrees 03 minutes 18 seconds West a distance of 626.12 feet to a found 1/2 inch diameter iron pin; thence North 87 degrees 51 minutes 31 seconds West a distance of 310.40 feet to a found 1/2 inch diameter iron pin ; thence North 87 degrees 55 minutes 51 seconds West a distance of 283.81 feet to the POINT OF BEGINNING , containing 24.35 acres, more or less, and being subject to the right of way of Mount Comfort Road along the south and west sides and Washington County Road # 703 along the west side thereof. And also being subject to any easements, rights of ways, covenants and restrictions of record.

EXHIBIT "A"



LEGEND

- Area Petitioning to be Annexed
- Area within Fayetteville City Limits
- Area in Rural Washington County

Owners:

Dixie Managment and Investments, LP
3715 N. Business Drive, Ste. 201
Fayetteville, Ar 72703

Annexation Boundary:

Part of the Fractional Northwest Quarter (FRL NW 1/4) of Section 1, Township 16 North, Range 31 West, and part of the South half (S 1/2) of Section 31, Township 17 North, Range 30 West, of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows: Commencing at a found iron bolt, said bolt accepted and used as the Southwest corner of the Southeast Quarter (SE 1/4) of the Fractional Northwest Quarter (FRL NW 1/4) of said Section 1, Township 16 North, Range 31 West thence North 01 degrees 53 minutes 58 seconds East a distance of 28.33 feet to a found 1/2 inch diameter iron pin and the POINT OF BEGINNING; thence North 84 degrees 40 minutes 38 seconds West a distance of 19.29 feet to a found 1/2 inch diameter iron pin; thence North 76 degrees 20 minutes 32 seconds West a distance of 63.43 feet to a found 1/2 inch diameter iron pin; thence North 64 degrees 58 minutes 43 seconds West a distance of 61.18 feet to a found 1/2 inch diameter iron pin; thence North 47 degrees 49 minutes 33 seconds West a distance of 69.50 feet to a found 1/2 inch diameter iron pin; thence North 35 degrees 00 minutes 05 seconds West a distance of 67.78 feet to a found 1/2 inch diameter iron pin; thence North 15 degrees 54 minutes 21 seconds West a distance of 70.73 feet to a found 1/2 inch diameter iron pin; thence North 00 degrees 20 minutes 48 seconds East a distance of 563.56 feet to a set cotton picker spindle; thence South 85 degrees 36 minutes 33 seconds East a distance of 23.81 feet to a set 5/8 inch diameter iron pin; thence North 40 degrees 05 minutes 48 seconds East a distance of 15.55 feet to a found 1/2 inch diameter iron pin; thence North 79 degrees 34 minutes 49 seconds East a distance of 437.56 feet to a found 1/2 inch diameter iron pin; thence North 03 degrees 47 minutes 41 seconds East a distance of 354.75 feet to a found 1/2 inch diameter iron pin; thence North 71 degrees 56 minutes 02 seconds East a distance of 112.10 feet to a found 1/2 inch diameter iron pin; thence North 71 degrees 55 minutes 52 seconds East a distance of 56.38 feet to a found 1/2 inch diameter iron pin and the northwest corner of Wildflower Meadows Subdivision; thence along the west line of said Wildflower Meadows Subdivision South 03 degrees 06 minutes 36 seconds West a distance of 832.24 feet to a found 1/2 inch diameter iron pin; thence leaving said west line North 87 degrees 56 minutes 15 seconds West a distance of 108.26 feet to a found 1/2 inch diameter iron pin; thence South 03 degrees 03 minutes 18 seconds West a distance of 626.12 feet to a found 1/2 inch diameter iron pin; thence North 87 degrees 51 minutes 31 seconds West a distance of 310.40 feet to a found 1/2 inch diameter iron pin; thence North 87 degrees 55 minutes 51 seconds West a distance of 283.81 feet to the POINT OF BEGINNING, containing 24.35 acres, more or less, and being subject to the right of way of Mount Comfort Road along the south and west sides and Washington County Road # 703 along the west side thereof. And also being subject to any easements, rights of ways, covenants and restrictions of record.



CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1"=150'	DATE REVISED: 02/28/05	CHECKED BY: JSC	DRAWN BY: Konold
DATE: 02/03/05			
Petition for Annexation			1
			1

FROM

(MON) FEB 7 2005 10:11:39 AM (ST. 10:39/NO. 001079) C. 4
Plaintiff's Motion to Dismiss Appeal
(Dixie Development)
Page 19 of 24

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. CC2005-001079
FILED
2005 FEB 7 7 AM
KAREN COMBES, CLERK
& PROBATE CLERK
WASHINGTON COUNTY, ARKANSAS

**PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS**

Come now the petitioners (the "Petitioners"), Dixie Management and Investment, LP, an Arkansas limited partnership, 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 the 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 contiguous with the city of Fayetteville, Arkansas and is within the City of Fayetteville, School District.
2. That the Petitioners name Steve Clark, and Pam Jones as the persons authorized to act on their behalf.
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 the Petitioners state that they will do any and all legal acts necessary to accomplish the objective set forth herein.

FROM

(MON) FEB 7 2005 10:41 ST. 10:39/No. 001070810
C. 4
Missouri Appeal
(Dixie Development)
Page 20 of 24

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 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 4th day of February, 2005.


Petitioner and General Partner
Dixie Management and Investments, LP
An Arkansas Limited Partnership
3715 N. Business Drive, Ste. 201
Fayetteville, Ar 72703

State of Arkansas)
) ss.
County of Washington)

SUBSCRIBED AND SWORN TO before me, a notary Public, this
4th day of February, 2005.

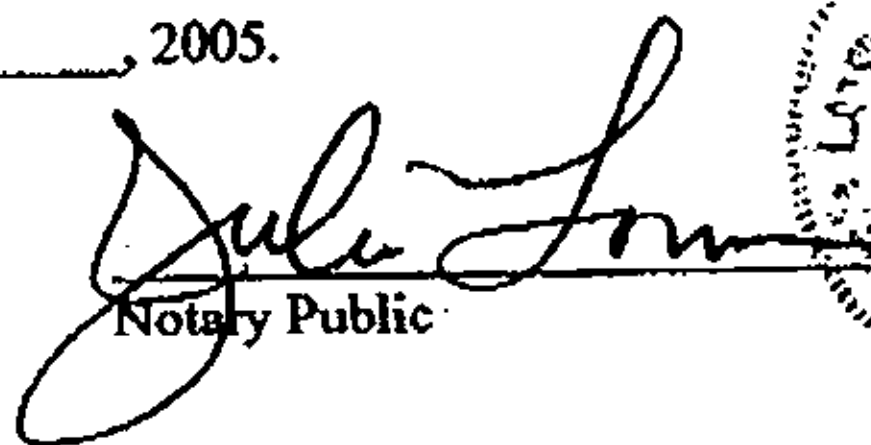
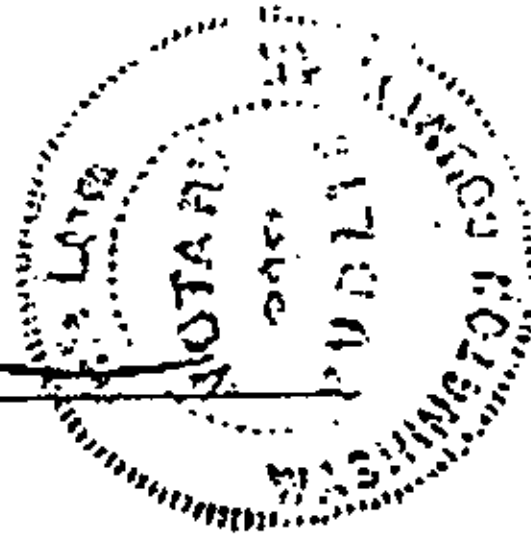

Notary Public


EXHIBIT "A"

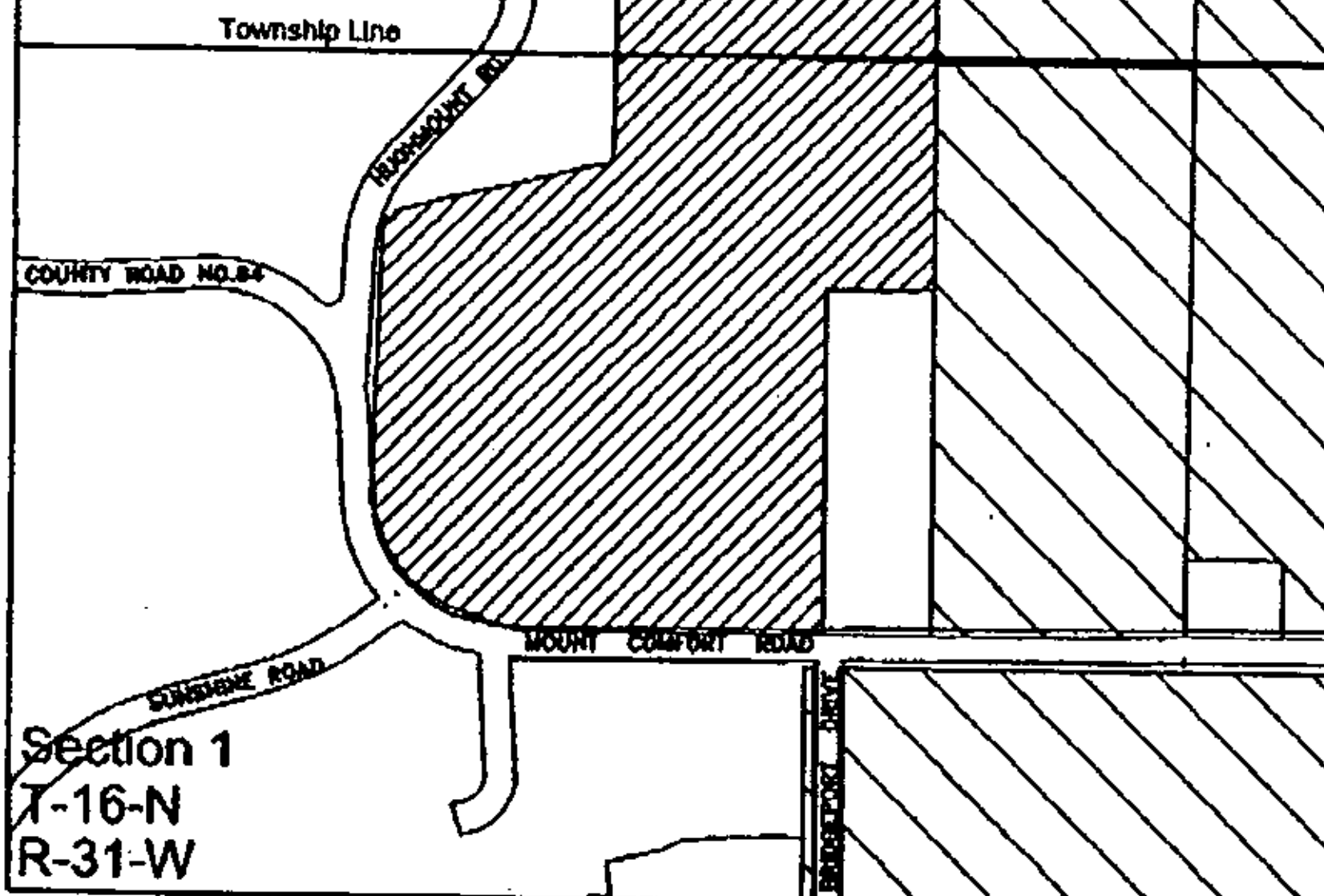
Section 31
T-17-N
R-30-W

LEGEND

-  Area Petitioning to be Annexed
 Area within Fayetteville City Limits
 Area in Rural Washington County

Owners:

Dixie Management and Investments, LP
3715 N. Business Drive, Ste. 201
Fayetteville, Ar 72703



VICINITY MAP

Annexation Boundary:

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and being subject to the right of way of Mount Comfort Road along the south and west sides and Washington County Road

703 along the west side thereof. And also being subject to any easements, rights of ways, covenants and restrictions of record.

CLOSURE OK.

NEED TO CORRECT
HIGHLIGHTED
QUARTER REFERENCE.

CLYDE
2-16-05

~~583.58~~ 563.56

Clark
Consulting

CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1"=150'

DATE REVISED:

CHECKED BY:

DRAWN BY:

DATE: 02/03/05

JSC

Konold

Petition for Annexation

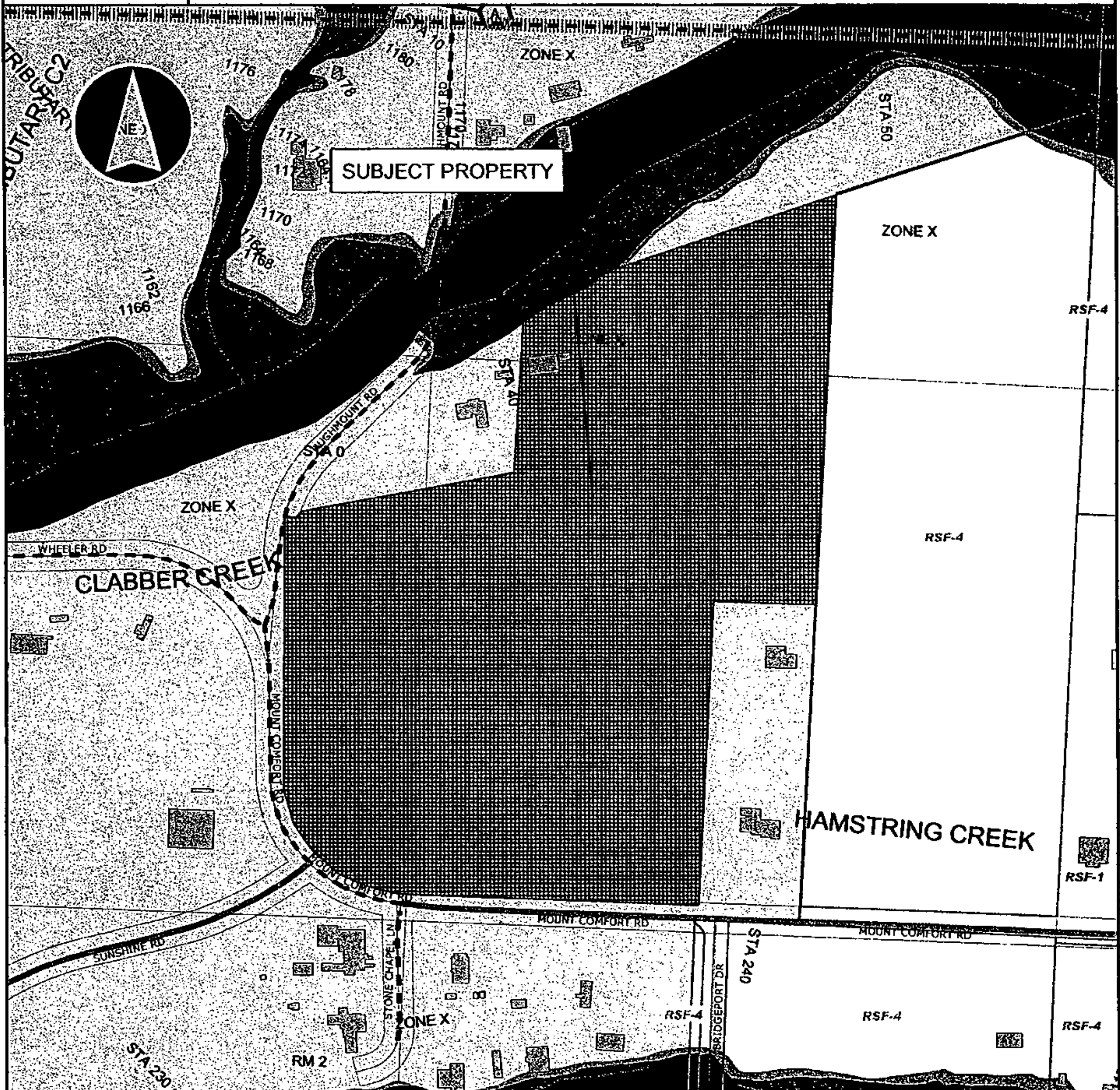
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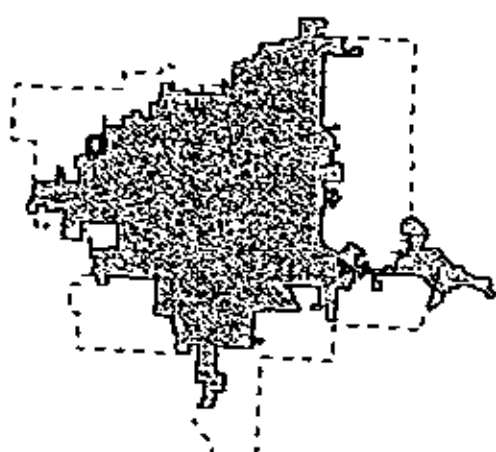
ANX05-1490

Close Up View

DIXIE MANAGEMENT



Overview



Legend

ANX05-1490

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

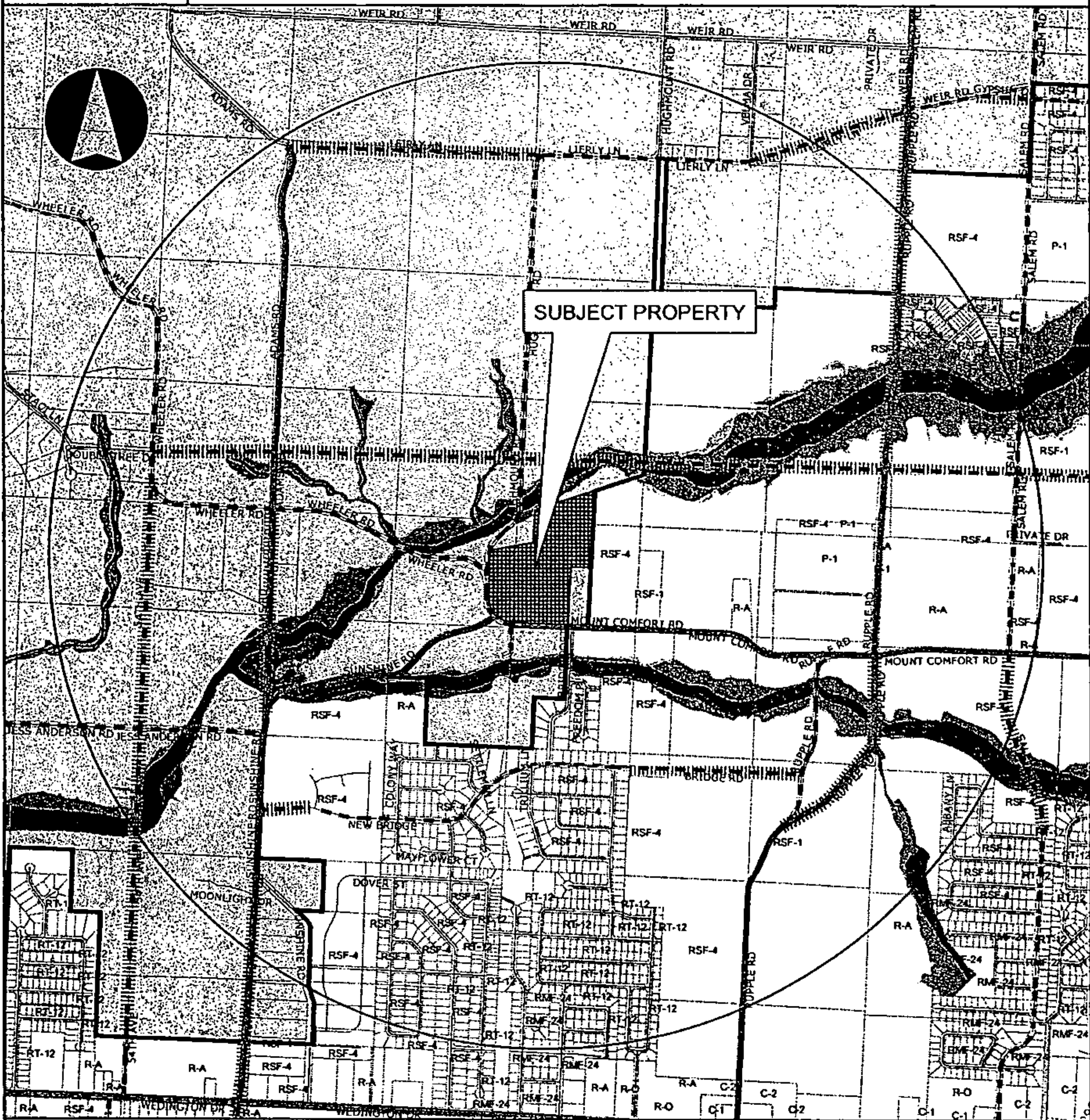
Outside City

0 75 150 300 450 600 Feet

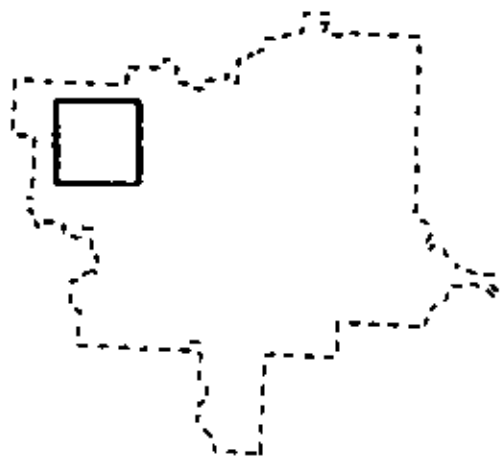
ANX05-1490

One Mile View

DIXIE MANAGEMENT



Overview



Legend

Subject Property

ANX05-1490

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25

0.5

0.75

1

Miles

Fayetteville

City Council Meeting of May 3, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: June 3, 2005

Subject: Approval of \$300,000 for overhead electrical re-locate due to Broyles Road Improvements at the new Westside Wastewater Treatment Plant

RECOMMENDATION : Staff recommends approval of purchase of these services as they are required to accommodate the present plans and specification for the Westside Wastewater Treatment Plant and Broyles Road Improvements.

BACKGROUND: To accommodate moving Broyles Road at the Westside Treatment Plant, Ozark Electric is required to relocate overhead electric lines. Ozark Electric has estimated their cost for design, construction, inspection services, and contingencies to be \$300,000 which will come from WSIP funds.

DISCUSSION: In August, 2003 the City of Fayetteville received a cost estimate from Ozark Electric for these services in the amount of \$80,000-\$120,000. After receiving the current proposal, staff questioned Ozark Electric about reasons for the cost increase. Ozark Electric's response is attached. Ozark Electric has shown interest in purchasing 5 acres of the Westside Wastewater Treatment Plant property and Staff is presently pursuing this potential and negotiating with Ozark Electric. Sale of this property would partially offset the cost of the re-locate services. Sale of the property is not part of this request.

BUDGET IMPACT: Payment for these services will be from the 3/4 -cent sales tax bond election held on November 6, 2001 for the Wastewater System Improvements Project. The \$300,000.00 requested for these services is 0.002% of the \$125,000,000.00 budget allocated for the Wastewater System Improvements Project.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PAYMENT OF \$300,000.00 TO OZARKS ELECTRIC COOPERATIVE CORP. FOR THE COST OF RELOCATING ELECTRICAL LINES ASSOCIATED WITH THE BROYLES ROAD IMPROVEMENTS AT THE WESTSIDE WASTEWATER TREATMENT PLANT.

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 payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road Improvements at the Westside Wastewater Treatment Plant.

PASSED and APPROVED this 21st day of June, 2005

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk



OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

Hello Bob,

I received the information on our cost estimates from Allgeier, Martin & Associates. I apologize for it not being here in a more expeditious manner.

AM&A prepared a budgetary estimate to move the 69kV line with underbuild along Broyles Road from Persimmon Street to the point in Section 14 where the line turns back to the west. We are looking at an approximate \$300,000 for the transmission relocation costs on this project. The budgetary estimate prepared was based on general assumptions and not on a specific completed design. A more detailed estimate can be prepared once the design has been accomplished.

The construction portion of the estimate was based on prices received from contractors for similar work. We have assumed that the line would be of wood-pole construction utilizing 795 MCM ACSR for the transmission conductor and one 3-phase, 4/0 ACSR underbuild, as included with the present design. An additional dead end structure and an alternate angle structure will most likely be required at Persimmon Street to accomplish the move and additional offset. As mentioned, the details of the design used for estimating purposes have been assumed and the estimate is not based on actual design of this line.

The construction portion of the estimate further assumes that the work will be performed with the transmission line de-energized and that adequate space and easements exist such that there is room for all guys and anchors needed. The recent easement modifications that were processed by McGoodwin, Williams, and Yates may potentially require further minor modifications due to the additional dead-end structure. We will notify you of these changes should they become necessary.

The engineering included in the estimate includes preparation of design calculation and documentation, survey of the line location, spotting of structures, placing stakes for construction and final review of the constructed product. It has further been assumed that the right-of-way in which the line is to be located will be clearly marked prior to survey for design. The estimate provided for this service assumes a construction period of 30 days, although this may vary.

We have estimated the cost of design by our consultants (engineering costs) and construction for our budgetary purposes to be approximately \$250,000. On site representative for the estimated construction period would be approximately \$15,000. These prices do not include any contingencies or Ozark's Electric's costs. We have estimated our cost for crews and overhead to be approximately \$35,000.





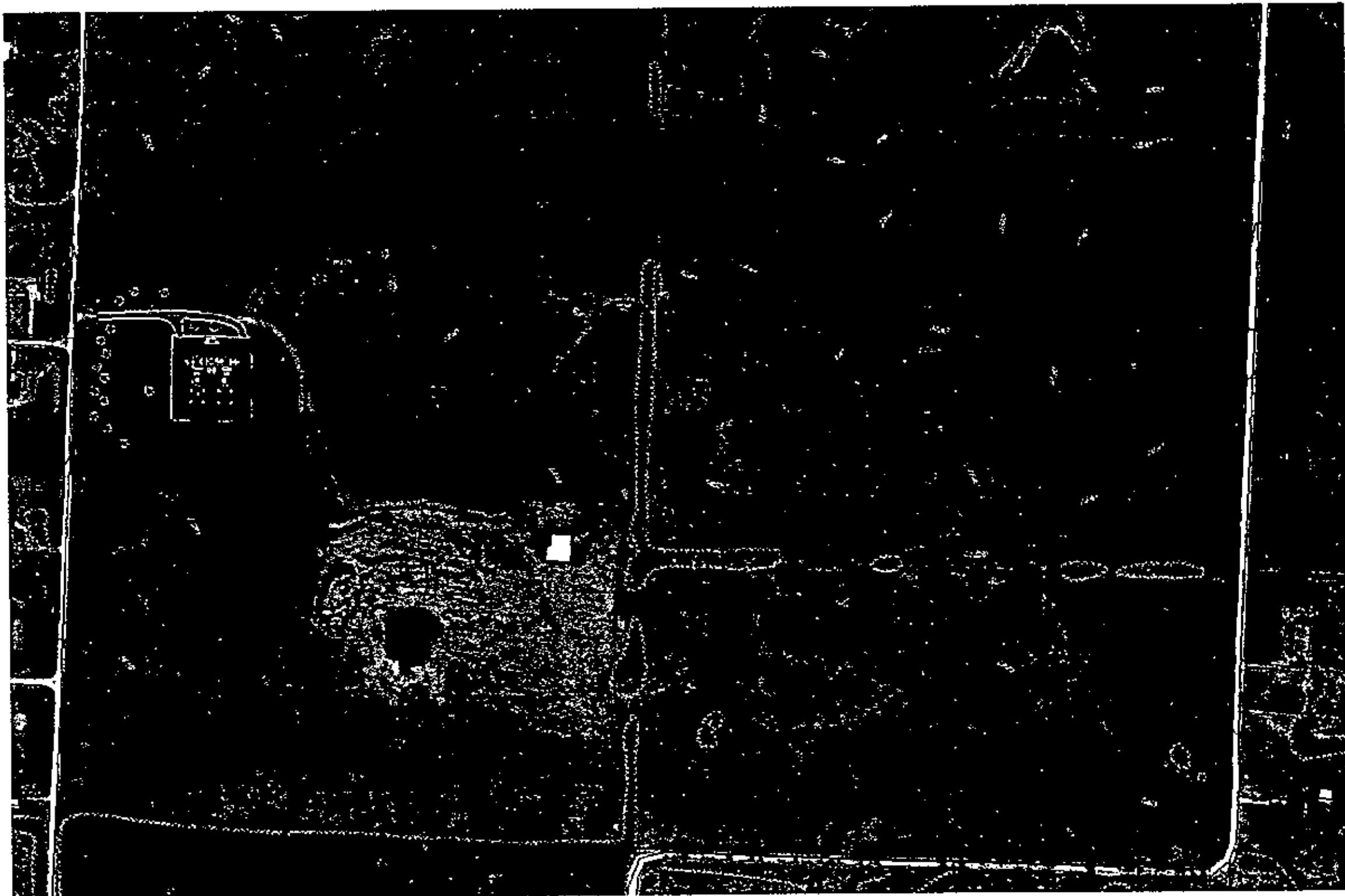
OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

Therefore, the total estimated cost is \$300,000.00.

With the load being added to our system by your new facilities and other growth in the immediate area, we expect substation capacity to become an issue in several years.

There is not enough space at our existing site to add another transformer to accommodate the added load we expect in the future. Knowing this, we have started looking for a location for an additional substation. The buffer area we discussed near the sewer plant appears to be a suitable location for our future needs. I have approval from our Board of Directors to acquire up to five acres based on the \$25K per acre that we discussed. Obviously this substation sighting will be of long term operational benefit to the sewer treatment plant in years to come. The area we would like to acquire is on the West side of the property with access to and is contiguous with the road and our existing transmission line easement (see following drawing).





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

This amount of property would be adequate to allow us to operate our facility and provide enough space for a suitable buffer of trees between us and the road. The construction would be similar to our Fayetteville West station on HWY 16.



Above is our Fayetteville West station which shows typical construction.

If this purchase could be used to offset the cost of the project, I would be very open to proceeding in this direction.

To expedite the process as you have requested and to proceed with the design work, ordering of materials, and construction we will need confirmation in writing of the intent of the City to seek Council approval and payment of the attached invoice prior to July 1, 2005. The letter should also address the City giving prompt consideration to the five acre





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

property acquisition as proposed above. The direction that we take in this matter will have an affect on many Ozarks improvement projects in the coming years, so we look forward to your response to this proposal. As soon as we receive your letter, we will proceed with the design work and will make every effort to meet the construction deadlines that we have discussed.

Thank you for the use of the large photo/plans we used at our Board of Directors meeting. About returning it, would you like that dropped off at your office or would you like to pick it up?

If you have any questions, please let me know. I can be reached at our office, by phone at (479) 684-4668, or by email at rerickson@ozarksecc.com.

Regards,

Robert Erickson
GIS / Structural Engineer
Ozarks Electric Cooperative Corp.





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

May 25, 2005
Mr. Bob Davis, P.E.
113 W. Mountain
Fayetteville, Arkansas 72701

RE: Transmission line relocation
Fayetteville-Farmington 69kV Line
Structure replacement for road move, sewer plant
Work Order # 721889

Mr. Davis,

This is in regard to the relocation of an existing transmission line at the request of the City of Fayetteville to facilitate the construction of the Sewer Plant off of Broyles Road.

We have estimated the cost of design by our consultants (engineering costs) and construction for our budgetary purposes to be approximately \$250,000. On site representative for the estimated construction period would be approximately \$15,000. These prices do not include any contingencies or Ozark's Electric's costs. We have estimated our cost for crews and overhead to be approximately \$35,000.

The total will be \$300,000.00.

To expedite the process as you have requested and to proceed with the design work, ordering of materials, and construction we will need confirmation in writing of the intent of the City to seek Council approval and payment of the attached invoice prior to July 1, 2005.

If I can be of any assistance, please let me know.

Mr. Robert Erickson
Ozarks Electric Cooperative Corp.
P.O. Box 848
Fayetteville, AR 72702-0848







Ozarks Electric Cooperative Corp.

Box 848
Fayetteville, Arkansas 72702-0848
(479) 521-2900

C. 5
Ozark's Electric Cooperative Corp.
Line Relocation
Page 9 of 16

RECEIVED

AUG - 2003

McGoodwin, Williams and Yates

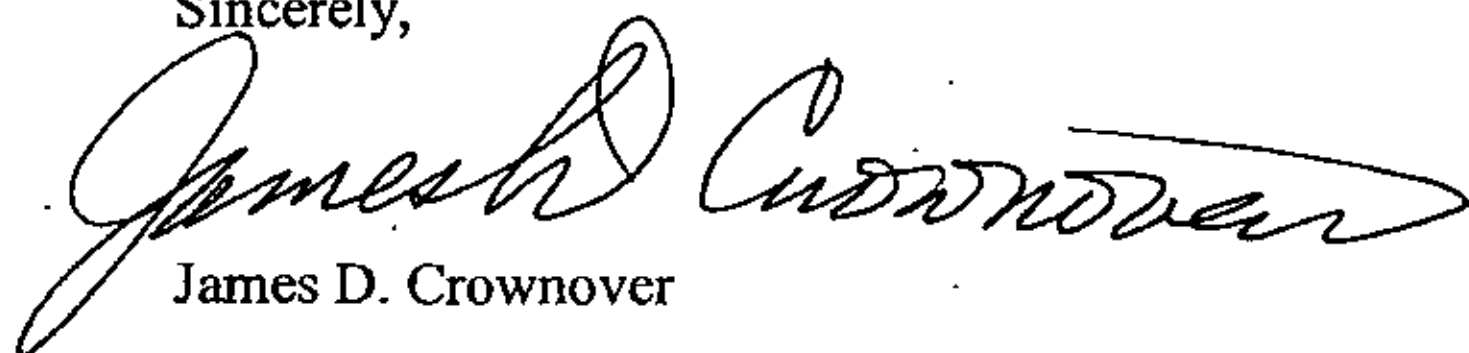
Mr. Brian Gartside
McGoodwin, Williams & Yates
909 Rolling Hills Drive
Fayetteville, Arkansas 72703

Dear Mr. Gartside:

We estimate that the cost of relocating the transmission line along Broyles Road will be between \$80,000.00 and \$120,000.00. Because of our day-to-day commitments, the move would have to be contracted out, and subject to the vagaries of bidding. Your cost would be the cost of the contract plus in-house engineering and administration costs. We will also need a dedicated easement of 50 feet adjacent to the road right-of-way along with certain guying easements where required. This easement would be available for use by other utilities if they were restricted to underground installations only.

Because of the nature of the project, we will need a considerable lead time in order to design the line, advertise for bids, order material and award the contract. The earliest notice of your intentions would be very helpful.

Sincerely,


James D. Crownover



OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

Hello Bob,

You requested an explanation of why the cost estimate jumped from \$80,000-\$120,000 up to \$300,000 and I would like to pass along my information to you.

When Mr. James Crownover did his estimate he was relying on past construction costs for similar jobs. These jobs go back to the 80's. There was no design work done by him, only a cursory examination of the project. That entailed replacing the existing ten transmission structures (all with underbuild) and four distribution structures. With costs obviously going up over time, he added 10% to his cost estimate to cover this. He provided this information to you in 2003 based off of his experience from previous years. He wrote, in the estimate to Mr. Gartside, that your cost would include the cost of the contract plus in-house engineering and administration costs. Due to our almost unmanageable workload, we now require that relocation projects such as this be contracted to an outside engineering firm.

The estimates from Allgeier, Martin & Associates, Inc. reflect some initial design work and note the different structures that may be required. The dead end structures are a substantial cost and two may be required. Subsequent work has been done on both the road and transmission line since Mr. Crownover gave you his estimate to accommodate subdivision development. This may necessitate the second dead end structure on the north end of the property not included in the 2003 estimate. Mr. Crownover originally considered performing the design work in house, which we can no longer do because of limited resources due to intense load growth in the area. I am certain that James provided estimates appropriate for conditions and scope of the project at that time. I can only say that the process we have recently used to provide these cost is in line with our Arkansas Public Service Commission tariff (EXT-PB-30 par 9). This document defines and governs how the Cooperative should equitably allocate the costs associated with line extensions and relocations.

I looked at some of Jim's numbers and he thought the contract would be just under \$90,000 and that our in-house work could get the price up to \$120,000. Typically distribution relocations performed for the county or municipalities do not reflect our total actual costs. I don't know that we have ever charged for overhead distribution lines being moved due to city or county road moves. We will usually upgrade our lines at these times and move on to other projects. This is not written policy, but a principle of cooperation we have tried to adhere to. This has certainly not been the case for transmission line relocations. They involve much more time to do the design engineering, the materials are much more expensive and the internal administration of the projects is complicated. We put forth every effort to assist the city when they are





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

improving their infrastructure, however the problem arises with regard to transmission lines in that they are critical to grid integrity, difficult to move and in many cases it is prohibitively expensive to do so. This is not a project where the cooperative can afford to absorb the relocation expense for a municipal's project.

An example of how the cost has increased is evident in the price of conductor. Two years ago the price of the conductor was estimated at \$900 per 1000 ft for 795, \$200 per 1000 ft for high tension steel static wire, and \$300 per 1000 ft for 4/0 ACSR. The recent estimate has the same material at \$1200, \$800, and \$1200. This illustrates that conductor costs have risen 228% during the past two years. The cost for purchasing a wood structure and having it set has not changed much in the last two years, interestingly enough, but removing and disposing of the same structure and materials has doubled. The lead time on getting these tall poles has become longer with my last quote having them at 6.5 -17 weeks out. In particular, material (wood, steel and metals) cost and contract labor, especially on transmission work, has escalated at a staggering rate over the past two years. I estimate that material alone on this project could be \$90,000.

A good rule of thumb for a quick estimate on cost is to assume that the labor is approximately twice as much as material on a transmission job. That does not include design/engineering costs or the cooperative's costs for temporarily re-routing power in the region to accommodate construction, etc.

This is a general overview of the costs:

Retirement Labor	\$36,890
Construction Labor	\$108,753
Materials	\$73,318
Design / Engineering (consultant)	\$30,000
Onsite Representation (consultant)	\$15,000
Operational switching & load study	\$6,000
In-house project management	\$9,000
Administration	\$4,000
Drafting and mapping updates	\$5,000
5% project variance	\$12,000

Here is a breakdown of the estimated costs for removing the existing structures and replacing them with the same structure configuration as provided.

Fayetteville Sewer Treatment Plant





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

C. 5
Ozark's Electric Cooperative Corp.
Line Relocation
Page 12 of 16

Retirement							
Sec. No.	UNIT NO.	PRICE UNIT	NO. UNITS	UNIT LABOR	UNIT MATERIAL	UNIT TOTAL	EXTENDED L&M PRICE
	65' pole		12	600	0	600	7200
	TP -69G		10	300	0	300	3000
	TS-5G		1	1200	0	1200	1200
	VC1-M		10	300	0	300	3000
	GUY		12	75	0	75	900
	ANCHOR		6	350	0	350	2100
	TM-9		12	25	0	25	300
	VC9		2	750	0	750	1500
	TRANS						
	CONDUCTOR		8.7	700	0	700	6090
	DIST CONDUCTOR		11.6	800	0	800	9280
	OHGW		2.9	800	0	800	2320
PROJECT TOTAL							36890

Construction estimate by structure type							
Sec. No.	UNIT NO.	PRICE UNIT	NO. UNITS	UNIT LABOR	UNIT MATERIAL	UNIT TOTAL	EXTENDED L&M PRICE
Tangent Structure							
	65-1	ea	1	1000	1300	2300	2300
	tp-69G	ea	1	600	850	1450	1450
	vc1-M	ea	1	400	250	650	650
	tm-9D	ea	1	100	100	200	200
	m2-12	ea	1	75	25	100	100
	tm-101	ea	1	150	150	300	300
	TMN	ea	1	40	25	65	65
tangent total				2365	2700	5065	5065
RUNNING guyed ANGLE							
	70-1	ea	1	1500	1500	3000	3000
	TS-4G	EA	1	1750	1450	3200	3200
	C4-1	EA	1	300	300	600	600
	TG-21C	EA	3	300	50	350	1050
	TA-5L	EA	3	750	200	950	2850
	TMN	ea	1	40	25	65	65
	TM-9D(4)	ea	1	500	100	600	600
	M2-2S	EA	1	50	25	75	75
	TG-1G	EA	6	10	25	35	210
ANGLE TOTAL				7350	4300	8875	11650
CONDUCTOR							





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

	4/0	/1000 FT	11.608	1200	850	2050	23796
	3/8	/1000 FT	2.902	800	290	1090	3163
	795	/1000 FT	8.706	1200	1600	2800	24377
TOTAL COND							51336
DISTRIBUTION TAPS							
	C7A	EA	1	400	450	850	850
	TG-21C	EA	3	300	50	350	1050
	TA-5L	EA	2	750	200	950	1900
	TG-1G	EA	3	10	25	35	105
	TG-25C	EA	3	100	70	170	510
DIST TAP TOTAL				1560	795	2355	4415
GUYED DEADEND							
	TS-5G		1	5000	1800	6800	6800
	70-1		1	1500	1500	3000	3000
	TG-21C		12	300	50	350	4200
	c7-HB		2	400	450	850	1700
	TA-5L		12	750	200	950	11400
	TG-1G		24	10	25	35	840
	TM9D(16)		1	1200	175	1375	1375
	M2-12	EA	1	50	25	75	75
	TM-101		1	150	150	300	300
	TMN		1	40	25	65	65
GUYED DEADEND TOTAL				9400	4400	13800	29755
STUB							
	TG-25D		4	100	140	240	960
	TG-21C		12	300	50	350	4200
total				400	190	590	5160

PROJECT TOTALS	QUAN	UNIT	TOTAL	each item	Total Labor	each material	Material Total
TANGENT	9	5,065	45,585	2365	21285	2700	24300
ANGLE	1	11,650	11,650	7350	7350	4300	4300
COND	1	51,336	51,336	26698	26698.4	24638	24637.98
TAPS	2	4,415	8,830	3130	6260	1285	2570
GUYED DEADEND	2	29755	59,510	21580	43160	8175	16350
STUB	1	5160	5,160	4000	4000	1160	1160
PROJECT INSTALLED TOTALS			182,071		108753.40		73317.98





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

REMOVALS	36890
PROJECT CONST. TOTAL	218,961
<i>Estimate Total</i>	220,000

TAPS ARE FOR CHANGING ALIGNMENTS AT SOUTH
END.

As can be seen from these figures, the cost for material and construction is substantial. This does not include the costs for design, surveying, and any other engineering services provided by the consultant designing the job. This also does not include the cost incurred by OECC for project administration, switching procedures, and overheads. As with all of our projects, it is imperative that our portion of this project be performed in a safe and expeditious manner and we will have a safety coordinator and engineering staff representing us on this project. I have been conservative in our cost estimates and feel they will make sure we don't run into any surprises. The actual costs will be itemized and this information will be provided to you. This estimate is likely on the conservative side and when this project is closed out in accounting the differential funds will be reimbursed to the City.

In closing, I regret that the cost estimates that you received two years ago are substantially less than what you have recently received. However, I think that the above analysis of the project indicates that not only the scope of the project has changed but labor, material and engineering costs are drastically higher than two years ago. The concern about cost to the city was one of the driving factors on the proposed substation site purchase. We felt this would allow the City to offset some of the cost of this project and provide the plant with more reliable electric service in the future. This would also be a good site for a substation but it is not imperative that we locate one there.

That pretty much covers the information I have used on the cost proposal. I hope that this better explains the variance from Mr. Crownover's 2003 letter. If I can be of any further assistance, do not hesitate to give me a call.

Respectfully,

Robert Erickson
GIS/Structural Engineer





OZARKS ELECTRIC COOPERATIVE CORP.

BOX 848 FAYETTEVILLE, ARKANSAS 72702-0848

6/3/2005

Ozarks Electric Cooperative Corp.
(479) 684-4668
rerickson@ozarksecc.com



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

21-Jun-05
City Council Meeting Date

Bob Davis Water & Wastewater Director
Submitted By Division Department

Action Required:

To accommodate moving Broyles Road at the Westside Treatment Plant, Ozark Electric is required to relocate overhead electric lines. Ozark Electric has estimated their cost for design, construction, inspection services, and contingencies to be \$300,000 which will come from WSIP funds.

\$ 300,000.00	\$113,011,587.00	Wastewater System Improvements
		Project/Westside Plant
Cost of this request	Category/Project Budget	Program Category / Project Name
4480.9480.5315.00	\$22,938,815.29	Wastewater System Improvements
Account Number	Funds Used to Date	Program / Project Category Name
2133.0304		Wastewater System Improvements
	\$ 90,072,771.71	Project Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

B. Davis 6-03-05
Department Director Date

Previous Ordinance or Resolution # N/A

Original Contract Date: N/A

Original Contract Number: N/A

D. P. Whit 6/6/05
City Attorney Date

Received in City Clerk's Office
ENTERED 6/8/05

Stephen 6-6-05
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED 6/6/05

Dan Cooley 6/6/05
Mayor Date

Comments:

Fayetteville

City Council Meeting of July 21, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: June 3, 2005

Subject: Approval of a contract amendment for McGoodwin Williams & Yates to provide Construction Phase Services dealing with the construction and post-construction activities associated with the Westside Wastewater Treatment Plant, Broyles Road, and the Wetland Mitigation Project.

RECOMMENDATION : Staff recommends approval of this contract amendment in the amount of \$4,680,637. Presentation of this amendment to the Fayetteville, AR Water & Sewer committee resulted in unanimous approval. This recommendation was preceded by a thorough review of proposed tasks presented by McGoodwin Williams & Yates including an intense question and answer session, negotiation and refinement, and finally, revision of their preliminary proposal. A detailed breakdown of tasks and estimated hours for each task are provided on the spreadsheet(s) included with this memo. McGoodwin Williams & Yates has designed this work, and continuation of construction phase services with this firm (including shop drawing review, inspection of the construction work, and general resident engineer services) will provide the City with continuation of responsible charge and subsequent engineering responsibility by a single, consistent entity (McGoodwin Williams & Yates).

BACKGROUND: As part of the Wastewater Systems Improvement Project (WSIP) the City of Fayetteville has undertaken design and construction of a 10 Million Gallon per Day (MGD) annual average flow wastewater treatment plant to be constructed on the west side of Fayetteville, AR in the Illinois River drainage basin. All flows generated within the Illinois River drainage basin will be pumped to the new facility via two force mains constructed under another project. An upgrade and extension of Broyles Road and construction of a Wetlands Mitigation project will also be including in the project. The estimated cost of the project is approximately \$48 million dollars.

DISCUSSION: The contractor and subcontractor pre-qualification process for the Westside Plant which concluded on May 26, 2005 with a response from 9 general contractors. Staff is presently reviewing the pre-qualification submittals. The bidding process for general contractors will begin on June 20, 2005 with a bid opening scheduled for July 21, 2005. The construction project is presently scheduled to begin on October 3, 2005.

BUDGET IMPACT: Payment for construction phase services offered by Black & Veatch will be from the 3/4 -cent sales tax bond election held on November 6, 2001 for the Wastewater System Improvements Project. Funding through the Arkansas Soil and Water Conservation Commission will not be used to fund this expense. The

Fayetteville

City Council Meeting of July 21, 2005

\$4,680,637.00 requested for these services is 3.7% of the \$125,000,000.00 budget allocated for the Wastewater System Improvements Project.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL ENGINEERING SERVICES CONTRACT WITH McGOODWIN, WILLIAMS AND YATES, INC. IN THE AMOUNT OF \$4,680,637.00 TO PROVIDE CONSTRUCTION PHASE SERVICES ASSOCIATED WITH THE WESTSIDE WASTEWATER TREATMENT PLANT, BROYLES ROAD IMPROVEMENTS AND THE WETLAND MITIGATION PROJECT.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction phase services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project. A copy of Amendment No. 1, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED:

By: _____
DAN GOODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
McGOODWIN, WILLIAMS AND YATES, INC.

WHEREAS, on July 15, 2003, the City of Fayetteville, Arkansas (CITY OF FAYETTEVILLE) and McGoodwin, Williams and Yates, Inc. of Fayetteville, Arkansas (MWY) entered into an Agreement for engineering services in connection with the Wastewater System Improvement Project; and in particular the Westside Wastewater Treatment Plant, Broyles Road Improvements, Effluent Line, and Wetlands Mitigation Site on the wastewater treatment plant property (the "Project"). The scope of these services included the final design and bidding services, and

WHEREAS, MWY has proceeded with these services in accordance with the scope set forth in the Agreement, and

WHEREAS, CITY OF FAYETTEVILLE requests that the scope of MWY's services to be amended to provide Construction Phase; Resident Services During Construction; O&M Manual Preparation, Startup, Training; and Post-Construction Phase Services for the Project;

NOW THEREFORE, in consideration of the mutual covenants and Agreements herein contained, CITY OF FAYETTEVILLE and MWY, the parties hereto, stipulate and agree that the Agreement for Engineering Services dated July 15, 2003, is hereby amended in the following particulars:

SECTION 2 – BASIC SERVICES OF MWY

2.1 General

2.1.1.3 The Scope of Services to be furnished by MWY during the Construction Phase is hereby included in Appendix B-1.

2.1.1.4 The Scope of Services to be furnished by MWY during the Post-Construction Phase is hereby included in Appendix B-2.

2.1.1.5 The Scope of Services to be furnished by MWY during the Resident Services During Construction Phase is included in Appendix B-3.

2.2 Final Design Phase

2.2.1.5.1 and 2.2.1.5.3 At the request of the CITY OF FAYETTEVILLE, the Broyles Road Improvements Project, Wetland Mitigation Site Project, and the Westside Wastewater Treatment Plant Project have been incorporated into one construction contract (Contract WP-3).

2.2.1.5.2 The Westside Wastewater Treatment Plant Effluent Line has been deleted from the Project.

SECTION 3 – ADDITIONAL SERVICES OF MWY

Add the following tasks to SECTION 3 - ADDITIONAL SERVICES OF MWY:

- 3.1.8 Additional meetings with local, state, or Federal agencies to discuss project.
- 3.1.9 Review of drawings and other data submitted by Contractor(s) beyond one resubmission because of failure of Contractor to account for exceptions previously noted by MWY.
- 3.1.10 Appearances at public hearing meetings or before special boards.
- 3.1.11 Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this amendment.
- 3.1.12 Special consultants or independent professional associates requested by CITY OF FAYETTEVILLE.

- 3.1.22 Evaluation of unusually complex or unreasonably numerous claims submitted by Contractor(s) or others in connection with the work.
- 3.1.23 Review and analysis of claims for differing subsurface and physical conditions submitted by the Contractor(s) or others in connection with the work.
- 3.1.24 Additions to the resident project representative (RPR) staffing level and/or individual RPR(s) compensation, based on straight time salary rate, for services extending beyond 40 hours per week as a result of Contractor(s) scheduled extended workweek.
- 3.1.25 Prepare applications and supporting documents for governmental grants, loans, or advances.
- 3.1.26 Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.
- 3.1.27 Making revisions in Drawings, Specifications, or other documents when such revisions are:
 - 3.1.27.1 Inconsistent with approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's Program or Project Budget.
 - 3.1.27.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.
- 3.1.28 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either CITY OF FAYETTEVILLE or Contractor under the Contract for Construction.
- 3.1.29 Preparation and submittal to the CITY OF FAYETTEVILLE and Arkansas Soil & Water Conservation Commission (ASWCC) a Corrective Action Plan to address operating deficiencies at the end of the one-year Project Performance Period, if necessary.
- 3.1.30 Preparation of or amendments to property and right-of-way documents, including surveys.

SECTION 4 – CITY OF FAYETTEVILLE'S RESPONSIBILITIES

Add the following tasks to SECTION 4 of Agreement:

CITY OF FAYETTEVILLE will furnish and not at the expense of the MWY the following items.

- 4.13 All maps, drawings, reports, records, manuals, and other data that are available in the files of CITY OF FAYETTEVILLE and which may be useful in the work involved under this Amendment.

SECTION 5 – PERIOD OF SERVICE

- 5.3 The services described in this Amendment are expected to be completed in accordance with the following schedules:

WESTSIDE WASTEWATER TREATMENT PLANT

Construction Phase Services,
Resident Project Representative Services

Thirty-three (33) months from time of
Notice to Proceed to Contractor by the
CITY OF FAYETTEVILLE.

O&M Manual Preparation and
Startup and Training

Complete within 180 days following
Contractor's Substantial Completion.

Project Performance Certification Services

Complete three quarterly project performance
reports; complete one final project
performance report within 90 days of the
one-year project performance period.

BROYLES ROAD IMPROVEMENTS

Construction Phase Services,
Resident Project Representative Services

Thirty-three (33) months from time of
Notice to Proceed to Contractor by the
CITY OF FAYETTEVILLE.

WETLANDS MITIGATION

Construction Phase Services,
Resident Project Representative Services

Thirty-three (33) months from time of
Notice to Proceed to Contractor by the
CITY OF FAYETTEVILLE.

O&M Manual Preparation and
Startup and Training

Complete within 180 days following
Contractor's Substantial Completion.

Project Performance Certification Services

Complete three quarterly project performance
reports; complete one final project
performance report within 90 days of the
one-year project performance period.

CITY OF FAYETTEVILLE agrees to adjust schedule if the Notice to Proceed is delayed beyond October 3, 2005, and/or the construction period exceeds thirty-three (33) months.

- 5.4 The provisions of this Amendment have been agreed to in anticipation of the orderly progress of construction through completion of the services stated in this Amendment. MWY 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 as defined in this Amendment.

SECTION 6 – PAYMENTS TO MWY

6.1 Compensation

For the scope of services set forth in the final design and bidding phase and as may have been amended, plus the Basic Services set forth in this Amendment No. 1, CITY OF FAYETTEVILLE agrees to pay MWY the amounts indicated for each phase of the work. The total payment for the work set out in this Amendment to MWY shall not exceed Four Million Six Hundred Eighty Thousand Six Hundred Thirty-Seven Dollars (\$4,680,637) except as provided for in Section 3 of the Agreement. The total payment is based on compensation amounts presented below to the scopes of services set forth in this Amendment No. 1.

Delete Sections 6.1.3, 6.1.4, 6.1.5 and 6.1.6 of the Agreement and include the following:

For services performed under this Amendment No. 1, CITY OF FAYETTEVILLE shall pay the sum of the following estimated cost for engineering services, subject to the cost not-to-exceed set out herein:

6.1.3 Construction Phase Services, including Resident Project Representative (RPR) Services

6.1.3.1 The Scope of Services during the Construction Phase for the Westside Wastewater Treatment Plant, Broyles Road Improvement, and the Wetlands Mitigation Site described herein is estimated to be \$4,209,200 .

6.1.4 Post-Construction Phase Services, O&M Manual Preparation and Training, and Startup Services during Construction Phase

6.1.4.1 The Scope of Services during the Post-Construction Phase for the Westside Wastewater Treatment Plant, Broyles Road Improvement, and the Wetlands Mitigation Site described herein is estimated to be \$471,437 .

6.1.5 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services," compensation to MWY shall be negotiated at the time Additional Services are authorized.

6.1.6 Basis of Compensation

6.1.6.1 The CITY OF FAYETTEVILLE agrees that the MWY's not-to-exceed upper limit for this Amendment No. 1 is based on the durations indicated in Section 5.3 of this Amendment No. 1 and if the construction period or operation period is extended that MWY shall be entitled to additional compensation.

6.1.6.2 Subject to prior City Council approval, adjustment of the compensation may be made should MWY 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 amend the duration of work from the time period specified in the amended Agreement for completion of work and such modification warrants such adjustment.

6.1.6.3 Monthly statements for each payroll month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for these services consistent with

MWY's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by MWY and approved by CITY OF FAYETTEVILLE. Final payment for these services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of this phase for the Project.

- 6.1.6.4 Hourly billing rates plus reimbursable direct expenses shall be used as the basis for determining payment to MWY for the costs incurred by MWY while providing the services described in this Amendment No. 1. Costs include but not limited to the salaries and benefits paid to employees engaged directly in providing the services and profit. The current hourly billing rates are included as Appendix C to this Amendment. Rates will be adjusted each January 1.
- 6.1.6.5 The following direct expenses are considered reimbursable and are included in the not-to-exceed amount.
 - 6.1.6.5.1 For outside expenses incurred by MWY, such as authorized travel and subsistence, commercial services, courier deliveries, and incidental expenses, the cost to MWY plus 5 percent.
 - 6.1.6.5.2 Subcontract costs.
- 6.1.6.6 The following direct expenses are also considered reimbursable and are not a part of the not-to-exceed amount.
 - 6.1.6.6.1 Charges of special consultants requested by CITY OF FAYETTEVILLE.
 - 6.1.6.6.2 Special insurance coverage required by CITY OF FAYETTEVILLE.
 - 6.1.6.6.3 Local taxes or fees applicable to the engineering work or payments therefor.
 - 6.1.6.6.4 Cost of acquiring any other materials or services specifically for and applicable to only this project.
- 6.1.6.7 It is understood and agreed that the not-to-exceed cost is based on the start of the services being authorized not later than October 3, 2005. If start of services is not authorized by dates given, it is understood and agreed that the not-to-exceed cost will be adjusted accordingly by an amendment to the Agreement.
- 6.1.6.8 It is understood and agreed that MWY shall keep records of costs and expenses on the basis of generally accepted accounting practice, and records shall be available for inspection at reasonable times.

All other provisions of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed this
_____ day of _____, 20_____.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

McGOODWIN, WILLIAMS AND YATES, INC.

By: _____

Title: _____

END OF AMENDMENT NO. 1 TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

**APPENDIX B-1
SCOPE OF SERVICES FOR CONSTRUCTION PHASE
WESTSIDE WASTEWATER TREATMENT PLANT, BROYLES ROAD
IMPROVEMENTS, AND WETLANDS MITIGATION PROJECT**

This is Appendix B-1, consisting of 3 pages, referred to in and part of the Agreement For Professional Engineering Services between CITY OF FAYETTEVILLE, ARKANSAS and McGOODWIN, WILLIAMS AND YATES, INC. (MWY) dated July 15, 2003.

Initial:
CITY OF FAYETTEVILLE _____
MWY _____

The following is the Scope of Services for the Construction Phase.

B-1.1 General

By performing these services, MWY shall not have authority or responsibility to supervise, direct, or control the Contractor's work or the Contractor's means, methods, technique, sequences, or procedures of construction. MWY shall not have authority or responsibility for safety precautions and programs incident to the Contractor's work or for any failure of the Contractor(s) to comply with laws, regulations, rules, ordinances, codes, or orders applicable to the Contractor(s) furnishing and performing the work. Specific services to be performed by MWY are as follows:

B-1.2 Management

B-1.2.1 MWY's management functions required to complete services to be provided under this Agreement shall include all project correspondence with the CITY OF FAYETTEVILLE, consultation and coordination with the CITY OF FAYETTEVILLE, supervision and coordination of the services provided by MWY including scheduling and assignment of personnel, invoicing, and continuous monitoring of the progress of the services.

B-1.3 Office Support Services During Construction

B-1.3.1 Receive the Contractor's insurance certificates and forward to CITY OF FAYETTEVILLE for review and acceptance by the CITY OF FAYETTEVILLE's legal counsel.

B-1.3.2 Review and comment to CITY OF FAYETTEVILLE on the Contractor's initial and updated construction schedule(s) if requested by CITY OF FAYETTEVILLE. MWY's review shall be for general conformity to the provisions of the Contract Documents, to determine if the Contractor's construction schedule and activity sequence include the completion dates, and construction sequencing for any special conditions. MWY's review shall not include an analysis of Contractor's approach, means and methods of construction for performing the work specified in the Contract Documents.

- B-1.3.3 Review and comment to CITY OF FAYETTEVILLE on the Contractor's initial schedule of values and schedule of estimated monthly payments.
- B-1.3.4 Review guarantees, bonds, and certificates of inspection, and tests and approvals which are to be assembled by the Contractor(s) in accordance with the construction Contract Documents, and transmit them to CITY OF FAYETTEVILLE. MWY's review is not a legal review to determine if the Contractor's guarantees and bonds comply with all applicable requirements of the Contract Documents.
- B-1.3.5 Review drawings and other data submitted by the Contractor as required by the construction Contract Documents. MWY's review shall be for general conformity to the construction Contract Documents and shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions and programs incident hereto. This task does not pertain to review and organization of manufacturer's O&M manuals, which is described in another task.
- B-1.3.6 Interpret construction Contract Documents when requested. Requests for interpretations, clarifications or information shall be in writing through the CITY OF FAYETTEVILLE. Responses to Contractor shall be through the CITY OF FAYETTEVILLE.
- B-1.3.7 Review Contractor's applications for payment and supporting data, determine the amounts owed to Contractor, and recommend to the CITY OF FAYETTEVILLE, in writing, approval of all payments to Contractor in accordance with the Contract Documents. MWY's review shall be for the purpose of making a full independent mathematical check of the Contractor's payment request.
- B-1.3.8 Prepare routine Change Orders as required and submit to CITY OF FAYETTEVILLE. Review CITY OF FAYETTEVILLE or Contractor documentation and prepare any additional documentation required to administer the processing of change order, including applications for extension of construction time. Provide opinion to the CITY OF FAYETTEVILLE of the performance by the parties thereto, and make recommendations to CITY OF FAYETTEVILLE on claims of CITY OF FAYETTEVILLE and Contractor(s) relating to the execution and progress of the Work and other matters and questions related thereto; but MWY shall not be liable for the results of any such interpretations, opinions, recommendations, or decisions rendered by MWY in good faith.
- If required, evaluate the cost and scheduling aspects of all change orders and, where necessary, negotiate with the Contractor to obtain a fair price for the work. Said negotiation shall be subject to the approval of CITY OF FAYETTEVILLE. Services related to unusually complex or unusually numerous claims are considered an Additional Service.
- B-1.3.9 Provide monthly progress reports to CITY OF FAYETTEVILLE.
- B-1.3.10 Review and make recommendations regarding "or equal" submittals in accordance with Construction Contract General Conditions.
- B-1.3.11 Provide to the CITY OF FAYETTEVILLE, in a format acceptable to the CITY OF FAYETTEVILLE, such progress reports; pay applications; project summaries; and other data as may be required, for posting by others on a project web site to allow the public to monitor

and review the activities; materials; and financial status of the project. Update the data supplied to the CITY OF FAYETTEVILLE when requested.

B-1.4 Field Support Services During Construction

- B-1.4.1** Attend a preconstruction conference to be conducted by the State of Arkansas Soil & Water Conservation Commission.
- B-1.4.2** Conduct a monthly progress meeting with Contractor and prepare and distribute minutes of the meeting. While on-site, observe progress of the work, and consult with CITY OF FAYETTEVILLE and the Contractor concerning problems and/or progress of the construction.
- B-1.4.3** Design team personnel with areas of responsibilities including project management, structural, process, mechanical, HVAC, electrical, control and instrumentation, geotechnical, and architectural will make periodic site visits. These site visits will be at intervals appropriate to the stages of construction to consult with and advise the Resident Project Representative, observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in accordance with the Contract Documents. A written report summarizing discussions, site observations, and periodically established objectives shall be provided to CITY OF FAYETTEVILLE for distribution.
- B-1.4.4** Investigate any unforeseen subsurface conditions or unforeseen underground facilities that may be encountered in accordance with Construction Contract General Conditions. Submit written conclusions to CITY OF FAYETTEVILLE.
- B-1.4.5** Investigate claims of CITY OF FAYETTEVILLE and the Contractor relating to the acceptability of the work or the interpretation of the requirements of the construction Contract Documents. Submit written conclusions to CITY OF FAYETTEVILLE.
- B-1.4.6** Analyze data from performance testing of equipment by the Contractor or supplier when the construction Contract Documents require the equipment to be tested after installation. Submit written conclusions to CITY OF FAYETTEVILLE.
- B-1.4.7** Conduct a Substantial Completion inspection of the construction work and prepare a punch-list of those items to be completed or corrected before final completion of the project. Submit written results of the inspection to CITY OF FAYETTEVILLE and the Contractor.
- B-1.4.8** Conduct a final inspection to determine if the construction is completed. MWY shall submit written results to CITY OF FAYETTEVILLE and provide written recommendations concerning final payment to CITY OF FAYETTEVILLE, including a list of items, if any, to be completed prior to making such payment.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

**APPENDIX B-2
SCOPE OF SERVICES FOR POST-CONSTRUCTION PHASE, OPERATIONS AND
MAINTENANCE MANUAL PREPARATION
WESTSIDE WASTEWATER TREATMENT PLANT, BROYLES ROAD
IMPROVEMENTS, AND WETLANDS MITIGATION PROJECT**

This is Appendix B-2, consisting of 2 pages, referred to in and part of the Agreement For Professional Engineering Services between CITY OF FAYETTEVILLE, ARKANSAS and McGOODWIN, WILLIAMS AND YATES, INC. (MWY) dated July 15, 2003.

Initial:
CITY OF FAYETTEVILLE _____
MWY _____

The following is the Scope of Services for the Post-Construction Phase.

B-2.1 General

B-2.1.1 MWY agrees to provide the following services after completion of the project. The project is identified as the Westside Wastewater Treatment Plant, Broyles Road Improvements, and Wetlands Mitigation Project, and defined in the construction documents prepared by MWY.

B-2.1.2 Prepare, after completion of construction, a Record Set of construction drawings based on the construction records maintained and submitted by Contractor and Resident Project Representative. Record Set of construction drawings shall be provided in electronic CADD files.

B-2.2 Consultation

B-2.2.1 MWY agrees to make available the services of design team members for consultation.

B-2.3 Training and Project Performance Evaluation

B-2.3.1 Provide 80 hours of on-site training of the CITY OF FAYETTEVILLE operation staff.

B-2.3.2 Make change in staffing recommendations to CITY OF FAYETTEVILLE.

B-2.3.3 Provide observations and recommendations to CITY OF FAYETTEVILLE operational staff regarding unit processes.

B-2.3.4 Recommend changes to the CITY OF FAYETTEVILLE user charge ordinance, if required.

B-2.3.5 Prepare a Preliminary Operation and Maintenance (O&M) Manual for the wastewater treatment facilities approximately two months prior to project completion and submit to CITY OF FAYETTEVILLE and Arkansas Soil & Water Conservation Commission (ASWCC).

- B-2.3.6 Prepare a Final O&M Manual after review and comment by ASWCC and submit to CITY OF FAYETTEVILLE.
- B-2.3.7 Prepare three quarterly project performance reports and one final report to determine if the performance provisions of the contract have been met.
- B-2.3.8 Prepare and submit to CITY OF FAYETTEVILLE and ASWCC a Corrective Action Plan to address operating deficiencies at the end of the one-year Project Performance Period, if necessary. If a Corrective Action Plan is necessary, it shall be covered under Additional Services.
- B-2.3.9 Manufacturers' Maintenance Manuals. The manufacturers' O&M manuals submitted shall be reviewed and forwarded to CITY OF FAYETTEVILLE.
- B-2.4 Training and Startup Support
 - B-2.4.1 MWY will provide the following services during startup and training:
 - B-2.4.2 Review and comment on startup procedures proposed by the Contractor. The purpose of this review is to confirm the availability of the required equipment for each process area, pre-testing of equipment, and verifying that chemicals, lubricants and expendables are available, work assignments are made, and startup procedures are coordinated with existing plant operations.
- B-2.5 Broyles Road Improvements
 - B-2.5.1 Provide a two-year performance review and submit written conclusions to CITY OF FAYETTEVILLE.
 - B-2.5.2 If a Corrective Action Plan is necessary, it shall be covered under Additional Services.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

**APPENDIX B-3
SCOPE OF SERVICES FOR RESIDENT PROJECT REPRESENTATIVE SERVICES
DURING CONSTRUCTION PHASE**

**WESTSIDE WASTEWATER TREATMENT PLANT, BROYLES ROAD
IMPROVEMENTS, AND WETLANDS MITIGATION PROJECT**

This is Appendix B-3, consisting of 4 pages, referred to in and part of the Agreement For Professional Engineering Services between CITY OF FAYETTEVILLE, ARKANSAS and McGOODWIN, WILLIAMS AND YATES, INC. (MWY) dated July 15, 2003.

Initial:
CITY OF FAYETTEVILLE _____
MWY _____

The following is the Scope of Services for the Resident Project Representative Services During Construction Phase.

B-3.1 General

B-3.1.1 MWY agrees to furnish a Resident Project Representative to observe the Contractor's work and perform the services listed below. The Resident Project Representative shall not have responsibility for the superintendence of construction site conditions, safety, safe practices or unsafe practices or conditions, operation, equipment, or personnel other than employees of MWY. This service will in no way relieve the Contractor of supervision and inspection of the work or the Contractor's obligation for compliance with the Contract Documents. The Contractor shall have sole responsibility for safety and for maintaining safe practices and avoiding unsafe practices or conditions. Specific services performed by the Resident Project Representative and assistants are as follows:

B-3.2 Site Observations

- B-3.2.1** Conduct on-site observations of the general progress of the work to assist MWY in determining if the work is proceeding in accordance with the construction Contract Documents.
- B-3.2.2** Assist in MWY's liaison with the Contractor and MWY in providing interpretation of the construction Contract Documents.
- B-3.2.3** Assist MWY in serving as CITY OF FAYETTEVILLE's liaison with the Contractor.
- B-3.2.4** As requested by MWY, assist in obtaining from CITY OF FAYETTEVILLE additional details or information when required at the job site for proper execution of the work.
- B-3.2.5** Report to MWY, giving opinions and suggestions based on the Resident Project Representative's observations regarding defects or deficiencies in the Contractor's work and relating to compliance with drawings, specifications, and design concepts.

- B-3.2.6 Advise MWY and the Contractor immediately of the commencement of any work requiring a shop drawing or sample submission if the submission has not been reviewed by MWY or has been not been resubmitted for review if required.
- B-3.2.7 Observe pertinent site conditions when the Contractor maintains that differing subsurface and physical conditions have been encountered, and assist in documenting actual site conditions.
- B-3.2.8 Assist MWY in coordinating scheduling of activities to minimize conflicts with CITY OF FAYETTEVILLE's activities.
- B-3.2.9 Visually inspect materials, equipment, and supplies delivered to the worksite. Advise MWY in rejection of materials, equipment, and supplies which do not conform to the construction Contract Documents.
- B-3.2.10 Coordinate onsite materials testing services during construction.
- B-3.2.11 Observe field tests of equipment, structures, and piping, and review the resulting reports, commenting to MWY, as appropriate.
- B-3.3 Outside Liaison and Public Information Services
 - B-3.3.1 Accompany visiting inspectors representing public or other agencies having jurisdiction over the project. Record the names of the inspectors, and the results of the inspections, and report to MWY.
- B-3.4 Meetings, Reports, and Document Review and Maintenance
 - B-3.4.1 Attend the preconstruction conference.
 - B-3.4.2 Attend monthly progress meetings, and other meetings with CITY OF FAYETTEVILLE and the Contractor when requested by MWY.
 - B-3.4.3 Maintain daily construction progress reports containing a summary of the Contractor's progress including general condition of the work, problems, and resolutions or proposed resolutions to problems.
 - B-3.4.4 Assist MWY in reviewing the schedule of shop drawings submissions, and schedule of values prepared by the Contractor, and assist MWY concerning their acceptability.
 - B-3.4.5 Report to MWY regarding work which is known to be defective, or which fails any required inspections, tests, or approvals, or has been damaged prior to final payment.
 - B-3.4.6 Review applications for payment with the Contractor for compliance with the established procedure for their submission, and forward them to MWY, noting particularly their relation to the schedule of values, work completed, and materials and equipment delivered at the site, but not incorporated into the work.
 - B-3.4.7 Record date of receipt of shop drawing samples. Receive samples which are furnished at the site by the Contractor, and notify MWY of their availability for examination.

- B-3.4.8 Maintain a marked set of drawings and specifications at the jobsite based on data provided by the Contractor. This information will be combined with information from the record documents maintained by the Contractor. Upon completion of the work, forward the record documents to MWY.
- B-3.4.9 Review certificates of inspections, tests, and related approvals submitted by the Contractor as required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents (but only to verify that their content complies with the requirements of, and the results certified indicate compliance with, the construction Contract Documents). This service is limited to a review of items submitted by the Contractor and does not extend to a determination of whether the Contractor has complied with all legal requirements.
- B-3.4.10 Maintain the following documents at the jobsite.
- B-3.4.10.1 Correspondence files.
 - B-3.4.10.2 Reports of jobsite conferences, meetings, and discussions among MWY and Contractor.
 - B-3.4.10.3 Submittals of shop drawings and samples.
 - B-3.4.10.4 Reproductions of original construction Contract Documents.
 - B-3.4.10.5 Addenda.
 - B-3.4.10.6 Change orders.
 - B-3.4.10.7 Field orders.
 - B-3.4.10.8 Work change directives.
 - B-3.4.10.9 Requests for interpretation.
 - B-3.4.10.10 Requests for Proposal and Associated Response.
 - B-3.4.10.11 Additional drawings issued subsequent to execution of the construction Contract Documents.
 - B-3.4.10.12 Progress reports.
 - B-3.4.10.13 Names, addresses, and telephone numbers of all contractors, subcontractors, and major suppliers of materials and equipment.
 - B-3.4.10.14 Maintain a diary or log book of significant events at the jobsite, including the following information. The diary or log book shall remain the property of MWY.
 - Days the Contractor worked on the jobsite.
 - Approximate number of Contractor and subcontractor personnel on jobsite.
 - Construction equipment on the jobsite.

Observed delays and causes.

Weather conditions.

Data relative to claims for extras or deductions.

Construction activities.

Observations pertaining to the progress of the work.

Materials received on jobsite.

B-3.5 Assistance with Substantial Completion

B-3.5.1 Assist MWY in conducting Substantial Completion inspection in the company of CITY OF FAYETTEVILLE and the Contractor, and prepare a list of items to be completed or corrected.

B-3.5.2. Observe that all items on the list have been completed or corrected, and submit to MWY.

B-3.6 Assistance with Final Completion

B-3.6.1 Assist MWY in conducting final inspection in the company of CITY OF FAYETTEVILLE and the Contractor, and prepare a final list of items to be completed or corrected.

B-3.6.2 Verify that all items on the final list have been completed or corrected, and report to MWY.

APPENDIX C
ATTACHMENT TO AGREEMENT FOR ENGINEERING SERVICES
SCHEDULE OF CLASSIFICATIONS AND RATES FOR 2005

<u>Classification</u>	<u>Hourly Rate</u>
Engineer 6	\$165.00
Engineer 5	142.00
Engineer 4	130.00
Engineer 3	112.00
Engineer 2	81.50
Engineer 1	66.50
Architect 2	\$ 102.50
Architect 1	95.00
Technician 6	\$ 92.50
Technician 5	79.00
Technician 4	64.00
Technician 3	53.00
Technician 2	40.00
Technician 1	30.00
Admin 5	\$ 73.00
Admin 4	59.00
Admin 3	46.00
Admin 2	35.00
Admin 1	30.00
GPS Surveying Equipment (when utilized)	\$ 55.00

Hourly rate schedules will be adjusted annually each January 1.

McGoodwin, Williams and Yates, Inc.
Consulting Engineers
Fayetteville, Arkansas

January 1, 2005

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE									
DRAFT 4 / 22 / 2005									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
TASK	PRINCIPAL	ENGINEER	ENGINEER	ENGINEER	ENGINEER	ENGINEER	ENGINEER	ENGINEER	TASK COST
WESTSIDE WASTEWATER TREATMENT PLANT									
Fy 317 - Construction Phase Services									
Prepare Contract	4	8					16		\$1,751
Contract Review, Changes and Approval	4	8					16		\$1,751
Coordination With Program Manager WWTP							0		\$0
Monthly Meetings with PM							0		\$0
Administration							0		\$0
Preparation of Monthly Progress Reports							0		\$0
Prepare Monthly Engineering Pay Estimates		32					32		\$4,027
Submittals Prep and Reports							0		\$0
Submittal Prep and Transmittal to PM							0		\$0
Review / Submit of O&M Man and Quart. Rpts. to PM							0		\$0
General Project Administration							0		\$0
ASWCC Coordination - WWTP							0		\$0
ASWCC Contract Review							0		\$0
Review and Prepare Monthly Pay Estimates							0		\$0
Attend ASWCC Monthly On-Site Inspections							0		\$0
Coordination with ASWCC							0		\$0
General Project Management & Requirements							0		\$0
Consultations with Subcontract Engineers		64					64		\$8,054
General Project Management	24	128					168		\$20,251
Precon. Conference / Notice to Proceed / Const Control							0		\$0
Preparation for Preconstruction Conference		8					4		\$1,169
Attend Preconstruction Conference		8					8		\$1,007

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE										DRAFT 4 / 22 / 2005	
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services											
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period											
TASK	Principal	ENGINEER	ENGINEER	Autogad	Admin	MANHRS	TASK	TASK	COST		
Issue Notice to Proceed						0			\$0		
Set Site Survey Points						0			\$0		
						0			\$0		
Submittal Review - WWTP						0			\$0		
Division 1 - General Construction						0			\$0		
Division 2 - Site Construction		8			1	9			\$1,047		
Division 3 - Concrete						0			\$0		
Reinforcing Steel Drawings						0			\$0		
Metering Pad						0			\$0		
Inlet Facilities						0			\$0		
G&S Div Box & FEB PS						0			\$0		
G & S Units						0			\$0		
G & S Collection Box						0			\$0		
Meter Vault (s)						0			\$0		
Bio Units Flow Division Box						0			\$0		
Aeration Basins						0			\$0		
Final Clarifier Split Box						0			\$0		
Final Clarifiers						0			\$0		
F C Effluent Collection Box						0			\$0		
Filters						0			\$0		
Filter Effluent Box						0			\$0		
UV Disinfection						0			\$0		
Post Aeration Basins						0			\$0		
Effluent Discharge Point						0			\$0		
Operations Building						0			\$0		
Vehicle Storage Building						0			\$0		
Chemical Feed Building						0			\$0		
Odor Control Building						0			\$0		
Post Aeration Blower Building						0			\$0		
RAS / WAS Building						0			\$0		

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE										DRAFT 4 / 22 / 2005	
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services											
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period											
TASK		Principal	ENGGR	ENGGR	ENGGR	AutoCAD	Admin	TASK	MAN-HRS	TASK	COST
Biosolids Building									0		\$0
WAS Tanks									0		\$0
Miscellaneous Steel Drawings									0		\$0
Division 4 - Masonry									0		\$0
Division 5 - Metals									0		\$0
Division 6 - Wood and Plastics									0		\$0
Division 7 - Therm. & Moist. Prot.									0		\$0
Division 8 - Doors and Windows									0		\$0
Division 9 - Finishes									0		\$0
Division 10 - Specialties									0		\$0
Division 11 - Equipment									0		\$0
Influent Screens									0		\$0
Gates									0		\$0
Submersible Pumps									0		\$0
Progressing Cavity Pumps									0		\$0
Grit Pumps									0		\$0
RAS / WAS pumps									0		\$0
Vertical Turbine Pumps									0		\$0
Grit Removal Units									0		\$0
Cyclones / Classifiers									0		\$0
Blowers									0		\$0
Belt Filter Presses									0		\$0
Belt Filter Press Aux Equip									0		\$0
Biological Treatment Process									0		\$0
FRP Ductwork			8				1		9		\$1,047
Mechanical Mixers									0		\$0
Submersible Mixers									0		\$0
Jet Mixing System									0		\$0
Bioscrubbers				20			1		21		\$2,557
Carbon Adsorbers				16			1		17		\$2,054

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
DRAFT 4 / 22 / 2005									
TASK	ENGINEER	ENGINEER	ENGINEER	ENGINEER	ADMIN	MAN-HRS	TASK	TASK	COST
Air Filtration System	8				1	9			\$1,047
Odor Control Fans	8				1	9			\$1,047
Grease and Mist Eliminators	8				1	9			\$1,047
Clarifiers						0			\$0
Filters						0			\$0
UV Disinfection						0			\$0
Membrane Disc Aeration System						0			\$0
Retrievable Membrane Disc Aeration						0			\$0
Decanter						0			\$0
Gravabelt Relocation Plan						0			\$0
Chemical Metering						0			\$0
Polymer Blending Unit						0			\$0
Oxygen Generation						0			\$0
Miscellaneous Equipment	8				2	10			\$1,088
Division 12 - Furnishings						0			\$0
Division 13 - Special Construction						0			\$0
Division 14 - Conveying Systems						0			\$0
Division 15 - Mechanical	8				1	9			\$1,047
Division 16 - Electrical	4				1	5			\$544
						0			\$0
On-Site Resident Project Representative Services									
RPR Engineering Services						0			\$0
RPR Inspection Services						0			\$0
Addit. Arch. and Instr., Mech. & Odor Control Serv.	104					104			\$13,087
Preparation of Plans of Record						0			\$0
						0			\$0
Startup and Training Services									
Schedule Vendors Training						0			\$0
Consultations With Owner	16					16			\$2,013
Training - On Site	6					6			\$755

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE									
DRAFT 4 / 22 / 2005									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
TASK	Principal	Engineer	Engineer	Allocated	Admin	Man-Hrs	Task	Cost	
Preparation of O & M Manual						0		\$0	
Write O&M Manual and Deliver to Owner			40	8	8	56		\$5,724	
						0		\$0	
Preparation Project Performance Report 1						0		\$0	
Site Visit and Data Gathering						0		\$0	
Influent / Effluent Data Interpretation						0		\$0	
Report Preparation			24		2	26		\$3,101	
						0		\$0	
Preparation Project Performance Report 2						0		\$0	
Site Visit and Data Gathering						0		\$0	
Influent / Effluent Data Interpretation						0		\$0	
Report Preparation			24		2	26		\$3,101	
						0		\$0	
Preparation Project Performance Report 3						0		\$0	
Site Visit and Data Gathering						0		\$0	
Influent / Effluent Data Interpretation						0		\$0	
Report Preparation			24		2	26		\$3,101	
						0		\$0	
Preparation Project Performance Report 4						0		\$0	
Site Visit and Data Gathering						0		\$0	
Influent / Effluent Data Interpretation						0		\$0	
Report Preparation			24		2	26		\$3,101	
						0		\$0	
BROYLES ROAD						0		\$0	
						0		\$0	
Add on for Contract Prep						0		\$0	
						0		\$0	
Coordination With Program Manager WWTP						0		\$0	

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE							DRAFT 4 / 22 / 2005	
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services								
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period								
TASK	BRIDGE PM	ENGINEER	GENERAL	AUDITOR	MANAGERS	TOTAL TASK COST		
Add for Monthly Meetings with PM					0	\$0		
Administration								
Add for Preparation of Monthly Progress Reports					0	\$0		
Add for Prepare Monthly Engineering Pay Estimates					0	\$0		
Submittals Prep and Reports								
Add for Submittal Prep and Transmittal to PM					0	\$0		
General Project Administration					0	\$0		
General Project Requirements								
Additional General Project Management					0	\$0		
Pay Estimates								
Review and Prepare Monthly Pay Estimates					0	\$0		
Preliminary Matters								
Additional Prep. for Preconstruction Conference					0	\$0		
Attend Preconstruction Conference					0	\$0		
Issue Notice to Proceed					0	\$0		
Set Site Survey Points					0	\$0		
Submittal Review - Broyles Road								
Division 2 - Site Construction					0	\$0		
Division 3 - Concrete					0	\$0		
Reinforcing Steel Drawings					0	\$0		
Culvert 1					0	\$0		
Culvert 2					0	\$0		
Culvert 3					0	\$0		
Miscellaneous					0	\$0		

WEBSTER ENVIRONMENTAL ASSOCIATES - ENGINEERING JOB COST ESTIMATE									
DRAFT 4 / 22 / 2005									
Fayetteville Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
TASK	ENGR 1	ENGR 2	ENGR 3	ENGR 4	ENGR 5	ENGR 6	ENGR 7	ENGR 8	TASK COST
On-Site Resident Project Representative Services									\$0
Additional On-Site RPR Services									\$0
Preparation of Plans of Record									\$0
TOTAL MANHOURS	32	614	0	8	55	709			
SUBTOTAL WWTP -									\$84,522
Travel / Lodging -									\$11,200
TOTAL -									\$95,722

\$84,522

	ESTIMATED	ESTIMATED
	2005	2006
RATES	RATES	RATES
Principal	\$140.00	\$145.60
Engineer 4	\$121.00	\$125.84
Engineer 3	\$117.00	\$121.68
AutoCad	\$44.00	\$45.76
Admin	\$39.00	\$40.56

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE									
DRAFT 4 / 22 / 2005									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
TASK	PROPOSED	ENGINEER	CONTRACT	ADMIN	MAN	HERS	TASK	COST	
WESTSIDE WASTEWATER TREATMENT PLANT									
Fy 317 - Construction Phase Services									
Prepare Contract	3	1		2		6		\$489	
Contract Review, Changes and Approval	1	1		1		3		\$229	
						0		\$0	
Coordination With Program Manager WWTP									
Monthly Meetings with PM						0		\$0	
Administration						0		\$0	
Preparation of Monthly Progress Reports						0		\$0	
Prepare Monthly Engineering Pay Estimates	33	33		33		99		\$7,550	
Submittals Prep and Reports						0		\$0	
Submittal Prep and Transmittal to PM						0		\$0	
Review / Submit of O&M Man and Quart. Rpts. to PM						0		\$0	
General Project Administration						0		\$0	
						0		\$0	
ASWCC Coordination - WWTP									
ASWCC Contract Review						0		\$0	
Review and Prepare Monthly Pay Estimates	33	132		20		185		\$14,732	
Attend ASWCC Monthly On-Site Inspections						0		\$0	
Coordination with ASWCC						0		\$0	
						0		\$0	
General Project Management & Requirements									
Consultations with Subcontract Engineers		48				48		\$3,744	
General Project Management	20	100				120		\$9,984	
						0		\$0	
Precon. Conference / Notice to Proceed / Const Control									
Preparation for Preconstruction Conference						0		\$0	
Attend Preconstruction Conference		2				2		\$156	
		8				8		\$624	

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
DRAFT 4 / 22 / 2005									
TASK	Principal	Engineer	Coordinator	Admin	TASK	MAN-HRS	TASK	COST	TASK
Issue Notice to Proceed						0		\$0	
Set Site Survey Points						0		\$0	
						0		\$0	
Submittal Review - WWTP						0		\$0	
Division 1 - General Construction						0		\$0	
Division 2 - Site Construction						0		\$0	
Division 3 - Concrete						0		\$0	
Reinforcing Steel Drawings						0		\$0	
Metering Pad						0		\$0	
Inlet Facilities						0		\$0	
G&S Div Box & FEB PS						0		\$0	
G & S Units						0		\$0	
G & S Collection Box						0		\$0	
Meter Vault (s)						0		\$0	
Bio Units Flow Division Box						0		\$0	
Aeration Basins						0		\$0	
Final Clarifier Split Box						0		\$0	
Final Clarifiers						0		\$0	
F C Effluent Collection Box						0		\$0	
Filters						0		\$0	
Filter Effluent Box						0		\$0	
UV Disinfection						0		\$0	
Post Aeration Basins						0		\$0	
Effluent Discharge Point						0		\$0	
Operations Building						0		\$0	
Vehicle Storage Building						0		\$0	
Chemical Feed Building						0		\$0	
Odor Control Building						0		\$0	
Post Aeration Blower Building						0		\$0	
RAS / WAS Building						0		\$0	

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE							DRAFT 4 / 22 / 2005	
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services								
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period								
TASK	Principal	Engineer	Other	Admin	TASK MAN-HRS	TASK COST		
Biosolids Building					0	\$0		
WAS Tanks					0	\$0		
Miscellaneous Steel Drawings					0	\$0		
Division 4 - Masonry					0	\$0		
Division 5 - Metals					0	\$0		
Division 6 - Wood and Plastics					0	\$0		
Division 7 - Therm. & Moist. Prot.					0	\$0		
Division 8 - Doors and Windows					0	\$0		
Division 9 - Finishes					0	\$0		
Division 10 - Specialties					0	\$0		
Division 11 - Equipment					0	\$0		
Influent Screens					0	\$0		
Gates					0	\$0		
Submersible Pumps					0	\$0		
Progressing Cavity Pumps					0	\$0		
Grit Pumps					0	\$0		
RAS / WAS pumps					0	\$0		
Vertical Turbine Pumps					0	\$0		
Grit Removal Units					0	\$0		
Cyclones / Classifiers					0	\$0		
Blowers					0	\$0		
Belt Filter Presses					0	\$0		
Belt Filter Press Aux Equip					0	\$0		
Biological Treatment Process					0	\$0		
FRP Ductwork					0	\$0		
Mechanical Mixers					0	\$0		
Submersible Mixers					0	\$0		
Jet Mixing System					0	\$0		
Bioscrubbers					0	\$0		
Carbon Adsorbers					0	\$0		

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
DRAFT 4 / 22 / 2005									
TASK	Principal	Engineer	Assistant	Admin	TASK	MANHRS	TASK	COST	
Air Filtration System						0		\$0	
Odor Control Fans						0		\$0	
Grease and Mist Eliminators						0		\$0	
Clarifiers						0		\$0	
Filters						0		\$0	
UV Disinfection						0		\$0	
Membrane Disc Aeration System						0		\$0	
Retrievable Membrane Disc Aeration						0		\$0	
Decanter						0		\$0	
Gravabelt Relocation Plan						0		\$0	
Chemical Metering						0		\$0	
Polymer Blending Unit						0		\$0	
Oxygen Generation						0		\$0	
Miscellaneous Equipment						0		\$0	
Division 12 - Furnishings						0		\$0	
Division 13 - Special Construction						0		\$0	
Division 14 - Conveying Systems						0		\$0	
Division 15 - Mechanical	5	45	45	15		110		\$7,254	
Division 16 - Electrical						0		\$0	
						0		\$0	
On-Site Resident Project Representative Services									
RPR Engineering Services						0		\$0	
RPR Inspection Services									
Addit. Arch. and Instrumentation Serv.	13	130		26		169		\$12,641	
Preparation of Plans of Record						0		\$0	
						0		\$0	
Startup and Training Services									
Schedule Vendors Training						0		\$0	
Consultations With Owner		10				10		\$780	
Training - On Site		2				2		\$156	

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE

Fayetteville Westside Wastewater Treatment Plant Construction Phase Services

Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period

TASK	Principal	Engineer	Clerical	Admin	TASK		TASK
					MAN	HRS	
Preparation of O & M Manual						0	\$0
Write O&M Manual and Deliver to Owner		80	24	30		134	\$8,861
						0	\$0
Preparation Project Performance Report 1						0	\$0
Site Visit and Data Gathering						0	\$0
Influent / Effluent Data Interpretation						0	\$0
Report Preparation	1	5		1		7	\$541
						0	\$0
Preparation Project Performance Report 2						0	\$0
Site Visit and Data Gathering						0	\$0
Influent / Effluent Data Interpretation						0	\$0
Report Preparation	1	5		1		7	\$541
						0	\$0
Preparation Project Performance Report 3						0	\$0
Site Visit and Data Gathering						0	\$0
Influent / Effluent Data Interpretation						0	\$0
Report Preparation	1	5		1		7	\$541
						0	\$0
Preparation Project Performance Report 4						0	\$0
Site Visit and Data Gathering						0	\$0
Influent / Effluent Data Interpretation						0	\$0
Report Preparation	1	5		1		7	\$541
						0	\$0
BROYLES ROAD						0	\$0
						0	\$0
						0	\$0
						0	\$0
Add on for Contract Prep						0	\$0
						0	\$0
Coordination With Program Manager WWTP						0	\$0

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE									
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services									
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period									
DRAFT 4 / 22 / 2005									
TASK	Principal	Engineer	Contract	Admin	MANHRS	TASK	TASK	TASK	TASK
Add for Monthly Meetings with PM					0				\$0
Administration					0				\$0
Add for Preparation of Monthly Progress Reports					0				\$0
Add for Prepare Monthly Engineering Pay Estimates					0				\$0
					0				\$0
Submittals Prep and Reports					0				\$0
Add for Submittal Prep and Transmittal to PM					0				\$0
General Project Administration					0				\$0
					0				\$0
General Project Requirements					0				\$0
Additional General Project Management					0				\$0
					0				\$0
Pay Estimates					0				\$0
Review and Prepare Monthly Pay Estimates					0				\$0
					0				\$0
Preliminary Matters					0				\$0
Additional Prep. for Preconstruction Conference					0				\$0
Attend Preconstruction Conference					0				\$0
Issue Notice to Proceed					0				\$0
Set Site Survey Points					0				\$0
					0				\$0
Submittal Review - Broyles Road					0				\$0
Division 2 - Site Construction					0				\$0
Division 3 - Concrete					0				\$0
Reinforcing Steel Drawings					0				\$0
Culvert 1					0				\$0
Culvert 2					0				\$0
Culvert 3					0				\$0
Miscellaneous					0				\$0

GREEN ANDERSON - ENGINEERING JOB COST ESTIMATE					DRAFT 4 / 22 / 2005	
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services						
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period						
TASK	Principal	Engineer	Technician	Admin	TASK MAN HRS	TASK COST
On-Site Resident Project Representative Services					0	\$0
Additional On-Site RPR Services					0	\$0
Preparation of Plans of Record					0	\$0
TOTAL MAN HOURS	112	612	69	131	924	\$0
SUBTOTAL WWTP -						\$69,363
SUBTOTAL BROYLES AVE -						\$0
TOTAL -						\$69,363

\$69,363

ESTIMATED		2006	
SCHEDULE	RATES	2005	RATES
Principal	\$105.00		\$109.20
Engr 1	\$75.00		\$78.00
Other 1	\$55.00		\$57.20
Admin	\$40.00		\$41.60

FAYETTEVILLE WETLAND MITIGATION SITE CONSTRUCTION SERVICES ESTIMATE

DRAFT 5 / 18 / 2005
 Mitigation Site Construction = \$ 250,000
 Contingencies @ 5% = \$ 12,500
 Estimated Mitigation Site Contract Price = \$ 262,500

WETLAND MITIGATION SITE	MWY	TOTAL
Contract Preparation, Review and Changes	\$880	\$880
Coordination with Owner	\$9,033	\$9,033
General Project Management	\$8,387	\$8,387
Precon. Conference /Construction Site Control	\$697	\$697
Submittal Review - Wetlands	\$9,013	\$9,013
On-Site RPR Engineering Services	\$12,264	\$12,264
On-Site RPR Construction Observation Services	\$7,887	\$7,887
As - Built Plans Production	\$2,872	\$2,872
Travel / Lodging	\$0	\$0
TOTALS	\$51,033	\$51,033

WETLAND MITIGATION SITE	MWY	TOTAL
ASWCC Co-ordination	\$6,702	\$6,702
O and M Manual	\$3,546	\$3,546
Start-up and Training	\$1,897	\$1,897
One Year Project Performance Reports	\$17,210	\$17,210
TOTALS	\$29,355	\$29,355

To Run Coincident with WWTP Construction

SUBTOTAL WWTP -	\$80,388
Travel / Copying -	
TOTAL -	\$80,388

Project: FY 317 CS										McGOWDWIN, WILLIAMS & YATES - ENGINEERING JOB COST ESTIMATE										ESTIMATES OF PROBABLE COST									
DRAFT 4 / 22 / 2005										Fayetteville Wastewater Treatment Plant Construction Phase Services										Probable WWTP Cost: w/ 5% Cont \$ 43,725,997									
										Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period										Probable Cost Broyes Road: w/5% Cont \$ 3,621,495									
																				TOTAL ANTICIPATED COST \$ 47,353,492									
WESTSIDE WASTEWATER TREATMENT PLANT																													
FY 317 - Construction Phase Services																													
Prepare Contract																													
Contract Review, Changes and Approval																													
Coordination With Program Manager WWTP																													
Monthly Meetings with PM																													
Administration																													
Preparation of Monthly Progress Reports																													
Prepare Monthly Engineering Pay Estimates																													
Submittals Prep and Reports																													
Return Submittals to PM																													
Review & Submit O&M Man & Quant. Rpts. to PM / ASWCC																													
General Project Administration																													
ASWCC Coordination - WWTP																													
ASWCC Contract Review																													
Review and Prepare Monthly Pay Estimates																													
Attend ASWCC Monthly On-Site Inspections																													
Coordination with ASWCC																													
General Project Management & Requirements																													
Consultations with Subcontract Engineers																													
General Project Management																													
Precon. Con. / Notice to Proceed / Construction Staking																													
Preparation for Preconstruction Conference																													
Attend Preconstruction Conference																													
Issue Notice to Proceed (By City)																													
Set Site Survey Points																													
Submittal Review - WWTP																													
Division 1 - General Construction																													
Division 2 - Site Construction																													
Division 3 - Concrete																													
Reinforcing Steel Drawings																													
Metering Pad																													
Inlet Facilities																													
G&S Div/ Box & FEB PS																													
G & S Units																													
G & S Collection Box																													
Meter Vault (s)																													
Bio Units Flow Division Box																													

Project: FY 317 CS
DRAFT 4/22/2005

MCGOODWIN, WILLIAMS & YATES - ENGINEERING JOB COST ESTIMATE
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services
Based Upon 33 Month Construction Time + Q&M Manual + 1 Year Project Performance Period

ESTIMATES of PROBABLE COST	
Probable WWTP Cost : w/ 5% Cont	\$ 43,725,997
Probable Cost Broyles Road : w/5% Cont	\$ 3,627,495
TOTAL ANTICIPATED COST	\$ 47,353,492

Item	QTY	UNIT	PRICE	TOTAL
Aeration Basins	2	SQ	8	16
Final Clarifier Split Box	2	SQ	2	4
Final Clarifiers	2	SQ	4	8
F C Effluent Collection Box	2	SQ	2	4
Filters	2	SQ	4	8
Filter Effluent Box	1	SQ	1	1
UV Disinfection	8	SQ	40	320
Post Aeration Basins	8	SQ	40	320
Effluent Discharge Point	1	SQ	1	1
Operations Building	4	SQ	4	16
Vehicle Storage Building	4	SQ	4	16
Chemical Feed Building	4	SQ	4	16
Odor Control Building	4	SQ	4	16
Post Aeration Blower Building	4	SQ	4	16
RAS / WAS Building	2	SQ	8	16
Biosolids Building	8	SQ	16	128
WAS Tanks	2	SQ	8	16
Miscellaneous Steel Drawings	12	SQ	36	432
Division 4 - Masonry	4	SQ	2	8
Division 5 - Metals	24	SQ	48	1152
Division 6 - Wood and Plastics	25	SQ	25	625
Division 7 - Therm. & Moist. Prot.	12	SQ	8	96
Division 8 - Doors and Windows	14	SQ	6	84
Division 9 - Finishes	20	SQ	40	800
Division 10 - Specialties				
Division 11 - Equipment				
Influent Screens	8	SQ	8	64
Gates	4	SQ	16	64
Submersible Pumps	8	SQ	24	192
Progressing Cavity Pumps	8	SQ	12	96
Grit Pumps	4	SQ	8	32
RAS / WAS pumps	8	SQ	32	256
Vertical Turbine Pumps	4	SQ	16	64
Grit Removal Units	4	SQ	12	48
Cyclones / Classifiers	8	SQ	12	96
Blowers	16	SQ	32	512
Belt Filter Presses	16	SQ	8	128
Belt Filter Press Aux Equip	16	SQ	4	64
Biological Treatment Process	12	SQ	16	192
FRP Ductwork				
Mechanical Mixers	2	SQ	4	8
Submersible Mixers	2	SQ	4	8
Jet Mixing System	8	SQ	8	64
Bioscrubbers	12	SQ	2	24
Carbon Adsorbers	12	SQ	2	24

DRAFT 4/22/2005

McGODDWIN, WILLIAMS & YATES - ENGINEERING JOB COST ESTIMATE
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period

ESTIMATES of PROBABLE COST	
Probable WWT/P Cost : w/ 5% Cont	\$ 43,725,997
Probable Cost Broyes Road : w/5% Cont	\$ 3,627,495
TOTAL ANTICIPATED COST	\$ 47,353,492

Air Filtration System		4	2																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																										
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ESTIMATES of PROBABLE COST	
Probable WWTP Cost : w/ 5% Contl	\$ 43,725,997
Probable Cost Broydes Road : w/5% Contl	\$ 3,627,495
TOTAL ANTICIPATED COST	\$ 47,353,492

Site Visit and Data Gathering				8																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
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Project: FY 317 CS
DRAFT 4 / 22 / 2005

McGOODWIN, WILLIAMS & YATES - ENGINEERING JOB COST ESTIMATE
Fayetteville Westside Wastewater Treatment Plant Construction Phase Services
Based Upon 33 Month Construction Time + O&M Manual + 1 Year Project Performance Period

ESTIMATES OF PROBABLE COST
Probable WWTP Cost: w/ 5% Cont \$ 43,725,997
Probable Cost Broyles Road: w/ 5% Cont \$ 3,627,495
TOTAL ANTICIPATED COST \$ 47,353,492

On-Site Resident Project Representative Services	24	48	192	8	0	506	1612	242	6908	248	112	400	1600	0	464	1920	32	35860	
Broyles Road On-Site RPR Services									960									1224	\$111,848
Preparation of Plans of Record								16	32									56	\$5,100
	2168	3449	6508	8704	897	0												0	\$0
SUBTOTAL WWTP -																			\$3,665,024
SUBTOTAL BROYLES AVE -																			\$254,456
Travel / Copying -																			\$14,408
TOTAL -																			\$3,933,888

SCHEDULE	RATE	2005	2006	Estimated
ENGR 6	\$165.00			\$171.60
ENGR 5	\$142.00			\$147.88
ENGR 4	\$130.00			\$135.20
ENGR 3	\$112.00			\$116.48
ENGR 2	\$81.50			\$84.76
ENGR 1	\$66.50			\$69.16
ARCH 2	\$102.50			\$106.60
ARCH 1	\$95.00			\$98.80
TECH 6	\$92.50			\$96.20
TECH 5	\$79.00			\$82.16
TECH 4	\$64.00			\$66.56
TECH 3	\$53.00			\$55.12
TECH 2	\$40.00			\$41.60
ADMIN 5	\$73.00			\$75.92
ADMIN 4	\$59.00			\$61.36
ADMIN 3	\$46.00			\$47.84
ADMIN 2	\$35.00			\$36.40
GPS	\$55.00			\$57.20

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

21-Jun-05
City Council Meeting Date

Bob Davis Water & Wastewater Director
Submitted By Division Department

Action Required:

Approval of a contract amendment for McGoodwin Williams and Yates to provide Construction Phase Services dealing with the construction and post-construction activities associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements, and the Wetland Mitigation Project

4,680,637	113,011,587.00	Wastewater System Improvements
Cost of this request	Category/Project Budget	Project/Westside Plant
4480.9480.5315.00	\$18,258,178.29	Program Category / Project Name
Account Number	Funds Used to Date	Wastewater System Improvements
2133.0304	\$ 94,753,408.71	Program / Project Category Name
Project Number	Remaining Balance	Wastewater System Improvements
		Project Fund
		Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director 6-03-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

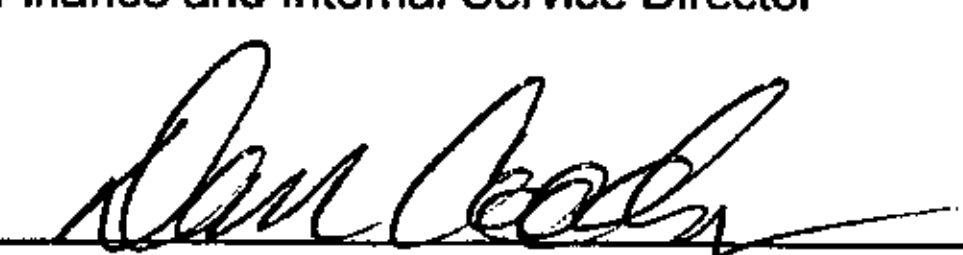
Original Contract Number: _____


City Attorney 6/6/05
Date

Received in City Clerk's Office


Finance and Internal Service Director 6-6-05
Date

Received in Mayor's Office


Mayor 6/6/05
Date

Comments:

City Council Meeting of: June 21, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

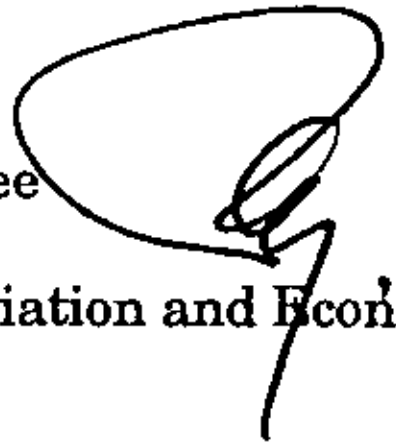
TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: June 2, 2005

SUBJECT: FBO Line Service contract with Woolsey Aviation Inc., dba Million Air of Fayetteville at the Fayetteville Municipal Airport, Drake Field



RECOMMENDATION: Approve contract with Woolsey Aviation Inc., dba Million Air of Fayetteville to perform duties as the fuel and line service FBO at the Fayetteville Municipal Airport, Drake Field.

BACKGROUND: The City of Fayetteville Selection Committee selected Woolsey Aviation, Inc. as the best respondent to the solicitation issued by the Fayetteville Municipal Airport for a fuel and line service FBO. Staff was directed to negotiate an agreement. The negotiating committee was composed of the current board chair, Bob Nickle, the past chair Doc Wallace and the Director. At special meeting June 2, 2005, the Airport Board voted to accept the contract with Woolsey Aviation, Inc. and voted to send it to the City Council recommending approval.

DISCUSSION: The terms of the agreement require Woolsey Aviation to provide typical first class FBO services and to pay the Airport \$.10 per gallon for fuel received and stored in the airport fuel farm. It also requires the company to pay for terminal space and the FBO Hangar and those rental rates graduate over a five year period. Woolsey Aviation, Inc. is required to contribute financially to the improvements to the terminal space. They are additionally required to honor current agreements to the greatest extent possible and to use based businesses whenever possible. Woolsey Aviation Inc. will give employees of the City an opportunity to work for Million Air of Fayetteville and all three are considering their offer. The airport will make necessary repairs and some improvements to the fuel farm before turnover. Once in possession of Woolsey Aviation, maintenance and repair is their responsibility.

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

BUDGET IMPACT: The Airport has continued to make progress in growing the airport business. It is now the time to move on to the next level and we are fortunate to have a company wishing to take on the challenge. Private enterprise will allow the airport staff to concentrate on compliance and development issues while leaving the service to Woolsey Aviation. Total reduction in budget includes all expenses of the operations area. An agreement for the use/disposition of the FBO associated equipment will proceed very soon under the contract provisions. Initial revenue should reach \$76,000 the first 12 months with no expense in the operations program of the airport budget. (\$36,000 in rent and \$40,000 in fuel) Last year's revenue over expenses in the fueling operation was \$42,953.03, a net gain. The new contract will increase the net revenue to the airport.

An additional benefit is the reduction in the expenses associated with the fueling operation. The airport will expend some capital money in improvements to the terminal space. There is a project in the Capital Program for improvements to the terminal at \$300,000.00. This project is eligible for State Aeronautics grant support. Woolsey Aviation will spend approximately \$150,000 toward the terminal project.

Attachments: Contract
Staff Review Form
Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH WOOLSEY AVIATION, d/b/a MILLION AIR FAYETTEVILLE TO PROVIDE AVIATION FUELING AND OTHER SERVICES AT THE FAYETTEVILLE MUNICIPAL AIRPORT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$24,000.00.

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 with Woolsey Aviation, d/b/a Million Air Fayetteville to provide aviation fueling and other services to the Fayetteville Municipal Airport. A copy of the Contract, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$24,000.00.

PASSED and APPROVED this 21st day of June 2005.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C.7.
Woolsey Aviation
Page 4 of 60

Budget Year 2005	Department: General Government Division: Aviation & Economic Development Program: Airport Revenue	Date Requested 6/21/2005	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased:
\$24,000 in Fixed Base Operator account

Project or Item Deleted/Reduced:
\$19,200 in Jet Fuel Revenues account
\$4,800 in Avgas Revenues account

Justification of this Increase:
The City will contract with a private entity, Woolsey Aviation, DBA: Million Air Fayetteville, to provide the fueling & FBO services at the Airport.

Justification of this Decrease:
The City will no longer sell aviation fuel once the Contract commences.

Increase Expense Budget (Decrease Revenue Budget)

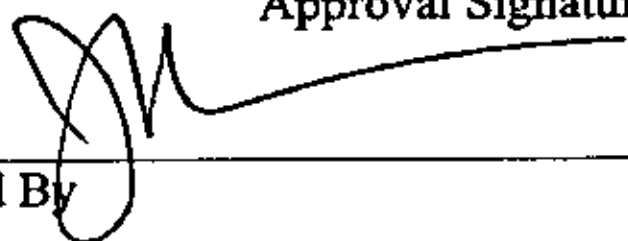
Account Name	Account Number				Amount	Project Number
Jet Fuel revenues	5550	0955	4456	02	19,200	
AVGAS rvenues	5550	0955	4456	01	4,800	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Fixed base operator	5550	0955	4454	00	24,000	

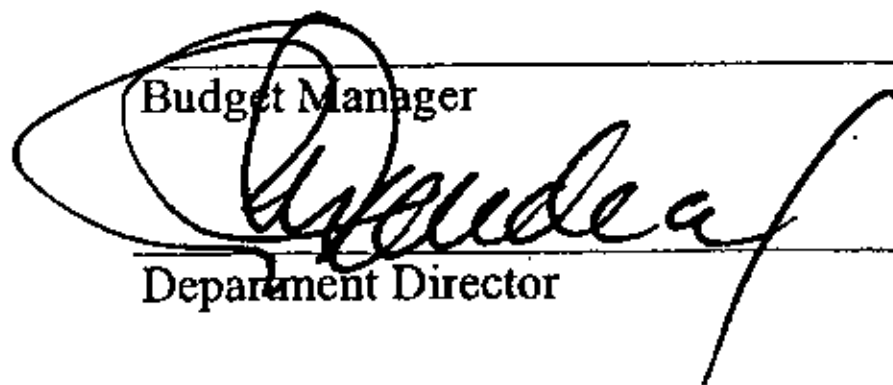
Approval Signatures

Requested By



6-3-05
Date

Budget Manager



Department Director

6/3/05
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

CITY OF FAYETTEVILLE
FAYETTEVILLE MUNICIPAL AIRPORT
ESTIMATE OF OPERATIONS REVENUE
CONTRACT WITH MILLION AIR

30000 gallons/mo X .10 X 4mo (Sep-Dec '05)	12,000
Terminal Rent @ \$1000 mo X 4 mo	4,000
FBO Hangar Rent @ \$2000 mo X 4 mo	<u>8,000</u>
	24,000

**AIRPORT USE AND LEASE AGREEMENT
FOR
FIXED BASE OPERATIONS**

By and Between

FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD

THE CITY OF FAYETTEVILLE, ARKANSAS

and

**WOOLSEY AVIATION, INC., INC.,
d.b.a. MILLION AIR OF FAYETTEVILLE**

Dated as of August 1, 2005

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Attachments

Attachment #1	Airport Owned Equipment
Attachment #2	Formula for Rental Increases
Attachment #3	"The Minimum Standards for Fayetteville Municipal Airport Drake Field"

**AIRPORT USE AND LEASE AGREEMENT
FOR FUEL AND LINE SERVICES FIXED BASE OPERATIONS
between
FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
and
WOOLSEY AVIATION, INC., INC., dba MILLION AIR OF FAYETTEVILLE**

THIS AIRPORT USE AND LEASE AGREEMENT, (the "Lease") made and entered into as of this _____ day of _____, 2005 (the "Effective Date") by and between the City of Fayetteville, represented by the Fayetteville Municipal Airport, Drake Field, a body politic and corporate organized and existing under and by virtue of the laws of the State of Arkansas and Woolsey Aviation, Inc., Inc., a Texas Corporation, doing business as Million Air of Fayetteville.

WITNESSETH:

WHEREAS, the City of Fayetteville owns and operates the Fayetteville Municipal Airport, Drake Field located in Washington County, Arkansas, hereinafter called the "Airport", and

WHEREAS, the City of Fayetteville Mayor and City Council, along with the Airport Administration in consultation with the Airport Advisory Board desire to contract with Woolsey Aviation, Inc., for fuel and line services, and

WHEREAS, Woolsey Aviation, Inc., desires to lease from the Airport certain premises for the purpose of operating a fuel and line service Fixed Base Operation, and

WHEREAS, Woolsey Aviation, Inc. desires to obtain from the Airport certain rights, licenses, and privileges for the establishment and operation of a Fixed Base Operation, hereinafter the "FBO" and

WHEREAS, the Airport represents that it has the right to lease the premises together with all the facilities, rights, licenses, services and privileges in the manner and to the extent hereinafter set forth:

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter continued, the parties agree for themselves, their successors, legal representatives and assignees, as follows:

1. **Consideration.** That each of the aforesaid parties acknowledges the receipt of a valuable consideration from the other and that they and each of them act herein in further consideration of the engagements, of the other as herein stated.

2. **Demised Premised.** The Airport warrants and represents that it is the owner in fee simple of all of that certain land, the Airport, situated in Washington County, Arkansas.

The Airport, for and in consideration of the rents to be paid and the obligations to be performed by Woolsey Aviation, Inc., as hereinafter provided, does hereby demise and lease unto Woolsey Aviation, Inc., subject to the conditions hereinafter expressed, the premises described as the Demised Premises and identified as FBO in said Exhibit "A", as described as follows.

- 2.1 **The Premises** described as 2000 square feet, plus or minus, of the Airport Terminal Building plus non-exclusive use of areas in common with other tenants to include imaging and signage as approved by the Airport.
 - 2.2 **The FBO Hangar**, an 18,750 square foot heated aircraft storage hangar located on the Executive Aircraft Parking Ramp south of the Terminal Building.
 - 2.3 The premises described as the **FBO ramp** containing 150,000 square feet, plus or minus, in a space approximately 600 feet by 250 feet adjacent to the Airport Terminal Building. Additionally, the Parties acknowledge and agree that Woolsey Aviation, Inc.'s operations may require the use of certain ramp and/or apron area contiguous and adjacent to the FBO ramp. The Airport hereby grants to Woolsey Aviation, Inc. the right of preferential use of the ramp and/or apron area as hereinafter described provided; however, Woolsey Aviation, Inc. shall at all times and without hindrance or obstruction, provide for the ingress and egress of aircraft to Airport taxiways, runways, ramps and /or aprons.
 - 2.4 The area designated the **Fuel Farm**. Woolsey Aviation, Inc., shall have exclusive right to operate and store aviation fuels in the Fuel Storage tanks located on the West side of the airport near the FAA Facilities Maintenance facility.
 - 2.5 Woolsey Aviation, Inc. shall also have and is hereby granted the right to traverse all public taxiways, runways and ramps on property owned by the Airport, and roads at the Airport. Such rights shall be subject to the requirements of this lease Agreement, the provisions of similar subsequent agreements and Federal Aviation Administration ("FAA") regulations.
3. **Use.** Woolsey Aviation, Inc. shall use the Demised Premises for the operation of the flight line and fuel service FBO to include the storing, alteration, additions, modification, cleaning, repairing, maintaining and servicing aircraft, aircraft components and subcomponents in conducting its business operations, and the provision of FBO services to the traveling public. Subject to the prior written approval of the Airport, Woolsey Aviation, Inc. shall also have the right to use the

Demised premises for other purposes ancillary or related to its FBO business. Woolsey Aviation, Inc. and its successors and assigns, including any successor holding by or through any mortgagee of Woolsey Aviation, Inc.'s interest shall have the right to use the Demised Premises for other purposes than those previously specified, but only with the prior written consent of the Airport. Woolsey Aviation, Inc. shall at all times use the Demised Premises in full compliance with all rules, regulations and requirements of the FAA and the Airport, all terms and conditions of this Lease Agreement and such other agreements as may be entered into by and between the Airport and Woolsey Aviation, Inc. will not attempt to modify the terms and conditions of any agreements hereunder without the prior written consent of the Airport. Nothing contained herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (Title 49 USC 40103 and 47107), as amended. It is understood that Woolsey Aviation, Inc., shall refer business to established airport based businesses whenever possible, including but not limited to avionics repair, aircraft maintenance and charter businesses.

4. **Term.** **TO HAVE AND TO HOLD** the Demised Premises unto Woolsey Aviation, Inc., its successors and assigns, for the term hereinafter set forth:

4.1 Commencing on the date hereof and continuing for a period of five (5) years (hereinafter the "Term"), beginning the 1st day of August, 2005 (the "Commencement Date"). Woolsey shall have the right to extend this agreement for three (3) five (5) year option periods. All rental terms shall be negotiated and agreed upon prior to 90 days before the end of the then current term and the negotiated terms shall then be presented to the Airport Board and the City Council for approval of the terms and the renewal of this agreement.

5. **Rental.**

5.1 **Terminal Rent:** The rent for Terminal space, $\pm$ 2000 square feet, shall be in accordance with the following schedule:

Year 1 @ \$1,000.00 per month	August 1, 2005-July 31, 2006
Year 2 @ \$1,750.00 per month	August 1, 2006-July 31, 2007
Year 3 @ \$2,100.00 per month	August 1, 2007-July 31, 2008
Year 4 @ \$2,400.00 per month	August 1, 2008-July 31, 2009
Year 5 @ \$2,700.00 per month	August 1, 2009-July 31, 2010

The rent shall include utility services connected with water, sewer, HVAC and solid waste removal. The rent shall not include cable, WSI, Data and telephone which shall be the responsibility of the tenant.

5.2 **FBO Hangar Rent:** The FBO Hangar is an 18,750 Square foot Heated Hangar building and will be managed by Woolsey Aviation, Inc. The rent for the FBO Hangar shall be in accordance with the following schedule:

Year 1 @ \$2,000.00 per month	August 1, 2005-July 31, 2006
Year 2 @ \$2,250.00 per month	August 1, 2006-July 31, 2007
Year 3 @ \$2,500.00 per month	August 1, 2007-July 31, 2008
Year 4 @ \$2,750.00 per month	August 1, 2008-July 31, 2009
Year 5 @ \$3,000.00 per month	August 1, 2009-July 31, 2010

The tenant shall provide utilities to the building including water, sewer, electric and gas service. The Airport shall provide solid waste removal.

- 5.3 **FBO Ramp Rent:** The FBO Ramp is approximately 150,000 square feet of aircraft parking ramp and will be managed by Woolsey Aviation, Inc.. The rent for the FBO ramp is free in return for normal pavement maintenance.
- 5.4 **Parking Lot Rent:** Woolsey Aviation, Inc. shall have the right to utilize as much of the Airport parking lot as necessary to conduct its FBO business. The use of such parking area shall be in cooperation with other tenants of the airport and the Airport Terminal Building. Designated parking areas shall be negotiated should it be required in the future and signage for such shall be approved through the City of Fayetteville and by the Airport Administration.
- 5.5 **FBO Equipment Rent:** Airport owned equipment is listed at Attachment #1 and contains the approximate fair market value of each item. The parties agree that Woolsey Aviation, Inc. shall maintain exclusive control of any and all of the listed equipment that Woolsey Aviation, Inc. requires in the conduct of Woolsey Aviation, Inc.'s business. For this exclusive control the rent for the selected equipment shall be negotiated. Should Woolsey Aviation, Inc. and the Airport not be able to reach terms agreeable to both parties, the Airport may elect to store or dispose of such equipment IAW the City of Fayetteville disposal process.
- 5.6 **Rental Payments.** Said rental payments, and any other payments due to the Airport under this lease, shall be made payable to the City of Fayetteville. All rent shall be paid in lawful money of the United States of America, and the burden of proof of payment of the rent in case of controversy shall be upon Woolsey Aviation, Inc., Inc.
- 5.7 **Rental Payment Reduction.** Should any portion of the Demised Premises be taken or rendered unsuitable, as defined herein, for the use intended, then the rental payments shall be reduced in proportion to which the area so taken or unsuitable bears to the total area of the Demised Premises.
- 5.8 **Rental Payment Increases:** Rental payments shall increase in accordance with the schedule in sections 5.2 and 5.3 through year 5 of this agreement. Beginning with the first renewal option of this agreement,

barring other renewal agreements, the rent payments shall increase at a rate of the increase in the CPI (All Urban Consumers, All Items, U. S. Average) plus 1%, every 2 years and with renewal. The formula for such increases is located at Attachment #2.

5.9 **Payment of Revenues Collected for the Airport.** During the Term of this Lease, Woolsey Aviation, Inc. covenants and agrees to remit to the Airport, no later than the tenth (10th) day of the month following the month of receipt, any and all revenue collected by Woolsey Aviation, Inc. from aircraft users and others on behalf of the Airport: including, but not limited to, (a) fuel flowage fees and aviation fuel taxes as set forth in Section 7.3(a) hereof; and (b) landing fees and other fees as set forth in Section 7.13 hereof. The burden of proof of payment of such fees and other revenue shall be upon Woolsey Aviation, Inc.

5.10 **Monthly Late Charge.** If any monthly rental payment, or any other payment due under this Lease, is not received by the fifteenth (15th) day of the month when such payments are due, the Lessee shall be liable for a monthly late charge of Five Hundred and 00/100 Dollars (\$500.00). Prior unpaid late charges will be included in the total unpaid balance for the purpose of calculating subsequent monthly charges. The late charges are due one month from the date late charges are calculated. It is understood and agreed that this or any other late charge is not a waiver of any other rights the Airport has in this Lease.

6. **Minimum Annual Fees.**

6.1 **Provision of Financial Statements.** Woolsey Aviation, Inc. shall provide to the Airport within 90 days following the close of Woolsey Aviation, Inc.'s fiscal year, a copy of Woolsey Aviation, Inc.'s statements of Financial Condition. Said statements, as prepared and attested to by Woolsey Aviation, Inc.'s Certified Public Accountant, shall include a schedule of Woolsey Aviation, Inc.'s Gross Revenue and a Reconciliation of such revenue to the minimum annual fees payable under this Section 6. In the event the auditor's report reveals an understatement of Gross Revenues reported to the Airport of more than five percent (5.0%), Woolsey Aviation, Inc. shall be liable for and pay to the Airport the contract percentage of gross revenue stated under this Section 6 plus a Late Charge equal to twenty percent (20.0%) of the understated payment due to the Airport.

7. **Lease Requirements.** Consistent with the requirements of Title 49 USC 40103(e) and 47107, the Airport may grant, without unjust discrimination and on reasonable conditions, non-exclusive rights, licenses, permits and privileges to provide Fixed Base Operation (FBO) services to the public. Each Fixed Base Operator similarly using the Airport shall be subject to the same charges and

certain and specific minimum standards for FBO services to the public; including, but not limited to, the provision of such facilities and equipment as are required to provide for and perform a consistently high level of service, use and the provision of products to the traveling public and the aviation industry on a twenty-four (24) hour, 365 day per year basis. The Airport hereby covenants that the minimum standards for FBO services at the Airport shall be no less than those minimum service requirements set forth in Sections 7.1 and 7.2 of this Lease. In consideration of the right, license, permit and privilege granted hereunder by the Airport to Woolsey Aviation, Inc. for the establishment and operation of the FBO, Woolsey Aviation, Inc. agrees and covenants that it shall develop implement, maintain, and do all things necessary to provide and comply with said minimum FBO standards and requirements. Each FBO using the Airport shall assume obligations substantially similar to those already imposed on Woolsey Aviation, Inc. hereunder.

7.1 **Facilities.** In consideration for the Term provided in the Lease, Woolsey Aviation, Inc. shall invest approximately \$150,000.00 for the design, construction, and equipping of FBO facilities; including, but not limited to:

- (a) Contribute to the design, construction, furnishing and equipping of the General Aviation facility in the Terminal Building for Woolsey Aviation, Inc.'s FBO operations. As a minimum requirement, Woolsey Aviation, Inc. demised premises shall contain sufficient space and equipment for the provision of the following services or functions: customer lounge, customer service reception area, line service ready room and offices, pilot's lounge and sleep rooms, weather briefing area, conference room, and vending areas sufficiently equipped to meet the needs of the traveling public.
- (b) Acquire sufficient aircraft handling equipment for Woolsey Aviation, Inc.'s FBO, use. Woolsey Aviation, Inc. shall expend a sufficient capital investment to equip the 18,750 square foot hangar building for its use.

7.2 **Equipment.** Woolsey Aviation, Inc. shall provide such refueling and ground support equipment as is required and necessary to the proper conduct of Woolsey Aviation, Inc.'s FBO business: including, but not limited to, the listing of capital equipment set forth as Exhibit "D"; provided, however, that Woolsey Aviation, Inc. may, with the Airport's prior written consent, increase or decrease the amount and type of equipment in accordance with Woolsey Aviation, Inc.'s operational requirements. The Airport's consent under this Section 7.2 shall not be unreasonably withheld; provided, however, that Woolsey Aviation, Inc.

shall at all times provide such equipment as is required for Woolsey Aviation, Inc. to comply with the requirements of this Lease.

7.3 **Fuel Farm.** Woolsey Aviation, Inc. shall operate and maintain the fuel farm IAW the following provisions for the storage of fuels:

- (a) **License to Dispense Fuels.** The parties agree that Woolsey Aviation, Inc. is granted an exclusive license to dispense aviation fuels under permit, subject to Woolsey Aviation, Inc.'s collection and remittance, for and on behalf of the Airport, a fuel flowage and storage fee in the initial amount of \$.10 (ten cents) per gallon, or such an amount as may hereafter be established by the Airport on all fuel delivered to and offloaded into the existing Fuel Farm.
- (b) **Woolsey Aviation, Inc. Fuel Farm Requirements.** In consideration of the license to Dispense Fuels granted under Section 7.3 (a), Woolsey Aviation, Inc., at its sole expense, shall at all times during the Term maintain, preserve and keep in good repair the above ground Fuel Farm and any facilities related thereto. Before accepting this responsibility, by signature here on, the parties shall agree, after sufficient inspection, that the fuel farm is in good repair and up to standard as required for the operation and maintenance of such facilities. Woolsey Aviation, Inc. shall develop a Fuel Storage and Handling Procedures Manual which meets all requirements of statute, rule or regulation for the storage and handling of fuels. Woolsey Aviation, Inc. shall at all times provide employees trained in fuel handling, fuel storage facilities and fire safety, and provide the Airport with documented evidence of such training. Woolsey Aviation, Inc. shall conduct daily operational checks of all fuel storage facilities and fueling vehicles to ensure protection of fuel quality and readiness of facilities and equipment, and the detection of water or other contamination, system leakage and/or spills. Woolsey Aviation, Inc. shall implement and maintain stringent procedures for the control and monitoring of all fuel and de-icing inventory levels. Such inventories shall be managed in strict compliance with the standards and procedures of air carriers, fuel suppliers, and the Airport. Woolsey Aviation, Inc. shall implement and maintain procedures which monitor and report fuel receipts into storage, delivery out of storage, and delivery of product into aircraft and/or ground service vehicles. Consistent with the availability of adequate measuring devices, Woolsey Aviation, Inc. shall account for all inventory to a minimum standard of tolerance within a range of plus/minus one-half of one percent.

7.4 **Minimum Service Requirements.** Woolsey Aviation, Inc. shall, as a minimum requirement and at its expense, provide Line Services, as more fully defined in this Section 7.4, and the operation and maintenance of the Fuel Farm, as set forth in Section 7.3(b). Line Services shall include the following services:

- (a) The sale and dispensing of aviation fuels and lubricants, and the provision of refueling services to owners of commercial passenger, cargo carrier, general aviation and military aircraft.
- (b) The sale and dispensing of aircraft de-icing fluids and the provision of de-icing services to aviation operators and their aircraft.
- (c) Ground handling and aircraft support services; including, but not limited to, the provision of auxiliary ground power and air systems, passenger handling, baggage handling, towing, lavatory servicing, potable water servicing, and other common ground support services.
- (d) The provision of other services to general aviation and military aircraft passengers; including, but not limited to, hotel and transportation accommodations, in-flight catering, shuttle transportation, and other common passenger services.
- (e) The provision of aircraft arrival, parking, tie-down, aircraft storage, and aircraft hangaring services.
- (f) The provision of aircraft towing and disabled aircraft removal for aircraft up to and including narrow body air carrier aircraft.
- (g) The provision of passenger security screening as required by applicable regulations at the request of charter services serving the airport.

7.5 **Permitted Services.** Woolsey Aviation, Inc. may, at its sole expense and discretion, provide the following services:

- (a) Cargo handling services to include the loading and unloading of commercial cargo aircraft.
- (b) Aircraft charter, air taxi, aircraft rental services and automobile rental services.
- (c) Such other services and uses as are consistent with the business of a full service FBO, subject to the written prior consent of the

Airport. Businesses which are already located on the airport will receive preferential treatment if possible when requesting consent of the Airport to provide such other additional services.

- 7.6 **Refueling Operations.** Woolsey Aviation, Inc. shall develop, implement and maintain operational procedures for the refueling operation of the FBO and the Fuel Farm; including, but not limited to, operational and safety procedures and regulations, fuel spill and emergency response requirements; and demonstrated compliance with all requirements of appropriate sections of the National Fire Protection Association (NFPA) Code 407, ATA 103, FAR Part d139, and 14 CFR Part 139.
- 7.7 **Ground Handling.** Woolsey Aviation, Inc. shall develop, implement and maintain operational procedures for receiving, marshaling, shut-down, parking, servicing, securing, start-up and dispatching aircraft from Woolsey Aviation, Inc.'s flight line. The procedures shall include, but not be limited to, flight line safety, driving safety, the provision of lead-in vehicles, the use of hand signals, and the movement, coordination and control of personnel, ground equipment and vehicles in FAR Part 107 and AOA movement areas.
- 7.8 **Towing/Clearing Disabled Aircraft.** Woolsey Aviation, Inc. shall provide and make available on a 24-hour, seven-day a week basis adequate towing equipment and trained personnel to tow and/or clear all categories of aircraft normally and routinely expected to be handled by the FBO, including aircraft to and including Gulfstream V and narrow body air carrier aircraft. Woolsey Aviation, Inc. shall maintain and implement an emergency plan to remove any disabled general aviation aircraft from the runway, taxiway and aprons of the Airport, including but not limited to, the provision of tow tractors, tow bars, air gags, jacks, straps, and access to heavy lift equipment (forklifts and cranes) as may be required to execute the emergency plan, in cooperation with Airport maintenance personnel.
- 7.9 **Communications.** Woolsey Aviation, Inc. shall develop, implement and maintain FCC approved two-way radio communications procedures and an operational plan which insures the provision of internal operational communications having a minimum range of five (5) miles, and air-to-ground communications between the FBO and arriving/departing aircraft having a minimum range of 75 miles.
- 7.10 **Safety.** Woolsey Aviation, Inc. shall develop, implement and maintain safety programs and procedures, including inspections, checklists and tests, to ensure the operational safety of the FBO, the documentation and reporting to the Airport of any potential safety hazards, and the training and certification of all service personnel.

- 7.11 **Emergency Plan.** Woolsey Aviation, Inc. shall develop, implement and maintain an operational plan to respond to general aviation emergencies, including aircraft incident handling, recall procedures for aircraft salvage requirement, and foul weather contingency plans including snow, high winds and power outages. The Emergency Plan shall be in coordination with Airport Administration and shall include coordination with the airport maintenance staff, the City of Fayetteville Fire Department, and the City of Fayetteville Police Department.
- 7.12 **Staffing.** Woolsey Aviation, Inc. shall develop, implement and maintain an organizational structure and staffing plan which provides continuous service for 24-hours per day, 365 days per year. On call services may be used to service customers at times when the FBO is unmanned.
- 7.13 **Revenue Management.** Woolsey Aviation, Inc. shall develop, implement and maintain a system for the collection and remittance of landing fees, fuel flowage fees and taxes, and other fees for the benefit of the Airport. Woolsey Aviation, Inc. shall implement and maintain audit and reporting procedures for such collections and remittances; provided, however, that such procedures shall be subject to the prior written approval of the Airport and further subject to such future modifications and/or changes as may be reasonably required by the Airport to ensure accuracy of reporting and audit and collection control.
- 7.14 **Maintenance.** Woolsey Aviation, Inc. shall develop, implement and maintain adequate maintenance of its equipment and facilities to ensure that at all times the FBO provides a high level of quality service and cleanliness to the traveling public.
- 7.15 **Pricing.** Woolsey Aviation, Inc. shall establish and maintain a pricing policy and structure which ensures fair and clearly stated pricing which is consistent with local, regional and national markets and based on fair and reasonable return to the FBO and reviewed by the Airport. Current pricing agreements for based customers will be honored to the greatest extent possible.
- 7.16 **Self Service Fueling Station.** The Airport plans to keep the self service fueling station for 100LL Aviation Fuel and Automobile Fuel, located on the east side of the airport and to purchase aviation fuel from the fuel and line service FBO. As a provision of this agreement, the parties agree that the Airport shall purchase aviation fuel from the FBO and that the FBO will cause the fuel to be delivered to the fueling station. It is also agreed that the Airport shall pay for the fuel at cost plus a delivery fee not to exceed \$.15 per gallon. Sale to the Airport for resale shall not include sales tax as the sales tax will be paid at the time of sale into the aircraft.

Self Serve pricing shall be in accordance with the approved airport pricing formula.

8. **Improvements and Alterations.**

- 8.1 **Plans, Specifications and Permits.** Plans or specifications for the alteration of all structures shall be subject to prior written approval of the Airport, said approval not to be unreasonably withheld. It is understood and agreed that Woolsey Aviation, Inc. shall at all times and in every instance comply with the requirements of the Airport, including, but not limited to, compliance with design criteria and standards, and Federal and state governmental requirements for the protection of the environment in the construction of the improvements and alternations, contemplated hereunder; including, but not limited to, a the securing of such permits as may be required by the appropriate regulatory agencies or entities of government. It is further understood and agreed that construction of any such structures are also subject to the prior written approval of the FAA in accordance with the provisions of Part 77 of the FAA regulations. The Airport hereby agrees that it will use its best efforts to assist Woolsey Aviation, Inc. in obtaining such approval.
- 8.2 **Activity on Demised Premises.** Woolsey Aviation, Inc. agrees not to conduct or permit to be conducted any activity on the Demised Premises which would interfere with or be a hazard to flight of aircraft either to or from the Airport, or interfere with the ground movement of aircraft at the Airport, or interfere with air navigation and communication facilities serving the Airport. Woolsey Aviation, Inc. agrees that no structure will be erected or natural objects created on the Demised Premises which would constitute a hazard to air navigation.
- 8.3 **Alterations.** Woolsey Aviation, Inc. may make interior alterations (structural or otherwise), minor exterior alterations and changes, decorations and minor additions with prior approval of the Airport as long as it does not materially change previously approved structural improvements, violate the terms and conditions of the Lease Agreement or violate FAA regulations. The Airport acknowledges, however, that Woolsey Aviation, Inc. will modify the appearance and décor of all common areas, restrooms and main lobby area to ensure that the appearance of such areas are consistent with Million Air system requirements as described in the Million Air Confidential Operating Manual.
- 8.4 **Approvals.** It is understood and agreed that this Lease is subject to the reasonable approval by the Airport and the FAA. The Airport shall review and conceptually approve or reject with comments such Plans within ten (10) days of receipt of the Plans. If the Airport would reject such Plans,

the Airport comments shall be in sufficient detail so as to allow Woolsey Aviation, Inc. to revise and resubmit such Plans, incorporating the Airport's comments thereto. Upon resubmission of the revised Plans by Woolsey Aviation, Inc. to the Airport, the Airport shall review and conceptually approve or reject with comments such Plans within ten (10) days of receipt of the revised Plans. The foregoing process shall continue until the Plans have been approved by the Airport; provided, however, in the event approval of the Plans is not obtained, Woolsey Aviation, Inc., at its election, may terminate this Lease without further obligation to the Airport as provided herein.

- 8.5 **Expansion and Modification.** During the Term, Woolsey Aviation, Inc. shall have the right, subject to the reasonable approval of the Airport and the FAA and in compliance with the terms and conditions of this Lease to expand or modify Woolsey Aviation, Inc.'s FBO premises and ancillary facilities thereto, and other related facilities on the Demised Premises.
9. **Transfer of Woolsey Aviation, Inc. Title and Interest to the Airport.** It is covenanted and agreed that all of Woolsey Aviation, Inc.'s right, title and interest in any buildings and improvements remaining on the Demised Premises at the expiration of the Term of this Lease or termination of this Lease, as set forth herein, shall at such time be and become the property of the Airport, subject only to the rights of removal of trade equipment, trade dress, signage, and trade fixtures from time to time installed on the Demised Premises as provided in Section 22. Until such expiration or termination of this Lease, all right, title and interest in any buildings and improvements on the Demised Premises shall reside in Woolsey Aviation, Inc.; provided, however, that during the Term of this lease, Woolsey Aviation, Inc. shall grant to the Airport an undivided residual interest in the fair market value of any buildings and improvements on the Demised Premises equal to three point thirty three percent (3.33%) per annum of said fair market value during each year of the Term.
10. **FAA Approvals.** The Airport and Woolsey Aviation, Inc. agree that this Lease is made subject to, and is wholly contingent upon Woolsey Aviation, Inc. compliance with all rules and requirements of the FAA as are or may be required for the Airport to make and enter into this Lease.
11. **Force Majeure.** If the substantial completion and occupancy of the initial improvements to be constructed by Woolsey Aviation, Inc. upon the Demised Premises shall be delayed or prevented by reason of strikes, lockouts, labor troubles, without fault and beyond the reasonable control of the party obligated, performance of such acts shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

12. **Security Control.** Woolsey Aviation, Inc. agrees to control all persons and vehicles entering any airport restricted area (including aircraft movement area) through its leased space in accordance with the Fayetteville Municipal Airport Drake Field Security Program and in compliance with Federal Aviation Regulations, Part 107, as these now exist or may exist in the future.

13. **Hazardous Waste/Substances.**

13.1 **Definitions.** The term "Hazardous Substances," as used in the Lease, shall mean:

- (a) Any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto;
- (b) Designed as a "Hazardous Substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 et seq. (33 U.S.C. § 1321), or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317);
- (c) Defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 6901, et seq. (42 U.S.C. § 6903); or
- (d) Defined as "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq. (42 U.S.C. § 9601) or any other substances, (including, without limitation, asbestos and raw materials which include Hazardous constituents), the general, discharge or removal of which or the use of which is restricted, prohibited or penalized by any "Environmental Law", which term shall mean any Federal, state or local law, regulation or ordinance relating to pollution or protection of the environment.

13.2 **Inspection.** The Airport and Woolsey Aviation, Inc. agents and representatives shall have the right, in the company of Woolsey Aviation, Inc. and/or its employees or agents, to enter into or upon the Demised Premises, or any part thereof, during normal business hours and after reasonable notice to Woolsey Aviation, Inc., for the purpose of examining same, including but not limited to, the right to test for Hazardous Substances thereon and the adequacy of security to restricted areas. Woolsey Aviation, Inc. shall have the right, but not the obligation, to receive split samples of any sampling matter to be tested by Woolsey

Aviation, Inc. which split samples will be analyzed by Woolsey Aviation, Inc. at Woolsey Aviation, Inc.'s expense.

13.3 **Notification.** If the Airport or Woolsey Aviation, Inc. discovers any Hazardous Substances on the Demised Premises, it will promptly notify the other party of the details of such Hazardous Substances.

13.4 **Permitted Activities.** Woolsey Aviation, Inc. hereby agrees that:

- (a) No activity will be conducted on the Demised Premises by Woolsey Aviation, Inc., its agents, employees, subleases, invitees or any other party entering the Demised Premises during the term hereof that will produce any Hazardous Substance, except for such activities that are part of the ordinary course of Woolsey Aviation, Inc.'s business activities (the "Permitted Activities"), provided said Permitted Activities are conducted in accordance with all Environmental Laws and have been approved in advance in writing by the Airport.
- (b) The Demised Premises will not be used by Woolsey Aviation, Inc., its agents, employees, sublessees, invitees or any other party entering the Demised Premises during the term hereof in any manner for the storage of any Hazardous Substances except for the temporary storage of such materials that are used in the ordinary course of Woolsey Aviation, Inc.'s business (the "Permitted Materials") provided such Permitted Materials are properly stored in a manner and location in compliance with all Environmental Laws;
- (c) No portion of the Demised Premises will be used by Woolsey Aviation, Inc., its agents, employees, sublessees, invitees or any other party entering the Demised Premises during the term hereof as a landfill or dump;
- (d) Woolsey Aviation, Inc. will not during the term allow any surface or subsurface condition to exist or to come into existence that constitutes, or with the passage of time may constitute, a public or private nuisance; and
- (e) Woolsey Aviation, Inc. will not during the Term permit any Hazardous Substances to be brought onto, stored, processed, disposed of or, released, discharged from (including ground water contamination) or otherwise handled on the Demised Premises, except for the Permitted Materials described above, and if so brought or found located thereon, the same shall be immediately removed, with proper disposal in compliance with all

Environmental Laws and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws.

- 13.5 **Environmental Compliance Program.** Woolsey Aviation, Inc. further agrees to develop and implement an environmental compliance program for its operations at the Demised Premises, but only to the extent required by Federal, state or local rules, regulations, or statutes, as such may now exist or exist in the future. Further, Woolsey Aviation, Inc. will provide a copy of its Storm Water Pollution Prevention Plan (SWPPP), and Spill Prevention Control and Countermeasure Plan (SPCC) to Airport Administration, and coordinate with the Airport on implementation and SWPPP/SPCC updates.
- 13.6 **Indemnification.** Woolsey Aviation, Inc. agrees to indemnify and defend (with counsel reasonably approved by the Airport) and hold the Airport and its employees and agents harmless from and against and to reimburse said parties for any claims (including, without limitation, third party claims whether for personal injury or real or personal property damage or otherwise, actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims; provided, however, that the Airport shall not settle any claims without the prior written consent of Woolsey Aviation, Inc.), interest or losses, including reasonable attorney's fees and expenses (including such fees and expenses incurred in enforcing this Section 13.6), reasonable consultant fees, and reasonable expert fees, together with other costs and expenses of any kind or nature that arise from or in connection with the presence, suspected presence, release or suspected release of any Hazardous Substances into the air, soil, ground water or surface water at, on, about, under or within the Demised Premises, or any portion thereof, or elsewhere in connection with the transportation of Hazardous Substances to or from the Demised Premises provided that such presence, suspected presence, release or suspected release is the result of the activities of Woolsey Aviation, Inc., its agents, and employees during the term of the Lease.
- (a) The indemnification provided in this paragraph shall specifically apply to and include claims or actions brought by or on behalf of employees of Woolsey Aviation, Inc. against the Airport. The indemnification provided herein shall specifically cover costs, including capital, operating and maintenance cost, incurred in connection with any investigation or monitoring of site conditions, any cleanup, containment, remediation, removal or restoration work required or performed by any federal, state or local governmental agency or political subdivision or performed by any nongovernmental entity or person in response to any

order or other requirement by such governmental agency, but this indemnification is subject to the express limitation that:

- (i) any presence, suspected presence, release or suspected release of any Hazardous Substances into the air, soil, ground water or surface water at, on, about, under or within the Demised Premises, or any portion thereof, or elsewhere in connection with the transportation of Hazardous Substances to or from the Demised Premises, is the result of the activities of Woolsey Aviation, Inc., its agents, and employees during the term of the Lease; and
- (ii) the further limitation that any investigation, remediation, etc. of Hazardous Substances is required by applicable law and the governmental agency having jurisdiction thereof.

13.7 **Removal and Disposition.** Upon the expiration of the Term, Woolsey Aviation, Inc., at its own expense, hereby agrees to properly remove and dispose of all storage tanks placed on the Demised Premises by Woolsey Aviation, Inc. in compliance with all applicable Environmental Laws and all required cleanup procedures shall be diligently undertaken in compliance with the governmental agency having jurisdiction thereof.

13.8 **Information Available.** The Airport hereby represents and warrants that the Airport has made available to Woolsey Aviation, Inc. copies of the Airport Environmental Impact Statement, the Airport Master Plan and all environmental studies of the airport property and all other information known to the Airport concerning the environmental condition of the Demised Premises and any real property adjacent to the Demised Premises that would adversely affect the Demised Premises.

13.9 **Spill Prevention and Storm Water Discharge.**

14. **Utilities – Installation and Service Charges.**

14.1 **Woolsey Aviation, Inc. Requirements:** Woolsey Aviation, Inc. shall install or cause to be installed, telephone, cable, broad band and flight following, weather and flight planning services for its use and for use of customers.

14.2 **Airport Requirements:** The Airport shall, at its expense, make available to Woolsey Aviation, Inc. no later than the Commencement Date

permanent electric, heat, water, and sewerage utilities for the Terminal Building. The Airport shall provide dumpsters for use by all tenants.

15. **Taxes.**

- 15.1 **Payment Responsibility.** Woolsey Aviation, Inc. shall pay or shall cause to be paid, prior to their becoming delinquent, unless being contested, any and all taxes which are lawfully levied, assessed or imposed at any time during the Term upon any improvements erected by Woolsey Aviation, Inc. or those holding by, through or under Woolsey Aviation, Inc. thereon, and all applicable personal property taxes. The Airport is responsible for all real estate taxes of any nature that apply to any period of time prior to the beginning of the term hereof.

16. **Indemnification and Insurance.**

- 16.1 **Indemnification by Woolsey Aviation, Inc.** Woolsey Aviation, Inc. agrees to indemnify and hold harmless the Airport and the City of Fayetteville from and against any and all claims by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from the negligent or wrongful use, occupancy, conduct and management of, or from any negligent or wrongful work or thing whatsoever done in or about the Demised Premises by Woolsey Aviation, Inc., or any representative or employee of Woolsey Aviation, Inc. during the Term.

- 16.2 **Indemnification of Airport.** The Airport agrees to indemnify and hold harmless Woolsey Aviation, Inc. from and against any and all claims by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from:

- (a) The ownership by Airport of the Demised Premises;
- (b) Any wrongful conduct of the Airport or any representative, employee, invitee or permittee of the Airport in connection with the exercise of the Airport's rights and the performance of the Airport's obligations under this Lease, or otherwise with respect to the Demised Premises; and
- (c) Any default in the performance by the Airport, or any representative of the Airport, of the Airport's obligations under this Lease.

16.3 **Woolsey Aviation, Inc. Insurance.**

- (a) **Minimum Liability Insurance.** Woolsey Aviation, Inc. shall maintain or cause to be maintained for the benefit of the Airport and Woolsey Aviation, Inc.: (i) general public airport liability

insurance against claims for bodily injury, death or property damage occurring in or about the Demised Premises and improvements thereon, such insurance to afford protection in an amount equal to minimum limits of liability of Five Million Dollars (\$5,000,000) combined single limit for injury (or death) and for damage to property; (ii) comprehensive public liability and property damage insurance in an amount equal to minimum limits of Fifty Million Dollars (\$50,000,000) combined single limit for all fueling operations; and (iii) aircraft liability insurance in an amount equal to minimum limits of Five Million Dollars (\$5,000,000) combined single limit. A memorandum copy of each such policy of insurance (which shall name the Airport as an additional insured), or Certificate of Insurance, shall be deposited with the Airport and shall provide for at least sixty (60) days notice to the Airport prior to cancellation and/or change in any insurance.

- (b) **Adjustment of Minimum Liability Insurance.** In the event the Airport should, at any time after the first five years of the term hereof, determine in its reasonable judgment that Woolsey Aviation, Inc. should provide liability insurance protection in excess of the limits it is then carrying, the Airport shall notify Woolsey Aviation, Inc. of its determination in writing, stating the limits it requests and the reasons therefore. If the Airport or Woolsey Aviation, Inc. shall thereupon determine that they are unable to agree upon the minimum limits to be carried, each party shall within fifteen (15) days from said determination appoint a person with at least five (5) years of experience in the sale of liability insurance and the underwriting of liability insurance risks to decide reasonable minimum limits to be carried, and their joint decision shall control. If these two persons are unable to mutually agree upon such minimum limits, they will appoint a third person so experienced, and the decision of the majority shall control. Each party shall pay the cost of the person it appoints and share equally the cost of the third person appointed. In the event such decision requires an increase in coverage, Woolsey Aviation, Inc. shall provide the increased coverage within thirty (30) days from and after such decision. In making the determinations hereunder, all material factors shall be considered, including the general availability and terms of liability insurance at a reasonable cost at the time.
- (c) **Fire and Extended Coverage Insurance.** Woolsey Aviation, Inc. agrees that it will, at all times during the term of this Lease, keep insured any improvements it hereafter erects upon the Demised Premises under what is commonly know as a fire and extended coverage policy (which shall name the Airport as an Additional

Insured) and shall furnish the Airport a Certificate of such Insurance. Said insurance shall be in an amount equal to not less than ninety percent (90%) of the insurable value of said improvements, and may contain appropriate deductibles at the reasonable discretion of Woolsey Aviation, Inc.

- (d) **Use of Insurance Proceeds.** In the event of damage or destruction to the Demised Premises or improvements thereon by fire or other insured casualty or otherwise, proceeds from such insurance, subject to the prior rights of mortgagees and/or other security holders, if any, shall be used toward restoring the Demised Premises and improvements thereto.

- 16.4 **Airport Insurance.** The Airport shall maintain or cause to be maintained general public airport liability insurance against claims for bodily injury, death or property damage occurring in or about the Airport, such insurance to afford protection in an amount equal to minimum limits of liability of Five Million Dollars (\$5,000,000.00) combined single limit for injury (or death) and for damage to property.
17. **Maintenance.** Woolsey Aviation, Inc. agrees to keep the Demised Premises and the improvements thereon in good order, maintenance and repair, ordinary wear and tear and casualty losses excepted, and upon the termination or expiration of this Lease to surrender up the Demised Premises and improvements thereon to the Airport in such condition.
18. **Advertising.** No outside walls, roofs or other portion of the Demised Premises or of any improvements thereon shall be leased for or used for any advertising purposes. Reasonable business identification signs will be permitted subject to the approval of the Airport and upon receipt of a valid permit by the City of Fayetteville.
19. **Fixtures and Improvements.** It is expressly understood and agreed that any and all trade machinery, equipment fixtures and improvements of whatsoever nature (excluding real property) at any time placed, installed or maintained upon any portion of the Demised Premises by Woolsey Aviation, Inc. shall be and remain the property of Woolsey Aviation, Inc. Woolsey Aviation, Inc. shall have the right to install and remove at any time during Woolsey Aviation, Inc.'s occupation of the Demised Premises or within sixty (60) days after this Lease may be terminated or have expired, to remove any and all trade machinery and equipment owned or placed by Woolsey Aviation, Inc., upon the Demised Premises whether before or during the Term, but shall not be obligated to do so. In the event of removal Woolsey Aviation, Inc. shall repair any and all damage to the leasehold improvement caused by said removal.

20. **Assignment.** Woolsey Aviation, Inc. shall not at any time assign this Lease or any part thereof, or sublet all or any portion of the Demised Premises herein without having first secured written approval of the Airport.
21. **Disadvantaged Business Enterprise (DBE) Assurances.** Woolsey Aviation, Inc. acknowledges that the provision of 49 CFR, Part 26, Disadvantaged Business Enterprises (DBE), as said regulations may be amended, and such other similar regulations may be enacted, may be applicable to the activities of Woolsey Aviation, Inc. under the terms of this lease, unless exempted by said regulations, and Woolsey Aviation, Inc. hereby agrees to comply with the FAA and the U.S. Department of Transportation, in reference thereto. These requirements may include, but not be limited to, compliance with DBE participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if so directed by the various governmental agencies, the contacting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises.
22. **Non-Discrimination.** Woolsey Aviation, Inc. for itself and its successors in interest and assigns hereby covenants and agrees as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the Demised Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Woolsey Aviation, Inc. shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-assisted programs of the Department of transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Woolsey Aviation, Inc. for itself and its successors in interest and assigns also hereby covenants and agrees as a covenant running with the land that (a) no person on the grounds of race, color, creed, sex, handicap or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (b) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, creed, sex handicap or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (c) that Woolsey Aviation, Inc. shall use the Demised Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the department of transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and (d) as said Regulations may be amended.
23. **Default.** All covenants and agreements herein made and obligations assumed are to be construed also as conditions and these presents are upon the express

condition that if Woolsey Aviation, Inc. should fail to pay when due any one of the aforesaid installments of rent, or should fail to perform or observe any of the covenants, agreements or obligations herein made or assumed by said Woolsey Aviation, Inc., then and thence forth in any of said events, after allowing for the grace period for curing defaults set out below, this Lease may be forfeited, except as otherwise provided herein with respect to any mortgagees in Section 20 or in this Section 23, and thereby become null and void at the option of the Airport, and said Airport may, with or without process of law, in a lawful manner re-enter said premises and improvements or any part thereof and repossess and have the same as of Woolsey Aviation, Inc.'s former estate and remove there from all goods and chattels not thereto properly belonging, and expel said Woolsey Aviation, Inc. and all other person or persons who may be in possession of the said premises and improvements; and in such case Woolsey Aviation, Inc. covenants that it will immediately and peaceably deliver up the same to the Airport, its agents or attorneys; and if Woolsey Aviation, Inc., its tenants agents or attorney's shall hold for a day beyond the time when they should have surrendered the Demised Premises or improvements thereon, or any part thereof required hereby to be surrendered, according to the provisions hereof or according to law, they shall be subject to an action for forcible detainer under the statutes of the State of Arkansas and be subject to eviction and removal from the Demised premises.

- 23.1 **Notice.** The Airport shall give written notice of default simultaneously to Woolsey Aviation, Inc., any assignee or guarantor of this Lease, and to any mortgagee or beneficiary of Woolsey Aviation, Inc.'s leasehold interest in the Demised Premises and improvements thereon who shall have the rights set forth in Section 20 and who are known to the Airport.
- 23.2 **Cure of Default.** No default shall be deemed to exist unless Woolsey Aviation, Inc. fails to cure said default within thirty (30) days after receipt of written notice thereof, provided, however, that if Woolsey Aviation, Inc. fails to cure same within said thirty (30) days, the mortgagee or guarantor of Woolsey Aviation, Inc.'s said leasehold interest shall have an additional twenty (20) days after the end of said thirty (30) day period within which to cure same. As to any curing of a default (other than payment of rent) which would reasonably require a greater period of time for curing than is provided for above, if Woolsey Aviation, Inc. shall, within the time stipulated, commence such curing and diligently pursue same, then, the above time period shall be extended to allow Woolsey Aviation, Inc. reasonable opportunity to do so; provided, however, in the event Woolsey Aviation, Inc.'s failure to perform or observe any of the covenants, agreement or obligation herein shall create and /or cause a hazard to safety, of whatsoever nature of kind, the period of the curing of such default shall be no greater than five (5) days after receipt of written notice thereof.

- 23.3 **Right to Contest.** Woolsey Aviation, Inc. shall have the right to contest, in good faith, the existence of any default alleged to have occurred or alleged to exist, and in the event Woolsey Aviation, Inc. so elects, the time period for curing any such alleged default shall be extended until thirty days after a final judgment has been entered in a court having jurisdiction over such contest.
- 23.4 **Notice of Forfeiture and Termination.** The Airport may not exercise its right to declare this Lease forfeited, terminated, or null and void without first having given written notice to any mortgagee or beneficiary of a deed of trust of Airport's intent to do so on a date specified in such notice, which date shall be at least thirty (30) days after receipt by such mortgagee or beneficiary of such written notice, which notice will specify the default on account of which Airport seeks to exercise its rights of forfeiture or termination.
- 23.5 **Rights Upon Receipt of Notice.** Upon receipt of any such notice of forfeiture and termination, such mortgagee or beneficiary shall have the right prior to the date specified for termination to cure the default specified in such notice, or to initiate proceedings to contest the existence of such default, or to initiate proceedings to compel Woolsey Aviation, Inc. or any other person or entity to cure such default, thereby preventing or delaying forfeiture or termination of this Lease. In the event such mortgagee or beneficiary cures such default or proceeds to cure such default prior to the date specified for termination by instituting proceedings to compel Woolsey Aviation, Inc. or any other party causing such default to cure such default, or institutes proceedings, in good faith, contesting the existence of such default, the Airport's right to terminate this Lease shall be suspended until thirty days after the entry of a final judgment of a court having jurisdiction over any such action or contest determining that the default identified in such notice exists under this Lease and must be cured to prevent forfeiture hereunder. As to the curing of any default (other than the payment of rent) which would reasonably require a greater period of time for curing than is provided above, if the mortgagee or beneficiary shall, within the time otherwise provided herein, commence the curing of such default or commence an action to compel such default to be cured, and shall diligently pursue same, then the time provided for herein for the curing of such default shall be extended to allow such mortgagee or beneficiary a reasonable opportunity to cure such default or force the curing of such default by any other person or entity who may be obligated to cure such default or may have the ability to cure such default.
24. **Right to Terminate Not Exclusive.** The right of the Airport to terminate this Lease as herein set forth is in addition to and not in exhaustion of such other rights that the Airport has or causes of action that may accrue to the Airport because of the Woolsey Aviation, Inc.'s failure to fulfill, perform or observe the

obligations, agreements or covenants of this Lease, and the exercise or pursuit by the Airport of any of the rights or causes of action accruing hereunder, shall not be an exhaustion of such other rights or causes of action that the Airport might otherwise have. However, in the event of any default by Woolsey Aviation, Inc., the Airport agrees to utilize reasonable efforts to mitigate its damages. Notwithstanding any default or failure of performance by Woolsey Aviation, Inc. hereunder, the Airport may not distain upon, or otherwise proceed against, by legal process or otherwise, Woolsey Aviation, Inc.'s delivery vehicles or airplanes, Woolsey Aviation, Inc.'s proprietary property or any of the goods or property of third parties in the possession of Woolsey Aviation, Inc. All things equal, both parties have the right to give notice of termination of this agreement for the good of the parties with a minimum of 60 days notice to terminate. Upon receipt of such notice, the parties are required to work together to effect a smooth transition of services to the public.

25. **Termination by Woolsey Aviation, Inc.** Woolsey Aviation, Inc. may, at its option, terminate this Lease without liability by giving the Airport sixty (60) days advance written notice if the commencement of the initial improvements contemplated by Section 8 hereof shall be prevented by Woolsey Aviation, Inc.'s inability to secure financing.
26. **Attorney Fees.** Woolsey Aviation, Inc. agrees to pay all cost of collection, including reasonable attorney fees, if all or any part of the rent reserved herein is collected after maturity with the aid of an attorney; also to pay reasonable attorney fees in the event it becomes necessary for the Airport to employ an attorney to force Woolsey Aviation, Inc. to comply with any of the covenants, obligations or conditions imposed by this Lease. Likewise, the Airport agrees to pay reasonable attorney fees in the event it becomes necessary for Woolsey Aviation, Inc. to employ an attorney to force the Airport to comply with any of the covenants, obligations or conditions imposed by this Lease.
27. **Protection from Violation – Unlawful Purposes.** Excluding any environmental issues, matters or things arising at any time as a result of an occurrence, matter or thing origination or existing prior to the taking of possession of the Demised Premises by Woolsey Aviation, Inc., Woolsey Aviation, Inc., during the term, will keep and hold harmless the Airport from any penalty or damages or charges imposed for any violation of any Federal, state or municipal laws and ordinances occasioned by acts or omissions of Woolsey Aviation, Inc. and Woolsey Aviation, Inc. agrees that the Demised Premises and improvements thereon shall, during the term of this Lease, be used only for proper and lawful purposes and as authorized herein, and that Woolsey Aviation, Inc. will not use the same or any portion thereof for any purpose or use which may be in violation of the laws of the United States or of the State of Arkansas, or of the ordinances and regulations of the County of Washington, and the City of Fayetteville, Arkansas, or for any unlawful purpose or use whatsoever. Woolsey Aviation, Inc. also agrees that it will not create or allow any nuisance to exist on the demised Premises and that it

will promptly abate all such as may arise, and will not commit or suffer to be committed any waste thereon.

28. **Rules and Regulations.** Woolsey Aviation, Inc. agrees to observe and obey any and all reasonable uniformly applied rules and regulations adopted by the Airport with respect to use of the Airport, and all applicable federal, state and local governmental rules and regulations. "The Minimum Standards for Fayetteville Municipal Airport Drake Field" herein referred to as Airport Minimum Standards at Fayetteville Municipal Airport are attached as Attachment #3.
29. **Quiet Enjoyment.** The Airport hereby affirmatively covenants and warrants that so long as Woolsey Aviation, Inc. pays the rent and other sums and charges reserved and agreed to be paid by Woolsey Aviation, Inc. under the terms of this Lease, and faithfully observes the covenants, conditions and agreements herein contained and to be observed by Woolsey Aviation, Inc. or which can be performed by mortgagee or beneficiary, Woolsey Aviation, Inc. shall freely, peaceably and quietly have and enjoy the Demised Premises and every part thereof and all of its other rights under this Lease during the entire term of this leases.
- 29.1 **Fee Simple.** The City of Fayetteville hereby covenants and warrants that it is well seized of the Demised Premises, has fee simple absolute title thereto and has the legal right and authority to lease the same in the manner and form herein provided; and that said Demised Premises and every part thereof are free and clear of any easements, encumbrances, reservations, restriction or reversionary rights whatsoever, except as specified in the Airport Layout Plan set forth as Exhibit "B", and will remain so during the term and any extensions unless otherwise agreed to by Woolsey Aviation, Inc. and will defend such title on behalf of Woolsey Aviation, Inc. or mortgagee or beneficiary, as the case may be, during the Term and any extensions.
- 29.2 **Events of Breach.** In the event of the breach of the foregoing covenant and warranty, which the parties hereby agree shall include, but not be limited to:
- (a) The existence of any unpaid real estate taxes relating to any time period prior to the beginning of the Lease; or
 - (b) The existence of any easement, right-of-way, covenant, encumbrance, reservation, restriction, right-of-first refusal, reversionary interest, lien, mortgage, title defect, etc. (collectively hereinafter, "Title Defect"), that would materially affect or impair Woolsey Aviation, Inc.'s proposed development or use of the Demised Premises;

The Airport shall immediately pay such real estate taxes or cause same to be paid, and the Airport shall cure such Title Defect within (90) after receipt of notice from Woolsey Aviation, Inc. of the existence of same, or such longer period if such cure cannot be completed within ninety (90) days, so long as the Airport has commenced its cure within the initial ninety (90) day cure period and is diligently proceeding to complete same immediately thereafter.

29.3 **Failure to Perform.** If the Airport defaults in the performance of any of the foregoing and the Title Defect is of such nature as to materially interfere with or preclude Woolsey Aviation, Inc.'s construction of Woolsey Aviation, Inc.'s improvements, or to unreasonably interfere with or preclude the issuance of permits or site plan approval of such construction, then Woolsey Aviation, Inc. shall have the following election:

- (a) Woolsey Aviation, Inc. shall have the right to cancel this lease effective upon the Airport's receipt of notice of such cancellation; or
- (b) Woolsey Aviation, Inc. shall have the right to pay such unpaid real estate taxes, cure the Title Defect or otherwise correct such breach of covenant and warranty, as the case may be, and deduct the reasonable cost thereof, including reasonable attorney's fees and expenses, from the rents due hereunder. If Woolsey Aviation, Inc. elects election (b), then the Airport shall reasonably cooperate with Woolsey Aviation, Inc. in order that Woolsey Aviation, Inc. may cure the Title Defect or otherwise correct such breach of covenant and warranty.

30. **Estoppel Certificate.** Either party shall at any time and from time to time upon not less than twenty (20) business days prior written request by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that his Lease is unmodified and in full force and effect (or if there has been any modification thereof that the same is in full force and effect as modified and stating the modification or modifications and that there are no defaults existing, or if there is any claimed default stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance. It is expressly understood and agreed that any such statement delivered pursuant to this section by be relied up by either party or by any third party.

31. **Notices.** Whenever by the terms of this lease, notice shall or may be given either to the Airport or to Woolsey Aviation, Inc., such notice shall be in writing and shall be sent by Unites States registered or certified mail, return receipt requested, with adequate prepaid postage. If intended for the Airport, addressed to:

Ray M. Boudreaux, Director
Aviation and Economic Development
City of Fayetteville
4500 S. School Avenue, Suite F
Fayetteville, AR 72701

With copy to:

Kit Williams, City Attorney
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

If intended for Woolsey Aviation, Inc., address to:

Roger Woolsey, President/CEO
Woolsey Aviation, Inc.
8501 Telephone Road
Houston, Texas 77061

Or, to such address or addresses as may from time to time hereafter be designated by like notice from either party to the other. The time of giving of such notice when sent by U.S. mail shall be deemed to be the time when the same is received or delivery refused as shown by the return receipt.

32. **Invalidity of Particular Provisions.** If any term or provision of this lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this lease, or the application of such term or provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and revision of this Lease shall not be affected thereby, and each term and provision of this Lease shall valid and shall be enforceable to the fullest extent permitted by law.

33. **General Terms.**

- 33.1 **General Terms.** Whenever the term the Airport is used herein it shall be construed to include the successors and assigns of the Airport and whenever the term Woolsey Aviation, Inc. is used herein, it shall be construed to include the successors and assigns of Woolsey Aviation, Inc.; and the words "Airport" and "Woolsey Aviation, Inc." shall include single and plural, individual and corporate, masculine, feminine or neuter, as the same may be or hereafter become applicable. Whenever approvals or consents of the Airport are required hereunder or in any attachments hereto, such approvals or consents shall not be unreasonably withheld, conditioned or delayed. This Lease shall be binding upon and inure to the

benefit of the parties hereto, and their successors and assigns, as otherwise provided in other paragraphs hereof.

- 33.2 **Captions and Headings.** Captions of the Articles, Sections or paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or the meaning of the provisions of this Lease.
- 33.3 **Modifications:** Any modifications to this lease shall be in writing and signed by all the parties hereto.
- 33.4 **Counterparts.** This lease may be executed in multiple counterparts, each of which shall be deemed an original.
- 33.5 **Choice of Law.** This lease shall be interpreted in accordance with the law of the State of Arkansas.
- 33.6 **Time is of the Essence.** Time is of the essence of this lease.
- 33.7 **Waiver of Defaults.** No failure by either Woolsey Aviation, Inc. or the Airport to insist upon the strict performance of the other party of any covenant, agreement term or condition of this Lease or to exercise any remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall effect or alter this Lease, but each and every covenant, condition and term of this Lease shall continue in full force and effect with respect to any other then existing subsequent breach.
- 33.8 **Entire Agreement.** Unless modified or supplemented in writing and signed by the party or parties to be charged, this lease constitutes the entire agreement between the parties. Except as aforesaid, any other understandings, agreements or negotiations are deemed merged herein and shall be interpreted in accordance with the law of the State of Arkansas.
- 33.9 **Miscellaneous.** None of the foregoing terms, covenants, obligations or conditions shall survive the expiration or the earlier termination of their Lease, except for those obligations continued in Section 14 hereof, which obligations shall survive such expiration or earlier termination for a period of one (1) year.

WITNESS the execution hereof by the parties hereto, in any number of counterpart copies each of which counterpart copies shall be deemed as an original for all purposes, as of the day and year first above written.

**CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

By: _____
Dan Coody, Mayor

ATTEST

By: _____
Sondra Smith, City Clerk

WOOLSEY AVIATION, INC., INC.

By: _____
Roger Woolsey
President/CEO

ATTEST

By: _____
Paul Milam, Vice President

FBO EQUIPMENT LIST

Aircraft Tug
Aircraft tow bar
Aircraft De Ice Cart
Aircraft Marshalling Wands
Aircraft Chocks
Air Frequency Radios 5 ea
Air Frequency Base Station Radio 1 ea
City Radios 3 ea
Luggage Carts 2 ea
Jet Fuel Truck (AVFUEL)
AVGAS Fuel Truck (AVFUEL)
Aircraft Power Cart
Aircraft Battery Cart
Air Compressor
Pilot Supply Cases
Ice Machine
Flight Planning Desk
Fax Machine
Microwave
Big Screen TV
Wall mounted TV's (2 ea)
De-ice pump
Air Stairs

Attachment #1

Formula for Rental Increases

Rent adjustments shall be made as of the commencement of each of the Dates Upon Which Rent Increases Apply and shall be determined by the following formula:

Rent as last so increased under this Lease

multiplied by:

$1 + \frac{\text{Current Index} - \text{Base Index}}{\text{Base Index}}$

plus:

one percent (1%) of the Rent as last so increased under this Lease

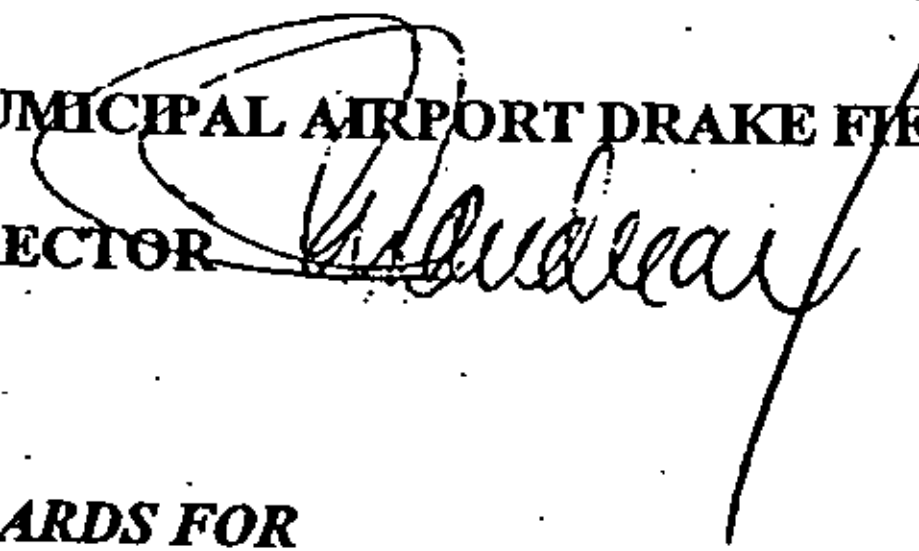
Where, "Current Index" shall be the CPI (*D-1 Consumer Price Index-All City Average*, "all items groups, subgroups and special groups," published monthly in the *Monthly Labor Review* of the Bureau of Labor Statistics of the United States Department of Labor) for the month immediately prior to the applicable Dates Upon which Rent Increases Apply, and Base Index shall be the CPI for the month immediately prior to the Commencement Date or the most recent Dates Upon Which Rent Increases Apply, whichever is applicable. In no event, however, shall the Rent for any period be less than the Rent as last so increased under this Lease. In the event that such CPI is no longer published or otherwise available, the adjustment provided for herein shall be by the successor (or the most nearly comparable successor index) thereto, adjusted as appropriate to the applicable dates.

FAYETTEVILLE

AIRPORT ADMINISTRATION OFFICE
THE CITY OF FAYETTEVILLE, ARKANSAS

MEMORANDUM TO FILE

TO: TENANTS AND USERS
OF FAYETTEVILLE MUNICIPAL AIRPORT DRAKE FIELD

FROM: RAY BOUDREAUX, DIRECTOR 

DATE: APRIL 19, 2005

SUBJECT: "THE MINIMUM STANDARDS FOR
FAYETTEVILLE MUNICIPAL AIRPORT DRAKE FIELD"

Please be advised by this memo the "*The Minimum Standards for Fayetteville Municipal Airport Drake Field*" has been amended by the following.

Delete sentence on Page 9 that states: "*Public sale of automobile gas for use in aircraft will not be permitted on the Airport*".

The sale of auto fuel on Fayetteville Municipal Airport was established by the following.

The City of Fayetteville Council, by Resolution # 32-04 passed and approved on March 2, 2004 (copy attached), a contract to install an 87 octane MoGas pump at the aviation fuel service facility at Fayetteville Municipal Airport. The Airport Board reviewed the proposed contract and forwarded the contract to the City Council for approval.

**FAYETTEVILLE MUNICIPAL AIRPORT - DRAKE FIELD
4500 S. SCHOOL AVENUE, SUITE F
FAYETTEVILLE, ARKANSAS 72701**

**THE
MINIMUM STANDARDS
FOR FAYETTEVILLE MUNICIPAL AIRPORT
DRAKE FIELD**

**ORIGINALLY ADOPTED: February 16, 1981 Resolution 25-81
AMENDED: May, 18, 1993 Resolution 50-93
UPDATED AND REPLACED BY: June 6, 2000 Resolution 78-00
AMENDED: December 5, 2000 Resolution 162-00
UPDATED AND REPLACE BY: January 6, 2004 Resolution**

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**THE MINIMUM STANDARDS
FOR
FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
FAYETTEVILLE, ARKANSAS**

INTRODUCTION

In order to encourage and ensure the provision of adequate services and facilities, the economic health of, and the orderly development of aviation and related aeronautical activities at the Fayetteville Municipal Airport, Drake Field, the City of Fayetteville as proprietor, sponsor and operator of the airport establishes these minimum standards and requirements ("minimum standards").

The following sections set forth the minimum standards prerequisite to a person or entity operating upon and engaging in one or more activity upon the airport. The minimum standards are not intended to be all-inclusive. Any person or entity engaging in activities at the airport will be required to comply with all applicable federal, state and local laws; ordinances; codes; and other similar regulatory measures to such activities and these Minimum Standards.

STATEMENT OF POLICY

The Fayetteville Municipal Airport, Drake Field Administration intends to operate, manage, plan, finance and develop the airport for its long-term financial viability and safety in a manner consistent with generally accepted airport practices and applicable federal, state and local policies and regulations.

Accordingly, all entities wishing to perform aeronautical and /or commercial, and /or any other activities at the airport shall be accorded a fair and reasonable opportunity, without unlawful discrimination, to qualify and to compete (if applicable) to occupy available facilities at the airport.

The granting of rights and privileges to individuals and businesses will not be construed in any manner as affording any operator any exclusive right for use of the premises and/or facilities at the airport other than those premises which may be leased exclusively to any operator, and then only to the extent provided in a written lease and/or permit.

While the airport director has the authority to manage the airport (including the authority to interpret, administer, and enforce airport agreements and airport owner policies and the authority to permit temporary, short term occupancy of the airport), the ultimate authority to grant the occupancy and use of the airport real estate or permits allowing for the conduct of all activities, and to approve, amend or supplement all leases and permits is expressly reserved to the City of Fayetteville City Council after the advice and council of the Airport Board.

SECTION 1: DEFINITIONS

As used herein, the following terms shall have the meaning listed:

AIRPORT LAYOUT PLAN: - (ALP) Developed by the Airport Director in consultation with the Airport Board.

AIR OPERATIONS AREA: - (AOA) That portion of the Airport designated for use by aircraft and including all runways, taxiways, ramps, aprons and any other areas so delineated for use by aircraft, inside the perimeter fence.

AERONAUTICAL ACTIVITY: - Shall mean any activity which involves, makes possible, or is required for the operation of aircraft or which contributes to, or is required for, the safety of such operations and shall include, but not by way of limitation, all activities commonly conducted on airports, such as charter operations, pilot training, aircraft rental, sight seeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products, whether or not conducted in conjunction with other included activities, repair and maintenance of aircraft, sale of aircraft parts, sale of maintenance of aircraft accessories, radio, communication and navigation equipment and any other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an "aeronautical activity".

AIRCRAFT: - Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

AIRPORT: - Shall mean Fayetteville Municipal Airport, Drake Field, Fayetteville, Arkansas owned and operated by the City of Fayetteville as a Department.

AIRPORT BOARD: - Shall mean the seven member board, appointed selected by the Fayetteville City Council to provide guidance for Airport operations and practices and procedures.

AIRPORT DIRECTOR: - Shall mean the Manager or Director of the Airport as designated by the City of Fayetteville.

AIRPORT TRAFFIC AREA: - Shall be as defined in the current Federal Aviation Regulations, Part 1, and as such may be amended from time to time.

CITY COUNCIL: - Shall mean the City of Fayetteville, Arkansas, Council as duly constituted at any time.

DRIVER: - Any person who is in actual physical control of a vehicle.

MINIMUM STANDARDS: - The requirements, standards, rules and regulations established herein, as amended from time to time by the City Council upon recommendation of the Airport Board,

setting forth the minimum requirements to be met as a condition for the right to conduct any activity on the Airport.

MOTOR VEHICLE: - any ground vehicle that is self-propelled.

MOVEMENT AREA: - the area which is under the direct control of the tower, it includes 500 feet perpendicular to and either side of the runway centerline, 200 feet outward from each threshold and a 118 foot area which encompasses each taxiway.

ENTITY: - Any person, firm, partnership, corporation, company or association; and including any trustee, receiver of similar representative thereof.

PILOT: - Any person who is responsible for control of an aircraft.

SECTION 2: GENERAL USE AGREEMENT

No entity, incorporated or otherwise, shall conduct any activity at the Fayetteville Municipal Airport, Drake Field, unless a valid agreement authorizing such activity has been entered into between the entity and the City of Fayetteville.

The agreement will present the terms and conditions under which the activity will be conducted at the airport, including but not limited to: term of the agreement, rent charges, fees and other charges, and the rights and obligations of the respective parties.

SECTION 3: GENERAL REQUIREMENTS

The following general requirements shall apply to all activities at the Airport:

FEDERAL AIR TRAFFIC RULES: The rules of the Federal Aviation Administration for aircraft operated anywhere in the United States, and presently or hereafter effective, are hereby referred to, adopted and made a part hereof as though fully set forth and incorporated herein.

SAFEGUARD OF PERSONS AND PROPERTY. The Airport Director or his/her designated representative shall at all times have authority to take necessary legal actions to safeguard any person, aircraft, equipment or property at the Airport.

LEASE OF AIRPORT PROPERTY. The City of Fayetteville may lease property within the building area or other portions of the Airport for the construction of hangars, buildings, aprons, taxiways and auto parking lots in accordance with the approved Airport Layout Plan.

Leased land from which any building, hangar, or structure is removed after due notice will be cleaned and put back to the condition as originally received by the Lessee.

Lease applications will be submitted through the Airport Director's Office for approval. Following review by the Airport Director and the Airport Board, applications will be processed through the City's Contract Review Committee and the City Attorney for signature by the Mayor. The exceptions will be the standard leases, such as T-Hangar Leases, etc., which, following review and approval by the Airport Director, will be forwarded through the City's Contract Review Committee for the Mayor's signature. All applications for sub-lease or assignment must be submitted to the Airport Director for approval, then forwarded through the City's Contract Review Committee for the Mayor's signature.

No structures may be erected beyond the building restriction line or in conflict with the approved Airport Layout Plan, unless revision are made to the Plan and approved by the FAA.

Fuel Flowage Fees: A fuel flowage fee will be charged for all fuel dispensing activities based on the established City Ordinance, Title IX (9), Chapter 91.16 currently approved and placed in effect by the City Council.

Lien for Charges: A lien for charges may be used to enforce the payment of any charge made for repairs, routine invoicing, improvements, storage or care of any personal property, made or furnished by the City or its agents, in connection with the operation of the Airport. The City shall have a lien upon such personal property, which shall be enforceable as provided by law.

Lien Possessory Right: A lien possessory right may be used to enforce the non-payment of charges. The Airport Manager may retain possession of personal property until all reasonable, customary and usual compensation shall have been paid in full.

Unauthorized Signs and Equipment: No signs or non-aeronautical equipment or portable buildings/house trailers may be erected, moved in or installed on the Airport property except as may be specifically authorized by the Airport Director, in accordance with the City of Fayetteville Sign Ordinance.

Surreptitious Activities: Any person observing suspicious, unauthorized or criminal activities must report such activities immediately to the Airport Administration or Police.

Wrecked/Damaged/Disabled Aircraft: The owner of any aircraft damaged as a result of an accident shall be responsible for the prompt removal of the aircraft following release by the FAA or the National Transportation Safety Board. No aircraft in a non-airworthy condition so disabled as to give the appearance of a wrecked plane, or otherwise so damaged as to be unsightly, shall at any time be parked or tied down out of doors in public view, except with specific authorization by the Airport Director.

Damage to Airport: Any entity, and/or the owner of any aircraft or vehicle causing damage of any kind to the Airport or airport facilities shall be liable to the Airport.

Injury to Persons: Persons entering upon Airport grounds do so at their own risk and with no liability incurring to the Airport for any injury or damage to person or property. Further, any person desiring to use the Airport shall observe and obey all valid laws, resolutions, orders, rules and regulations promulgated and enforced by the Airport or by any authority having jurisdiction over the conduct and operation of the Airport including the FAA. It shall be incumbent upon the user/tenant to be familiar with these regulations.

Pilots: Only properly licensed persons holding current airman and medical certificates issued by the FAA shall be authorized to operate aircraft upon the Airport. This limitation shall not apply to properly licensed sport pilots, ground operations by properly trained and qualified person, students in training while under the supervision of licensed instructors, or to public aircraft of the Federal Government or of a State, territory or political subdivision thereof, or to aircraft licensed by a foreign government with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

NOTE: Use of the Airport by ultralight vehicles/motorless aircraft without operational contact with the ATCT shall be subject to prior approval by the Airport Director and shall be in accordance with FAR PART 103 and any other rules set by the Airport. Ultra-light operators must be familiar with traffic pattern procedures and shall maintain radio contact with the Air Traffic Control Tower.

Intoxicants and Narcotics Prohibited: No person under the influence of an intoxicant or narcotic shall operate or fly in any aircraft upon or over the Airport; provided however, such prohibition shall not apply to a passenger when accompanied by a nurse or caretaker in an aircraft apart from the pilot.

Foreign Objects: No foreign objects, including bottles, cans, scrap or any object that may cause damage to an aircraft shall be left upon the floor of any building or upon any part of the surface area of the Airport.

Authorized Persons - Air Operations Area (AOA): Any person who has authority to enter the AOA and who permits a guest to accompany him or her shall be responsible for ensuring that such guest remain accompanied by an authorized person at all times while in the AOA. Any person entering the AOA shall ensure that any gate through which entry is gained is properly closed after they enter and is to notify the Airport Management promptly if such gate does not close properly. If vehicle access is used to enter, the vehicle operator, after proceeding through the open gate will stop, and wait until the gate is closed before proceeding to his or her destination. No unrestrained pets, or animals, will be permitted in the AOA.

Vehicle Operations - Air Operations Area - (AOA): No person shall operate any vehicle in the AOA unless such person is licensed to operate such vehicle on the public highways of this State, or unless such vehicle is licensed for operation on such highways or is specially authorized for operation on Airport property only.

No person shall operate any vehicle on any part of the Movement Area without first obtaining permission from the Control Tower, or after its closure, advising of position and intentions by use of the Common Traffic Advisory Frequency.

Every person operating a vehicle in the AOA shall obey the lawful order, signal or direction, by voice, hand or otherwise, of the Control Tower or of any Airport staff member, Airport Rescue and Fire Fighting staff member or law enforcement officer.

No person shall operate any vehicle in the AOA unless authorized to do so by the Airport Director or his/her designated representative.

No person shall operate any vehicle on any part of the airport in a negligent manner or while the operator is under the influence of intoxicating beverages, narcotics or any substance which could adversely affect the full and rational exercise of a driver's mental or physical faculties, or when the vehicle is in an unsafe condition or equipped or loaded so as to endanger persons or property or in a manner unsafe for existing conditions.

All persons on the Movement Area shall obey the following Airport Control Tower light signals:

RED	STOP
FLASHING RED	CLEAR RUNWAY IMMEDIATELY
GREEN OR FLASHING GREEN	PROCEED
ALTERNATING RED & GREEN	USE EXTRA CAUTION
FLASHING WHITE	RETURN TO POINT OF ORIGIN

No person shall operate any vehicle on the runway, taxiway or movement area unless such vehicle is equipped with a two-way radio in operating condition.

All aircraft, motor vehicles and ground equipment while inside the AOA must be adequately lighted or marked with suitable reflectors during the hours of darkness or periods of reduced visibility during the daylight hours. Reduced visibility is defined as any ground visibility less than 500 feet.

All ground self-propelled vehicles, except responding emergency equipment, shall yield the right-of-way to any aircraft in motion. All aircraft shall hold their positions during an emergency unless otherwise directed by the Control Tower.

Pedestrians and aircraft shall at all times have right-of way over vehicular traffic. All vehicles shall pass to the rear of taxiing aircraft.

No person shall operate, park or stop any vehicle in any aircraft parking area, landing areas, ramp or taxiway except as authorized by Airport Management.

No person shall operate or park any ground vehicle in any area that is not designated by signs or markings.

No person shall operate any vehicle at speeds greater than fifteen (15) miles per hour upon any area of the AOA with the exception of the Movement Area, in which vehicles shall not operate at speeds greater than thirty five (35) miles per hour.

Emergency vehicles while responding/training and official Airport vehicles being used in the performance of official duties are excluded from this section when necessary to accomplish an emergency or official mission; however, such vehicles shall at all times be in contact with the Control Tower.

Fueling of Aircraft: Aircraft shall not be fueled while the engine is running, or while in a hangar, nor other enclosed place.

All fuel trucks will be equipped, operated and maintained in accordance with the National Fire Protection Association, Incorporated, NFPA Manual 407 "Aircraft Fuel Servicing."

Persons or aviation businesses wishing to supply and dispense aviation fuel for their private use must first apply for a permit, be granted a permit, and comply with the "Minimum Standards for Self Fuelers" before initiating their self fueling program.

Public sale of automobile gas for use in aircraft will not be permitted on the Airport.

Aviation or auto fuels will not be stored within a hangar and all fuel which is supplied to the Airport for aeronautical use will pay the applicable flowage fees as specified by City Ordinance.

Tie-down of Aircraft: All aircraft, not hangared, shall be tied down or secured at night and during inclement weather. Aircraft owners or their agents are responsible for the tie-down or security of their aircraft.

Running Aircraft Engines: On aircraft not equipped with adequate brakes, the engine shall not be started until and unless the wheels have been set with blocks attached to ropes or other suitable means for removing them.

No airplane will be propped, started or left running without qualified personnel at the controls.

No engine shall be started or run inside any building.

Damage to Runway Lights: Damage to any field light or fixture shall be reported to Airport Management immediately. Persons causing damage to runway and taxiway lights, as a result of negligent operation of an aircraft, vehicle or as result of a willful act will be liable for replacement cost of the light(s) and/or fixture(s).

Taxiing Aircraft: No person shall taxi an aircraft until he/she has ascertained that there will be no danger of collision with any person or object in the immediate area.

Aircraft will be taxied at a safe and prudent speed, and in such manner as to be at all times under the control of the pilot or taxi certified technician.

Parking Aircraft: Aircraft shall be parked in the areas designated by the Airport Manager for that purpose.

Aircraft will not be parked in such a manner as to hinder the normal movement of other aircraft and traffic unless specifically authorized by the Airport Director as an emergency measure or in an unusual situation. Vehicles shall use care to avoid interference with aircraft in the aircraft parking areas.

Unattended aircraft will be properly shut down, chocked and/or tied down.

Loading/Unloading of Aircraft: Aircraft will not be loaded or unloaded with the engine(s) running with the exception of medical operations.

Authority to Suspend Operations: The Airport Director may suspend or restrict any or all operations whenever such action is deemed necessary in the interest of safety.

Take-offs on Apron, etc.: No take-offs or landings shall be made on the apron, parking ramp or taxiway except by special permission of the Airport Director.

Common Courtesy: Aircraft entering the traffic pattern shall exercise caution and practice courtesy so as not to cause aircraft already in the pattern to deviate from their course.

Parachute Jumping: Parachute jumping into the airport is prohibited except when special arrangements have been made which are authorized by the Airport Director.

Special Procedures: The Airport Director may, in the interest of safety or for special events, designate special traffic procedures for certain operations, such as air shows, lighter than air operations, banner towing, ultralights, etc. Prior approval from the Airport Director is required.

Fire Regulations: Every person using the Airport or its facilities for any purpose, shall exercise the greatest care and caution to prevent fires.

Smoking or open flame within fifty (50) feet of any aircraft or fuel truck is prohibited.

Compressed flammable gas shall not be kept or stored upon the Airport, except at such place as may be designated by the Airport Manager.

No flammable substance shall be used in cleaning motors or other parts of an aircraft inside a hangar or other building.

No one shall smoke, ignite a match or lighter in any airport public owned building.

The floors in all buildings shall be kept clean and free from oil. Volatile, flammable substances shall not be used for cleaning floors.

Refuse, trash, or litter, such as, boxes, crates, cans, bottles, paper, tall grass/weeds shall not be permitted to accumulate in or about a hangar.

At least two 20 lb portable fire extinguishers will be available within 50 feet of the fuel pumps or truck where the open hose discharge capacity of the fuel pump is not more than 200 gallons per minute; at least one wheeled 80 lb fire extinguisher where the open hose discharge capacity is more than 200 gallons per minute, but not more than 350 gallons per minute; at least two wheeled 80 lb fire extinguishers where the open hose discharge capacity is greater than 350 gallons per minute.

All aviation fuel nozzles will have "dead man" controls which will shut off the fuel flow when the nozzle hand control is released. No "lock open" type nozzle shall be permitted for fueling aircraft.

Only when the pilot or crew member is present at the aircraft will a fueling operation take place while passengers are aboard.

In all matters related to aircraft fueling safety the provisions of NFPA Manual 407 "Aircraft Fuel Servicing" published and available from the National Fire Protection Association, Incorporated, 470 Atlantic Avenue, Boston, Massachusetts 02210, shall prevail (as updated or amended from time to time).

Any fuel which becomes spilled through the fueling procedure, fuel farm loading and unloading procedure or fuel which is spilled from any portion of any aircraft is the responsibility of the owner of the aircraft or fueling agency involved. It is their responsibility to clean up the spill. The clean up procedure will conform to those set forth by the Department of Pollution Control and Ecology and all other City, State and Federal guidelines. Under no circumstances is fuel to be "washed down", but instead it shall be absorbed with an approved material and disposed of in the manner specified by City, State and Federal guidelines. All costs of such clean ups shall be borne by the owner/company/tenant involved.

Aircraft Painting: Aircraft painting is prohibited in all buildings except those approved as paint shops. All such facilities will abide by all local, City, State and Federal regulations in place and as amended from time to time by the governing bodies. Any violations and subsequent fines/fees which may be levied shall be borne by the party involved in the violation.

Knowledge of Rules Implied: By publication of these Minimum Standards all persons will be deemed to have knowledge of the contents. Copies of the Minimum Standards are available to all persons requesting a copy.

Copies will be available at all times in the airport office, and copies will be furnished to owners and operators of aircraft based on the Airport.

Conflict in Rules: If and where there is conflict in these and the Federal Aviation Rules (FARs) the latter shall prevail.

SECTION 4: PENALTIES

Penalty for Violation: Any person operating or handling an aircraft in violation of any of these Minimum Standards or refusing to comply herewith, may, at once, be asked to leave the Airport, or may be denied use of the Airport by the Airport Director. When extreme circumstances or conditions exist, said violator may be deprived of the further use of the Airport and its facilities for such period of time as may appear necessary for the protection of life and property.

Any violation of these Standards, as adopted by Council Resolution, shall be subject to all applicable laws of the City of Fayetteville Police and Fire Departments and punishable by fine. This section is cumulative of all other penalties for violation of Federal, State and Local laws, rules, regulations and ordinances.

Prosecution for an offense under this Resolution does not prevent the use of other enforcement remedies or procedures, including administrative measures applicable to the person charged with the conduct involved in the offense.

If any provision of this Resolution is held insufficient as the basis of criminal prosecution as provided herein, the same shall nevertheless be a ground for revocation or suspension of any license, permit or privilege issued under this Resolution.

For any violation hereof, a law enforcement officer or other appropriate enforcement official may require the person cited to sign a written or printed notice to appear in court. If the person cited signs such notice, the officer or other appropriate official may permit the person to proceed without further detaining him/her at that time. Signing the notice shall not be an admission of guilt.

Refusal of the person cited to sign the notice, or failure after signing the notice to appear in court as required, shall be grounds for suspending a license/permit or other privileges at the Airport.

Nothing in this article shall prevent the issuance of a warrant of arrest on the same charge, and trial and conviction thereon as in other cases.

The Director may request any person committing a violation to cease said activity or leave the

Airport, and ask any person who fails to comply with such request to leave.

In any case in which the Federal Aviation Administration, the Department of Pollution Control and Ecology or the Environmental Protection Agency or any other governing agency assesses a civil penalty against the Airport for any Federal/State/Local Regulation violation, the City of Fayetteville shall be reimbursed by the person whose act, or failure to act, caused the violation resulting in the civil penalty or by the person whose employee, agent, servant or independent contractor caused the violation resulting in the civil penalty. This shall be the analogues with concern to any other penalty caused by the person whose act or failure to act causes a violation.

Termination of Permits/Leases/Contracts: Any person, who continues to violate these Minimum Standards shall forfeit his or her rights to the use of the facilities. Issuance of multiple citations or warnings for violations in a 12 month period will be deemed as a basis for conducting a review of the operator/tenant/contractor by the City of Fayetteville. Judgments made based on this review shall be considered binding and cause for termination of their permit/lease/contract. Appeals to action taken by the Airport Management should be made to the Airport Board within thirty days to request a hearing review.

Saving Clause: Should any part of this Resolution be invalid or unconstitutional, no other part shall necessarily be affected thereby.

SECTION 5: APPLICATIONS

Any person, firm or corporation desiring to enter into any form of activity of any nature upon the premises of the Fayetteville Municipal Airport shall first obtain permission from the Airport Director. Each application shall be made in writing and filed with the Airport Director, setting forth in detail the nature of the proposed activity including but not limited to the names and addresses of the owners, the proposed activity, the number of employees, the amount of space or land required and the qualifications of the owners to perform the proposed activity. The application form located at Attachment 1 will be filled out completely.

SECTION 6: NOTICE

Upon the filing of such an application with the Airport Director, and provided it meets the requirements set forth in Section 5, it shall be referred to the Airport Board and Mayor with any recommendations that Airport Staff deem necessary.

Any like business, already in operation shall be notified by first class mail of any application which would incorporate a duplication of a business currently in operation/existence.

SECTION 7: LEASE/CONTRACT/PERMIT

Upon approval of any such application as submitted or modified, the Airport Director shall cause to be prepared a suitable lease/contract/permit setting forth the terms and conditions of the land/facility to be utilized or built, which lease/contract/permit shall, in every instance, be conditioned upon:

- a. Original and continued compliance with the Standards required for each particular activity approved and shall refer and incorporate these Standards by reference;
- b. Any structure or facility to be constructed or placed upon the Airport shall be constructed in a manner to conform to all safety regulations of the State of Arkansas, the City of Fayetteville, the FAA and any other governmental entity having regulatory authority in connection therewith, and shall be in compliance with the requirements of current building codes and fire regulations of the City of Fayetteville; and that any construction once commenced will be diligently pursued to completion.
- c. The right of the City Council to modify or add to the Standards for operation at the Airport.

SECTION 8: GENERAL REQUIREMENTS FOR ALL AIRPORT ACTIVITIES

The following general requirements shall apply to all activities at the airport. Each applicant, and all others, for permission to conduct activities at the Airport, shall comply with the following and enter into a written agreement with the City of Fayetteville Airport Director prior to conducting activity of any kind:

- a. Each entity shall demonstrate a history of management and personnel ability, or a Business Plan for the service to be provided, in conducting the same, similar, or comparable type of service or activity.
- b. Each entity shall have the financial responsibility and ability to provide facilities and services proposed;
- c. Each entity has, or can, reasonably secure necessary certificates from the FAA or other authority where the same are required for the activity proposed;
- d. Each entity can and will, at all times, meet standards of all Local, State and Federal bodies having regulatory authority over the Airport entity and any proposed activity.
- e. Each entity shall pay a fee, and/or shall lease space from the Airport or land on which to build said suitable space. Each entity will maintain its exclusive area at all times, subject to the approval of the Airport Director.

- f. Each entity shall operate in a manner which does not infringe on the rights or property of others and conduct all activity in a fashion which shows due trust to the public.
- g. Each entity shall agree to indemnify and hold harmless, the City of Fayetteville, of and from any claims of liability for personal injury, death, or property damage resulting from its operation at the Airport. Insurance in the amounts listed, as applicable, shall be maintained in force at all times until the permit is relinquished or cancelled. The City of Fayetteville shall be listed as additional insured on all commercial insurance policies.

COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE FOR AIRPORT PREMISES:

Liability coverage to provide for bodily injury, mental anguish, personal injury and damage to someone else's property resulting from the ownership, maintenance or use of airport premises. Including, but not limited to the use of mobile equipment which is owned or leased while it is on the airport premises. Mobile equipment means a land vehicle (including machinery and/or apparatus attached to it), whether or not it's self propelled, used exclusively for the maintenance or handling of aircraft or airport premises.

COVERAGE AND LIMITS PROVIDED FOR THE USE OF AIRCRAFT ON THE AIRPORT PREMISES:

General Aviation:

General aviation is to be considered the use of an aircraft for the personal business and/or pleasure use of the owner or leaseholder of an aircraft. Liability limits required by the City of Fayetteville as owner/operator of the Airport shall be:

Aircraft and Comprehensive Public Liability and Property Damage:

\$250,000. Bodily Injury each Occurrence
\$250,000. Personal Injury each Occurrence
\$250,000. Property Damage including Fire Legal Liability
\$3,000. Medical Payments each Person

Commercial Aviation:

Commercial aviation is to be considered the use of an aircraft for the purpose of monetary, financial or beneficial gain by goods and services. These operations include, but are not limited to, activity directly related to the service, distribution,

sale, renting, leasing, repair or service of aircraft, aircraft engines or other aircraft components, or operation of an aerial application service, airport, hangar, pilot training, instructional institution, service, air or cargo charter, commercial flying service or aircraft salvage service.

Liability limits required by the City of Fayetteville as owner/operator of the Airport shall be:

Aircraft and Comprehensive Public Liability and Property Damage:

\$1,000,000. Bodily Injury each Occurrence
\$1,000,000. Personal Injury each Occurrence
\$1,000,000. Property Damage
\$500,000. Fire Legal Liability
\$3,000. Medical Payments each Person

- h. Each entity of any kind shall not engage in any activity for furnishing services to the public at the Airport unless:
 - (1) Said service is furnished on a fair, equal and nondiscriminatory basis to all users thereof, and
 - (2) Fair, reasonable and non - discriminatory prices are charged for each unit of sale or service, provided that reasonable and non - discriminatory discounts, rebates or other similar types of price reduction may be made to volume purchasers.
- i. Each entity at all times, will comply with all local, state, and federal regulations and requirements. Any associated fees, or fines, levied to the Airport as owner in connection with a tenant/contact or operator, or any others shall be passed along and borne by the tenant or any other operation deriving benefit from the use of the Airport's property/assets.
- j. Each entity shall possess all licenses, permits, and certificates required by the FAA, the State of Arkansas and the City of Fayetteville and will ensure that all remain current and in effect.

SECTION 9: BASIC LEASE TERMS AND CONDITIONS

Airport facilities are leased to aviation related business and industry, to aircraft owners and operators and compatible businesses and industries as established by the Airport Board.

- * Modifications to airport owned facilities must be approved by the Airport Director, before installation, or modification, and become the property of the airport unless specifically

addressed in writing.

- * Land leases for the construction of facilities are entered into between the parties where it is the responsibility of the tenant to fully maintain and operate his/her facility including the structure and systems.
- * Ownership of facilities constructed on airport property will revert to the City at the end of the lease term and any options that have been activated. At the time of reversion, the facility will be in a maintenance free condition or the property returned to its original condition and all debris removed from airport property.

Facilities constructed on airport property must meet all code requirements established by the City of Fayetteville, the State of Arkansas and the FAA. A Notice of Proposed Construction or Alteration form, FAA Form 7460-1, shall be submitted and approved by the FAA before construction commences. All users of Airport facilities will keep the facilities clean and neat at all times. It is essential that grass be mowed and trash be properly disposed of. All tenants will insure that their areas are free of objects that may be a Foreign Object Damage (FOD) hazard.

A copy of the Fayetteville Municipal Airport Lease Application Form is included as part of these Minimum Standards.

SECTION 10: AMENDMENTS TO STANDARDS AND NOTICES

The Airport Board, along with the Airport Director, shall review the *Minimum Standards for Operations and Activities* from time to time and shall recommend such revisions or amendments as shall be deemed necessary. The Minimum Standards are established in order to protect the health and safety of the public and interest of the City of Fayetteville. Upon approval, all amendments are in full force and effect and all commercial operators, tenants and clients shall be required to conform to such amended standards.

NOTICES

Notice of intent to amend the Standards as established herein shall be published in a newspaper of at least local circulation and be considered sufficient notice when printed for the public as a general notice to all citizens.

Attachment 1, Lease Application Form (two pages)

**FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
LEASE APPLICATION FORM**

1. **NAME OF LEASEHOLDER(S) OR CORPORATE REPRESENTATIVE(S) AS APPLICABLE**

2. **HOME ADDRESS OF LEASEHOLDER(S) OR CORPORATE REPRESENTATIVE(S)**

3. **NAME OF CORPORATION AS INCORPORATED**

4. **STATE OF INCORPORATION (include copy of incorporation paperwork)**

5. **ADDRESS AND CONTACT INFORMATION OF CORPORATION FOR PURPOSE OF NOTICES**

Street address or P. O. Box: _____
City, State, Zip: _____
Telephone: _____ Cell phone: _____
Fax: _____ E-mail: _____
6. **BUSINESS AND/OR SERVICES TO BE PROVIDED**

7. **HOURS OF OPERATION**

8. **NAMES AND QUALIFICATIONS OF PERSONS CONDUCTING THE BUSINESS AND/OR PROVIDING THE SERVICE IF DIFFERENT FROM ABOVE INCLUDING CONTACT INFORMATION**

**Fayetteville Municipal Airport
Lease Application
Page Two**

9. **TOTAL NUMBER OF EMPLOYEES INCLUDING MANAGEMENT**

10. **TOOLS, EQUIPMENT, SERVICES AND INVENTORY REQUIRED TO CONDUCT
PROPOSED BUSINESS AND/OR SERVICE**

11. **DESCRIPTION OF PROPERTY TO BE LEASED**

12. **TYPE AND EXTENT OF CONSTRUCTION OR REQUIRED IMPROVEMENTS TO
AIRPORT OWNED PROPERTY CONTEMPLATED AND PLANNED BUDGET, AS
APPLICABLE**

13. **LIST OF AIRCRAFT AND TYPE, IF ANY (INCLUDE "N" NUMBER), TO BE
OPERATED BY TENANT**

14. **PROPOSED COMMENCEMENT DATE OF LEASE**

15. **PROPOSED TERM OF LEASE**

16. **INSURANCE PROVIDER (City of Fayetteville/Airport Administration Office must
be listed as additional insured and be provided a copy of the Certification of
Insurance.)**

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

21-Jun

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Approve a Contract with Woolsey Aviation, DBA: Million Air Fayetteville, Roger Woolsey, President/CEO, 8501 Telephone Rd, Houston, TX, 77061, phone: 731-640-4000, fax: 713-641-6788, email: rwoolsey@millionair.com., to provide aviation fueling and other services at Fayetteville Municipal Airport.

REVENUE
\$24,000.00
Cost of this request
5550.0955.4454.00
Account Number
NA
Project Number

\$ 1,281,168.00
Category/Project Budget
\$ 554,213.00
Funds Used to Date
\$ 726,955.00
Remaining Balance

Chrgs-Serv
Program Category / Project Name
Airport Revenue
Program / Project Category Name
Airport
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

6-6-05

Finance and Internal Service Director

Date

Received in City Clerk's Office



Mayor

Date

Received in Mayor's Office



Comments:

City Council Meeting of June 21, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Operations Director

From: Chief Marion Doss, Fire Management Team
Chief Gregg Riley, Fire Management Team
Chief Chris Lynch, Fire Management Team

Date: June 3, 2005

Subject: Amending Ordinance 33.046 of the Code of Fayetteville

RECOMMENDATION

The Fire Department recommends the approval of an ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.

BACKGROUND

Ordinance 33.046 was enacted to provide for Mutual Aid agreements with another municipality or legally organized fire department. Mutual Aid agreements are set up to provide reciprocal sharing of staffing and equipment in a time of need. During the 70 and 80's the City of Fayetteville entered into Mutual aid agreements with surrounding volunteer fire departments as well as the major cities in the region.

In the early 1980's, the City of Fayetteville amended this ordinance to provide for paid contractual fire protection service to individuals and neighborhoods. Contractual fire protection services obligated the Fayetteville Fire Department to commit resources to combat fires in contracted properties. This service was extended only to properties outside the corporate limits but, within two mile of the limits. In 2002, the ordinance was amended to raise the rates charged for fire contracts to more closely match the actual costs to administer the fire contract program. When the ordinance was amended it removed the two tier rate system to an individual only contract with a substantial rate increase. Since the end 2004 the city no longer has any active "Fire Contracts" as set forth in the ordinance.

DISCUSSION

The Fire Management Team has reviewed the current situation and determined that the Mutual Aid agreements in place with surrounding cities and volunteer fire departments will provide reciprocal resource deployment in case of emergencies. These agreements will still allow for the surrounding fire departments to request assistance outside the City of Fayetteville. Having the agreements in place negates the need for "Fire Contracts" with individual property owners.

Amending this ordinance will in no way affect the current Mutual Aid agreements with city and volunteer fire departments. These agreements have worked exceptionally well and have been vital to the successful termination of past emergencies. The Mutual Aid agreements only obligate the Fayetteville Fire Department to respond if that response does not significantly reduce the resources protection the city.

BUDGET IMPACT

None

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE III, CHAPTER 33, CITY OF FAYETTEVILLE CODE OF ORDINANCES TO CLARIFY THE METHOD BY WHICH FIRE PROTECTION SERVICES ARE PROVIDED OUTSIDE THE CITY LIMITS.

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

Section 1. That § 33.046, Providing Fire Protection Services Outside City, City of Fayetteville Code of Ordinances is hereby repealed, and the following is inserted in its stead:

33.046 Providing Fire Protection Services Outside City

The city fire department shall not provide fire protection services beyond the corporate limits and shall not combat any fire located outside the corporate limits except pursuant to:

- (A) A mutual aid agreement, approved by the City Council, with another municipal corporation or with a duly and legally organized fire department which operates in Washington County.
- (B) The city fire department shall have the right to refuse to respond to any fire located outside the city's corporate limits if, in the judgment of the fire chief, or authorized representative, fire protection within the city would be impaired by such a response.

PASSED and APPROVED this 21st day of June 2005.

APPROVED:

By

DAN COODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE AUTOMATIC MUTUAL AID AGREEMENT

This Agreement executed by and between the City of Fayetteville, Arkansas, hereinafter called the "City" and the Fire Chief or Commissioner of the undersigned Rural Fire Protection District, hereinafter called the "District" is agreed upon jointly by each organization.

WHEREAS, the City staffs and equips an organized Fire Department; and

WHEREAS, the District desires to enter into an Automatic Mutual Aid agreement with the City for the Fayetteville Fire Department to assist in combating fires which may occur on and around properties located with the Districts boundaries and within two (2) miles of the Fayetteville corporate limits.

WHEREAS, under Ark. code Ann. §14-53-102 (1987) and §33.046 of the Fayetteville Code of Ordinances, fire fighting machinery and equipment, with the necessary fire personnel to operate the same, may be used to combat fires beyond the corporate limits; and

WHEREAS, the purpose of this agreement is to set forth the terms and conditions, consistent with §33.046 of the Fayetteville Code of Ordinances, under which the Fayetteville Fire Department will combat fire on the property described below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, **the parties hereby agree as follows**:

1. During the term of this agreement both parties agree to provide Mutual Aid Fire Suppression Service to and shall assist in combating fires involving the principal residence occurring on the real property at the Property Owner's address listed in paragraph 7, subject to the conditions set out herein.

2. The term of this agreement shall commence upon the execution date of this document.

3. During the term of this agreement, both parties shall provide fire fighting machinery and equipment, with the necessary fire personnel to operate the same, to combat fires occurring on the aforesaid property provided, the City shall be under no obligation to respond to or remain at any fire located in said area if the Fayetteville Fire Chief determines that such response or continued presence will substantially impair the ability of the Fayetteville Fire Department to provide adequate fire protection services to Fayetteville or to adequately combat fire or fires occurring in Fayetteville. Neither party nor their representatives shall be liable for any damages or loss which occurs from any fire on the aforesaid property.

4. Neither party nor any official or employee of either party, involved in combating a fire on the aforesaid property shall be held liable for any damages or loss that occurs before, during or after the Fayetteville Fire Department combats a fire located on said property.

5. All members of both parties engaged in fighting a fire located on the aforesaid property shall be considered to be acting within their line of duty and in discharge thereof and shall not lose or forfeit any right or benefit in rank, pay, disability or retirement payments or benefits.

6. The either party may terminate this agreement by giving thirty (30) days written Notice of Termination.

Rural Fire Protection District: _____
District Address: _____
Property Address: _____

7. Any notice of termination shall be deemed given on the date the notice is deposited in the United States Mail, as evidenced by the postmark thereon, provided the correct postage is paid, and the notice is addressed as provided herein.

8. Any modifications to this agreement must be in submitted in writing and must be reviewed by the Fire Chief of the Fayetteville Fire Department and authorized by the Mayor of the City of Fayetteville or his designated representative and undersigned by the Property Owner.

IN WITNESS WHEREOF, this contract is executed on the date first above written.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
City Clerk

Rural Fire Protection District

Date Received: _____

14-53-102. Fire fighting beyond municipal limits.

(a)(1) In order to prevent the destruction by fire of property located outside the corporate limits of cities and towns and in order to lessen the loss caused on account of insufficient means to combat fires and as a protection against such loss, the city council or other governing body of any city or town having an organized fire department may provide by ordinance that the fire fighting machinery and equipment, with the necessary fire fighters to operate it, may be used to combat fires beyond the corporate limits of any city or town, upon such terms, conditions, and restrictions as may be prescribed in the ordinance.

(2)(A) If the city council or other governing body of any city or town enacts an ordinance to provide that its fire department may operate beyond its corporate limits, then the governing body of the city or town may further provide that necessary facilities may be built or constructed outside the corporate limits to house the fire fighting machinery, equipment, and the fire fighters in order to properly combat fires beyond the corporate limits, but only if:

(i) There are no active fire protection services offered in the area beyond the corporate limits of the city or town where the facilities are to be constructed; and

(ii) The county quorum court approves of the construction of the fire fighting facilities by a county ordinance.

(B) However, a city or town may construct necessary facilities to house the fire fighting equipment in areas where fire protection services currently exist if, in addition to the requirement of subdivision (a)(2)(A) of this section, the construction is approved by a unanimous vote of the board of directors of the fire department serving that area outside the corporate limits.

(b)(1) When the organized fire department of a city or town combats a fire beyond the corporate limits of the city or town, a reasonable effort must be made for ninety (90) days to obtain compensation or reimbursement for the services from the property owner involved.

(2) If the city or town is unable to obtain payment or reimbursement from the property owner for the services within the ninety-day period, the county wherein the property is located may reimburse the municipality for the service in an amount not to exceed two hundred dollars (\$200).

(c)(1) Neither the municipality nor any municipal official or fire department official or employee involved in combatting the fire shall be liable for any damages or loss that occurs while the department is combatting the fire outside the corporate limits of the city or town.

(2) The fire fighters shall have the same coverage as they have if they are injured while outside the city limits.

(d) All members of the fire department of any city or town, when engaged in fighting fire beyond the corporate limits of the city or town under the terms of any ordinance as authorized in this section, shall be considered to be acting within their line of duty and in discharge thereof. No member of the department shall lose or forfeit any right or benefit in rank, pay, disability, or retirement payments and benefits on account of out-of-city or out-of-town activities.

History. Acts 1951, No. 270, §§ 1, 2; 1957, No. 348, § 1; 1973, No. 114, §§ 1, 2; A.S.A. 1947, §§ 19-2106 - 19-2107; Acts 2001, No. 1464, § 1

RESOLUTION NO. 23-89

MICROFILMED

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT FOR FURNISHING HAZARDOUS MATERIALS INCIDENT RESPONSE SERVICES IN BENTON AND WASHINGTON COUNTIES.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the Mayor and City Clerk are hereby authorized and directed to execute an interlocal cooperation agreement for furnishing hazardous materials incident response services in Benton and Washington Counties. A copy of the agreement authorized for execution hereby is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 21st day of March, 1989.

APPROVED

By: William V. Martin
Mayor

ATTEST

By: Suzanne McWetky
City Clerk



RESOLUTION NO. 111-83

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK
TO EXECUTE A FIRE PROTECTION MUTUAL AID AGREEMENT
WITH THE CITY OF FARMINGTON.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

That the Mayor and City Clerk are hereby authorized and
directed to execute a fire protection mutual aid agreement
with the City of Farmington. A copy of the agreement authorized
for execution hereby is attached hereto, marked Exhibit "A", and
made a part hereof.

PASSED AND APPROVED this 20th day of September, 1983.

APPROVED:

By: Paul R. Moland
Mayor

ATTEST:

By: Mary E. Griffin
City Clerk

MUTUAL AID FIRE PROTECTION AGREEMENT

BETWEEN THE

CITY OF Farmington, ARKANSAS

AND THE

CITY OF Fayetteville, ARKANSAS

In order to better protect the lives and property of the citizens residing and owning property within the corporate limits of the Parties to the agreement and for the mutual benefit of the Parties and the persons whom they serve and protect, it is hereby agreed:

THAT each Party, upon a properly authorized request of the other, will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities and missions of the Parties, such aid and assistance to include, but not be necessarily limited to, the providing of supplemental and/or standby personnel and equipment for such periods of time and at such places within the corporate limits of the aided party as shall be requested and mutually agreed upon, from time to time.

THAT such assistance is intended to be reciprocal and will be extended on this basis and in accordance herewith unless and until such time as either party hereto shall give notice to the other of a withdrawal from the agreement.

THAT if either party to this agreement joins in a similar agreement with cities having like fire protection agencies, that such agreements shall not be construed to be an extension of this agreement and the obligations of the parties hereto, unless the parties to this agreement by official action approve the extension of this agreement at which time a new agreement covering all parties will be executed.

IN WITNESS WHEREOF this agreement has been executed by the respective parties this
20th day of September, 1983.

ATTEST: Mary E. Griffin
City Clerk

ATTEST: [Signature]
City Clerk

CITY OF Fayetteville Arkansas
By: Paul R. Noland
Mayor

and Paul Leane
Fire Chief

CITY OF Farmington
By: Jon R. Steele
Mayor

and Bill Z. Ambrose
Fire Chief

TO THE CITY OF **Prairie Grove**

TO THE CITY OF **Fayetteville**

IN WITNESS WHEREOF, the undersigned, the Mayor and the City Clerk of the City of **Prairie Grove**, have hereunto set their hands and the seal of said City, this 17th day of December, 1971.

THAT each of the undersigned, the Mayor and the City Clerk of the City of **Prairie Grove**, will lead to the other, in the event of an emergency, such as fire, flood, or other emergency, for the purpose of providing fire protection services, for such periods of time as may be required, the aided party at the time of such emergency to time.

THAT such a period of time shall be extended on the basis of the number of fire engines, fire trucks, fire fighters, and other personnel drawn from the agreement.

THAT all other terms and conditions of the agreement shall remain in full force and effect, and the obligations of the parties to the agreement shall be official until the time at which time a new agreement shall be made.

IN WITNESS WHEREOF, the undersigned, the Mayor and the City Clerk of the City of **Prairie Grove**, have hereunto set their hands and the seal of said City, this 17th day of December, 1971.

TO THE CITY OF **Prairie Grove**

BY

Robert R. R. R.

ATTEST:

Robert R. R. R.
CITY CLERK

Lee Couch

DRAFT # 2

MUTUAL AID FIRE PROTECTION AGREEMENT
BETWEEN THE

CITY OF Fayetteville, ARKANSAS

AND THE

CITY OF Elkins, ARKANSAS

In order to better protect the lives and property of the citizens residing and owning property within the corporate limits of the Parties to the agreement and for the mutual benefit of the Parties and the persons whom they serve and protect, it is hereby agreed:

THAT each Party, upon a properly authorized request of the other, will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities and missions of the Parties, such aid and assistance to include, but not be necessarily limited to, the providing of supplemental and/or standby personnel and equipment for such periods of time and at such places within the corporate limits of the aided party as shall be requested and mutually agreed upon, from time to time.

THAT such assistance is intended to be reciprocal and will be extended on this basis and in accordance herewith unless and until such time as either party hereto shall give notice to the other of a withdrawal from the agreement.

THAT if either party to this agreement joins in a similar agreement with cities having like fire protection agencies, that such agreements shall not be construed to be an extension of this agreement and the obligations of the parties hereto, unless the parties to this agreement by official action approve the extension of this agreement at which time a new agreement covering all parties will be executed.

IN WITNESS WHEREOF this agreement has been executed by the respective parties this 12th day of August, 19 71.

ATTEST:

Joel L. Burch
City Clerk

CITY OF Elkins
By: John R. Burch
Mayor

and Forest R. Althoff
Fire Chief

REGIONAL MUTUAL AID PROTECTION AGREEMENT
FOR FIRE SERVICE

In order to better protect the lives and property of the citizens residing and owning property within the corporate limits of the Cities of Bentonville, Fayetteville, Rogers, Siloam Springs, and Springdale, and for the mutual benefit of the cities and the persons whom they serve and protect, it is hereby agreed:

THAT each City, upon a properly authorized request of the other, will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities and missions of the Fire Department of the cities a party hereto, such aid and assistance to include, but not be necessarily limited to, the providing of supplemental and/or standby personnel and equipment for such periods of time and at such places within the corporate limits of the aided city as shall be requested and mutually agreed upon, from time to time.

THAT such assistance is intended to be reciprocal and will be extended on this basis and in accordance herewith unless and until such time as any party hereto shall give notice to the other of a withdrawal from the agreement.

THAT if any party to this agreement joins in a similar agreement with another city or cities having like fire protection agencies, that such agreements shall not be construed to be an extension of this agreement and the obligations of the parties hereto, unless the parties to this agreement unanimously approve, by official action, the extension of this agreement at which time a new agreement covering all parties will be executed.

CITY OF BENTONVILLE passed and approved this 27th day of July, 1971.

APPROVED: Robert J. Lawrence
Mayor

ATTEST: Vicki S. [Signature]
City Clerk

CITY OF FAYETTEVILLE passed and approved this 15th day of July, 1971.

APPROVED: [Signature]
Mayor

ATTEST: Loretta Moore
City Clerk

CITY OF ROGERS passed and approved this 6 day of August, 1971.

APPROVED: [Signature]
Mayor

ATTEST: Laura Whinnick [Signature]
City Clerk

CITY OF SILOAM SPRINGS passed and approved this 3 day of August, 1971.

APPROVED:

Robert J. Henry
Mayor

ATTEST:

Neal Lancaster
City Clerk

CITY OF SPRINGDALE passed and approved this 3 day of August, 1971.

APPROVED:

Paul Phillips
Mayor

ATTEST:

L. H. A. Braden
City Clerk

RESOLUTION NO. 78-92

A RESOLUTION STATING THE CITY OF FAYETTEVILLE'S WILLINGNESS TO PROVIDE FIRE PROTECTION THROUGH MUTUAL AID UPON REQUEST OF THE FIRE DEPARTMENT HAVING PRIMARY RESPONSIBILITY, TO ANY AREA WITHIN FIVE MILES OF THE CORPORATE LIMITS OF FAYETTEVILLE.

WHEREAS, the Fayetteville Fire Department has for many years provided mutual aid response upon request to all Washington County rural fire departments surrounding the City of Fayetteville, and in addition, provides mutual aid response through a written agreement with the Springdale, Rogers, Bentonville, Siloam Springs, and Prairie Grove Fire Departments, and

WHEREAS, Act 833 of 1991, as amended by Act 10 of the First Extraordinary Session of 1992, provides that in order for municipal fire departments to participate in newly available state funds for the training of fire department personnel, purchasing of certain new equipment, and certain capital projects, such municipal fire departments must submit an official municipal resolution signed by the Chief Executive Officer of that municipality stating their willingness to provide fire protection through mutual aid agreement.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. The City of Fayetteville does hereby state its willingness to provide fire protection through mutual aid upon request of the fire department having primary responsibility, to any area within five (5) miles of the corporate limits of Fayetteville.

PASSED AND APPROVED this 5th day of May, 1992.

APPROVED:

By: Phil S. Vannoy
Mayor

ATTEST:

By: Sherry L. Thomas
City Clerk

Mutual Aid Fire
Protection/Johnson

MUTUAL AID FIRE PROTECTION AGREEMENT

BETWEEN THE

CITY OF Johnson, ARKANSAS

AND THE

CITY OF Fayetteville, ARKANSAS

In order to better protect the lives and property of the citizens residing and owning property within the corporate limits of the Parties to the agreement and for the mutual benefit of the Parties and the persons whom they serve and protect, it is hereby agreed:

THAT each Party, upon a properly authorized request of the other, will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities and missions of the Parties, such aid and assistance to include, but not be necessarily limited to, the providing of supplemental and/or standby personnel and equipment for such periods of time and at such places within the corporate limits of the aided party as shall be requested and mutually agreed upon, from time to time.

THAT such assistance is intended to be reciprocal and will be extended on this basis and in accordance herewith unless and until such time as either party hereto shall give notice to the other of a withdrawal from the agreement.

THAT if either party to this agreement joins in a similar agreement with cities having like fire protection agencies, that such agreements shall not be construed to be an extension of this agreement and the obligations of the parties hereto, unless the parties to this agreement by official action approve the extension of this agreement at which time a new agreement covering all parties will be executed.

IN WITNESS WHEREOF this agreement has been executed by the respective parties this 8th day of March, 2004

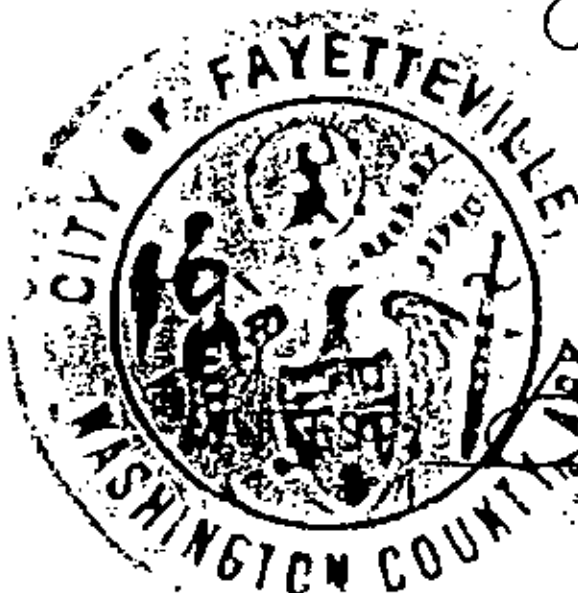
CITY OF Johnson, Arkansas
By: Richard Long
Mayor

and Matt Mills
Fire Chief

ATTEST: Betty Whittaker
City Clerk

CITY OF FAYETTEVILLE, ARKANSAS
By: Dan Coody
Mayor

and C. B. Bell
Fire Chief



RECEIVED

MAR 22 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



MUTUAL AID AGREEMENT

This MUTUAL AID AGREEMENT executed on this 19th day of August, 1985, by and between the City of Fayetteville, Arkansas and the Volunteer Fire Department of the Goshen Community.

WHEREAS, the purpose of this agreement is to better protect the lives and property of the citizens residing and owning property within the corporate limits or service areas of the parties.

NOW, THEREFORE, the parties to this agreement hereby mutually agree as follows:

1. Upon a properly authorized request of the other party, each party will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities of the parties. Such aid and assistance shall include, but shall not be limited to, the providing of supplemental and/or stand-by personnel and equipment for such periods of time and at such places within the corporate limits or service area of the aided party as shall be requested and mutually agreed upon from time to time, and in accordance with the following policy:

(a) Mutual aid by the City of Fayetteville:

(1) Mutual aid will be provided by the City of Fayetteville only upon request of the fire chief, or his designate, of the other party; automatic response by the Fayetteville Fire Department shall not be required.

(b) Mutual aid will be provided by the City of Fayetteville for the following occurrences:

- (1) Tornado or other disaster.
- (2) Flammable liquid fires.
- (3) Fires with life in danger.
- (4) More fires at one time than the other party's department can handle.
- (5) Failure of the other department's equipment.
- (6) Rescue which the other department does not have the equipment or training to provide.
- (7) Large wild land fires.

-2-

(c) Mutual aid to the City of Fayetteville will be provided for the following occurrences:

- (1) Tornado or other disaster.
- (2) When the manpower and equipment of the Fayetteville Fire Department are combatting another emergency.
- (3) In areas where there are no fire hydrants and the other party's department can provide tankers for water supply.
- (4) For large fires where it is necessary to rotate men for rest periods and the Fayetteville Fire Department is in need of additional manpower.
- (5) Failure of the Fayetteville Fire Department's equipment.

2. Assistance under this agreement shall be provided on a reciprocal basis until such time as either party shall give the other written notice of withdrawal and termination of this agreement.

3. Should either party execute a Mutual Aid Agreement with another party, such execution shall not be construed to be an extension of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the date first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By:

Mayor

Paul G. Roland

ATTEST

By:

City Clerk

Ernest C. Kennedy

GOSHEN VOLUNTEER FIRE DEPARTMENT

By:

Title:

Joe Dabney
Fire Chief

ATTEST

By:

Title:

Chris Quinn
President

MUTUAL AID AGREEMENT

This MUTUAL AID AGREEMENT executed on this 19th day of August, 1985, by and between the City of Fayetteville, Arkansas and the Volunteer Fire Department of the ROUND MOUNTAIN Community.

WHEREAS, the purpose of this agreement is to better protect the lives and property of the citizens residing and owning property within the corporate limits or service areas of the parties.

NOW, THEREFORE, the parties to this agreement hereby mutually agree as follows:

1. Upon a properly authorized request of the other party, each party will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities of the parties. Such aid and assistance shall include, but shall not be limited to, the providing of supplemental and/or stand-by personnel and equipment for such periods of time and at such places within the corporate limits or service area of the aided party as shall be requested and mutually agreed upon from time to time, and in accordance with the following policy:

(a) Mutual aid by the City of Fayetteville:

(1) Mutual aid will be provided by the City of Fayetteville only upon request of the fire chief, or his designate, of the other party; automatic response by the Fayetteville Fire Department shall not be required.

(b) Mutual aid will be provided by the City of Fayetteville for the following occurrences:

- (1) Tornado or other disaster.
- (2) Flammable liquid fires.
- (3) Fires with life in danger.
- (4) More fires at one time than the other party's department can handle.
- (5) Failure of the other department's equipment.
- (6) Rescue which the other department does not have the equipment or training to provide.
- (7) Large wild land fires.

-2-

(c) Mutual aid to the City of Fayetteville will be provided for the following occurrences:

- (1) Tornado or other disaster.
- (2) When the manpower and equipment of the Fayetteville Fire Department are combatting another emergency.
- (3) In areas where there are no fire hydrants and the other party's department can provide tankers for water supply.
- (4) For large fires where it is necessary to rotate men for rest periods and the Fayetteville Fire Department is in need of additional manpower.
- (5) Failure of the Fayetteville Fire Department's equipment.

2. Assistance under this agreement shall be provided on a reciprocal basis until such time as either party shall give the other written notice of withdrawal and termination of this agreement.

3. Should either party execute a Mutual Aid Agreement with another party, such execution shall not be construed to be an extension of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the date first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: Paul R. Noland
Mayor

ATTEST

By: Sumner C. Kennedy
City Clerk

ROUND MOUNTAIN FIRE DEPARTMENT

By: Ronald Boyd
Title: Chief

ATTEST

By: Meldon Davis
Title: President

MUTUAL AID AGREEMENT

This MUTUAL AID AGREEMENT executed on this 20th day of September, 1985, by and between the City of Fayetteville, Arkansas and the Volunteer Fire Department of the WHEELER Community.

WHEREAS, the purpose of this agreement is to better protect the lives and property of the citizens residing and owning property within the corporate limits or service areas of the parties.

NOW, THEREFORE, the parties to this agreement hereby mutually agree as follows:

1. Upon a properly authorized request of the other party, each party will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities of the parties. Such aid and assistance shall include, but shall not be limited to, the providing of supplemental and/or stand-by personnel and equipment for such periods of time and at such places within the corporate limits or service area of the aided party as shall be requested and mutually agreed upon from time to time, and in accordance with the following policy:

(a) Mutual aid by the City of Fayetteville:

(1) Mutual aid will be provided by the City of Fayetteville only upon request of the fire chief, or his designate, of the other party; automatic response by the Fayetteville Fire Department shall not be required.

(b) Mutual aid will be provided by the City of Fayetteville for the following occurrences:

- (1) Tornado or other disaster.
- (2) Flammable liquid fires.
- (3) Fires with life in danger.
- (4) More fires at one time than the other party's department can handle.
- (5) Failure of the other department's equipment.
- (6) Rescue which the other department does not have the equipment or training to provide.
- (7) Large wild land fires.

-2-

(c) Mutual aid to the City of Fayetteville will be provided for the following occurrences:

- (1) Tornado or other disaster.
- (2) When the manpower and equipment of the Fayetteville Fire Department are combatting another emergency.
- (3) In areas where there are no fire hydrants and the other party's department can provide tankers for water supply.
- (4) For large fires where it is necessary to rotate men for rest periods and the Fayetteville Fire Department is in need of additional manpower.
- (5) Failure of the Fayetteville Fire Department's equipment.

2. Assistance under this agreement shall be provided on a reciprocal basis until such time as either party shall give the other written notice of withdrawal and termination of this agreement.

3. Should either party execute a Mutual Aid Agreement with another party, such execution shall not be construed to be an extension of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the date first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: Paul R. Roland
Mayor

ATTEST

By: Supreme Kennedy
City Clerk

WHEELER VOL. FIRE DEPT.

By: Bill Patis

Title: Chf

ATTEST

By: William R. Harper
Title: President of the Board

MUTUAL AID AGREEMENT

This MUTUAL AID AGREEMENT executed on this 15TH day of AUGUST, 1985, by and between the City of Fayetteville, Arkansas and the Volunteer Fire Department of the WEDDINGTON (HIGHLAND) Community.

WHEREAS, the purpose of this agreement is to better protect the lives and property of the citizens residing and owning property within the corporate limits or service areas of the parties.

NOW, THEREFORE, the parties to this agreement hereby mutually agree as follows:

1. Upon a properly authorized request of the other party, each party will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities of the parties. Such aid and assistance shall include, but shall not be limited to, the providing of supplemental and/or stand-by personnel and equipment for such periods of time and at such places within the corporate limits or service area of the aided party as shall be requested and mutually agreed upon from time to time, and in accordance with the following policy:

(a) Mutual aid by the City of Fayetteville:

(1) Mutual aid will be provided by the City of Fayetteville only upon request of the fire chief, or his designate, of the other party; automatic response by the Fayetteville Fire Department shall not be required.

(b) Mutual aid will be provided by the City of Fayetteville for the following occurrences:

- (1) Tornado or other disaster.
- (2) Flammable liquid fires.
- (3) Fires with life in danger.
- (4) More fires at one time than the other party's department can handle.
- (5) Failure of the other department's equipment.
- (6) Rescue which the other department does not have the equipment or training to provide.
- (7) Large wild land fires.

-2-

(c) Mutual aid to the City of Fayetteville will be provided for the following occurrences:

- (1) Tornado or other disaster.
- (2) When the manpower and equipment of the Fayetteville Fire Department are combatting another emergency.
- (3) In areas where there are no fire hydrants and the other party's department can provide tankers for water supply.
- (4) For large fires where it is necessary to rotate men for rest periods and the Fayetteville Fire Department is in need of additional manpower.
- (5) Failure of the Fayetteville Fire Department's equipment.

2. Assistance under this agreement shall be provided on a reciprocal basis until such time as either party shall give the other written notice of withdrawal and termination of this agreement.

3. Should either party execute a Mutual Aid Agreement with another party, such execution shall not be construed to be an extension of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the date first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By:

Mayor

Paul R. Noland

ATTEST

By:

City Clerk

Supreme Kennedy

By:

Title: FIRE CHIEF

Joel Henderson

ATTEST

By:

Title: PRES Board of Directors

David F. Scott

MUTUAL AID FIRE PROTECTION AGREEMENT

BETWEEN THE

West Fork Rural Fire Protection Association and
the City Fire Department of West Fork, Arkansas

AND THE

City of Fayetteville, Arkansas

In order to better protect the lives and property of the citizens residing and owning property within the service area boundaries of the Parties to the agreement, and for the mutual benefit of the Parties and the persons whom they serve and protect, it is hereby agreed:

THAT each Party, upon a properly authorized request of the other, will lend to the other aid and assistance in any fire, natural disaster or other emergency falling within the capabilities and missions of the Parties, such aid and assistance to include, but not be necessarily limited to, the providing of supplemental and/or standby personnel and equipment for such periods of time and at such places within the service area boundaries of the aided party as shall be requested and mutually agreed upon, from time to time.

THAT such assistance is intended to be reciprocal and will be extended on this basis and in accordance herewith unless and until such time as either Party hereto shall give notice to the other of a withdrawal from the agreement.

THAT if either Party to this agreement joins in a similar agreement with a jurisdiction having like fire protection agencies, such agreements shall not be construed to be an extension of this agreement and the obligations of the Parties hereto, unless the Parties to this agreement by official action approve the extension of this agreement at which time a new agreement covering all parties will be executed.

THIS agreement, consisting of one (1) page, constitutes the entire agreement of the Parties hereto.

IN WITNESS WHEREOF this agreement has been executed by the respective Parties this 20th day of September, 1985.

CITY OF FAYETTEVILLE

By Paul R. Island
Mayor

FAYETTEVILLE FIRE DEPT.

By Bill Bailey
Fire Chief

ATTEST:

By Shirley Kennedy
City Clerk

CITY OF WEST FORK

By William E. Carter
Mayor

WEST FORK FIRE DEPT.

By V. M. McAlle
Fire Chief

WEST FORK RURAL FIRE
PROTECTION ASSOCIATION

By David E. Dwyer
President

ATTEST:

By: Paula Caudle
City Clerk

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

C.8
Chapter 33 Fire Protection Service
Page 26 of 26

6/21/2005
City Council Meeting Date

Fire Management Team
Submitted By

Fire
Division

Operations
Department

Action Required:

Approval of an ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

Remaining Balance

Program Category / Project Name

Program / Project Category Name

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director

6/7/05
Date

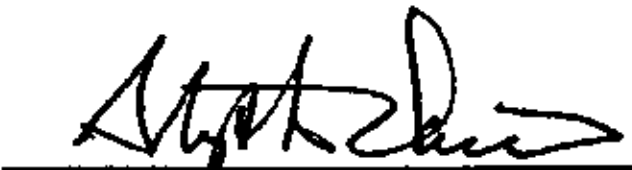
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

6/7/05
Date

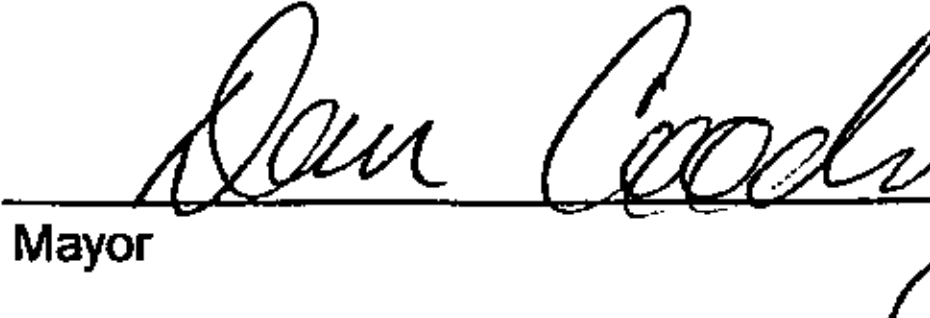

Finance and Internal Service Director

6/7/05
Date

Received in City Clerk's Office



Received in Mayor's Office


Mayor

6/8/05
Date

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: May 25, 2005

Subject: Rezoning for Dixie Development (RZN 05-1491)

RECOMMENDATION

The Planning Commission voted to recommend approval of the subject rezoning request rezoning approximately 24.35 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single-Family – 4 units per acre, should the City Council approve the preceding ANX 05-1490.

BACKGROUND

The subject property contains 24.35-acres and is owned by Dixie Development. It is located at the northeast corner of Mount Comfort Road, where the Minor Arterial Street turns north and continues as Hughmount Road. Property recently platted as Wildflower Meadows Subdivision adjoins the property to the east. Other subdivisions such as Bridgeport and Clabber Creek are located south and east of the subject property. If the preceding ANX 05-1490 is approved, the property will be zoned R-A, Residential-Agricultural.

The applicant intends to develop this property for a single family subdivision with 63 single family lots, similar in density and character to the surrounding subdivisions within the City and a recently approved subdivision in the Planning Area. The applicant requests a rezoning of the subject property from R-A to RSF-4 to allow the development of a residential subdivision.

Should the annexation of this property approved, staff recommends approval of this rezoning request based on findings stated herein. The development of this property will be compatible with those residential developments surrounding the property.

DISCUSSION

This item was heard at the regular Planning Commission on May 23, 2005. The Planning Commission voted 9-0-0 to recommend this rezoning request should the City Council vote to approve ANX 05-1490, which would incorporate the subject property into the City of Fayetteville.

The Planning Commission voted 5-4-0 to deny the request to annex the 24.35-acre property, as it would result in the creation of an island of unincorporated property. Anticipating that the denial of the annexation would be appealed by the applicant to the City Council, the City Attorney recommended that the Planning Commission make a recommendation for the rezoning request should the City Council approve the annexation.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1491 FOR APPROXIMATELY
24.35 ACRES LOCATED AT THE NORTHEAST CORNER OF
MOUNT COMFORT AND HUGHMOUNT ROAD, FROM R-A,
RESIDENTIAL-AGRICULTURAL TO RSF-4, RESIDENTIAL
SINGLE-FAMILY, 4 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, 4 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 05-1491

PART OF THE FRACTIONAL NORTHWEST QUARTER (FRL NW 1/4) OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND PART OF THE SOUTH HALF (S 1/2) OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON BOLT, SAID BOLT ACCEPTED AND USED AS THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE FRACTIONAL NORTHWEST QUARTER (FRL NW 1/4) OF SAID SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST THENCE NORTH 01 DEGREES 53 MINUTES 58 SECONDS EAST A DISTANCE OF 28.33 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN AND THE POINT OF BEGINNING; THENCE NORTH 84 DEGREES 40 MINUTES 38 SECONDS WEST A DISTANCE OF 19.29 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 76 DEGREES 20 MINUTES 32 SECONDS WEST A DISTANCE OF 63.43 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 64 DEGREES 58 MINUTES 43 SECONDS WEST A DISTANCE OF 61.18 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 47 DEGREES 49 MINUTES 33 SECONDS WEST A DISTANCE OF 69.50 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 35 DEGREES 00 MINUTES 05 SECONDS WEST A DISTANCE OF 67.78 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 15 DEGREES 54 MINUTES 21 SECONDS WEST A DISTANCE OF 70.73 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 00 DEGREES 20 MINUTES 48 SECONDS EAST A DISTANCE OF 563.56 FEET TO A SET COTTON PICKER SPINDLE; THENCE SOUTH 85 DEGREES 36 MINUTES 33 SECONDS EAST A DISTANCE OF 23.81 FEET TO A SET 5/8 INCH DIAMETER IRON PIN; THENCE NORTH 40 DEGREES 05 MINUTES 48 SECONDS EAST A DISTANCE OF 15.55 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 79 DEGREES 34 MINUTES 49 SECONDS EAST A DISTANCE OF 437.56 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 03 DEGREES 47 MINUTES 41 SECONDS EAST A DISTANCE OF 354.75 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 71 DEGREES 56 MINUTES 02 SECONDS EAST A DISTANCE OF 112.10 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 71 DEGREES 55 MINUTES 52 SECONDS EAST A DISTANCE OF 556.38 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN AND THE NORTHWEST CORNER OF WILDFLOWER MEADOWS SUBDIVISION; THENCE ALONG THE WEST LINE OF SAID WILDFLOWER MEADOWS SUBDIVISION SOUTH 03 DEGREES 06 MINUTES 36 SECONDS WEST A DISTANCE OF 832.24 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE LEAVING SAID WEST LINE NORTH 87 DEGREES 56 MINUTES 15 SECONDS WEST A DISTANCE OF 208.26 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE SOUTH 03 DEGREES 03

MINUTES 18 SECONDS WEST A DISTANCE OF 626.12 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 87 DEGREES 51 MINUTES 31 SECONDS WEST A DISTANCE OF 310.40 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN; THENCE NORTH 87 DEGREES 55 MINUTES 51 SECONDS WEST A DISTANCE OF 283.81 FEET TO THE POINT OF BEGINNING, CONTAINING 24.35 ACRES, MORE OR LESS, AND BEING SUBJECT TO THE RIGHT OF WAY OF MOUNT COMFORT ROAD ALONG THE SOUTH AND WEST SIDES AND WASHINGTON COUNTY ROAD # 703 ALONG THE WEST SIDE THEREOF. AND ALSO BEING SUBJECT TO ANY EASEMENTS, RIGHTS OF WAYS, COVENANTS AND RESTRICTIONS OF RECORD

DRAFT



PC Meeting of May 23, 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, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 19, 2005

RZN 05-1491: (DIXIE DEVELOPMENT, 321): Submitted by STEVE CLARK for property located at NE CORNER WEST COMFORT AND HUGHMOUNT RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 24.35 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: DIXIE DEVELOPMENT

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested rezoning should the preceding annexation be approved based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required <u>YES</u>
		☒ Approved ☐ Denied
Date: <u>May 23, 2005</u>	<i>Motion to approve, contingent upon City Council's approval of annexation made by Myris Trumbo²</i>	
CITY COUNCIL ACTION:		Required <u>YES</u>
		☐ Approved ☐ Denied
Date: <u>June 21, 2005 (1st reading if recommended)</u>	<i>4-0-0</i>	

Comments: _____

BACKGROUND:

Property description: The subject property contains four parcels of property consisting of 24.35-acres. The property is owned by Dixie Development. It is located at the northeast corner of Mount Comfort Road, where the Minor Arterial Street turns north and continues as Hughmount Road. Property recently subdivided as Wildflower Meadows Subdivision adjoins the property to the east. Other subdivisions such as Bridgeport and Clabber Creek are located south and east of the subject property. If approval of the preceding ANX 05-1490 is granted, the property will be zoned R-A, Residential Agricultural. If it is not, this request may not be voted upon.

Proposal: The applicant intends to develop this property for a single family subdivision with 63 single family lots, similar in density and character to the surrounding subdivisions. The applicant requests a rezoning of the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family – 4 units per acre, to allow the development of a residential subdivision.

Recommendation: Should the previous annexation request ANX 05-1490 be approved, staff recommends approval of this rezoning request based on findings stated herein. The development of this property will be compatible with those residential developments surrounding the property.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Hamstring Creek; Residential Single Family on large lots	Planning Area
South	Large Lot Residential Development	Planning Area
East	Wildflower Meadows Subdivision	RSF-4, Res. Single Family – 4 units/acre
West	Large Lot Residential Development	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to Mt. Comfort Road. Mt. Comfort Road is a minor arterial along the south boundary of the property and a collector along the west side of the property by the current Master Street Plan. Road improvements required for Mt. Comfort Road along the property are to include: right-of-way dedication, pavement 14' from centerline, curb and gutter, storm drainage, and sidewalks.

Surrounding Master Street Plan Streets:

South: Mount Comfort Road, Minor Arterial

West: Mount Comfort Road and Hughmont Road, Collect Streets

East: Morning Mist Road, Collector Street

Water: Public water is adjacent to the site. There is an 8" main along the south and west side of Mt. Comfort Road. There is a 4" main parallel to the 8" main along the north side of Mt. Comfort Road. There is a 6" main along Hughmont Road. There may be existing water stub-outs from development on the east side of the development. Water service would need to be extended within the property at the time of development. Minimum size of new water mains is 8". Additional connections may be required to complete a looped system. This may include an off-site connection to be determined at a later date. No long range improvements to the water system are planned at this time for this area. A study of the water supply to serve this property shall be conducted prior to development at the cost of the developer.

- Sewer:** The site **does** have access sanitary sewer. There is a 15" sewer main approximately 520 feet south of the property along Hamstring Creek, and an 8" main within the development to the east. Minimum size of new sewer mains is 8". Sewer would need to be extended to serve the property. A capacity analysis of the downstream sewer lines **shall** be conducted and a capacity analysis of the lift stations downstream of the site **shall** be conducted by the developer prior to development.
- Fire:** The subject property is located approximately 1.8 miles from Fire Station #7. Response time to the property is projected at 5 minutes. At full build-out, a projected 22 calls are expected with a projected response time of 5.5 minutes.
- Police:** It is the opinion of the Fayetteville Police Department that this rezoning **will** substantially alter the population density and **will possibly** create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 97 new homes will dramatically increase the traffic on an already congested arterial street. (Mt Comfort Road).

LAND USE PLAN: The Future Land Use Plan designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and is compatible with surrounding properties.

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 rezoning is consistent with land use planning objectives and policies and is compatible with zoning and use of adjacent properties. Surrounding properties are residential or agricultural in nature. The subject property provides for an extension of existing single family subdivisions. The Future Land Use Plan identifies the subject property for residential development.
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. It will provide the potential for development comparable to the approved subdivisions in this area.

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

Finding: Access to this site is provided by Mount Comfort Road, designated a Minor Arterial to the south and a Collector to the west. Access is also available from Morning Mist Road, a Collector street. Development of this 24.35-acre tract will increase the traffic on the adjacent streets; however, these streets have been identified to be designed to carry large volumes of traffic per day. A thorough review of the proposed connectivity to Mount Comfort Road from within the property and the extension of Morning Mist Road will be required at the time of development. According to the preliminary concept plan for development, Morning Mist Dr. stubs-out to the west and does not connect to the adjacent collector street. A curb cut onto Mount Comfort Rd/Hughmount Dr. is proposed in close proximity to the eventual connection of Morning Mist Drive. At the time of development, staff will evaluate the proposed street intersections onto the surrounding Master Street Plan streets to ensure the safe traffic movement.

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. The approximately 24.35-acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 12 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 97 dwelling units would be permitted. This increases the possible number of residential units, yet is consistent with land use and zoning within the City of Fayetteville and developing areas to the east and south.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 97 new homes will dramatically increase the traffic on an already congested arterial street. (Mt Comfort Road).

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:	2 acres
Nonresidential:	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.

May 16, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

In reference to **RZN05-1491: (DIXIE DEVELOPMENT, 321)**: Submitted by STEVE CLARK, for property located at NE CORNER MT. COMFORT AND HUGHMOUNT RD. The property is zoned R-A RESIDENTIAL AGRICULTURAL and contains approximately 24.35 acres. The request is 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 rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 97 new homes will dramatically increase the traffic on an already congested arterial street. (Mt Comfort Road).

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.

Sincerely,

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Department Service Delivery Impact: Zoning Review May 10, 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
ANX05-1488	Collins/Kinghorn	YES	17.33	*3				0	0	0
RZN05-1489	Collins/Kinghorn		17.33	*3	4.4 miles	8 minutes	8.5 minutes	16	6	10
RZN05-1489	Collins/Kinghorn		17.33	5	5.5 miles	12 minutes	12 minutes	16	6	10
ANX05-1490	Dixie Develop	YES	24.35	7				0	0	0
RZN05-1491	Dixie Develop		24.35	7	1.8 miles	5 minutes	5.5 minutes	22	9	13
ANX05-1495	Benton Develop	YES	10.66	7				0	0	0
RZN05-1502	Benton Develop		10.66	7	2.6 miles	6 minutes	6.5 minutes	10	4	6

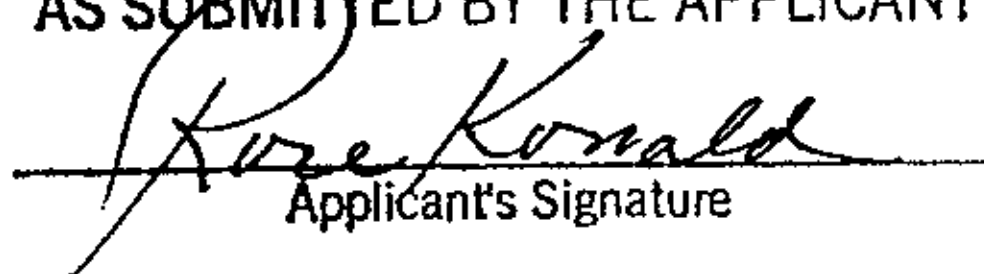
* = Proposed Station 3

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED:

Part of the Fractional Northwest Quarter (FRL NW 1/4) of Section 1, Township 16 North, Range 31 West, and part of the South Half (S 1/2) of Section 31, Township 17 North, Range 30 West, of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows: Commencing at a found iron bolt, said bolt accepted and used as the Southwest corner of the Southeast Quarter (SE 1/4) of the Fractional Northwest Quarter (FRL NW 1/4) of said Section 1, Township 16 North, Range 31 West thence North 01 degrees 53 minutes 58 seconds East a distance of 28.33 feet to a found 1/2 inch diameter iron pin and the POINT OF BEGINNING ;thence North 84 degrees 40 minutes 38 seconds West a distance of 19.29 feet to a found 1/2 inch diameter iron pin; thence North 76 degrees 20 minutes 32 seconds West a distance of 63.43 feet to a found 1/2 inch diameter iron pin; thence North 64 degrees 58 minutes 43 seconds West a distance of 61.18 feet to a found 1/2 inch diameter iron pin; thence North 47 degrees 49 minutes 33 seconds West a distance of 69.50 feet to a found 1/2 inch diameter iron pin; thence North 35 degrees 00 minutes 05 seconds West a distance of 67.78 feet to a found 1/2 inch diameter iron pin; thence North 15 degrees 54 minutes 21 seconds West a distance of 70.73 feet to a found 1/2 inch diameter iron pin; thence North 00 degrees 20 minutes 48 seconds East a distance of 563.56 feet to a set cotton picker spindle; thence South 85 degrees 36 minutes 33 seconds East a distance of 23.81 feet to to a set 5/8 inch diameter iron pin; thence North 40 degrees 05 minutes 48 seconds East a distance of 15.55 feet to a found 1/2 inch diameter iron pin; thence North 79 degrees 34 minutes 49 seconds East a distance of 437.56 feet to a found 1/2 inch diameter iron pin; thence North 03 degrees 47 minutes 41 seconds East a distance of 354.75 feet to a found 1/2 inch

diameter iron pin; thence North 71 degrees 56 minutes 02 seconds East a distance of 112.10 feet to a found 1/2 inch diameter iron pin; thence North 71 degrees 55 minutes 52 seconds East a distance of 556.38 feet to a found 1/2 inch diameter iron pin and the northwest corner of Wildflower Meadows Subdivision; thence along the west line of said Wildflower Meadows Subdivision South 03 degrees 06 minutes 36 seconds West a distance of 832.24 feet to a found 1/2 inch diameter iron pin; thence leaving said west line North 87 degrees 56 minutes 15 seconds West a distance of 208.26 feet to a found 1/2 inch diameter iron pin; thence South 03 degrees 03 minutes 18 seconds West a distance of 626.12 feet to a found 1/2 inch diameter iron pin; thence North 87 degrees 51 minutes 31 seconds West a distance of 310.40 feet to a found 1/2 inch diameter iron pin; thence North 87 degrees 55 minutes 51 seconds West a distance of 283.81 feet to the POINT OF BEGINNING, containing 24.35 acres, more or less, and being subject to the right of way of Mount Comfort Road along the south and west sides and Washington County Road # 703 along the west side thereof. And also being subject to any easements, rights of ways, covenants and restrictions of record.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

1st Submittal
submitted as: RZN 05-1491
4/21/05
TJ

Dixie Management and Investments, LP. , owners of this parcel on Mount Comfort Road, are requesting to rezone the property from R-A to RSF-4. They propose to develop the land into a residential subdivision.

The preliminary lot layout consists of 63 single family lots, which is compatible with Bridgeport Addition and Clabber Creek. Egress will be onto Mount Comfort Road and Hughmount Road

Each entrance will have a monument sign identifying the subdivision built in accordance with City regulations.

The developer will build an 8" sewer line along Sunshine Road, CR 887, to the southwest to an existing lift station. Water mains will be extended into the development from the existing subdivision to the east. The development will also tie into the existing water main along Mount Comfort Road.

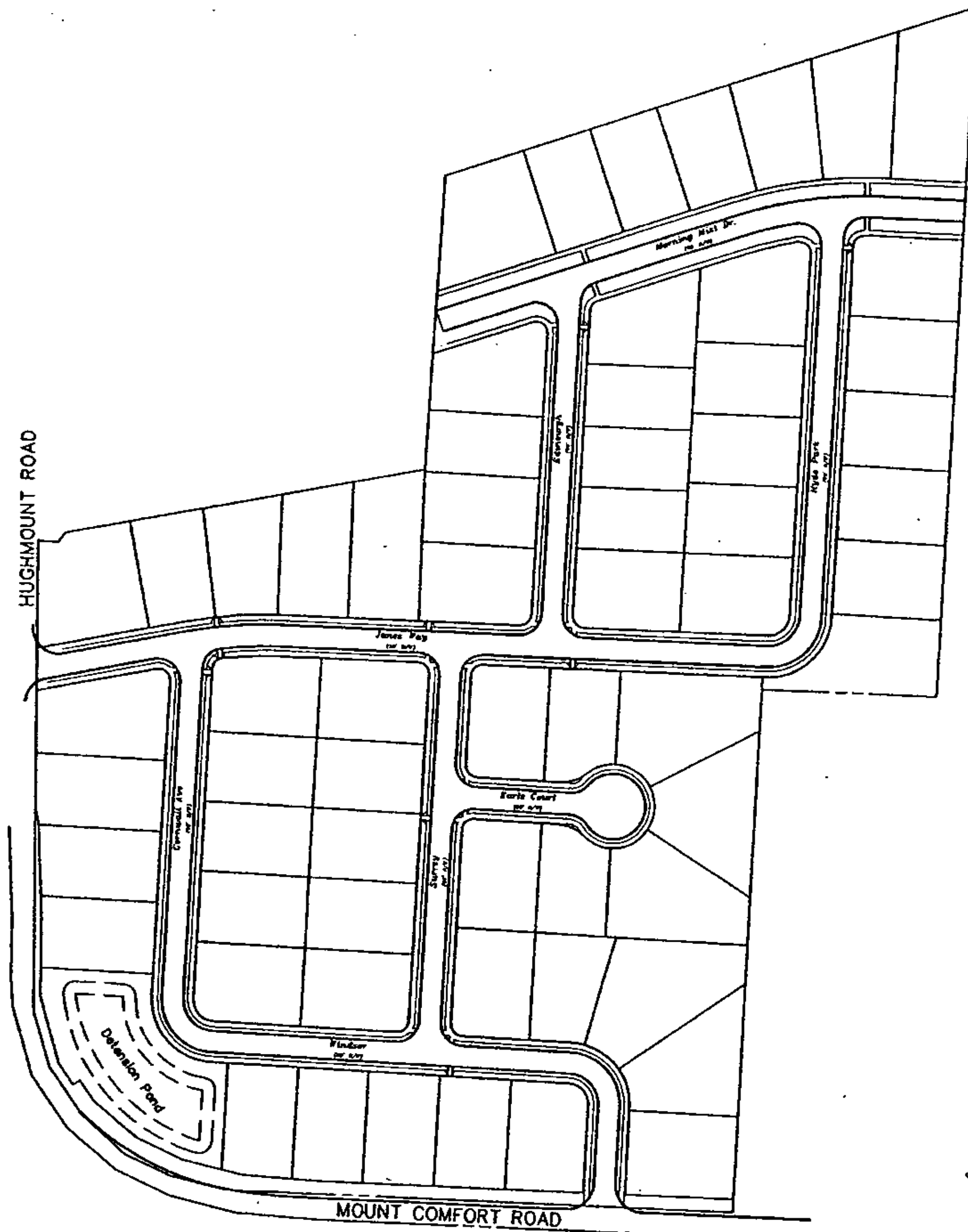
The Fayetteville Land Use plan shows this area to be low density single family residential. Our request for the zoning to be RSF-4 is consistent with the land use plan.

With the rapid growth in the area the supply of single family lots is continuously being depleted. We believe that this rezoning request is justified and needed.

Mt. Comfort Road is shown to be a minor arterial and will handle the increase in traffic caused by this development.

Single family development is one of the lowest densities that we can request. It will not adversely impact the infrastructure in the area.

The existing zoning of this property is Agricultural and constructing residential subdivisions in agricultural zoning districts is not practical.



(IN FEET)
1 inch = 200 ft.



CIVIL / ENVIRONMENTAL ENGINEERING

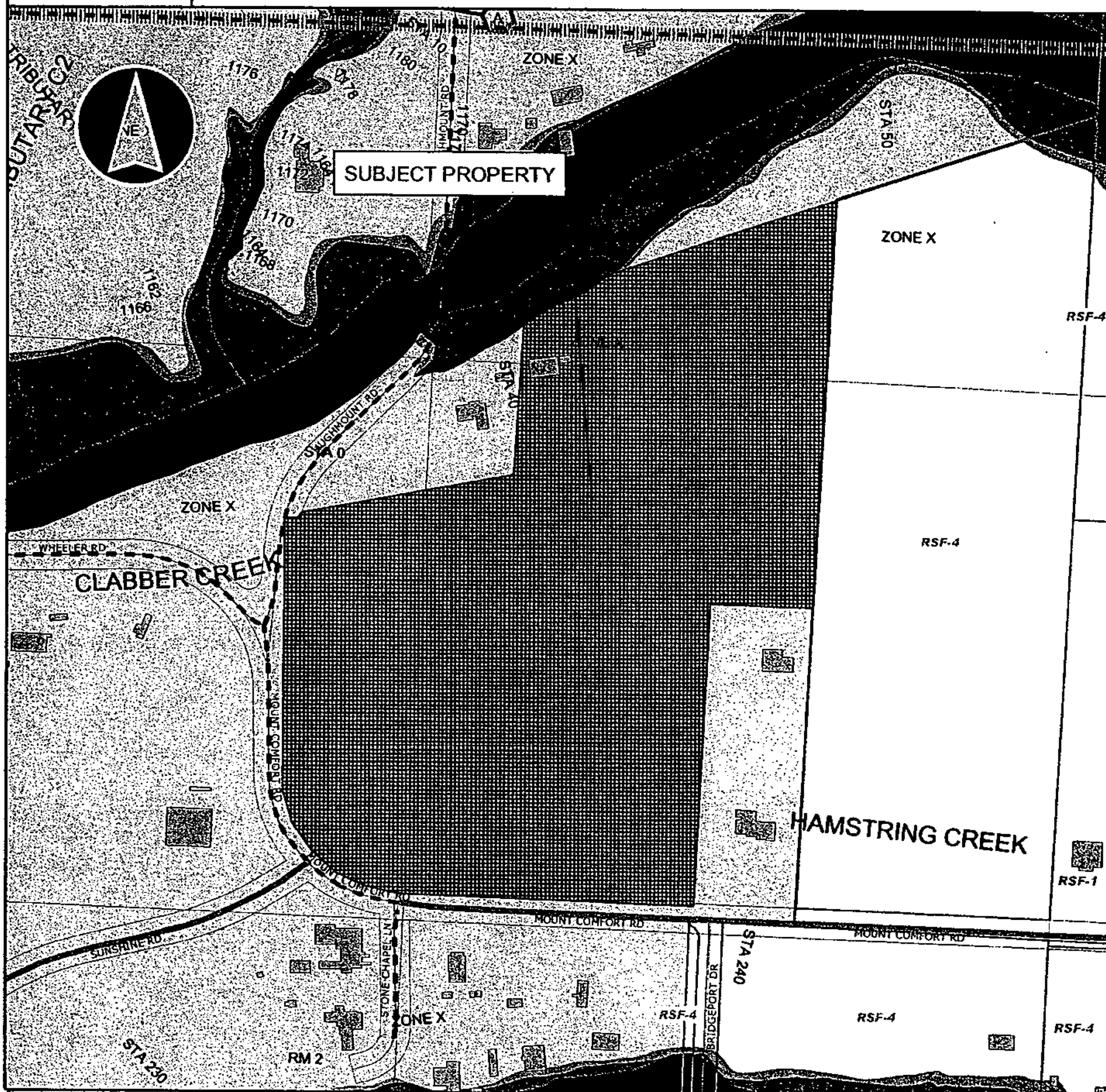
3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1" = 200'	DATE REVISED:	CHECKED BY:	DRAWN BY:
DATE: 04/13/05		JSC	Konold
Preliminary Lot Layout			1
Mount Comfort Road - Israel			1

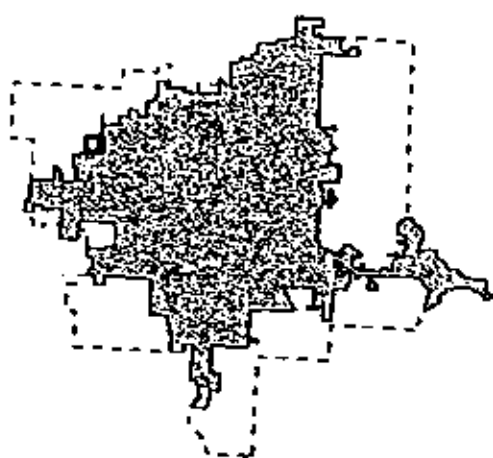
RZN05-1491

Close Up View

DIXIE DEVELOPMENT



Overview



Legend

RZN05-1491

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

BaseLine Profile

500 YEAR

LIMIT OF STUDY

Fayetteville

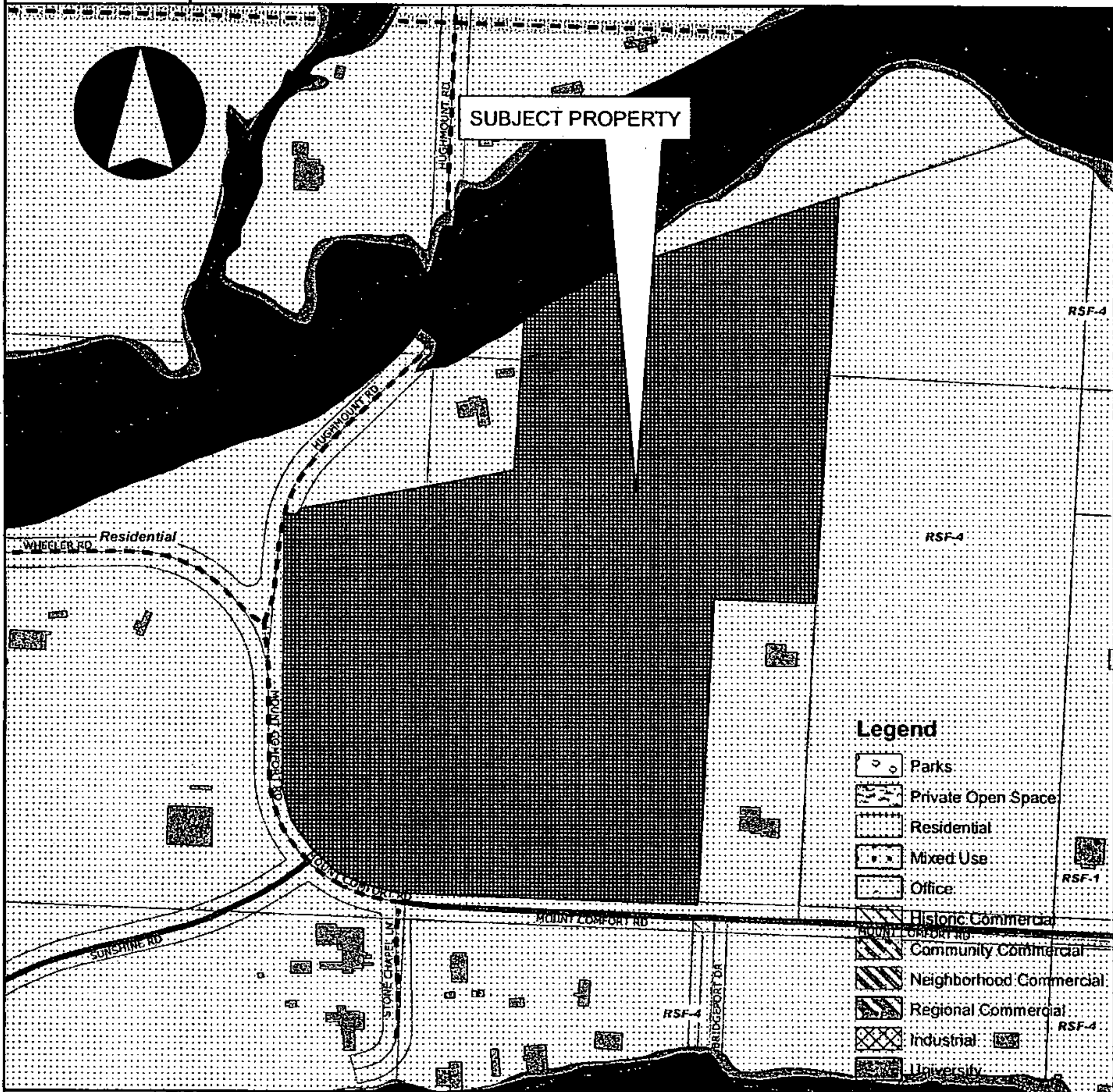
Outside City

0 75 150 300 450 600 Feet

RZN05-1491

Future Land Use

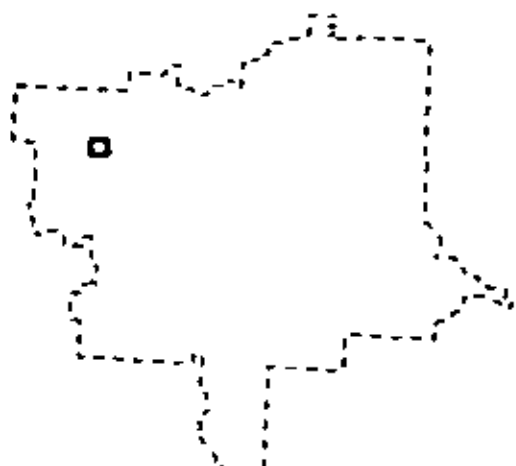
DIXIE DEVELOPMENT



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property



Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 50 100 200 300 400
Feet

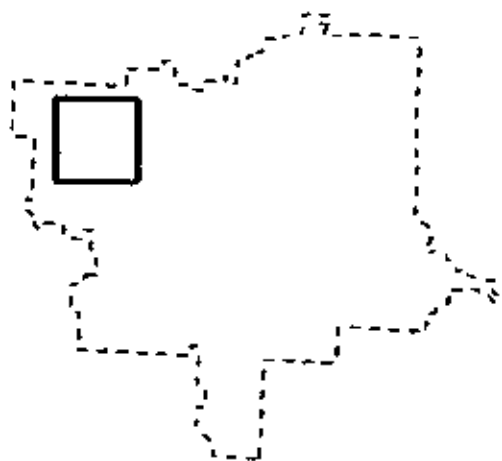
RZN05-1491

One Mile View

DIXIE DEVELOPMENT



Overview



Legend

Subject Property

RZN05-1491

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

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

C.9.
RZN 05-1491 Dixie Development
Page 21 of 21

21-Jun-05
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1491: (DIXIE DEVELOPMENT, 571): Submitted by Steve Clark for property located at the northeast corner of Mount Comfort and Hughmount. The property is zoned R-A, Residential-Agricultural, and contains approximately 24.35 acres. The request is to *rezone* *9K* annex the subject property to RSF-4, Residential Single-Family, 4 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 ☐

[Signature] 6-2-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 6-3-05
City Attorney Date

Original Contract Number: n/a

[Signature] 6-6-05
Finance and Internal Service Director Date

Received in City Clerk's Office
[Stamp: ENTERED 6/6/05]

[Signature] 6/6/05
Mayor Date

Received in Mayor's Office
[Stamp: ENTERED 6/6/05]

Comments:

ALDERMAN AGENDA REQUEST FORM

C. 10
General Plan 2020
Future Land Use Map Amendment
Page 1 of 2

FOR: COUNCIL MEETING OF JUNE 21, 2005

FROM:

ALDERMAN DON MARR
ALDERMAN KYLE COOK
ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend The General Plan 2020 Future Land Use Map By
Changing The "Office" Designation On Elm Street Beginning At 155 East Elm
Through Its Current Western Border To "Residential"

APPROVED FOR AGENDA:

DON MARR
Alderman

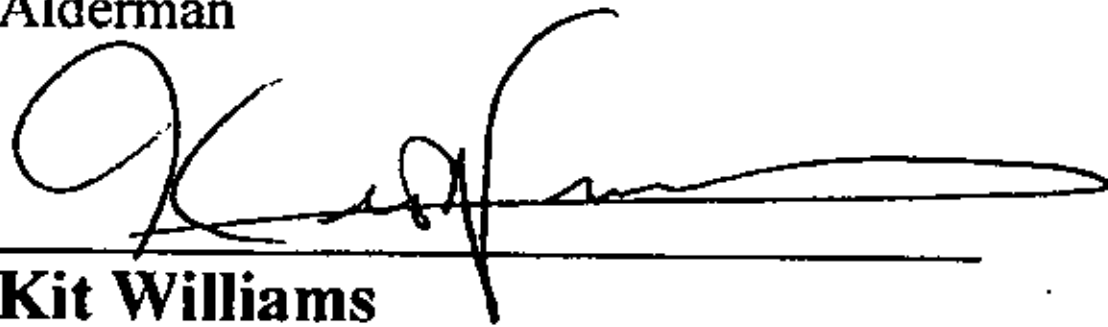
Date

KYLE COOK
Alderman

Date

BOBBY FERRELL
Alderman

Date



Kit Williams
City Attorney (as to form)

6-8-05
Date

RESOLUTION NO. _____

**A RESOLUTION TO AMEND THE GENERAL PLAN 2020
FUTURE LAND USE MAP BY CHANGING THE
"OFFICE" DESIGNATION ON ELM STREET BEGINNING
AT 155 EAST ELM THROUGH ITS CURRENT WESTERN
BORDER TO "RESIDENTIAL"**

WHEREAS, Elm Street between Green Acres Road and Gregg Avenue, including the dead end streets of Baker and Erstan, is an established single-family residential neighborhood in close proximity to Woodland Junior High School; and

WHEREAS, Green Acres Road is an appropriate R-O buffer between this residential neighborhood and the Commercial corridor along North College Avenue; and

WHEREAS, the neighborhood association and residents of Elm, Baker and Erstan wish to preserve their neighborhood as single-family residential with no further encroachment of office zoning west of the lots bordering Green Acres Road; and

WHEREAS, the City Council agrees that it is in the best interests of the citizens of Fayetteville and residents of this historic residential neighborhood that it should be preserved as a single-family residential neighborhood.

**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 amends the General Plan 2020 Future Land Use Map to change from "Office" to "Residential" that property bordering Elm Street except for the two corner lots which also border Green Acres Road.

PASSED and APPROVED this 21st day of June, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 11
King Electric Contract
for the Mountain Inn
Page 1 of 16

DEPARTMENTAL CORRESPONDENCE

June 21, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director 

FROM: Coy Hurd, Project Manager 

DATE: June 8, 2005

SUBJECT: A resolution to designate \$66,237 toward permanent utility placement work associated with the construction of the new hotel to occupy the existing Mountain Inn site and permission to allow King Electric to exceed the \$20,000 limit on the existing contract.

Recommendation: City Staff recommends that the City Council designate \$66,237 of the funds generated by the Tax Incentive Finance bonds to be used to pay for the work accomplishing the permanent utility placement (electrical work) necessary for the long-term power needs of the proposed new hotel complex to be constructed on the site.

Background: The City Council has designated \$887,000 of the funds generated by the T.I.F. Bonds to be used toward demolition, resolution of access issues, and utility relocation. The Patton Company's contract for the demolition of the buildings and the hazardous materials abatement is \$688,138. Environmental Enterprise Group's contract for oversight of demolition and abatement efforts is \$30,855. The contingency fund for the demolition/abatement effort has been authorized as \$101,770. The amount remaining from the designated \$877,000 is \$66,237.

Discussion: The City has agreed (by way of contract with John Nock et. al.) to utilize \$887,000 toward preparation of the Mountain Inn site in anticipation of construction efforts at that location. Once the City has expended these funds, Mr. Nock has agreed to accept the site in such condition as it is then in.

June 9 memo, page two

Electrical work during this first phase is being done by King Electric (and their subcontractors) through their existing contract with the city. If approved, this \$66,237 will be used toward work needed to supply the building site with permanent electrical power. Examples of these efforts are trenching and laying electrical conduit, purchase and installation of the electrical meter bases that will serve the future facilities, and placement of the electrical vault on the site.

The utility relocation work identified thus far includes:

- 1) relocating the electrical transformer in the alleyway, currently attached to the Mountain Inn Building. The demolition contractor has had to resequence the removal of the buildings to accommodate the Developers commitment to keep the Hoffbrau, Taste of Thai, and Petra Café open. The cost of the electrical relocation could total near \$100,000.
- 2) relocating the existing natural gas service. The Arkansas Western Gas Company is doing most of this work at their own costs, but may petition for reimbursement for some of the costs.
- 3) relocating the water and sewer lines to serve the buildings that remain and the new buildings to be built. The cost of this work will probably be between \$70,000 and \$100,000. The drawings and specifications for this work are yet to be developed. Until this is accomplished, the forecast of the total cost can not be more precise.
- 4) The final item that the Developers have identified as potential use of T.I.F. bond proceeds (to this point) is the removal of an underground fuel storage tank. This tank is located in the alleyway outside of the demolition project boundary. The proposed cost for the removal of this tank is \$13,800.

Because the City has only \$66,237 remaining from the T.I.F. proceeds, Staff recommends programming all of these funds to electrical relocations and notifying that that any further utility work will be paid for by the Developer.

King Electric Company has an existing contract with the City that allows \$20,000 per project. Staff is asking that an exception be made to allow that company to do this electrical work.

Due to the extreme schedule for this work and the undefined nature of some of the tasks which must be completed, it is imperative that King Electric Company be given dispensation on the \$20,000 ceiling on this particular project.

Memo, page three

Budgetary Impact: These funds are currently budgeted towards the project and reside in Account Number 4490 9490 5315.00.

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

21-Jun-05
City Council Meeting Date

Coy Hurd

Submitted By

Building Services

Division

Finance & Internal Services

Department

Action Required:

Approve a resolution authorizing King Electrical Contractors, Inc to provide electrical utility relocation services in support of the demolition of Mountain Inn and associated properties in an amount not-to-exceed \$66,237.

\$66,237.00

Cost of this request

4490-9490-5805-00

Account Number

05038-2

Project Number

\$ 887,000.00

Category/Project Budget

\$ 820,763.00

Funds Used to Date

\$ 66,237.00

Remaining Balance

Highway 71 East Square
Redevelopment District #1

Program Category / Project Name

Program / Project Category Name

TIF Capital Improvements

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐



Department Director

6-8-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney



Finance and Internal Service Director

6-8-05
Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:

RESOLUTION NO. 88-00

A RESOLUTION AWARDDING BID NO. 00-48 TO CHRIS KING
IN AN AMOUNT SET FORTH IN THE BID TABULATION AND
AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AN AGREEMENT FOR ELECTRICAL, COMMUNICATIONS
AND RELATED SERVICES FOR THE YEAR 2000, WITH FIVE
ONE YEAR RENEWAL OPTIONS .

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

Section 1. That the City Council hereby awards Bid No. 00-48 to Chris King in an
amount set forth in the bid tabulation and authorizing the Mayor and City Clerk to execute an
agreement for electrical, communications and related services for the year 2000, with five one year
renewal options. A copy of the bid tabulation and agreement is attached hereto marked Exhibit "A"
and "B" and made a part hereof.

PASSED AND APPROVED this 5th day of July, 2000.

APPROVED:

By: _____


Fred Hanna, Mayor

ATTEST:

By: _____


Heather Woodruff, City Clerk

STAFF REVIEW FORM

C. 11
King Electric Contract
for the Mountain Inn
Page 6 of 16

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of July 3, 2000

FROM:

Harold J. Dahlinger
Name

Building Maintenance
Division

Administrative Services
Department

ACTION REQUIRED: Award of Bid #00-48 for electrical services to Chris King Electric for the remainder of the year 2000 with five one year renewal options.

COST TO CITY:

\$Various

See Attached

Various

Cost of this Request

Category/Project Budget

Category/Project Name

Various

See Attached

Various

Account Number

Funds Used To Date

Program Name

See Attached

See Attached

Various

Project Number

Remaining Balance

Fund

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

[Signature]
Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager

6-14-00
Date

Internal Auditor

Date

[Signature]
City Attorney

6-15-00
Date

ADA Coordinator

Date

[Signature]
Purchasing Officer

6-14-00
Date

STAFF RECOMMENDATION: Award of Bid #00-48 to Chris King Electric and award of a Contract.

[Signature]
Division Head

6/14/00
Date

Cross Reference

New Item: Yes No

Prev Ord/Res #:

Orig Contract Date:

Department Director

Date

[Signature]
Administrative Services Director

6/19/00
Date

[Signature]
Mayor

6/19/00
Date

Page 2

STAFF REVIEW FORM

Description Bid #00-48 Electrical Contract Meeting Date 7/3/00

Comments:
Budget Coordinator

Reference Comments:

Accounting Manager

- ① need single bidder justification in memo
- ② fill in name of contractor on 1st page
- ③ 3rd pg is blank after #12

done - Mike

done - Mike

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 11
King Electric Contract
for the Mountain Inn
Page 8 of 16

DEPARTMENTAL CORRESPONDENCE

TO: The Fayetteville City Council

THRU: Fred Hanna, Mayor
John Maguire, Administrative Services Director

FROM: Harold Dahlinger, Facilities Superintendent 

DATE: June 12, 2000

RE: BID AWARD RECOMMENDATION

Attached is the Agenda Request for the award of Bid #00-48 to the lowest bidder meeting requirements for electrical work and related service needs of the City of Fayetteville for the calendar year 2000 (with option for five (one year) term renewal).

I recommend acceptance of the rates provided by Chris King Electric for Bid #00-48. Previous experience with this vendor on other City projects has shown that quality and workmanship is at a level which allows us to be very comfortable in recommending this bidder for the various projects which are budgeted for calendar year 2000. Chris King Electric has provided services to the City of Fayetteville for the past four years under a similar contract. We have found his services to be outstanding and very cost effective to the City and its projects.

Utilization of an annual acceptance of a bidder in this particular area should eliminate time delays in the bidding process on individual projects along with the ability to negotiate details of specific projects to assist in keeping better control of job pricing.

The budgeted amounts for these services will be taken from the applicable programs as specific projects are identified.

**AGREEMENT FOR ELECTRICAL, COMMUNICATIONS
AND RELATED SERVICES**

This AGREEMENT executed this 5 day of July, 2000, between the City of Fayetteville, Arkansas, hereinafter called the "City" and King Electrical Contractors, hereinafter called the "Contractor", and having an address at 2145 Moore, Fayetteville, AR 72704.

IN CONSIDERATION OF THE FOLLOWING COVENANTS contained herein the parties agree as follows:

1. The Contractor shall at the written request of the City provide material, labor and equipment for electrical, communications and related service(s) for the following:

- a. New construction as requested for jobs not bid separately;
- b. Repair as requested for jobs not bid separately;
- c. Additional work as required and as directed by owner.

2. The first term of this agreement shall be from award of contract through December 31, 2000. The City has the option to renew this contract for five consecutive one year terms. Annual increases will be allowed based on the Consumer Price Index for All Urban Consumers (Index) as published by the U.S. Department of Labor, Bureau of Labor Statistics, published as of October 31, using 1982-84 as the base year. The initial index to be used is October, 1999.

3. City shall pay Contractor for services rendered as set out in Contractor's Bid.

Charges will be invoiced to City at the end of each Contractor's monthly accounting periods based upon the fee schedule outlined in Contractor's Bid and the expense charges to the project during the preceding accounting period. All invoices are due upon receipt and shall be paid by the City unless disputed within thirty (30) days of their receipt.

4. The contract documents which comprise the contract between City and the Contractor consist of this contract and the following documents:

- a. Bid form identified as Invitation to Bid 00-48 with the specifications, conditions, and requirements typed thereon;

- b. The Contractor's proposal and all supporting documents and correspondence submitted by the Contractor in response to Bid 00-48.

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

6. Contractor shall not assign his duties under the terms of this contract.

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

8. The Contractor shall furnish a certificate of insurance addressed to the City, showing that he carries the following insurance which shall be maintained throughout the term of the contract.

<u>Workers Compensation</u>	Statutory Amount
<u>Comprehensive General and Automobile Insurance</u>	
Bodily Injury Liability	\$ 500,000 for each person injured.
	\$ 1,000,000 for each accident.
Property Damage Liability	\$ 250,000 for each accident.
	\$ 500,000 aggregate

The insurance shall include explosion, collapse and underground coverage. The premiums for all insurance and the bond required herein shall be paid by the Contractor.

9. Contractor agrees to begin work within ten (10) days after issuance by the City of a "work order" or "Notice to Proceed" and to complete the work within the time agreed to by the parties.

10. All work called for herein shall be coordinated directly with the project manager for each project as designated by the City.

11. City shall have the right to terminate this Agreement for City's convenience upon written notice of Contractor, and

Contractor shall terminate performance of services on a schedule acceptable to City. In the event of termination for City's convenience City shall pay Contractor for all services performed to date of termination.

12. Nothing in this agreement shall be construed to give any rights or benefits to anyone other than Contractor and City.

(Left Blank Intentionally)

IN WITNESS WHEREOF, City and Contractor have executed this agreement, the effective date of which shall be July 5, 2000.

CITY OF FAYETTEVILLE

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

King Electrical Contractors
Contractor-Company Name

By: Chris King

Title: President

ATTEST:

By: Karen King
Contractor-Company Secretary

INVITATION TO BID

BID # 00-48	DATE ISSUED: May 22, 2000	DATE AND TIME OF OPENING: June 5, 2000 at 2:00 p.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: As scheduled by Project Manager	
F. O. B. Fayetteville, AR	BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:	
ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE
1	Per Attached Specifications ELECTRICAL SERVICES Labor rate for the following: *Master Electrician per hour *Journeyman Electrician per hour *Apprentice Electrician per hour Laborer per hour	*License Required hour hour hour hour	\$ <u>25.00</u> hr. \$ <u>23.00</u> hr. \$ <u>18.00</u> hr. \$ <u>15.00</u> hr.
2	Percent additional rate for overtime		<u>50</u> %
3	Percent Additional rate for Sundays & Holidays		<u>50</u> %
4	Material Cost Plus Markup Percent		<u>13</u> %
5	Guaranteed Emergency Response Time		<u>1/4</u> hr.
6	Guaranteed Regular Response Time		<u>1/2</u> hr. <u>1/2</u> hr.
7	Dump Truck with Operator		\$ <u>45.00</u> hr.
8	Bobcat backhoe with Operator		\$ <u>45.00</u> hr.
9	Backhoe with Operator		\$ <u>45.00</u> hr.
10	Bucket Truck with Operator		\$ <u>45.00</u> hr.
11	Personnel Lift		\$ <u>16.00</u> hr.
12	Platform Lift		\$ <u>18.75</u> hr.
13	Rental Equipment Cost Plus Markup		<u>13</u> %
These services will be ordered as needed throughout the contract period. There is no guaranteed minimum or maximum amount.			
CONTRACTOR'S LICENSE NUMBER:		<u>0063870401</u>	
RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:			

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have 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.

UNSIGNED BIDS WILL BE REJECTED	NAME OF FIRM: <u>King Electric</u>	PHONE: <u>443-0006</u>	TAX PERMIT: —
	BUSINESS ADDRESS: <u>2145 W Moore Fay AR 72704</u>	CITY AND STATE: <u>Fayetteville AR</u>	ZIP: <u>72704</u>
	AUTHORIZED SIGNATURE: <u>Chb K6</u>	TITLE: <u>President</u>	DATE: <u>6-5-00</u>

**KING ELECTRICAL CONTRACTORS
2145 W MOORE LANE
FAYETTEVILLE ARKANSAS**

King Electric has 29 full time employees that specialize in commercial and industrial wiring. We also have employees specifically trained in the Hubbell Premise Wiring for data and telecommunications. They also are trained in leviton fiber optic terminating. We have personal lifts, platform lifts, mechanical benders for conduit up to 4", pipe threaders, meggars, wire tracers, ladders, and other equipment owned to do any size of electrical job. Our personal has been trained to use all of the above equipment in a safe and workmanlike manner. We are in the process of all employees attending the 10 hour OSHA safety training class. We just received an award from our insurance company for 3 years of no work loss personal injury. All lead men carry digital pagers and mobile telephones. All trucks are equipped to do most service calls.

Chris King



Certificate of Completion
HUBBELL PREMISE WIRING

Hubbell Incorporated (Delaware)

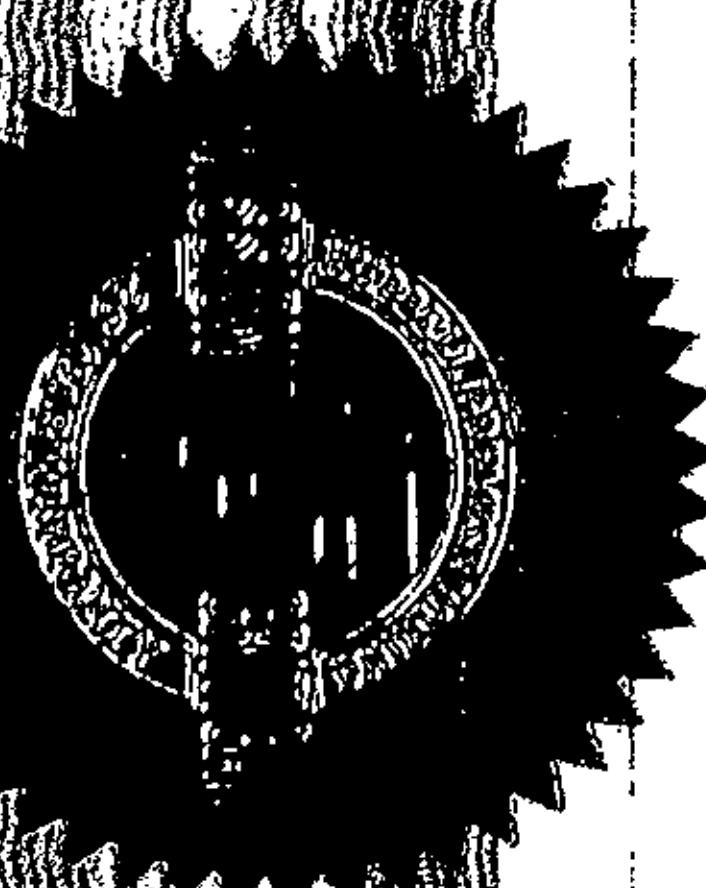
hereby certifies that

Roger Jones
of

Kings Electric

*has successfully completed the Hubbell Premise Wiring
Mission Critical Training Program
October 20th, 1999*

Kevin J. Miller
Hubbell Premise Wiring
Vice President & General Manager



Kevin J. Miller
Hubbell Premise Wiring
Vice President - Sales



Certificate of Completion
HUBBELL PREMISE WIRING

Hubbell Incorporated (Delaware)

hereby certifies that

Tim Edwards

of

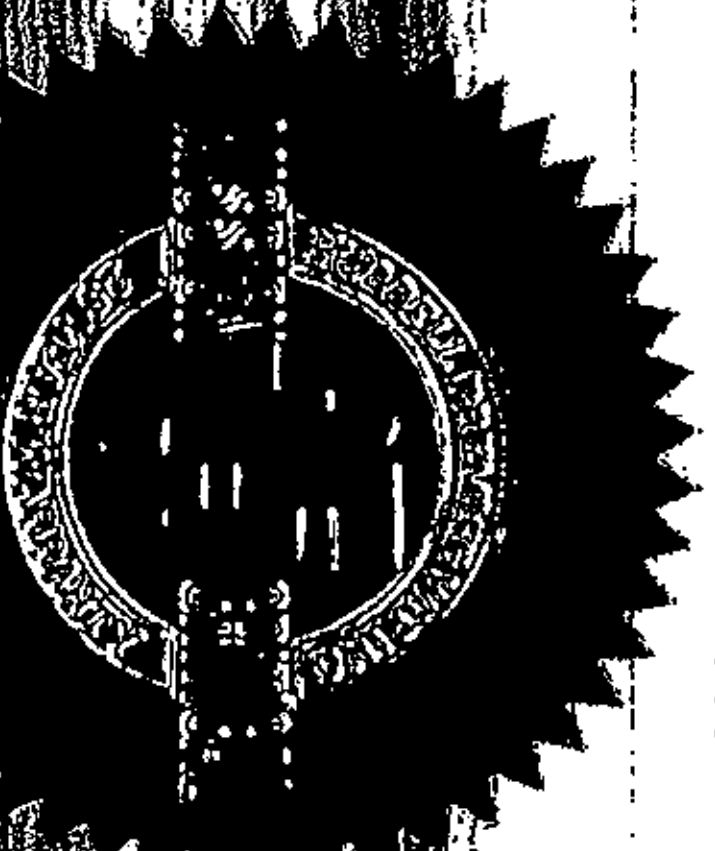
Kings Electric

has successfully completed the Hubbell Premise Wiring

Mission Critical Training Program

October 20th, 1999

Ann M. Wilson
 Hubbell Premise Wiring
 Vice President & General Manager



Kevin J. Con
 Hubbell Premise Wiring
 Vice President - Sales

Agenda Session
6/14/05

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 21, 2005**

A meeting of the Fayetteville City Council will be held on June 21, 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**

A. CONSENT:

- ✓ 1. **Approval of the June 7, 2005 City Council meeting minutes.**
- ✓ 2. **Wilson Estes Contract for a Space Needs Study:** A resolution approving a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city owned buildings; approving a 5% contingency in the amount of \$2,431.00; and approving \$3,226.00 in reimbursable expenses.
- ✓ 3. **1 Nation Technology Contract for a Telecommunications System:** A resolution awarding Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the new Water & Sewer Operations Center; and approving a contingency in the amount of \$1,328.40.
- ✓ 4. **2005 Justice Assistance Grant:** A resolution to approve the application and accept an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and \$16,887.00 for the Washington County Sheriff's Department and to approve a budget adjustment for those amounts.
- ✓ 5. **New Holland Loader Purchase:** A resolution approving the purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$37,661.00.

- ✓ 6. **Staffing for Adequate Fire & Emergency Response Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset the cost of future staffing increases.
- ✓ 7. **Van Asche Boulevard Engineering Contract:** A resolution awarding a contract in the amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard Extension Project.

B. UNFINISHED BUSINESS:

- ✓ 1. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*
- ✓ 2. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*

C. NEW BUSINESS:

- 
1. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.
 2. **User Fee Policy:** A resolution adopting a User Fee Cost Recovery Policy for City Services.
 3. **Planning Commission Appeal (TGI FRIDAY'S):** A request to appeal the Planning Commission's decision to alter the sign package submitted by TGI Friday's.
 4. **Planning Commission Appeal (Dixie Development):** A request to appeal the Planning Commission's motion to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road.
 5. **Ozark's Electric Cooperative Corp. Line Relocation:** A resolution authorizing the payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road Improvements at the Westside Wastewater Treatment Plant.
 6. **McGoodwin Williams & Yates Contract Amendment:** A resolution approving Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction phase services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project.

Planning
Commission
Minutes

Consent

7. **Woolsey Aviation, DBA, Contract:** A resolution approving a contract with Woolsey Aviation, d/b/a Million Air Fayetteville to provide aviation fueling and other services at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$24,000.00.

8. **Amend Title III, Chapter 33 Fire Protection Services:** An ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.

Move to #5 NB.

9. **RZN 05-1491 (Dixie Development):** An ordinance rezoning that property described in rezoning petition RZN 05-1491 for approximately 24.35 acres located at the northeast corner of Mount Comfort and Hughmount Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

10. **General Plan 2020 Future Land Use Map Amendment:** A resolution to amend the General Plan 2020 Future Land Use Map by changing the "Office" designation on Elm Street beginning at 155 East Elm through its current western border to Residential.

Change Description

11. **King Electric Contract for the Mountain Inn:** A resolution authorizing King Electrical Contractors, Inc. to provide electrical utility relocation services in support of the demolition of the Mountain Inn and associated properties in an amount not-to-exceed \$66,237.

Change to Ordinance. Add new ordinance to package.

D. INFORMATIONAL:

Council Tour: June 20, 2005 – 4:30 pm

Agenda Session Only: Introduction of Patrol Officers for Community Policing Assignments to Neighborhood Associations by Ward.

Agenda Session Only: Discussion on the Coyote Population in Fayetteville

Agenda Session Only: Airport and FBO Performance Audit Report

Pre Agenda
Session Meeting
Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 21, 2005**

A meeting of the Fayetteville City Council will be held on June 21, 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**

com. pol. assign. to neigh. assoc.
meeting by ward.

Agenda Session Only: Introduction of Patrol Officers for Ward Assignments

Agenda Session Only: Discussion on the coyote population in Fayetteville

Agenda Session Only: Airport and FBO Performance Audit Report

A. CONSENT:

1. **Approval of the June 7, 2005 City Council meeting minutes.**
2. **Wilson Estes Contract for a Space Needs Study:** A resolution approving a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city owned buildings; approving a 5% contingency in the amount of \$2,431.00; and approving \$3,226.00 in reimbursable expenses.
3. **1 Nation Technology Contact for a Telecommunications System:** A resolution awarding Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the new Water & Sewer Operations Center; and approving a contingency in the amount of \$1,328.40.
4. **2005 Justice Assistance Grant:** A resolution to approve the application and accept an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and

\$16,887.00 for the Washington County Sheriff's Department and to approve a budget adjustment for those amounts.

- ✓ 5. **New Holland Loader Purchase:** A resolution approving the purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$37,661.00.
- ✓ 6. **Staffing for Adequate Fire & Emergency Response Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset the cost of future staffing increases.

B. UNFINISHED BUSINESS:

- ✓ 1. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*
- ✓ 2. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts. *This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.*

C. NEW BUSINESS:

- ② ✓ 1. **User Fee Policy:** A resolution adopting a user fee Cost Recovery Policy for City Services.
- ① ✓ 2. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.
- Consent 3. **Van Asche Boulevard Engineering Contract:** A resolution awarding a contract in the amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard Extension Project.
- Need Memo and meeting minutes. ④ ✓ 4. **Planning Commission Appeal (TGI FRIDAY'S):** A request to appeal the Planning Commission's motion to (NO INFO FROM PLANNING).
- ✓ 5. **Planning Commission Appeal (Dixie Development):** A request to appeal the Planning Commission's motion to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road.
- ✓ 6. **Ozark's Electric Cooperative Corp. Line Relocation:** A resolution authorizing the payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road Improvements at the Westside Wastewater Treatment Plant.

- ✓ 7. **McGoodwin Williams & Yates Contract Amendment:** A resolution approving Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction Phase Services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project.
- ~~8. Meadow Street Parking Structure Improvements: NO INFO-Sharon Jenkins~~
- ~~9. Parking Access and Revenue Control Equipment Purchase: NO INFO-Sharon Jenkins~~
- ✓ 10. **Woolsey Aviation, DBA, Contract:** NO INFO-Ray Boudreaux
- ✓ 11. **Amend § 33.046; Mutual Aid Agreements:** NO INFO-Fire Management Team
- ? ~~12. Solid Waste and Recycling Expansion Vehicle: NO INFO-Brian Pugh~~ 7/5/05
- ✓ 13. **RZN 05-1491 (Dixie Development):** NO INFO-Jeremy Pate
- ✓ 14. **General Plan 2020 Future Land Use Map Amendment:** A resolution to amend the General Plan 2020 Future Land Use Map by changing the "Office" designation on Elm Street beginning at 155 East Elm through its current western border to Residential.

D. INFORMATIONAL:

Council Tour: June 20, 2005 – 4:30 pm

"Northwest Arkansas' Most Widely Read Newspaper"

AFFIDAVIT OF PUBLICATION

I, Erin Emis, 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:

Anna Asunda was inserted in the regular editions on June 20, 2005.

PO# _____

** Publication Charge: \$ 245.52

Subscribed and sworn to before me this

21 day of June, 2005.



Notary Public

Sharlene D. Williams

Notary Public

My Commission Expires: _____ State of Arkansas

My Commission Expires

October 18, 2014

** Please do not pay from Affidavit.
An invoice will be sent.

RECEIVED

JUN 27 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
JUNE 21, 2005



A meeting of the Fayetteville City Council will be held on June 21, 2005 at 8:00 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

A. CONSENT:

1. **Approval of the June 7, 2005 City Council meeting minutes.**
2. **Wilson Estes Contract for a Space Needs Study:** A resolution approving a contract in the amount of \$48,625.00 with Wilson Estes Police Architects for a space needs study for future utilization of five (5) city owned buildings; approving a 5% contingency in the amount of \$2,431.00; and approving \$3,226.00 in reimbursable expenses.
3. **1 Nation Technology Contract for a Telecommunications System:** A resolution awarding Bid #05-38 to 1 Nation Technology in the amount of \$14,479.60 for the purchase of a Norstar Telecommunications System for the new Water & Sewer Operations Center; and approving a contingency in the amount of \$1,328.40.
4. **2005 Justice Assistance Grant:** A resolution to approve the application and accept an award of the 2005 Justice Assistance Grant in the amount of \$41,373.00 for the Fayetteville Police Department; \$26,175.00 for the Springdale Police Department and \$16,887.00 for the Washington County Sheriff's Department and to approve a budget adjustment for those amounts.
5. **New Holland Loader Purchase:** A resolution approving the purchase of a Model LW130B New Holland Articulated Loader with attachments in the amount of \$120,255.00 from Williams Tractor, Inc. for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$37,661.00.
6. **Staffing for Adequate Fire & Emergency Response Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset the cost of future staffing increases.
7. **Van Asche Boulevard Engineering Contract:** A resolution awarding a contract in the amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for the Van Asche Boulevard Extension Project.
8. **Woolsey Aviation, DBA, Contract:** A resolution approving a contract with Woolsey Aviation, d/b/a Million Air Fayetteville to provide aviation fueling and other services at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$24,000.00.

B. UNFINISHED BUSINESS:

1. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations. This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.
2. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts. This Ordinance was Left on the First Reading at the June 7, 2005 City Council meeting.

C. NEW BUSINESS:

1. **Street Overlay Program Funding:** A resolution to approve a budget adjustment of \$400,000.00 to increase funding for the Street Overlay Program.
2. **User Fee Policy:** A resolution adopting a User Fee Cost Recovery Policy for City Services.
3. **Planning Commission Appeal (TGI FRIDAY'S):** A request to appeal the Planning Commission's decision to alter the sign package submitted by TGI Friday's.
4. **Planning Commission Appeal (Dixie Development):** A request to appeal the Planning Commission's motion to deny the requested annexation for Dixie Development, a 24.35 acre tract located north of Mount Comfort Road and east of Hughmount Road.
5. **RZN 05-1491 (Dixie Development):** An ordinance rezoning that property described in rezoning petition RZN 05-1491 for approximately 24.35 acres located at the northeast corner of Mount Comfort and Hughmount Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.
6. **Ozark's Electric Cooperative Corp. Line Relocation:** A resolution authorizing the payment of \$300,000.00 to Ozarks Electric Cooperative Corp. for the cost of relocating electrical lines associated with the Broyles Road improvements at the Westside Wastewater Treatment Plant.
7. **McGoodwin Williams & Yates Contract Amendment:** A resolution approving Amendment No. 1 to the Professional Engineering Services Contract with McGoodwin, Williams and Yates, Inc. in the amount of \$4,680,637.00 to provide construction phase services associated with the Westside Wastewater Treatment Plant, Broyles Road Improvements and the Wetland Mitigation Project.
8. **Amend Title III, Chapter 33 Fire Protection Services:** An ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify the method by which fire protection services are provided outside the city limits.
9. **General Plan 2020 Future Land Use Map Amendment:** A resolution to amend the General Plan 2020 Future Land Use Map by changing the "Office" designation on Elm Street beginning at 155 East Elm through its current western border to Residential.
10. **King Electric Contract for the Mountain Inn:** An ordinance waiving the requirements of formal competitive bidding and approving payment to King Electrical Contractors, Inc. of \$66,237.00 to provide electrical utility relocation services required to allow the continued demolition of the Mountain Inn; and approving the use of up to \$33,763.00 of the previously approved project contingency.

D. INFORMATIONAL:

Council Tour: June 20, 2005 - 4:30 pm

RECEIVED
JUN 27 2005
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Dan Coody, Mayor

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: June 22, 2005

**RE: Passed Resolutions and Ordinances from City Council
meeting of June 21, 2005**

1. **Wilson Estes Contract:** Resolution approving contract in amount of \$48,625.00 w/Wilson Estes Police Architects for space needs study for future utilization of five city owned buildings; approving 5% contingency in amount of \$2,431.00 and approving \$3,226.00 in reimbursable expenses;
2. **1 Nation Technology Contract:** Resolution awarding Bid #05-38 to 1 Nation Technology in amount of \$14,479.60 for purchase of Norstar Telecommunications System for new Water & Sewer Operations Center; and approving contingency in amount of \$1,328.40;
3. **2005 Justice Assistance Grant:** Resolution approving application and accepting award of 2005 Justice Assistance Grant in amount of \$41,373.00 for Fayetteville Police Dept.; \$26,175.00 to Springdale Police Dept. and \$16,887.00 for Washington Co. Sheriff's Dept. and approving budget adjustment for those amounts;
4. **New Holland Loader Purchase:** Resolution approving purchase of Model LW 130B New Holland Articulated Loader w/attachments in amount of \$120,255.00 from Williams Tractor, Inc. for use by Solid Waste & Recycling; and approving budget adjustment in amount of \$37,661.00;

5. **Staffing for Adequate Fire & Emergency Response Grant:** Resolution authorizing Fayetteville Fire Dept. to apply for Staffing for Adequate Fire and Emergency Response (Safer) Grant for \$1,800,000.00 to offset cost of future staffing increases;
6. **Van Asche Blvd. Engineering Contract:** Resolution awarding contract in amount of \$225,200.00 to Garver Engineers for engineering, surveying and bidding services for Van Asche Blvd. Extension Project;
7. **Woolsey Aviation, d/b/a Million Air Fayetteville Contract:** Resolution approving contract w/Woolsey Aviation, d/b/a/ Million Air Fayetteville to provide aviation fueling and other services at Fayetteville Municipal Airport; and approving budget adjustment in amount of \$24,000.00;
8. **Chapter 176, Outdoor Lighting:** Ordinance amending Title XV: Unified Development Code, of Code of Fayetteville, to provide for regulation of outdoor lighting installations;
9. **Street Overlay Program Funding:** Resolution approving budget adjustment of \$400,000.00 to increase funding for Street Overlay Program;
10. **User Fee Policy:** Resolution adopting User Fee Cost Recovery Policy for City Services;
11. **Ozarks Electric Line Relocation:** Resolution authorizing payment of \$300,000.00 to Ozarks Electric for cost of relocating electrical lines associated w/Broyles Road improvements at Westside Wastewater Treatment Plant;
12. **McGoodwin, Williams, & Yates Contract Amendment:** Resolution approving Amendment No. 1 to Professional engineering Services Contract w/McGoodwin, Williams & Yates in amount of \$4,680,637.00 to provide construction phase services associated w/Westside Wastewater Treatment Plan, Broyles Road improvements and Wetland Mitigation Project;
13. **Title III, Chapter 33 Fire Protection Services:** Ordinance amending Title III, Chapter 33, City of Fayetteville Code of Ordinances to clarify method by which fire protection services are provided outside city limits;

14. **General Plan 2020 Future Land Use Map Amendment:** Resolution amending General Plan 2020 Future Land Use Map by changing "Office" designation on Elm Street beginning at 155 E. Elm through its current western border to "Residential";
15. **King Electric Contract for Mountain Inn:** Ordinance waiving requirements of formal competitive bidding and approving payment to King Electrical Contractors for \$100,000.00 to provide electrical utility relocation services required to allow the continued demolition of Mountain Inn; and approving use of up to \$33,763.00 of previously approved project contingency.